

September 24, 1985

Regular Meeting, September 24, 1985

#### PROCEEDINGS OF COUNCIL

#### BUSINESS AND TECHNOLOGY CENTER

Regular Meeting.

September 24, 1985.

The forty-sixth meeting of the City Council was held this date, convening at 6:00 p.m. in the Business and Technology Center.

Notice of this meeting and an agenda were sent to the local news media September 20, 1985. A notice of the meeting appeared in SATURDAY, September 21, 1985.

#### PRESENT

The Honorable Joseph P. Riley, Jr., Mayor, and Councilmembers Gaillard, Kinloch, Richardson, Jefferson, Christopher, Scott, Ford, Ader, Stephens and Cochran--11.

Councilmember Tecklenburg was out of the country, Councilmember Baker was unable to attend this meeting as he was observing a religious holiday.

The meeting was opened with prayer by Councilmember Jefferson.

The Mayor pointed out that the City of Charleston is engaged in the United Way Campaign and expressed the hope that the City will again exceed its goal. He noted that a pledge card had been placed at each Councilmember's place.

The first item of business on the agenda was a public hearing called for by the following advertisement which appeared in the News and Courier and the Evening Post on September 6, 1985 and in The Chronicle on September 11, 1985:

#### PUBLIC NOTICE

The public hereby is advised that the City Council of Charleston will hold a public hearing beginning at 6:00 p.m., Tuesday, September 24, 1985, at the Charleston Business and Technology Center, 701 East Bay Street, to solicit comments on the adoption of the 1984 Edition of the National Electrical Code.

Interested persons are invited to attend. Extensive presentations should be made in writing.

MARY R. WRIXON

Clerk of Council

No one indicated a desire to speak for or against the adoption of the 1984 Edition of the National Electrical Code. The Mayor declared the public hearing concluded.

Councilmember Stephens moved that a bill to adopt the 1984 Edition of the National Electrical Code be given second reading. Councilmember Ader seconded the motion. The motion carried. (The bill to adopt this code received first reading at City Council's August 20, 1985 meeting.) On motion of Councilmember Richardson, the bill passed second reading. It passed third reading on motion of Councilmember Jefferson. On the further motion of Councilmember Gaillard, the rules were suspended and the bill was immediately ratified as:

Ratification

Number 1985-116

AN ORDINANCE

AMENDING SECTION 18-153 OF THE CODE OF THE CITY OF CHARLESTON, 1975, TO ADOPT THE 1984 EDITION OF THE NATIONAL ELECTRICAL CODE.

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

Section 1. Section 18-53 of the Code of the City of Charleston, 1975, be, and hereby is, amended by striking Section 18-53 in its entirety and inserting in lieu thereof the following:

"Section 18-53. Adoption of Electrical Code: resolution of conflicts.

All electrical construction and all materials and appliances used in connection with electrical work and the operation of all electrical apparatus within the City shall conform to the standards, rules and regulations of the 1984 Edition of the National Electrical Code, for the installation of wiring and electrical apparatus for electrical purposes as they are now established, one (1) copy of which such standards, rules and regulations has been filed in the Office of the Clerk of Council, and are hereby adopted and approved and made a part of this Code as fully as if every word, clause, phrase, sentence, section and part thereof were printed herein; provided that such rules, regulations, and standards are not in conflict with the laws of the state or the ordinances of the city.

Where conflict occurs, the laws of the state shall prevail over the ordinances of the city or the National Electric Code; and the ordinances of the city shall prevail over the National Electrical Code."

Section 2. This Ordinance shall become effective upon ratification.

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The Citizen Participation Period followed. The Mayor explained briefly the purpose of this portion of the meeting and then encouraged the citizens to address City Council.

Prior to opening the floor for comments from the public, the Mayor noted that City Council's meeting was being held at the Business and Technology Center. He expressed pride in this facility which houses 125 separate businesses. He elaborated briefly on activities which take place in the facility which create approximately one thousand jobs.

The Mayor also acknowledge with pride the presence of Mr. James Lewis, President of the East Side Neighborhood Council. In addition, he welcomed the numerous residents of the East Side who were at this meeting. He expressed pride, among other things, on the renovation and rehabilitation activities taking place on the East Side. He recognized the leadership provided by Councilmembers Kinloch and Richardson, and Jefferson in this area and, he added that all of the members of Council had been very supportive of the City's efforts in the Business and Technology Center and throughout the East Side.

The following citizens addressed City Council during the Citizen Participation Period:

1.) Mr. James Lewis, President, East Side Neighborhood Council. Mr. Lewis expressed concern about the impact which extending the "National Register District" into the East Side would have on homeowners and tenants. He expressed particular concern that extending the National Register District will cause homeowners, who for the most part are elderly persons living on fixed incomes, to have to pay higher taxes. They were concerned over possibly not being able to pay the higher taxes and asked what recourse they would have if they were faced with the inability to pay their taxes. Mr. Lewis stated these persons' are of the opinion that putting their area in the National Register District will adversely affect them and they are asking that City Council not extend the National Register line into the East Side.

Also, Mr. Lewis stated that there were persons with fixed income who rent residential units in the East Side. They are concerned that an increase in taxes will cause the landlords to have to raise rents and their tenants being unable to pay higher rents will be forced to move out of the East Side.

2.) Mr. Derwood Stinson, candidate for seat on the Commissioners of Public Works, addressed Council requesting postponement of the Bond issue until after the elections. Mr. Stinson stated he believed the people had not been properly informed of what the Bond issue is for. It was his belief that a more thorough, careful study might reduce the amount of the Bonds requested, if any were needed at all.

Mr. Stinson stated he was all for progress and thought it necessary to get what was needed, but only what was needed.

3.) Mr. Ajani Ofunniyan, resident of the East Side neighborhood, expressed his concern over the lack of programs for youth development in the East Side neighborhood. Mr. Ofunniyan said he had just recently moved here from New York City.

The Mayor thanked Mr. Ofunniyan for his concern and suggested that Mr. Ofunniyan leave his address and phone number, and he would have the Director of the City Recreation Department contact him. He added that Charleston is always eager to have interested citizens come forward and work with the City on programs.

4.) The Mayor then noted the presence of Mr. Bill

Davis, the East Side Neighborhood Council's first Chairman, as well as Mr. Don J. Hays, a member of the North Charleston City Council.

5.) Mr. Roy DeHaven, candidate for City Council seat District #8, presented a resolution to City Council which he said represented the wishes of the citizens from both District #8 and District #12 and expressed their concerns over Albemarle Road.

6.) Mr. Peter Mazyck, Chaplain East Side Neighborhood Council, expressed concern about the City Police Officers attitude towards the youth on the East Side. He believed, he said, the Police should have a more "loving" attitude towards the young people instead of using physical force, which only creates hatred and resentment. The Mayor responded to Mr. Mazyck a complaint by assuring him that the police officers are not instructed to "go up to young kids and slap them around." The Mayor then elaborated on the Police Department's procedure of investigating cases where any force is used in an arrest, whether or not a complaint is made. The Mayor concluded his remarks by saying that if any citizen ever feels that force was used unnecessarily, that person should contact the Police Chief or make a report at the Police Department, and a formal, impartial investigation will ensue. He assured Mr. Mazyck that in the instances where it is determined that unnecessary force was used by a police officer, disciplinary procedures are forthcoming.

7.) Mr. George Powell, Secretary, East Side Neighborhood Council, addressed City Council concerning the difficulty he has had in obtaining a housing rehabilitation loan under the East Side Community Development Program. He stated the Chairman of the Redevelopment and Preservation Commission told him that although he qualified for a loan from this program, his commission was not going to approve the loan he requested. He complained over being denied a loan yet persons who just recently moved into the area are being given loans. He pointed out that he had lived in the area all of his life. He explained his reason for seeking City Council's assistance in obtaining the loan was because he had tried several other routes and had been unsuccessful in obtaining the loan for which he had submitted an application.

The Mayor assured Mr. Powell the City would look into the complaint. He then elaborated briefly on the Redevelopment and Preservation Commission's responsibilities and the goals of the program it is overseeing. He praised the work the Commission has performed. He explained the Commission's goal is to make loans to persons whose financial position is such that they could not reasonably be

expected to borrow from a bank or a savings and loan. He added that the hope is that those on the East Side who are gainfully employed and who could get a loan from a lending institution would do so. The revolving loan fund, he said, is used for persons who are unemployed or are elderly, or whose income is such that they cannot reasonably obtain a loan from a bank. By helping the segment who are unable to get a loan to fix up their properties, it is the Commission's hope that this will encourage the adjacent neighbors, who are gainfully employed and who the banks feel are a good risk, to keep their properties up with loans obtained from banks.

No one else indicated a desire to address City Council. The Mayor declared the Citizen Participation Period concluded.

The minutes of City Council's August 20 and September 10, 1985 meetings were approved on motion of Councilmember Christopher.

The next item on the agenda was a petition submitted by Jesse L. Washington, who requested that a .21 acre, more or less, parcel of land, be annexed to the City of Charleston. This property is located in Landsdowne Subdivision (TMS# 426-16-0-10) and is known as 1190 Landsdowne Drive on James Island.

On motion of Councilmember Scott, seconded by Councilmember Cochran, City Council voted in favor of accepting Mr. Washington's petition and that an ordinance to annex this property be given first reading. The motion carried. The following bill received first reading:

#### A BILL

TO PROVIDE FOR THE ANNEXATION OF NO. 1190 LANDSDOWNE DRIVE (TMS# 425-15-0-10) (.21 ACRE, MORE OR LESS) LOCATED IN LANDSDOWNE SUBDIVISION, JAMES ISLAND, IN CHARLESTON COUNTY, TO THE CITY OF CHARLESTON AND TO MAKE IT PART OF DISTRICT 12.

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%) per cent of the freeholders owning more than seventy-five (75%) 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%) per cent of the freeholders owning more than seventy-five (75%) 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 12 of the City of Charleston, to wit.

SAID property to be annexed, No. 1190 Landsdowne Drive, (.21 acre, more or less) is located in Landsdowne Subdivision, James Island, in Charleston County and is identified by the Charleston County Assessor's Office as TMS# 426-15-0-10 (see attached map) and all adjacent public rights-of-way. (Note: Map is attached to original ordinance.)

### Section 3.

This Ordinance shall become effective upon ratification.

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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 recommends that the following action be taken on each of the matters mentioned below:

1.) Acquisition of the Rear Portion of 100 King Street: The Real Estate Committee has recommended that the City proceed with negotiations to acquire the rear portion of 100 King Street for the Federal Court House annex. The Committee on Ways and Means concurs with that recommendation and recommends that City Council also concur with the Real Estate Committee's recommendation.

2.) Sale of 24.37 Acres on Railroad Avenue, Berkeley County, to the City of Hanahan: The City of Hanahan desires to purchase 24.37 acres of land of Railroad Avenue in Berkeley County from the Commissioners of Public Works (CPW).

The CPW has agreed to sell the subject acreage to the City of Hanahan for the sum of \$10,000.00. The City of Hanahan has agreed to purchase the subject property for this quoted amount.

The subject property is one of the parcels of land which the City of Charleston, in an agreement dated October 24, 1984, agreed to quit-claim deed to the CPW.

To avoid any problem with this property's title, the City of Hanahan has asked that the City of Charleston quit-claim all of its interest in the subject property to the City of Hanahan.

The Real Estate Committee, after considering the City of Hanahan's request, has recommended that the City Council of Charleston authorize the sale, transfer and conveyance of the subject 24.37 acre tract of land to the City of Hanahan, even though the committee believes the City of Charleston in the above-mentioned agreement dated October 24, 1984, relinquished all of its interest in the subject property.

The Committee on Ways and Means concurs with the Real Estate Committee's recommendation and it so recommends to City Council. A bill authorizing the

sale, transfer and conveyance of the subject 24.37 acre tract of land is submitted herewith for City Council's consideration. The Committee on Ways and Means recommends that the bill be given the necessary readings and that it be ratified the earliest date feasible.

3.) City of Charleston v. Fredricks Johnson, 70 and 72 Nassau, 931/2 Columbus Street: The City of Charleston condemned the above three properties under the homeowners program in the east side. The cases are pending in Common Pleas Court and will be decided probably sometime this fall. The landowner owes a mortgagor a substantial part of the value of each of these properties. However, the City has taken the land and the landowner is without any income from the businesses, but is still faced with mortgage payments. The Real Estate Committee has recommended, and the Committee on Ways and Means concurs with the recommendation, that Ms. Fredricks Johnson be allowed to draw down a percentage of the appraised value of each of these properties from Court in order to partially reduce the mortgage balances. It is hereby recommended that City Council endorse the recommendation of the Real Estate Committee and the Ways and Means Committee on this matter.

4.) Proposed \$75,000,000 Waterworks and Sewer Revenue Bond issue: The Commissioners of Public Works (CPW) has asked that the City consider a bill providing for the issuance and sale of a series of waterworks and sewer system revenue bonds of the City of Charleston to be designated a series of 1985 in the principal amount not exceeding \$75,000,000 and other matters relating thereto. The Committee on Ways and Means has studied information provided by the CPW relating to the proposed CPW Bond Issue: (1) Wastewater system improvements and sources of funding; (2) water system improvements and sources of funding; and, (3) current estimated use of bond proceeds. After much deliberation, the Ways and Means Committee, has voted to recommend to City Council that the subject bill be given first reading this evening, and that a special City Council meeting be held October 3, 1985 to ratify the bill.

5.) Cannon Park Construction Bid: The Parks Department received three (3) bids in response to the City's calling for bids to construct Cannon Park. The bids were all greater than the budget for this project, but in anticipation of this fact, the Parks Department required a unit price breakdown of each bid so that items could be deleted as necessary. The most logical item for the Parks Department to delete, and the one which brought the cost down to the department's budget, was "path construction". This item is one of the last elements in the construction sequence. The Parks Department would like to re-think the use of sand shell to ensure it is the most appropriate material for the paths in this park. Once this item was removed from the project, Wildwood Landscape Contractors was low with a total revised bid of \$76,067.00. The Parks Department has worked with this firm previously and has found their work to be very good. Based on the recommendation of the Parks Department Director the Committee on Ways and Means recommends that City Council approve a contract with Wildwood Landscape Contractors in the amount of \$76,067.00 for the construction of Cannon Park. Funds for this work will come from the Land and Water Conservation Grant and Insurance Funds, which were approved as the grant match. Further, the Committee on Ways and Means recommends that the Mayor be authorized to execute the contract on City Council's behalf.

6.) Building Inspection System (BIS) Agreement: The Committee on Ways and Means recommends that City Council approve an agreement with the Charleston County-Data Processing Division to provide an on-line Automatic Building Inspection System (BIS) for the Public Services and Planning Department use. The agreement will be on an annual basis at a monthly cost of \$532.00. Funds for the 1985 expense will come from Revenue Sharing No. 16, Computer Expenses.

The BIS will provide on-line capabilities for updating and retrieving TMS data, zoning data, permits and memorandums, plans, variances and condition use permits, fees and contractor's data. The system will also include billing procedures, systems reports and an audit trail. In addition to numerous monthly reports necessary for backup and balancing purposes. When the BIS is installed it will provide economically and expeditiously a solution to a long need and requested function of the Public Services and Planning Departments.

The Committee on Ways and Means recommends that the Mayor be authorized to execute the BIS Agreement on City Council's behalf.

7.) Contract for the Visitor Reception and Transportation Center (VRTC) Design: The Department of Transportation, together with the Legal Department, Revitalization Office and Public Service Department have reviewed and negotiated a proposed contract with the consultant firm of Post, Buckley, Schuh & Jernigan for final design services on the VRTC project. Under the proposed contract the consultant will provide engineering services which will include conceptual and final design for the public portions of the VRTC. The service will include preparation of construction drawings, design specifications, and cost construction estimates, at the conclusion of which the City will be prepared to begin construction of the VRTC.

The City Staff has negotiated a price with the Engineer of \$882,500, including construction of a model and participation of a disadvantaged business enterprise as sub-contractors at a level which meets the City's goals for participation.

Adequate funds for this contract are presently budgeted in the Transit Fund from grants received from the Urban Mass Transportation Administration.

The Committee on Ways and Means recommends that the Mayor be authorized to execute the contract on the City's behalf. Approval for signing should remain contingent upon final acceptance of the proposed contract by the Urban Mass Transportation Administration.

8.) Program for Assistance to Disadvantaged Businesses and Women Business Enterprises: The Committee on Ways and Means submits herewith a copy of the City's Program for Assistance to Disadvantaged Businesses and Women Business Enterprises. This program has been previously adopted by City Council and has been in use for a number of years. Some amendments have been incorporated into the program to make it consistent with federal regulations particularly those of the Urban Mass Transportation Administration, and are here presented for City Council's consideration and approval. The amendments are as follows:

a.) Specific appeal and challenge procedures to be utilized by parties aggrieved by the City's determination of the status of an entity as a DBE or WBE have been incorporated into the program (See Appendices A and B):

b.) Provisions have been added to Section 4 of the program clarifying that the purpose of establishing DBE/WBE goals on a particular project is to accord equitable opportunities for such firms to compete for city assisted contracts and subcontracts:

c.) A provision has also been added to Section 4 reserving to the City the right to consider the use of set-asides in projects, where feasible.

d.) A new Section 9 has been added to the program to have the City continue to investigate the feasibility of utilizing banks or other financial institutions owned or controlled by socially and economically disadvantaged persons or women in City projects and/or procurements.

The Committee on Ways and Means recommends that City Council adopt the attached Program for Assistance to Disadvantaged Businesses and Women Business Enterprises.

9.) Minority Business Development Coordinator: The City of Charleston is fortunate to have been awarded a grant of \$25,000 from the Minority Business Development Agency of the U.S. Department of Commerce. This grant will enable the City to develop a model program to assist minority and women-owned businesses by developing a procurement strategy to ensure fair and equitable access to purchasing activity by the City. This project will also work with the developers of the new major economic projects in the City, for example, Charleston Place and the Waterfront Redevelopment Project, to help minority and women entrepreneurs gain access to the new small business opportunities created by these developments.

The coordinator for the project will be Dr. Tanya Richardson, who holds a doctorate from the London School of Economics and formerly worked with the International Finance Corporation, the private enterprise arm of the World Bank.

The in-kind match of \$8,333 for this grant will be provided by City Venture Corporation. The Committee on Ways and Means submits herewith proposed contracts with Dr. Richardson and City Venture for this project for City Council's consideration, and it recommends that City Council authorize the Mayor to execute those two agreements on the City's behalf.

10.) Memorandum of Agreement between the City of Charleston and the South Carolina Department of Highways and Public Transportation for the Construction of Roadway Improvement adjacent to "Charleston Place": The Committee on Ways and Means submits herewith a Memorandum of Agreement between the City of Charleston and the Highway Department. This agreement was developed based on a request from the City, so that the advertisement, award and construction of the subject roadway improvement may be approved this fiscal year. Due to constraints in obtaining the funding during this fiscal year, the Highway Department has asked that the City expedite the

execution of the agreement so it can be executed by the South Carolina Highway Department and be forwarded to the Federal Highway Administration. The Committee on Ways and Means recommends that the Mayor be authorized to execute the subject agreement on the City's behalf.

11.) EDA 302(a) Planning Grant: The City of Charleston has been advised by the U.S. Department of Commerce, Economic Development Administration that they have approved an amendment to the City's Planning grant in the amount of \$40,000.00. The City match will be provided as follows:

Fringe Benefits \$5,000 - General Funds

Travel & Other 2,534 - CD Funds

Indirect Charges 4,800 - CD Funds

Total City Match \$13,334

The Community Development (CD) Funds requested are included in the Office of Downtown Revitalization's Budget.

The Committee on Ways and Means submits herewith a copy of the amendment which needs to be accepted by the City. The Committee recommends that City Council accept the amendment and authorize the Mayor to execute the "Offer of Amendment to Grant" on behalf of the City.

W.L. STEPHENS, JR., Chairman

W. FOSTER GAILLARD

JEROME KINLOCH

DANIEL L. RICHARDSON

HILDA HUTCHINSON-JEFFERSON

ARTHUR W. CHRISTOPHER

BRENDA C. SCOTT

ROBERT FORD

MARY R. ADER

EDWARD H. COCHRAN

JOSEPH P. RILEY, JR., Mayor



Councilmember Stephens moved for adoption of the Committee on Ways and Means report. Councilmember Richardson seconded the motion.

Councilmember Gaillard, who was unavoidably delayed at court this afternoon and for that reason unable to attend the Committee on Ways and Means meeting, asked several questions concerning the proposed Commissioners of Public Works (CPW) bonds. (This matter was discussed at considerable length at this evening's Ways and Means Committee meeting.)

Councilmember Gaillard stated that one of his concerns was whether or not approval of the proposed bond issue would result in a rate increase.

Steve W. Kinard, Manager, Commissioners of Public Works, explained that in 1984 the CPW approved rate increases for 1984, 1985 and 1986. The water rates for each of those years increased 17% and the waste treatment increased 20% each year.

Councilmember Gaillard asked if the issuance of \$75,000,000 bonds would have an effect on the CPW's bond rating. The CPW's bond attorney replied in the negative and elaborated on the reason the CPW's bond rating would remain the same as it is now.

Councilmember Gaillard asked if the bond counselor recommended the issuance of the bonds. The CPW's bond attorney replied in the affirmative.

Councilmember Gaillard asked if the 17% and 20% increases mentioned by Mr. Kinard was a total increase or a yearly increase for each of the three years. Mr. Kinard replied the increase would occur in each of the three years.

The Mayor explained the necessity for holding a special City Council meeting on October 3rd to ratify the proposed ordinance authorizing the issuance and sale of the \$75,000,000 CPW bonds.

He stated the bond counselors were of the opinion this is a very optimal time to sell the bonds to get the best rate of interest. He elaborated briefly on the fact that the bond anticipation notes issued last year proved to be a sound decision.

Councilmember Ford asked whether the CPW had held a public hearing on the rate increase mentioned above by Mr. Kinard. Mr. Kinard replied in the negative. In further response to a question asked by Councilmember Ford, Mr. Kinard stated it would be possible for a public hearing to be scheduled to consider the rate increase, if the City Council so desired.

Councilmember Ford expressed concern over the effect of the rate increase, particularly for low-income persons. Mr. Kinard addressed this concern by breaking down the water increase per quarter, per month, as well as per day on the average water bill.

A detailed discussion followed, with Councilmembers Ford and Christopher itemizing projected cost to the individual consumer. Councilmember Christopher pointed out that over a three-year period, the rate increase would transpose into a 51% increase for water and a 60% increase for waste treatment.

The Mayor stated that the CPW is looking into making the transition easier by going to more than a quarterly billing. Mr. Kinard added that the CPW is looking at the possibility of going to a monthly billing effective January 1, 1988.

In support of the Bond proposal, the Mayor pointed out that \$24,000,000 was to be spent on putting in a new underground water main from Hanahan through North Charleston, across and under the Ashley River to west of the Ashley, under the Stono River to Johns Island, under the Stono River to James Island throughout James Island, and then under the Ashley River back to the peninsula City basically under White Point Gardens.

He explained that basically what the CPW is doing, after several decades and extraordinary growth, is putting in a new waste system to replace one that cannot perform much longer.

The Mayor pointed out the water needs twenty years ago near the Medical Complex on Calhoun Street and then proceeded to compare those needs with that area's needs today. He pointed out that that area is one of the major hospital complexes in the southeast with extraordinary water demands that require constant water pressure. He added that the water mains in the City cannot possibly serve that need.

Continuing, the Mayor pointed out that with the suburban expansion of this community, there are places west of the Ashley, in North Charleston, and on James Island at the end of the system where the water pressure is very low.

He also elaborated on the need for fire hydrant water pressure to be upgraded which can only be financed through the water rates.

Another big item, he said, is the chemical treatment of waste water at the Hanahan plant, which is something that has been mandated by the Federal Government. He called attention to the cost of the equipment and of installing the equipment to make the water purer and safer.

He pointed out that it is proposed that the Plum Island system be upgraded from 18 to 24 million gallons a day. Also, the plans include upgrading the John's Island sewer system as well as making improvements to the West Ashley system.

He explained that all of the above-stated improvements are inescapable components of growth. Growth, he said, that provides jobs and tax base.

The Mayor explained that the West Ashley improvements will allow the CPW to collect all of the sewerage from the Shadowmoss area, the Highway 61 area, the Citadel Mall area, and Highway 17 to be treated at Plum Island.

Environmentally, the Mayor said the improvements will allow the CPW to treat all of the waste water at Plum Island rather than damaging the environment of the Stono and Ashley Rivers with a number of small sewage treatment plants.

The Mayor concluded his remarks by expressing the belief that if one studied the CPW's plans as well as the cost of the proposed improvements, one would see they are essential improvements. He pointed out that even with the increases, the average monthly bill for water and sewer will be \$20 per month.

Councilmember Ford pointed out that one of the selling points for annexing property to the City of Charleston has been its lower water and sewer rates. He asked if that would continue to be the case.

The Mayor replied that the City residents will continue to pay lower water rates than non-City residents. Sewer rates will depend on where the persons whose system is connected to the CPW's system live. He explained that since James Island sewage is treated at Plum Island, for instance, as the costs at Plum Island go up, so will the rate the CPW charges the James Island Public Service District's residents. The Mayor felt improving and necessary construction of the water system will improve the advantage of being in the City because the percentage differential will be greater.

Councilmember Ford asked if the water and sewer rates could be raised without the approval of the Public Service Commission or a Public Hearing.

The Mayor replied that public water and sewer authorities are not regulated by the State Public Service Commission.

Because of the Councilmembers' having a number of questions relating to this issue, the Mayor suggested that they discuss their questions with CPW staff members before the next city Council meeting.

Councilmember Richardson, a member of the CPW, pointed out that Mr. Kinard has an open-door policy and anyone at anytime who wished to meet with him would be welcome.

The Mayor pointed out also that the CPW holds its meetings on the fourth Tuesday of each month and that it has a citizen participation period at its meetings.

In response to a question asked by Councilmember Kinloch, Mr. Kinard explained that if the CPW approves converting the water and sewer billing to a monthly cycle, it was hoped the practice of sending out monthly bills will be implemented January 1, 1988.

Councilmember Richardson through it should be emphasized that going to a monthly billing system would result in additional cost Mr. Kinard estimated the additional cost would be \$500,000.

Councilmember Gaillard agreed with Councilmember Ford's suggestion that a public hearing be held on this issue. He moved that a special meeting be set for October 3, at 5:00 p.m., in the City Council Chamber, for a public hearing and to consider giving the subject bill second and third readings and ratifying it. Councilmember Richardson seconded the motion. The motion carried.

City Council then voted in favor of Councilmember Stephens' motion that the Committee on Ways and Means report be adopted.

The following bill received first reading:

A BILL

AUTHORIZING THE SALE, TRANSFER AND CONVEYANCE OF 24.37 ACRES ON RAILROAD AVENUE, BERKELEY COUNTY, TO THE CITY OF HANAHAN.

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF CHARLESTON (CITY COUNCIL), IN MEETING DULY ASSEMBLED.

#### SECTION 1

City Council hereby approves, authorizes and directs the sale, transfer and conveyance of a 24.37 acre tract of land located on Railroad Avenue in the city of Hanahan, Berkeley County, South Carolina, and more fully shown on a plat entitled "City of Hanahan, Berkeley County, S.C., Plat of Tract A Containing 14.37 Acres and Tract B Containing 10.0 Acres Situate On Railroad Avenue About To Be Conveyed To The City of Hanahan" by E. M. Seabrook, III, R.E. & L.S. dated February 27, 1985, to the City of Hanahan, a municipal corporation, for the consideration of TEN THOUSAND and no 100 (\$10,000.00) DOLLARS per acre, pursuant to the agreement heretofore entered into between the Commissioner of Public Works of the City of Charleston (the Commissioners) and the City of Hanahan, whereby the Commissioners have agreed to sell and the City of Hanahan, has agreed to purchase the aforesaid property for the consideration specified above.

#### SECTION 2

This Ordinance is being enacted to comply with the requirements of Section 6-7-40. South Carolina Code of Laws 1976, which authorizes the sale, transfer and disposition of municipality owned real estate when authorized by an Ordinance of City Council.

#### SECTION 3

Upon receipt of the consideration aforesaid, the Mayor, or in his absence, the Mayor Pro Tem, is authorized to execute and deliver in the name of the City of Charleston and under its seal, and the Clerk of Council is authorized to attest, a quitclaim deed of the said property to the City of Hanahan.

#### SECTION 4

This Ordinance shall take effect immediately upon its enactment

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The following bill received first reading:

A BILL

PROVIDING FOR THE ISSUANCE AND SALE OF A SERIES OF WATERWORKS AND SEWER SYSTEM REVENUE BONDS OF THE CITY OF CHARLESTON TO BE DESIGNATED SERIES 1985 IN THE PRINCIPAL AMOUNT OF NOT EXCEEDING SEVENTY-FIVE MILLION DOLLARS (\$75,000,000) AND OTHER MATTERS RELATING THERETO.

(SERIES ORDINANCE)

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eral Provision for the  
issuance of water and  
sewer system revenue  
bonds (the "Bonds") of the  
City of Charleston, South  
Carolina (the "City") through  
the means of an ordinance  
adopted October 24, 1984,  
bearing Ratification No.  
1984-149, entitled "An  
Ordinance Providing For  
The Issuance And Sale Of  
Waterworks And Sewer  
System Revenue Bonds Of  
The City Of Charleston,  
South Carolina, And Other  
Matters Relating Thereto"  
(the "Bond Ordinance");  
and

WHEREAS, it is provided in  
and by the Bond Ordinance  
that, upon adoption of a  
"Series Ordinance" there  
may be issued one or more  
series of bonds for the  
purpose of providing funds  
for improvements and  
extensions to the  
waterworks and sewer  
system of the City (the  
"System") or to pay and  
redeem any outstanding  
bond anticipation notes of

the City issued in  
anticipation of the issuance  
of Bonds or to refund bonds  
payable from the revenues  
of the System;

and

WHEREAS, on November  
14, 1984, the City issued its  
\$21,350,000 Waterworks  
and Sewer System Bond  
Anticipation Notes, Series  
1984 (the "Series 1984  
Notes") in order to provide  
funds for the acquisition and  
construction of  
improvements and  
extensions to the System,  
which Notes mature on  
November 1, 1985, and are  
secured by, among other  
things, the covenant of the  
City to issue Bonds to  
provide the necessary funds  
to pay the Series 1984  
Notes at the maturity  
thereof; and

WHEREAS, it is necessary  
to provide for the issuance  
of Bonds in order to provide  
for the payment of the  
Series 1984 Notes;

and

WHEREAS, it has been



determined that  
approximately \$75,000,000  
should be raised in order to  
provide funds for the  
acquisition and construction  
of certain improvements to  
the System (the "Project");  
and

WHEREAS, by reason of  
the foregoing, it has been  
determined to adopt this  
ordinance as a "Series  
Ordinance". In accordance  
with the terms and  
provisions of the Bond  
Ordinance; and

WHEREAS, the aggregate  
principal amount of not  
exceeding \$75,000,000 of  
Series 1985 Bonds to be  
issued hereunder are to be  
in the form of fully  
registered Bonds in the  
denomination of \$5,000 or  
any multiple thereof and,  
together with the Certificate  
of Authentication,  
Assignment and certificate  
of approving opinion to  
appear thereon, are to be in  
substantially the following  
form with necessary and  
appropriate variations,

omissions and insertions as  
permitted or required by the  
Bond Ordinance, this  
ordinance, or by the  
resolution of the  
Commissioners authorized  
herein, to wit:

(FORM OF BOND)

(FACE OF BOND)

CITY OF CHARLESTON,

SOUTH

CAROLINA,

WATERWORKS AND

SEWER

SYSTEM

REVENUE BOND, SERIES

1985

No. \_\_\_\_\_

Interest Rate    Maturity Date    Issue Date

rule      rule      rule

January 1, \_\_\_\_\_ October 1, 1985

Registered Holder:

Principal Amount: \_\_\_\_\_ DOLLARS (\$\_\_\_\_\_)

The CITY OF CHARLESTON, SOUTH CAROLINA (the "City") acknowledges itself indebted and for value received hereby promises to pay, solely from the sources and as hereinafter provided, to the Registered Holder named above or registered assigns, the Principal Amount set forth above on the Maturity Date stated above, unless this Bond be subject to redemption and shall have been redeemed prior thereto as hereinafter provided, upon presentation and surrender of this Bond at the corporate trust office of THE SOUTH CAROLINA NATIONAL BANK (the "Trustee") in the City of

Columbia, South Carolina, and to pay interest on such principal amount at the annual Interest Rate stated above (calculated on the basis of a 360-day year of twelve (12) 30-day months), until the obligation of the City with respect to the payment of such principal amount shall be discharged.

REFERENCE IS MADE TO THE FURTHER PROVISIONS OF THIS BOND SET FORTH ON THE REVERSE HEREOF WHICH SHALL FOR ALL PURPOSES HAVE THE SAME EFFECT AS THOUGH FULLY SET FORTH HEREIN.

This Bond shall not be valid or obligatory for any purpose until the Certificate of Authentication hereon shall have been duly executed by the Registrar.

IN WITNESS WHEREOF, the CITY OF CHARLESTON, SOUTH CAROLINA, has caused this Bond to be signed by the facsimile signature of its Mayor and the manual signature of its Director of Administrative Services, its corporate seal to be reproduced hereon and the same to be attested by the facsimile signature of the Clerk of the City Council of the City of Charleston, South Carolina.

CITY OF CHARLESTON, SOUTH CAROLINA

(SEAL)

By \_\_\_\_\_

Mayor

and

By \_\_\_\_\_

Director of Administrative Services

Attest:

By \_\_\_\_\_

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

CERTIFICATE OF AUTHENTICATION

This Bond is one of the Bonds of the Series described in the within mentioned Ordinance.

By: THE SOUTH CAROLINA NATIONAL BANK, TRUSTEE

Authorized Officer

Date:

(BACK OF BOND)

CITY OF CHARLESTON, SOUTH CAROLINA,

WATERWORKS AND SEWER SYSTEM

REVENUE BOND, SERIES 1985

Each of the Series 1985 Bonds will bear interest from the later of October 1, 1985, or the date to which interest has been paid immediately preceding the authentication date thereof, unless the authentication date thereof is a January 1 or July 1, in which event, each such Bond will bear interest from the earlier of such authentication date or the date to which interest has last been paid; provided that if the City shall fail to pay interest on January 1, 1986, then each such Bond will bear interest from October 1, 1985. Interest on this Bond is payable on January 1 and July 1 of each year beginning January 1, 1986, at which time interest for three (3) months will be due. The interest so payable on any January 1 or July 1 will be paid to the person in whose name this Bond is

registered at the close of business on the December 15 of June 15 immediately preceding such January 1 or July 1 (the "Record Date").

Interest hereon shall be payable by check or draft mailed at the times provided herein from the office of the Paying Agent to the person in whose name this Bond is registered on the Record Date at the address shown on the registration books. The principal of, redemption premium, if any, and interest on this Bond are payable 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.

This Bond is one of a Series of Bonds in the aggregate principal amount of \_\_\_\_\_ Dollars (\$ \_\_\_\_\_) of like tenor, except as to number, rate of interest, date of maturity and redemption provisions, issued pursuant to and in accordance with the Constitution and statutes of the State of South Carolina (the "State"), including particularly Chapter 17, Title 6, inclusive, Code of Laws of South Carolina 1976, as amended, an ordinance (the "Bond Ordinance") duly adopted by the City Council of the City of Charleston, South Carolina ("City Council") on October 24, 1984, an ordinance (the "Series Ordinance") duly adopted by City council on October \_\_\_\_\_, 1985 (the Bond Ordinance and the Series Ordinance are hereinafter collectively referred to as the "Ordinances") and a resolution duly adopted by the Commissioners of Public Works of the City of Charleston (the "Commissioners") for the purpose of retiring certain bond anticipation notes of the City and for the purpose of obtaining funds to defray the cost of constructing improvements to the waterworks and sewer system of the City (the "System").

Certain capitalized terms used herein and not otherwise defined shall have the meanings ascribed thereto in the Ordinances. Certified copies of the Ordinances are on file in the office of the Trustee and in the office of the Clerk of Court for Charleston County, South Carolina.

Both the principal of and interest on this Bond, as the same shall become due, are payable solely from the revenues derived from the operation of the System. This Bond shall not in any event constitute an indebtedness of the City within the meaning of any provision, limitation or restriction of the Constitution or sta-

tutes of the State. The City is not obligated to pay this Bond, or the interest hereon, save and except from revenues derived from the operation of the System.

The Series 1985 Bonds are on a parity in all respects with the outstanding \$74,190,000 City of Charleston, South Carolina, Waterworks and Sewer System Revenue Bonds, Series 1984.

The Bond Ordinance authorizes the issuance of additional bonds on a parity with the Bonds of this Series which, when issued in accordance with the provisions of the Bond Ordinance, will rank equally and be on a parity therewith.

The City has covenanted to continuously operate and maintain the System and fix and maintain such rates for the services and facilities furnished by the System as shall at all times be sufficient (a) to provide for the payment of the expenses of the administration and operation and such expenses for maintenance of the System as may be necessary to preserve the same in good repair and working order, (b) to provide for the punctual payment of the principal of and interest on the Bonds and all Junior Lien Bonds, (c) to maintain the Debt Service Fund and thus provide for the punctual payment of the principal of and interest on the Bonds, (d) to maintain the Debt Service Reserve Fund in the manner therein prescribed, (e) to build and maintain a reserve for depreciation of the System, for contingencies and for improvements, betterments and extensions to the System other than those necessary to maintain the same in good repair and working order, and (f) to discharge all obligations imposed by the Enabling Act and the Ordinance.

For the payment of the principal of and interest on this Bond and the Series of which it forms a part, there are hereby irrevocably pledged that portion of the Gross Revenues which remain after paying the cost of the operation and maintenance of the System; and a lien upon such Gross Revenue has been granted thereon to the Holders of the Bonds. The Bond Ordinance provides that, in addition to

other remedies, upon a default in payment of, principal of or interest on any Bond, the Trustee may, and upon the written request of the Holders of not less than twenty-five percent (25%) in aggregate principal amount of Bonds Outstanding shall declare all Bonds Outstanding immediately due and payable.

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

This Bond is transferable, as provided in the Bond Ordinance, only upon the registration books of the City kept for that purpose by the Holder hereof in person or by his duly authorized attorney, upon (a) surrender of this Bond and an assignment with a written instrument of transfer satisfactory to the Trustee or the other Registrar, as the case may be, duly executed by the Holder hereof or his duly authorized attorney and (b) payment of the charges, if any, prescribed in the Bond Ordinance. Thereupon a new Bond or Bonds of the same aggregate principal amount, maturity and interest rate shall be issued to the transferee in exchange therefor as provided in the Bond Ordinance. The City, the Trustee and the Registrar may deem and treat the person in whose name this Bond is registered as the absolute owner hereof for the purpose of receiving payment of or on account of the principal or redemption price hereof and interest due hereon and for all other purposes.

For every exchange or transfer of the Bonds, the City or the Trustee or Registrar, as the case may be, may make a charge sufficient to reimburse it for any tax, fee or other governmental charge required to be paid with respect to such exchange or transfer.

The Series 1985 Bonds Maturing on January 1, 199\_\_\_\_\_, and thereafter are subject to redemption prior to maturity, at the option of the City, on and after January 1, 199\_\_\_\_\_, in whole at any time or in part, or any January 1 or July 1, upon thirty (30) days' notice, at the respective redemption prices set forth below, expressed as a percentage of the principal amount of such Series 1985 Bonds to be so redeemed, plus interest accrued to the redemption date:

Period During Which Redeemed

(both dates inclusive)

\_\_\_\_\_

Redemption Price

\_\_\_\_\_

The Series 1985 Bonds maturing on January 1, 2000\_\_\_\_\_, are subject to mandatory sinking fund redemption commencing January 1, 19\_\_\_\_\_, and will be redeemed (to the extent not previously redeemed), at one hundred percent (100%) of the principal amount, plus interest accrued to the redemption date, on January 1 of each of the following years in the respective principal amounts for each year specified below:

Year	Amount
------	--------

\_\_\_\_\_

The Series 1985 Bonds maturing on January 1, 20\_\_\_\_\_, are subject to mandatory sinking fund redemption commencing January 1, 20\_\_\_\_\_, and will be redeemed (to the extent not previously redeemed), at one hundred percent (100%) of the principal amount, plus interest accrued to the redemption date, on January 1 of each of the following years in the respective principal amounts for each year specified below:

Year	Amount
_____	_____

The amount of the mandatory sinking fund redemption prescribed above shall be reduced to the extent Series 1985 Bonds have been purchased by the City or redeemed by the City pursuant to the optional redemption provisions set forth above, in such manner as the City shall direct, or, absent such direction, on a pro rata basis.

If less than all of the Series 1985 Bonds are to be redeemed, the particular Bonds or portions of Bonds to be redeemed shall be selected not less than forty-five (45) days prior to the date fixed for redemption by the Trustee by lot. Bonds in a denomination of more than \$5,000 may be redeemed in part from time to time in one or more units of \$5,000 in the manner provided in the Bond Ordinance.

If any of the Series 1985 Bonds, or portions thereof, are called for redemption, the Trustee will give notice to the Paying Agent and Holders of any such Bonds to be redeemed, in the name of the City, of the redemption of such Bonds, or portions thereof, which notice will specify the Bonds to be redeemed, the redemption date and the place or places where amounts due upon such redemption will be payable and, if less than all of the Series 1985 Bonds are to be redeemed, the numbers of such Bonds so to be redeemed, and, in the case of Bonds to be redeemed in part only, such notice will also specify the respective portions of the principal amount thereof to be redeemed. Such notice will be given by mailing a copy of the redemption notice by first class mail at least thirty (30) days prior to the date fixed for redemption to the appropriate Paying Agent or Agents and the Holder of each Bond to be redeemed, at the address shown on the registration books; provided, however, that failure to give such notice by mail, or any defect in the notice mailed to the Holder of any Series 1985 Bond, shall not effect the validity of the proceedings for the redemption of any other Bond. Provided funds for their redemption are on deposit with the Paying Agent, all Bonds so called for redemption will cease to bear interest on the specified redemption date.

It is hereby certified and recited that all conditions, acts and things required by the Constitution and statutes of the State to exist, be performed or happen precedent to or in the issuance of this Bond, exist, have been performed and have happened, that the amount of this Bond, together with all other indebtedness of the City, does not exceed any limit prescribed by such Constitution or statutes.

## ASSIGNMENT

FOR VALUE RECEIVED the undersigned hereby sells, assigns and transfers unto \_\_\_\_\_ (please print or type name and address of Transferee and Social Security or other identifying number of Transferee) the within Bond and all rights and title thereunder, and hereby irrevocably constitutes and appoints attorney to transfer the within Bond on the books kept for registration thereof, with full power of substitution in the premises.

Date: \_\_\_\_\_

\_\_\_\_\_

Signature Guaranteed:

\_\_\_\_\_

\_\_\_\_\_

## LEGAL OPINION

IT IS HEREBY CERTIFIED that the following is a true and correct copy of the complete legal opinion of Sinkler Gibbs & Simons, Charleston, South Carolina, the original of which was manually executed, dated and issued as of the date of delivery of and payment for the bonds, and a copy of which is on file with the Trustee.

CITY OF CHARLESTON,

SOUTH CAROLINA

By \_\_\_\_\_

Mayor

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

## ARTICLE I

### DEFINITIONS AND AUTHORITY

#### SECTION 1.01. Definitions.

(a) Except as provided in subsection (b) below, all terms which are defined in Section 1.01 of the Bond Ordinance shall have the same meanings in this 1985 Series Ordinance as such terms are prescribed to have in the Bond Ordinance.

(b) As used in this 1985 Series Ordinance, unless the context shall otherwise require, the following terms shall have the following respective meanings:

"Series 1985 Bonds" shall mean the Bonds of the City of the Series authorized by this 1985 Series Ordinance and designated "City of Charleston, South Carolina, Waterworks and Sewer System Revenue Bonds, Series 1985".

"Series 1984 Notes" shall mean the outstanding \$21,350,000 City of Charleston, South Carolina, Waterworks and Sewer System Bond Anticipation Notes, Series 1984.

"1985 Series Ordinance" shall mean this Ordinance.

"1985 Series Resolution" shall mean the resolution adopted by the Commissioners in accordance with the authorizations herein contained.

SECTION 1.02. Authority For This 1985 Series Ordinance. This 1985 Series Ordinance is adopted pursuant to the provisions of the Bond Ordinance.

## ARTICLE II

### AUTHORIZATION AND TERMS OF THE SERIES 1985 BONDS

SECTION 2.01. Determination of the Useful Life of the System in accordance with the requirements of Section 6-17-60 of the Enabling Act, the period of usefulness of the System is hereby determined to be not less than forty (40) years.

SECTION 2.02. Principal Amount; Designation of Series. Pursuant to the provisions of the Bond Ordinance, a Series of Bonds of the City entitled to the benefits, protection and security of the provisions of the Bond Ordinance is hereby authorized in the aggregate principal amount of not exceeding \$75,000,000. The Series of Bonds so authorized shall be designated "City of Charleston, South Carolina, Waterworks and Sewer System Revenue Bonds, Series 1985". The Series 1985 Bonds shall be issued in fully registered form without coupons and in substantially the form set forth in the recitals hereof.

SECTION 2.03. Purposes. The Series 1985 Bonds are authorized for the purpose of obtaining funds to (a) provide for the payment of the Series 1984 Notes and (b) defray the costs of the Project.

SECTION 2.04. Date; Interest Rate; Maturity; Redemption and Sale. The Date of Issue of the Series 1985 Bonds shall be October 1, 1986. The Series 1985 Bonds shall bear interest from the Date of Issue, payable on January 1, 1986, representing three (3) months' interest, and thereafter on each Bond Payment Date and payment of the principal thereof. The maturity schedule setting forth the date of the maturities of the Series 1985 Bonds (which maturities shall not exceed thirty (30) years) and amounts payable on such dates, the rates of interest borne by the Series 1985 Bonds and the amount of Bonds which shall be term Bonds and Series Bonds shall be fixed by the 1985 Series Resolution and approved by the Mayor. The Series 1985 Bonds shall be subject to optional and or mandatory redemption at such times, and on such terms and conditions, as shall be established by the Commissioners in the 1985 Series Resolution and approved by the Mayor. The Series 1985 Bonds shall be sold to underwriters selected by the Commissioners under terms and conditions approved by the Commissioners and the Mayor.

SECTION 2.05. Authentication; Payment of Interest.

(a) Each of the Series 1985 Bonds shall be authenticated on such date as it shall be delivered and shall bear interest from the later of October 1, 1985, or the date to which interest has been paid immediately preceding the authentication date thereof, unless the authentication date thereof is a Bond Payment Date, in which event, each such Bond shall bear interest from the earlier of such authentication date, or the date to which interest has been paid; provided that if the City shall fail to pay interest on January 1, 1986, then each such Bond shall bear interest from October 1, 1985.

(b) The interest on all Series 1985 Bonds shall be paid by check or draft mailed from the office of the Trustee to the person in whose name the Bond is registered at the close of business on the Record Date.

SECTION 2.06. Denomination; Numbering. The Series 1985 Bonds shall be issued in the denomination of \$5,000 or any multiple thereof, not exceeding the principal amount of the Series 1985 Bonds maturing in such year. Each Series 1985 Bond shall be numbered by the Registrar in such a fashion as to reflect the fact that it is one of the Series 1985 Bonds, and to identify the owner thereof on the books kept by the Registrar.

SECTION 2.07. Maintenance of Offices for Payment Transfer, and Exchange of Bonds. As long as any Series 1985 Bond remains Outstanding, the City shall maintain a Paying Agent and a Registrar therefor. Unless otherwise directed by the Commissioners, the Trustee shall act as Registrar and Paying Agent. Bonds shall be presented for payment and for registration of transfers and exchanges,



and notices and demands to or upon the Trustee and the City in respect of the Bonds may be served, at the corporate trust office of the Registrar.

### ARTICLE III

#### EXECUTION: NO RECOURSE

SECTION 3.01. Execution of the Series 1985 Bonds. The Series 1985 Bonds shall be executed and authenticated in accordance with the applicable provisions of the Bond Ordinance.

SECTION 3.02. No Recourse on the Series 1985 Bonds. All covenants, stipulations, promises, agreements and obligations of the City contained in the Bond Ordinance or in this 1985 Series Ordinance shall be deemed to be the covenants, stipulations, promises, agreements and obligations of the City and not those of any officer or employee of the City in his or her individual capacity, and no recourse shall be had for the payment of the principal or redemption price of or interest on the Series 1985 Bonds or for any claim based thereon or on the Bond Ordinance or in this 1985 Series Ordinance, either jointly or severally, against any officer or employee of the City or any person executing the Bonds.

### ARTICLE IV

#### AUTHORIZATION TO COMMISSIONERS

##### SECTION 4.01. Authorization.

(a) The Commissioners are hereby authorized and empowered to adopt a Series Resolution relating to the issuance of Series 1985 Bonds to be called the "1985 Series Resolution".

(b) The 1985 Series Resolution shall express the approval of the Commissioners to the issuance of the Series 1985 Bonds and agree to abide by all of the terms, provisions and agreements set forth in the Bond Ordinance and in the 1985 Series Ordinance. In addition, the 1985 Series Resolution shall specify and determine:

- (1) The precise principal amount of the Series 1985 Bonds;
- (2) The specific purposes for which the proceeds of the Series 1985 Bonds will be used;
- (3) The manner of numbering and lettering, and the denomination or denominations of the Series 1985 Bonds;
- (4) The date or dates of maturity and the amounts thereof and the issue date of the Series 1985 Bonds;
- (5) The interest rate or rates, or the manner of determining such rate or rates, of the Series 1985 Bonds;
- (6) The time for the payment of interest on the Series 1985 Bonds and the Record Date;
- (7) The redemption price or redemption prices and the redemption date or redemption dates and other terms of redemption (if any) applicable to any of the Series 1985 Bonds for such payments;
- (8) The Registrar for the Series 1985 Bonds if other than the Trustee;
- (9) The portion of the Series 1985 which are to be serial bonds and the portion which are to be term bonds, if any, including the amount and date of each mandatory redemption or sinking fund installment, if any, required by the 1985 Series Resolution to be paid for the retirement of any Series 1985 Bonds;
- (10) Any other applicable redemption requirement for the Series 1985 Bonds and the method of satisfying the same;

- (11) The manner in which the Series 1985 Bonds are to be sold and provisions for the sale thereof;
- (12) The provision to be made for the applicable Reserve Requirement;
- (13) The disposition of the proceeds of the sale of the Series 1985 Bonds and the manner of their application; and
- (14) The form of the Escrow Agreement, if any, to be made to insure payment of the principal of and interest on the outstanding bond anticipation notes being refunded and the name of the institution named by the Commissioners to act as Escrow Agent under any such Escrow Agreement.

## ARTICLE V

### APPLICATION OF THE SERIES 1985 BOND PROCEEDS

SECTION 5.01. Creation of 1985 Construction Fund. There is hereby created a fund to be known as the "1985 Construction Fund." These shall be paid into the 1985 Construction Fund the sums prescribed by Section 5.02(e) hereof. The 1985 Construction Fund shall be held, maintained and controlled by the Commissioners.

SECTION 5.02. Use and Disposition of Bond Proceeds. On or upon the delivery of the Series 1985 Bonds and receipt of the proceeds thereof, such proceeds and other available funds shall be disposed of as follows:

- (a) Any sum received by way of accrued interest shall be deposited in the Debt Service Fund.
- (b) That sum prescribed by the 1985 Series Resolution shall be deposited in the Debt Service Fund. It shall be invested and reinvested as prescribed by Section 7.04 of the Bond Ordinance.
- (c) That sum required for the Reserve Requirement shall be deposited in the Debt Service Reserve Fund and shall be invested and disposed of as prescribed by Section 7.05 of the Bond Ordinance.
- (d) So much as shall be required therefor after utilizing all moneys and securities applicable thereto shall be deposited in a special trust fund which the Commissioners shall establish on or before the delivery of the Series 1985 Bonds. In order to effect the payment, when due, of the Series 1984 Notes. Such trust shall be evidenced by a written trust agreement executed by the paying agent for the Series 1984 Notes or the financial institution appointed to act as Escrow Agent by the Commissioners, and by the Commissioners. The trust agreement shall prescribe the investments to be made for the trusts which may include State and Local Governmental Series investments issued by the United States Department of Treasury.
- (e) The remaining moneys shall be deposited in the 1985 Construction Fund.

SECTION 5.03. Investment of 1985 Construction Fund. Moneys in the 1985 Construction Fund shall be invested and reinvested in Authorized Investments. All earnings shall be added to and become a part of the 1985 Construction Fund. Withdrawal from the 1985 Construction Fund shall be made upon written order of the Commissioners. Any amounts remaining in the Construction Fund following completion of the acquisition and construction of the Project shall be deposited in the Depreciation and Contingent Fund.

## ARTICLE VI

### MISCELLANEOUS

SECTION 6.01. Severability. If any one or more of the covenants or agreements provided in this 1985 Series Ordinance on the part of the City or any Fiduciary to be performed should be contrary to law, then such covenant or covenants or agreement or agreements shall be deemed severable from the remaining covenants and agreements, and shall in no way affect the validity of the other provisions of this 1985 Series Ordinance.

SECTION 6.02. Table of Contents and Section Headings Not Controlling. The Table of Contents and the Headings of the several Articles and Sections of this 1985 Series Ordinance have been prepared for convenience of reference only and shall not control, affect the meaning of, or be taken as an interpretation of any provision of this 1985 Series Ordinance.

DONE, RATIFIED AND ADOPTED THIS \_\_\_\_\_ day of October, 1985.

(SEAL)

\_\_\_\_\_  
Mayor, City of Charleston,

South Carolina

Attest: \_\_\_\_\_

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

First Reading: September 24, 1985

Second Reading: October \_\_\_\_\_, 1985

\_\_\_\_\_  
The following resolution was adopted on motion of Councilmember Jefferson:

#### A RESOLUTION

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

AGREEMENT made and entered into this \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_\_, by and between the City of Charleston, South Carolina, hereinafter referred to as "Owner", and Post, Buckley, Schuh and Jernigan, Inc., a South Carolina corporation, with offices at 174 East Bay Street, Charleston, South Carolina, hereinafter referred to as "Engineer".

#### WITNESSETH:

WHEREAS, the Owner proposes to do certain work towards accomplishment of the project described in Attachment A; and

WHEREAS, the Owner desires to engage the Engineer to perform certain professional services pertinent to such work in accordance with this Agreement; and

WHEREAS, the Engineer desires to provide such professional services in accordance with this Agreement.

NOW, THEREFORE, in consideration of the promises and the mutual benefits which will accrue to the parties hereto in carrying out the terms of this Agreement, it is mutually understood and agreed as follows:

#### I. GENERAL SCOPE OF THIS AGREEMENT:

The relationship of the Engineer to the Owner will be that of a professional consultant, and the Engineer will provide the professional and technical services required under this Agreement accordance with acceptable engineering practices and ethical standards.

## II. PROFESSIONAL AND TECHNICAL SERVICES:

It shall be the responsibility of the Engineer to work with the Owner and apprise it of solutions to engineering problems and the approach or technique to be used towards accomplishment of the Owner's objectives as set forth in Attachment A. The scope of services to be provided in accomplish the Owner's objectives is set forth in Attachment B, subject, however, to the inclusion of additional services as provided in IV. C.

## III. PERIOD OF SERVICE:

A. The Engineer will begin work promptly after receipt of a fully executed copy of this Agreement, such receipt constituting written notice to proceed. All work contemplated by this Agreement shall be completed by the Engineer within six (6) months of the Engineer's receipt of a fully executed copy of this Agreement.

B. If the Engineer's services called for under this Agreement are delayed for reasons beyond the Engineer's control, the time of performance shall be adjusted appropriately. If the services under this Agreement continue for a period of more than one (1) year from the beginning date (as above provided), and through no fault of the Engineer, the fees contained in Attachment C shall be subject to renegotiation; provided, however that any change in such fees shall apply only to the unfinished services as of the effective date of such change.

C. The Engineer shall not be bound under this

Agreement if a fully executed copy hereof is not received by the Engineer on or before November 15, 1985.

## IV. GENERAL CONSIDERATIONS:

A. All original sketches, traces, drawings, computations, details, design calculations, and other documents and plans that result from the Engineer's services under this Agreement shall become and remain the property of the Owner upon receipt by Engineer of payment for the services rendered in preparing said sketches, etc. Said sketches, etc., are neither represented nor intended to be suitable for any use other than that for which they are prepared, and any other such use by the Owner shall be at Owner's sole risk without liability or legal exposure to the Engineer.

B. The Owner agrees that no additions, deletions, changes or revisions shall be made to the materials cited in IV. A. above, without the express written consent of the Engineer.

C. In addition to the specific services enumerated in Attachment B, the Engineer will, upon written request of the Owner, provide any and all other civil engineering and planning consulting services beyond those falling within the scope of services to be performed by the Engineer as set forth in Attachment B; provided, however, that such additional services shall result in extra compensation to the Engineer, as provided in Attachment C. It is understood and agreed that if such additional services are requested, the Agreement shall be considered as a continuing contract with respect thereto.

D. The Owner hereby acknowledges that estimates of probable construction costs cannot be guaranteed, and such estimates are not to be construed as a promise to design facilities within a cost limitation. Engineer agrees to make every reasonable effort to design facilities within the Owner's budget amounts.

E. The Engineer shall at all times carry, on all operations hereunder, workman's compensation and public liability and property damage insurance in an amount not less than \$1,000,000, and

automotive public liability and property damage insurance in amount of not less than \$1,000,000. The Owner shall be provided Certificates of Insurance and shall be named as an additional insured thereon.

F. It is understood and agreed that the Engineer's services under this Agreement do not include participation, whatsoever, in any litigation. Should such services be required, a supplemental Agreement may be negotiated between the Owner and the Engineer describing the services desired and providing a basis for compensation to the Engineer.

G. Upon the Engineer's written request, the Owner will furnish, or cause to be furnished, such existing reports, studies, instruments, documents, and other information as the Engineer and owner mutually deem necessary, and the Engineer may rely upon same in performing the services required under this Agreement.

H. The Owner represents that it is a political subdivision of the State of South Carolina with the authority to engage the professional services described in Attachment B and to accept the obligation for payment for the services as described in Attachment C.

I. The Owner and the Engineer each binds itself and its successors, legal representatives, and assigns to the other party to this Agreement and to the partners, successors, legal representatives, and assigns of such other party, in respect to all covenants of this Agreement; and, neither the Owner nor the Engineer will assign or transfer its interest in this Agreement without the written consent of the other.

#### V. COMPENSATION:

The Engineer shall be compensated for all services rendered under this Agreement in accordance with the provisions of Attachment C.

#### VI. PROHIBITION AGAINST CONTINGENT FEES:

The Engineer warrants that it has not employed or retained any company or person, other than a bona fide employee working solely for the Engineer, to solicit or secure this Agreement, and that it has not paid or agreed to pay any persons, company, corporation, individual or firm, other than a bona fide employee working solely for the Engineer any fee, commission, percentage, gift, or any other consideration, contingent upon or resulting from the award or making of this Agreement.

#### VII. FEDERAL ASSISTANCE:

The parties to this Agreement acknowledge that this project is being funded, in part, by assistance of the Urban Mass Transportation Administration (UMTA), and that each will abide by such terms and conditions as may be imposed by UMTA, especially:

##### (a) Termination for Convenience:

The Owner may terminate this Contract, in whole or in part, at any time by five (5) days written notice to the Engineer. The Engineer shall be paid its costs, including contract closeout costs, for work performed up to the time of termination. The Engineer shall promptly submit its termination claim to the Owner for payment. If the Engineer has any property in its possession belonging to the Owner, the Engineer shall account for the same, and dispose of it in the manner that the Owner may direct.

##### (b) Termination for Default:

If the Engineer fails to perform in the manner called for by this Contract, or if the Engineer fails to comply with any other provisions of this Contract, the Owner may terminate this Contract for default. Termination shall be effective by the Owner serving upon the Engineer written notice, through Certified Mail, of the default, setting forth the reasons for the default. The Engineer shall

only then be entitled to payment for services performed in accordance with the directives of this Agreement through the date of termination.

If it should be later determined by the Owner that the Engineer had an excusable reason for not performing, such as a strike, fire, or flood or events which are not the fault of, or which are beyond the control of, the Engineer, the Owner may allow the Engineer to continue work under the Agreement, or treat the termination as a termination for convenience, at the option of the Owner.

Nothing herein shall be construed to in any manner inhibit or affect the right of the Owner to maintain an action, at law or in equity for damages it may incur as a result of the Engineer's default hereunder. At its option, the Owner, in the event of default by the Engineer, may withhold any and all payment that would otherwise be due the Engineer until such time as the extent of damage incurred by the Owner due to the default has been determined and/or agreed upon.

(c) Equal Employment Opportunity:

In connection with the execution of this Contract, the Engineer agrees that it will not, and shall not, discriminate against any employee or applicant for employment because of race, religion, color, sex, age or national origin. The Engineer agrees to take affirmative action to insure that applicants are employed, and that employees are treated during employment, without regard to their race, color, religion, sex, age, or national origin. Such action shall include, but not be limited to, the following: employment, upgrading, demotion, or transfer, recruitment or recruitment advertising, layoff or termination, rates of pay or other forms of compensation, and selection for training, including apprenticeship. The Engineer further agrees to insert a provision to this effect in all subcontracts entered into as a result of this Agreement, except subcontracts for standard commercial supplies or raw materials.

(d) Disadvantaged Business Enterprise (DBE):

It is the policy of the Owner and of the Department of Transportation that disadvantaged business enterprises as defined in 48 CFR Part 23 have the maximum opportunity to participate in the performance of contracts financed in whole or in part with federal funds under this Agreement. Consequently, the DBE requirements of 49 CFR Part 23 apply to this Agreement.

The Engineer agrees to insure that disadvantaged business enterprises have the maximum opportunity to participate in the performance of contracts and subcontracts financed in whole or in part with federal funds provided under this Agreement. In this regard, the Engineer agrees to take all necessary and reasonable steps in accordance with 49 CFR Part 23 to insure that disadvantaged business enterprises have the maximum opportunity to compete for and perform under this Contract. The Engineer shall not discriminate on the basis of race, creed, color, national origin, age or sex in the performance of this Contract.

For purposes of this Agreement, the established DBE goal for this project is ten (10%) percent of the contract price of \$182,500.

(e) Title VI of the Civil Rights Act of 1964:

During the performance of this Contract, the Engineer, for itself, its assignees and successors in interest agrees as follows:

1. Compliance with Regulations:

The Engineer shall comply with the regulations relative to non-discrimination in federally assisted programs of the Department of Transportation as codified in Title 49 of the Code of Federal Regulations, Part 21, (the "Regulations") as they may be amended from time to time, which regulations are herein incorporated by reference and made a part of this Contract.

2. Non-Discrimination:

The Engineer, with regard to the work performed by it during this Contract, shall not discriminate on the grounds of race, religion, color, sex, age or national origin in the selection or retention of subcontractors, including procurements of materials and leases of equipment. The Engineer shall not participate either directly or indirectly in the discrimination prohibited by Section 21.5 of the Regulations, including employment practices.

### 3. Solicitations for Subcontracts, Including Procurements of Materials and Equipment:

In all solicitations, whether by competitive bidding or negotiation, made by the Engineer for work to be performed under a subcontract pertaining to this Agreement, including procurements of materials or leases of equipment, each potential subcontractor or supplier shall be notified by the Engineer of its obligations under this Contract and of the applicability of the federal regulations relative to non-discrimination on the grounds of race, religion, color, sex, age or national origin.

### 4. Information and Reports:

The Engineer shall provide all information and reports required by the Regulations and directives issued pursuant thereto, and shall permit access to its books, records, accounts, other sources of information and its facilities as may be determined by the Owner or the Urban Mass Transportation Administration to be pertinent to ascertain compliance with the Regulations, orders and instructions. When any information required is in the exclusive possession of another who falls or refuses to furnish this information, the Engineer shall so certify to the owner, or the Urban Mass Transportation Administration, as appropriate, and shall set forth what efforts it has made to obtain the information.

### 5. Sanctions for Non-Compliance:

In the event of the Engineer's non-compliance with the non-discrimination provisions of this Contract, the Owner shall impose such contract sanctions as it or the Urban Mass Transportation Administration may determine to be appropriate, including but not limited to:

(a) Withholding of payments to the Engineer or under the Contract until the Engineer complies, and/or,

(b) Cancellation, termination or suspension of the Contract, in whole or in part.

### 6. Incorporation of Provisions:

The Engineer shall include the provisions of subsections 1 through 5 of this section in every subcontract entered into as a result of this Agreement, including procurement of materials and leases of equipment, unless the same are exempt by the Regulations or directives issued pursuant thereto. The Engineer shall take such action with respect to any subcontract or procurement as the Owner or the Urban Mass Transportation Administration may direct as a means of enforcing such provisions including sanctions for non-compliance; provided, however, that in the event the Engineer becomes involved in, or is threatened with, litigation by a subcontractor or a supplier as a result of such direction, the Engineer may request the Owner to enter into such litigation to protect the interest of the Owner; and in addition, the Engineer may request the United States to enter into such litigation to protect the interest of the United States.

#### (f) Conservation:

The Engineer shall recognize mandatory standards and policies relating to energy efficiency which are contained in the State Energy Conservation Plan issued in compliance with the Energy Policy and Conservation Act (42 USC Section 6321 et seq).

#### (g) Audit and Inspection of Records:

In the case of all negotiated contracts, and contracts for construction, reconstruction or improvements of facilities and equipments which are entered into under procedures other than

competitive bidding procedures, the Engineer agrees that the Owner, the Comptroller General of the United States, or any of their duly authorized representatives shall, for the purpose of audit and examination, be permitted to inspect all work, materials, payrolls and other data and records with regard to the project, and to audit the books, records and accounts with regard to the project. In addition, the Engineer agrees to maintain all required records for at least three (3) years after the Owner makes final payment and all other pending matters relative to this contract are closed.

(h) Environmental Violations:

The Engineer agrees to comply with all applicable standards, orders or requirements issued under Section 305 of the Clean Air Act (42 USC 1857 [h]), Section 508 of the Clean Water Act (33 USC 1368), Executive Order 11378 and Environmental Protection Agency regulations (40 CFR Part 15) which prohibit the use under non-exempt federal contracts, grants or loans of facilities included on the EPA list of violating facilities. The Engineer shall also report violations to the Urban Mass Transportation Administration and to the U.S. Environmental Protection Agency Assistant Administrator for Enforcement.

(i) Buy America Provision:

The Engineer acknowledges that this Contract is subject to the Urban Mass Transportation Buy America Requirements as set forth in 49 CFR 661, which provisions are Incorporated herein by reference, and to which the Engineer agrees to comply.

(j) Interest of Member of Congress:

No member of, or delegate to, the Congress of the United States shall be admitted to a share or part of this Contract.

(k) Prohibited Interest:

The Owner, its officers, employees or agents shall neither solicit nor accept gratuities, favors or anything of monetary value from the Engineer or any of the Engineer's subcontractors under this Agreement.

IN WITNESS WHEREOF, the parties hereto have accepted, made and executed this Agreement upon the terms and conditions above stated on the day and year first above written.

CITY OF CHARLESTON

BY: \_\_\_\_\_

ITS: \_\_\_\_\_

ATTEST: \_\_\_\_\_

Mary R. Wrixon

Clerk of Council

POST. BUCKLEY, SCHUCH AND JERNIGAN, INC.

BY: \_\_\_\_\_

ITS: \_\_\_\_\_

Date \_\_\_\_\_

ATTACHMENT A - DESCRIPTION OF PROJECT Project: Visitor-Reception and Transportation Center

Location: Charleston, South Caroline



Legal Description:

2-Block Area including approximately 10.4 acres bounded on the east by Meeting Street, on the north by Mary Street, on the West by King Street and on the south by John Street.

Owner:

Various owners including City of Charleston, Norfolk Southern Corporation and several private parties.

The nature, character, Owner's objectives and limits of the proposed project are described as follows:

The City desires architectural and engineering services for the final design of a Visitor Reception and Transportation Center. The project includes the design of a transit mall, visitor Information center, surface parking facility, regional transit transfer area, and appropriate public improvements surrounding this site.

Initials of Signatories:

\_\_\_\_\_

For the Engineer

\_\_\_\_\_

Date

\_\_\_\_\_

For the Owner

\_\_\_\_\_

Date

Date \_\_\_\_\_

ATTACHMENT B -- SCOPE OF SERVICES

The services to be provided by the Engineer under this Agreement fall generally in the categories of studies and reports. Land Planning, Preliminary and Final Engineering and Architectural Services as are described in detail as follows:

I. ENGINEER'S RESPONSIBILITIES:

Proposed Scope of Services

Task A: Program Development

During this initial phase of the project, the Engineer will meet with the Owner and representatives from the various public and private interest groups to review goals and objectives of the project, past studies and experiences, anticipated schedules and projects, approach to public meetings and workshops, and other issues which will set the framework from which the project will be designed. Although an initial task, development of the Program will continue through the Phase I Conceptual Plan development, until the Final Plan for the VRTC has been determined.

Task B: Data Collection

The Engineer recognizes that many studies and investigations have been conducted for the planning and design of the VRTC. During Task B, the Engineer will collect and review available data related to the project, including but not limited to the following:

- Review of Existing Studies and Reports
- Adjacent Uses/Influences/Relationships
- Existing Utilities/Drainage
- Historic/Cultural Influences
- Transportation Patterns/Conditions
- Evaluation of Existing Structures
- Architectural Influences
- Topographic Survey
- Boundary Survey
- Soil Survey

#### Task C: Data Analysis

After reviewing the information obtained during the Task above, the Engineer will evaluate that information necessary for Phase I Design Development, and make recommendations for additional studies, if required, to update the available data. Information to be analyzed during this Task will include:

- Transit Use Relationships (Dash, Regional Transfer, etc.)
- Traffic Impact Studies
- On-Street and Off-Street Parking
- Land Use Relationships
- Open Space Needs
- Pedestrian/Vehicular Conflicts
- Architectural Influences
- Public/Private Use Relationships
- Utilities/Drainage

#### Task D: Phase I Conceptual Plan

After completion of Tasks A, B and C above, the Engineer will formulate conceptual plans for the project, addressing the goals and objectives of the Owner, established design criteria, and other public and private considerations for the development. Elements to be included in the Phase I Conceptual Plan will include:

- Visitor Center
- Transit Malls
- Tour Bus Facilities
- Regional Transfer Facility
- Pedestrian Mall
- Adjacent Uses/Relationships

-- Architectural Concepts

Visitor Center and Restaurant

Hotel

Parking Structure

-- Office/Retail

-- Display and Exhibit Concepts

Program

Interior Layout

Graphic Design

-- Landscape Architectural Concepts

Pedestrian Mall

Transit Mall

Outdoor Cafe

-- VRTC Plaza

Lighting

Plant Materials

Hardscape Features/Materials

-- Engineering Concepts

Drainage

Utilities

Street Improvements

-- Traffic Operations

-- Phasing

-- Preliminary Estimate of Probable Cost

Task E: Phase I Design Development

After formulation, development and approval of the Phase I Conceptual Plans by the Owners, the Phase I Design Development will be prepared addressing the overall project area and influences. Specific uses, locations, building sizes, pedestrian and vehicular access, landscaping, hardscape, and other design elements will be determined, and recommendations will be made as to materials, phasing, and design controls or guidelines for future development opportunities.

Task F: Phase I Final Design

After the Phase I Design Development has been formulated and agreed upon by the Owner, the Engineer will prepare a Final Design for the designated Phase I area. This will include the Visitor Center, VRTC Plaza, Pedestrian Mall, the Transit Mall and Tour Bus Transfer Facility, Regional Bus Transfer Facility, surface parking areas, landscape areas, hardscape features, adjacent streetscape improvements, adjacent street rehabilitation, and utilities. Design plans, engineering drawings,

and construction drawings will be prepared for these Phase I elements as part of this task. A model of the Final Design will be prepared at an appropriate scale to be agreed upon by the Owner and the Engineer. Final design will not include construction drawings for the Exhibit and Graphic Display elements. These items shall be provided under a separate agreement.

#### Task G: Design Specifications

Specifications for the design elements in Phase I Final Design (Task F, above) will be developed and published as part of this Task.

#### Task H: Construction Schedule/Budgets

Based on the Phase I Final Design plans and specifications, estimates of the construction costs will be prepared. The costs will be broken down into categories such as building rehabilitation, new construction, landscaping, paving, utilities, and other categories. These items shall be provided under a separate Agreement. A schedule for construction will also be prepared to be used as a guide for negotiating bids and coordination during the construction program.

#### Task I: Coordination with the Owner and Client Group

Activities of the Engineer will be coordinated through Mr. William Wallace, Regional Planning Manager of the Engineer's Charleston office. Mr. Wallace will be available on a day-to-day basis to address any specific requirements of the Owner, attend progress meetings or provide other planning and design information required by the Owner. Other Engineer Team members will be available throughout the course of the project as needed to provide the proposed services.

It is proposed that two (2) public meetings be conducted during the project to (1) inform the public about the project, its goals and objectives, and anticipated products; (2) review and comment on conceptual design and site plans for the VRTC and other proposed elements within the project area; and (3) review the final plans at the conclusion of the project.

Three (3) informal workshops and meetings are also programmed throughout the project to include members of the various civic, historic, and governmental agencies which have interest and/or jurisdictional considerations in the project. The purpose of these meetings will be to collect and review information related to the project, and to receive input on conceptual planning and design issues to aid in the development of the final design.

## II. OWNER'S RESPONSIBILITIES:

The Owner will furnish the Engineer all available information previously prepared for the project. This will include but not be limited to property boundary and topographic survey, soil investigation results, and all Master Plan documents.

## III. SCHEDULE:

The Engineer's services enumerated above shall be completed within six (6) working months following receipt by the Engineer of a fully executed copy of this Agreement.

Initials of Signatories:

\_\_\_\_\_

For the Engineer

\_\_\_\_\_

Date

\_\_\_\_\_

For the Owner

\_\_\_\_\_

Date

Date \_\_\_\_\_

#### ATTACHMENT C -- COMPENSATION

##### I. METHOD OF COMPENSATION:

A. Lump Sum. The Owner agrees to compensate the Engineer for the professional services called for under Attachment B to this Agreement in the total sum of \$182,500.00, except as otherwise provided herein.

B. Additional Services. Services authorized by the Owner other than those specifically listed in Attachment B shall be considered additional services for which the Owner shall compensate the Engineer based upon the time expended by the Engineer in accomplishing same; such charges shall be computed by taking the direct personnel expense of those persons engaged directly on such additional work and adding a surcharge of 125% for overhead and profit. Direct personnel expense is defined as the cost of salaries (including sick leave, vacation, and holiday pay applicable thereto) plus payroll taxes, retirement and insurance benefits for time directly chargeable to the project by personnel assigned to provide services for this project. Additional services shall include revisions to work previously performed that are required because of a change in the date or criteria furnished to the Engineer, or a change in the scope or concept of the project initiated by the Owner, and/or services that are required by changes in the requirements of public agencies, after work under this Agreement has commenced.

C. Out-of-Pocket Expenses. The Owner shall reimburse the Engineer for all out-of-pocket expenses directly chargeable to additional services at actual cost incurred, plus a service charge of ten (10%) percent. Such charges shall be itemized and included in the monthly invoices and shall be submitted and paid as provided for such invoices. Typical reimbursable expenses include travel, lodging, meals and travel expenses when traveling on the Owner's behalf, identifiable communication expenses, identifiable reproduction costs, computer machine time charges, survey supplies, and special accounting expenses not applicable to general overhead.

##### II. INVOICING PROCEDURE:

A. The Engineer shall submit invoices to the Owner for work accomplished during each calendar month; the amount of each monthly invoice shall be determined on the "percentage of completion method" whereby the Engineer will estimate the percentage of the total work (called for under Attachment B) accomplished during the invoicing period. Such monthly invoices shall include, separately listed, any charges for additional services for which time charges shall apply. Such invoices shall be submitted by the Engineer as soon as possible after the end of the month in which the work was accomplished and shall be due and payable by the Owner upon receipt. All invoices shall be subject to retainage in the amount of ten (10%) percent thereof, which retainage shall be paid to the Engineer within thirty (30) days of the completion of the work called for by this Agreement and acceptance of such work by the Owner.

The Owner agrees that unpaid monthly invoices shall accrue interest based on the rate of ten (10%) percent per annum, after they have been outstanding/unpaid for thirty (30) days after invoice date. Engineer reserves the right to cease all work on the Owner's project in the event invoices remain unpaid forty-five (45) days after date of invoice.

B. If the Engineer employs legal services to collect overdue amounts, the Owner agrees to pay all costs of collection, including reasonable attorney's fees, whether action be brought or not.

Initials of Signatories:

\_\_\_\_\_

For the Engineer

\_\_\_\_\_

Date

\_\_\_\_\_

For the Owner

\_\_\_\_\_

Date

On motion of Councilmember Scott, seconded by Councilmember Ford, the following policy concerning the program for Assistance to Disadvantaged Businesses and Women Business Enterprises was adopted:

#### PROGRAM FOR ASSISTANCE TO DISADVANTAGED BUSINESSES AND WOMEN BUSINESS ENTERPRISES

##### Section 1. Findings:

The City of Charleston does hereby make the following findings:

(A) The City of Charleston often applies for federal assistance in the funding for some of its projects, and as a condition of some of such funding, particularly through the Urban Mass Transportation Administration. It is required that the City have in effect a program to assist and encourage the use of disadvantaged businesses and/or businesses owned by women so as to attempt to insure that contracting and other procurement opportunities arising from federal expenditures are available to such entities.

(B) The South Carolina General Assembly, pursuant to South Carolina Code Section 11-35-5010, et seq (1976), as amended, has endorsed assistance to minority businesses, specifically finding that such firms have been historically restricted from full participation in the free enterprise system to a degree disproportionate to other businesses, and that it is in the State's best interest to assist businesses owned by socially disadvantaged persons to develop fully to promote a balanced economic and community growth throughout the State.

(C) The South Carolina General Assembly, pursuant to South Carolina Code Section 11-35-50 (1976), as amended, has directed all political subdivisions of the State to adopt procedures embodying sound principles of appropriately competitive procurement.

(D) The City of Charleston finds and declares it to be in the best interest of the City and its inhabitants that a program for assistance to disadvantaged businesses and businesses owned and operated by women be implemented to insure that businesses owned and operated by socially disadvantaged individuals and women have an equitable opportunity to compete for contracts and subcontracts.

##### Section 2. Definitions:

"Affirmative Action" means taking specific steps to eliminate discrimination and its effects, to ensure non-discriminatory results and practices in the future, and to involve disadvantaged businesses and businesses owned and operated by women fully in contracts and programs funded by the City.

"City" means the City of Charleston, South Carolina.

"Contract" means a mutually binding legal relationship, or any modification thereof, obligating the seller to furnish supplies or services, including construction, and the buyer to pay for them. For purposes hereof, a Lease is a contract.

"Contractor" means one who participates, through a contract or subcontract, in any project covered by this program, and includes lessees.

"Joint Venture" means an association of two (2) or more businesses to carry out a single business enterprise for profit for which purpose they combine their property, capital, efforts, skills and knowledge.

"Disadvantaged Business" (DBE) means a small business concern which: (a) is at least fifty-one (51%) percent owned by one or more socially and economically disadvantaged individuals, or, in the case of any publicly owned business, at least fifty-one (51%) percent of the stock of which is owned by one or more socially and economically disadvantaged individuals; and (b) the management and daily business operations are controlled by one or more of the socially and economically disadvantaged individuals who own it.

"Noncompliance" means a small business as defined pursuant to Section 3 of the Small Business Act and relevant regulations promulgated pursuant thereto.

"Small Business Concern" means a small business as defined pursuant to Section 3 of the Small Business Act and relevant regulations promulgated pursuant thereto.

"Socially and Economically Disadvantaged individuals" means those who are citizens of the United States (or lawfully admitted permanent residents) and who are Black Americans, Hispanic Americans, Native Americans, Asian Pacific Americans, or Asian Indian Americans and any other minorities or individuals found to be disadvantaged by the Small Business Administration pursuant to Section 8(a) of the Small Business Act. The City hereby makes a rebuttable presumption that individuals in the following groups are socially and economically disadvantaged but expressly reserves the right to determine, on a case by case basis, that individuals who are not a member of one or more of the following groups are

socially and economically disadvantaged:

(a) "Black Americans", which includes persons having origins in any of the black racial groups of Africa;

(b) "Hispanic Americans", which includes persons of Mexican, Puerto Rican, Cuban, Central or South American or other Spanish cultural or origin, regardless of race;

(c) "Native Americans", which includes persons who are American Indians, Eskimos, Aleuts, or native Hawaiians;

(d) "Asian Pacific Americans", which includes persons whose origins are from Japan, China, Taiwan, Korea, Viet Nam, Laos, Cambodia, the Philippines, Samoa, Guam, the U.S. Trust Territories of the Pacific, and the Northern Marianas; and

(e) "Asian Indian Americans", which includes persons whose origins are from India, Pakistan and Bangladesh.

"Women Business Enterprise" (WBE) means a small business concern as defined pursuant to Section 3 of the Small Business Act and relevant regulations promulgated pursuant thereto which is at least fifty-one (51%) percent owned by women, or in the case of any publicly owned business, at least fifty-one (51%) percent of the stock is owned by women and whose management and daily business operations are controlled by women.

Section 3. Certifications of DBEs and WBEs:

(I) To ensure that this program benefits only firms that are owned and controlled by socially and economically disadvantaged individuals or women, the City shall certify the eligibility of such entities that are named by competitors for special project contracts to which this program applies. The City shall also certify the eligibility of disadvantaged and women owned and controlled businesses that provide goods and services to the City on an ongoing basis.

Each entity wishing to participate in any City assisted contract as a DBE or WBE shall complete and submit Schedule A (see Exhibit "A") duly signed and notarized by the authorized representatives of the business entity, and each entity wishing to participate as a joint venture DBE or WBE in any City assisted contract shall complete and submit Schedule B in addition to Schedule A (see "Exhibit "B"). A business seeking certification as a DBE or WBE shall submit the required schedule after bid opening, but prior to the award. (Note: Exhibits "A" and "B" attached to original policy concerning this program.)

The City shall utilize standards hereinafter set forth in determining whether a firm is certifiable as a DBE or WBE. Actual on-site visitations may also be used in the certification process. The City shall use the information it obtains during the certification process to ensure that only bonafide entities whose ownership and control by socially and economically disadvantaged individuals or women is real, substantial and continuing benefit from this program.

The following standards shall be utilized by the City in certifying an entity as a DBE or WBE. Businesses aggrieved by this determination may appeal in accordance with the procedures hereinafter set forth:

A. The City shall utilize the procedures as set forth in appendices B and C of 49 C.F.R. Part 23.

B. Bonafide classifications as a disadvantaged individual or woman shall be established on the basis of the individual's claim that he or she is a member of such a group and is so regarded by that particular group in the community. However, the City is not bound to accept this claim if it determines the claim to be invalid.

C. An eligible DBE or WBE under this part shall be an independent business. The ownership and control by socially and economically disadvantaged individuals or women shall be real, substantial, and continuing and shall go beyond the pro forma ownership of the firm as reflected in its ownership documents.

The socially and economically disadvantaged individual or women owners shall enjoy the customary incidents of ownership and shall share in the risks and profits commensurate with their ownership interest, as demonstrated by examination of the substance rather than the form of arrangements. Recognition of the business as a separate entity for tax or corporate purposes is not necessarily sufficient for recognition as a DBE or WBE. In determining whether a potential DBE or WBE is an independent business, the City shall consider all relevant factors, including the date the business was established, the adequacy of its resources for the work of the contract, and the degree to which financial, equipment leasing, and other relationships with non-minority firms vary from industry practice.

D. The socially and economically disadvantaged individuals or women owners shall also possess the power to direct or cause the direction of the management and policies of the firm and to make the day-to-day as well as the major decisions on matters of management, policies and operations. The firm shall not be subject to any formal or informal restrictions which limit the customary discretion of the socially or economically disadvantaged individuals or women owners. There shall be no restrictions through, for example, by-law provisions, partnership agreements or charter requirements for cumulative voting rights or otherwise that prevent the disadvantaged individuals or women owners, without the cooperation of any owner who is not a socially or economically disadvantaged person or woman, from making a business decision of the firm.



E. If the owners of the firm who are not socially or economically disadvantaged individuals or women are disproportionately responsible for the operation of the firm, then the firm is not controlled by socially and economically disadvantaged individuals or women and shall not be considered certifiable within the meaning of this program. Where the actual management of the firm is contracted out to individuals other than the owner, those persons who have the ultimate power to hire and fire the managers can, for the purposes of this part, be considered as controlling the business.

F. All securities which constitute ownership and/or control of the corporation for purposes of establishing it as a DBE or WBE hereunder shall be held directly by socially and economically disadvantaged individuals or women. No securities held in trust or by any guardian for a minor shall be considered as held by a socially and economically disadvantaged person or woman in determining the ownership or control of a corporation. The contribution of capital or expertise by the socially and economically disadvantaged individuals or women owners to acquire their interest in the firm shall be real and substantial. Examples of insufficient contributions include a promise to contribute capital, a note payable to the firm or its owners who are not socially and economically disadvantaged, or the mere participation as an employee, rather than as a manager.

(II) In addition to the above standards, the City will give special consideration to the following circumstances in determining eligibility hereunder:

A. Newly formed firms and firms whose ownership and/or control have changed since the date of the advertisement of the contract will be closely scrutinized in determining the reasons for the timing of the formation of, or change in, the firm;

B. A previous and/or continuing employer/employee relationship between or among present owners will be carefully reviewed to ensure that the employee-owner has management responsibilities and capabilities discussed in this Section;

C. Any relationship between a potential WBE or DBE and a business which is not a WBE or DBE, but which has an interest in the potential WBE or DBE, will be carefully reviewed to determine if the interest of the non-WBE or non-DBE conflicts with the ownership and control requirements of this Section.

D. A Joint Venture is eligible hereunder if the socially and economically disadvantaged or woman partner of the Joint Venture meets the standards of an eligible WBE or DBE herein set forth and the socially and economically disadvantaged or woman partner is responsible for a clearly defined portion of the work to be performed and shares in the ownership, control, management and responsibility, risks and profits of the Joint Venture.

(III) A business wishing to be certified as a WBE or DBE or Joint Venture WBE or DBE by the City shall cooperate with the City in supplying additional information which may be requested in order to make a determination.

(IV) Once certified, an annual update shall be required, or until its contractual or potential contractual status no longer exists, by submitting a new Schedule A or certifying that the Schedule A on file is still accurate. A new Schedule A must be submitted

anytime there is a change in ownership of the firm.

(V) Any party aggrieved by the certification process, whether it be a denial of certification or a granting of certification, may appeal to the City, which processes shall be governed by the procedure as set forth in Appendix A (Denial of Certification) and Appendix B (Challenge to a Certification), attached hereto.

(VI) A. Prime contractors shall make good faith efforts to replace defaulting DBE's and WBE's with another DBE or WBE, as the case may be. Good faith efforts shall include notifying the City immediately of the entity's inability to perform and the contractor's intent to obtain a substitute

entity. The contractor should also contact available DBE or WBE referral systems and individual DBE's and WBE's in an effort to re-contract the work of the defaulting firm with another WBE or DBE, as well as to increase the participation of satisfactory DBE's and WBE's in the project. If the contractor obtains a substitute DBE or WBE, the contractor shall notify the City immediately and provide copies of descriptions of new or amended contracts and a complete certification form for each substitute and entity.

B. Evidence of good faith efforts shall be documented and shall be in writing and shall include, but shall not be necessarily limited to:

- (a) the names, addresses and telephone numbers of DBE's and WBE's that were contacted;
- (b) the dates of the contact;
- (c) a description of the information provided to WBE's and DBE's regarding the plans and specifications proportionate to the work to be performed;
- (d) the name of each WBE or DBE which the prime contractor contacted but rejected as unqualified and the reason for the prime contractor's rejection;
- (e) efforts made to assist the WBE's and DBE's contacted that need the assistance in meeting applicable insurance and bonding requirements.

The City of Charleston and City Venture Corporation are available to provide assistance in this regard.

All notices regarding this subject must be forwarded to the City by certified mail, return receipt requested, within ten (10) working days of the contractor being notified of the WBE or the DBE default.

#### Section 4. Percentage Goals for the Dollar Value of Work to be Awarded to DBE's and WBE's:

(I) The City of Charleston on a project by project basis, will establish goals of participation for DBE's and WBE's, unless such goal is established by state or federal rule or regulation. Bidders will be advised of particular project goals in the invitation for bids. The purpose of establishing such goals is to ensure that DBE's and WBE's are accorded an equitable opportunity to compete for contracts and subcontracts.

(II) The methodology used in determining the feasibility of goals for each project include:

A. Examination and identification of the specific number and types of project components that would provide contracting and procurement opportunities, such as architectural and engineering services, construction, equipment and supplies, and on-going service and procurement needs upon completion.

B. Comparison of these opportunities with the available resources on the list of businesses owned and controlled by socially and economically disadvantaged individuals and women.

C. Consultation with the Small Business Administration, the Governor's Economic Development Office, and with the City of Charleston's Neighborhood Business Revitalization Program and similar agencies which assist and encourage the creation and expansion of DBE's and WBE's.

D. Discussions with the owners or managers of DBE's or WBE's on their interests and capabilities to participate in potential projects.

(III) Nothing herein shall be construed to inhibit or in any way curtail the use of set-asides by the City in its solicitations for work. The use of set-asides by the City shall be had if the City, after evaluating the criteria set forth in II (A-D) hereof, determine the same to be feasible and in its best interests.

Section 5. Procedures to Require that Participating DBE's and WBE's are Identified by Name by Competitors for Contracts:

The City shall indicate in solicitations for such contracts that provide opportunities for DBE or WBE participation its goals for the use of firms owned and controlled by such individuals.

Solicitations shall require all bidders/proposers to submit with their bids or proposals a written assurance of meeting the goals or a statement as to why the goals cannot be met. Within a reasonable time after the opening of bids and before the award of the contract (the City shall specify the exact time of this submission), those bidders or proposers that the City deems to have submitted a reasonable price shall be notified to submit the names of DBE and/or WBE subcontractors, a description of the work each is to perform, and the dollar value of each proposed contract. If a competitor does not have the DBE and/or WBE subcontractors, but can demonstrate sufficient reasonable efforts it has utilized to secure the same, written documentation of these efforts shall be presented in lieu of the information required above.

Agreements between a bidder/proposer and DBE and/or WBE in which the DBE and/or WBE promises not to provide subcontracting quotations to other bidder/proposers are prohibited by the City.

Section 6. Selection Criteria to Ensure that Prime Contractors are Awarded to Competitors that meet Project Goals:

(I) To ensure that prime contracts are awarded to competitors that meet DBE and/or WBE goals, the City shall use the following selection criteria and standards:

A. If any competitors offering a reasonable price meet the DBE and/or WBE contract goals, the City may make a rebuttable presumption that all competitors that failed to meet the goal have failed to exert sufficient reasonable efforts and consequently are ineligible to be awarded the contract.

B. Contracts will be awarded to the lowest responsible and responsive bidder whose price is reasonable and who has met the project goals or who has demonstrated good faith efforts toward meeting the project goals, subject, however, to any reservation by the City in its invitation to bid that it may reject any and all bids.

C. To decide whether a price offered by a competitor is reasonable, the City shall use the same criteria that it would use to determine whether, if the competitor had made the only offer to perform the contract, the City would award the contract to that competitor.

D. To demonstrate its sufficient reasonable efforts to meet the DBE and/or WBE contractual goals, a contractor shall document, in writing, the steps it has taken to obtain DBE and/or WBE participation, including but not limited to the following:

(i) attendance at a pre-bid meeting, if any, scheduled by the City to inform DBE's and WBE's of subcontracting opportunities under a given solicitation;

(ii) advertisement in general circulation media, trade association publications, and minority focus media twenty (20) days before bids or proposals are due, if twenty (20) days are not available, publication for a shorter reasonable time is acceptable;

(iii) written notification to DBE's and/or WBE's that their interests in the contract is solicited;

(iv) efforts made to select portions of work proposed to be performed by DBE's and/or WBE's in order to increase the likelihood of achieving the stated goal;

(v) efforts to negotiate with DBE's and/or WBE's for specific subcontracting bids including at a minimum:

(a) the names, addresses, and telephone numbers of DBE's and/or WBE's that were contacted and the dates of the contacts;

- (b) a description of the information provided to DBE's and/or WBE's regarding the plans and specifications for portions of the work to be performed; and
- (c) a statement of why additional agreements with DBE's and/or WBE's were not reached;
- (vi) the name of each DBE and/or WBE contacted but rejected as unqualified, and the reasons for the competitor's rejection;
- (vii) efforts made to assist the DBE's and/or WBE's contacted that needed assistance in meeting applicable insurance or bonding requirements.

(II) COMPETITORS THAT FAIL TO MEET DBE AND/OR WBE GOALS OR THAT FAIL TO DEMONSTRATE SUFFICIENT REASONABLE EFFORTS TO SECURE DBEs OR WBEs SHALL NOT BE ELIGIBLE TO BE AWARDED THE CONTRACT.

(III) To ensure that all obligations under contracts awarded to DBEs and/or WBEs are met, the City shall review the contractor's DBE and/or WBE involvement efforts during the performance of the contract. The contractor shall bring to the attention of the City any situation in which regularly scheduled progress payments are not made to DBE and/or WBE subcontractors.

(IV) In solicitations for contracts that provide opportunities for DBE and/or WBE participation, a phrase to the following effect will be included:

"This Project is covered by the City's Program for Assistance to Disadvantaged Businesses and Women Business Enterprises. To ensure that prime contracts are awarded to competitors that meet the DBE and/or WBE goals, the City shall use its approval selection criteria and standards as outlined in its Program for Assistance to Disadvantaged Business and Women Business Enterprises in awarding this contract. The applicable sections of the City's Program are hereby incorporated into this solicitation's requirements by reference. Failure to carry out these requirements could, upon notification by the City, result in termination of any contract let as a result of this solicitation".

#### Section 8. Counting Participation Toward Meeting Goals:

The City of Charleston shall count DBE and/or WBE participation toward meeting project goals in accordance with the following:

- (a) Once a firm is certified to be an eligible DBE or WBE in accordance herewith, the total dollar value of the contract awarded to the DBE or WBE is counted toward the applicable project goals.
- (b) The total dollar value of a contract to an entity owned and controlled by both socially and economically disadvantaged persons and females is counted toward the goals for DBE's and WBE's, respectively, in proportion to the percentage of ownership and control of each group in the business. The total dollar value of a contract with an entity owned and controlled by socially and economically disadvantaged women is counted toward either the DBE goal or the WBE goal, but not to both. The City of Charleston will choose the goal to which the contract value is applied.
- (c) The City of Charleston will count the project goals as a portion of the total dollar value of a contract with a Joint Venture eligible under the standards hereof equal to the percentage of the ownership and control of the DBE or WBE partner in the Joint Venture.
- (d) (1) The City of Charleston will count toward its project goals only expenditures to DBEs and/or WBEs that perform a commercially useful function in the work of a contract. An entity is considered to perform a commercially useful function when it is responsible for execution of a district element of the work of a contract and carrying out its responsibilities by actually performing, managing and supervising the work involved. To determine whether an entity is performing a commercially useful function, the City of Charleston evaluates the amount of work subcontracted, industry practices, and other relevant factors.

(2) Consistent with normal industry practices, a DBE and/or WBE may enter into subcontracts. If such a contractor subcontracts a significantly greater portion of the work of the contract than would be expected on the basis of normal industry practices, such entity shall be presumed not to be performing a commercially useful function. The DBE and/or WBE may present evidence to rebut this presumption to the City of Charleston.

(e) The City of Charleston will count toward project goals expenditures for materials and supplies obtained from DBE and/or WBE suppliers and manufacturers, provided that these entities assume the actual and contractual responsibility for the provision of the materials and supplies.

(1) The City of Charleston will count an entire expenditure to a DBE and/or WBE manufacturer (i.e., a supplier that produces goods from raw materials or substantially alters them before resale).

(2) The City of Charleston will count twenty (20%) percent of expenditures to DBE and/or WBE suppliers that are not manufacturers, provided that such supplier perform a commercially useful function in the supply process.

#### Section 9. Maintenance of Records and Reports:

In order to monitor the progress of this program, the City of Charleston will develop a record-keeping system to identify and assess DBE and WBE contract awards, prime contractors' progress in achieving subcontract goals, and other DBE and WBE affirmative action efforts.

The City of Charleston shall submit reports conforming in frequency and format to such contract reporting requirements as may be imposed by a governmental entity. Where no such contract reporting requirements exist, these reports shall be made quarterly. These reports shall include at a minimum:

(1) The number of contracts awarded to DBEs and WBEs.

(2) A description of the general categories of contracts awarded to DBEs and WBEs.

(3) The dollar value of contracts awarded to DBEs and WBEs.

(4) The percentage of the dollar value of all contracts awarded during this period which were awarded to DBEs and WBEs.

(5) An indication of whether and the extent to which the percentage met or exceeded the goal specified in the application.

(6) The total number of contracts awarded.

(7) The total dollar amount of contracts awarded.

(8) The total number of DBEs and WBEs invited to bid.

(9) The total number of DBEs and WBEs which responded.

#### Section 10. Financial Institutions Owned or Controlled by Socially Disadvantaged Individuals or Women.

The City will, on an ongoing basis, investigate the extent of services offered by banks or other financial institutions in its community which are owned or controlled by socially and economically disadvantaged individuals and women and may make recommendations or adopt procedures to accord a feasible use of such banks or financial institutions.

#### APPENDIX A

##### Appeal Procedure

- (1) A party who has been denied certification as a bonafide DBE or WBE by the City may file an appeal, in writing, with the City.
- (2) The appeal shall be filed within thirty (30) days after the date of denial of certification.
- (3) During the pending of the appeal, the status of the party as a non-eligible DBE or WBE shall remain in effect unless the City, after good cause shown, determines that the interests of justice requires a suspension of its determination.
- (4) The appealing party shall fully cooperate with the City in supplying all relevant information requested by the City in the investigation and evaluation of the appeal. Failure to so cooperate may constitute grounds for denial of the appeal.
- (5) After full and complete evaluation of the appeal and information supporting it and information in opposition thereto, the City shall notify the appealing party of its decision. This decision of the City shall be final and shall remain in force and effect as to the appealing party until such time as new information as to the bonafide DBE or WBE status of the appealing party is made available to the City. In projects assisted by funds from the U.S. Department of Transportation, the appealing party may file an appeal of the City's decision to the Secretary of the U.S. Department of Transportation.
- (6) Questions to this appeal process may be addressed to the City's DBE/WBE liaison officer.

## APPENDIX B

### CHALLENGE PROCEDURE

- (1) Any third party may challenge the socially and economically disadvantaged status of any individual (except an individual who has a current B(a) certification from the Small Business Administration) presumed to be socially and economically disadvantaged if that individual is an owner of a firm certified by, or seeking certification from the City as a disadvantaged business. The challenge shall be made in writing to the City.
- (2) With its letter, the challenging party shall include all information available to it relevant to a determination of whether the challenged party is in fact socially and economically disadvantaged.
- (3) The City shall determine, on the basis of the information provided by the challenging party, whether there is reason to believe that the challenged party is in fact not socially and economically disadvantaged.
  - (i) If the City determines that there is not reason to believe that the challenged party is not socially and economically disadvantaged, the City shall so inform the challenging party in writing. This terminates the proceeding.
  - (ii) If the City determines that there is reason to believe that the challenged party is not socially and economically disadvantaged, the City shall begin a proceeding as provided in paragraphs (4), (5) and (6) of this procedure.
- (4) The City shall notify the challenged party in writing that his or her status as a DBE or WBE has been challenged. The notice shall identify the challenging party and summarize the grounds for the challenge. The notice shall also require the challenged party to provide to the City, within a reasonable time, information sufficient to permit the City to evaluate his or her status as a DBE or WBE.
- (5) The City shall evaluate the information available to it and make a proposed determination of whether the challenged party is a DBE or WBE. The City shall notify both parties of this proposed determination in writing, setting forth the reasons for its proposal. The City shall provide an opportunity to the parties for an informal hearing, at which they can respond to this proposed determination in writing and in person.

(6) Following the informal hearing, the City shall make a final determination, setting forth the reasons for its decision. In projects assisted by funds from the U.S. Department of Transportation, such determination by the City may be appealed to the Secretary of the U.S. Department of Transportation.

(7) In making the determinations called for in paragraphs (3), (5) and (6) of this procedure, the City shall use the standards set forth in Appendix C to 49 CFR 23, Subpart D.

(8) During the pendency of a challenge under this procedure, the presumption that the challenged party is a bonafide DBE or WBE shall remain in effect.

(9) Questions concerning the particulars of this challenge procedure may be clarified by contacting the City's DBE/WBE liaison officer.

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The following resolution was adopted on motion of Councilmember Jefferson:

#### A RESOLUTION

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

AGREEMENT concluded this \_\_\_\_\_ day of \_\_\_\_\_, 1985, by and between the City of Charleston, South Carolina (herein the "City"), and Control Data Properties, Inc. (herein "Control Data") and City Venture Corporation (herein "CVC").

WHEREAS, the City has been awarded a grant from the Minority Business Development Agency of the United States Department of Commerce to retain, as a part of a pilot program, a coordinator for minority business enterprises and other such concerns owned and operated by socially and economically disadvantaged individuals; and

WHEREAS, Control Data and CVC, being interested in the balanced economic growth of the community, have determined that the City's participation in this pilot program will be of benefit to them and the Charleston community by providing a procedure and program for the identification of such business concerns available in the community for participation in their respective corporate programs, including the Entrepreneurs identification Program, and by also providing a valuable source of information to them in furtherance of their respective goals of encouraging a balanced economic growth in the Charleston community.

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

1. The City does agree to participate in the pilot program sponsored by the Minority Business Development Agency of the U.S. Department of Commerce and, pursuant thereto, will hire a Minority Business Enterprise Coordinator to, among other things, compile and maintain a current directory of businesses located in the Charleston community which are owned and operated by socially and economically disadvantaged persons and women and to develop a program for the equitable and fair participation by such firms in contracts and procurements of the City.

2. Control Data does agree to provide the City, for its Minority Business Enterprise Coordinator, office space at its Business and Technology Center located on East Bay Street in Charleston, South Carolina, as an in-kind contribution to the City for its participation in this program.

3. CVC does agree to provide to the City, for its minority Business Enterprise Coordinator, various office support systems as may be required by the grant awarded to the City so as to assist the Minority Business Enterprise Coordinator in carrying out his/her goals, which support systems include office furnishings, telephone service and secretarial and photocopying services, all as an in-kind contribution to the City for its participation in this program.

4. This Agreement shall be in effect from September 13, 1985 through August 31, 1986, unless otherwise terminated by any party, for cause, upon seven (7) days notice to the others.

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

IN WITNESS WHEREOF, the parties have set their hands and seals this day and year as aforesaid.

CITY OF CHARLESTON

BY: Joseph P. Riley, Jr.

ITS: Mayor

ATTEST: \_\_\_\_\_

Mary R. Wrixon

Clerk of Council

CONTROL DATA PROPERTIES, INC.

BY: \_\_\_\_\_

ITS: \_\_\_\_\_

The following resolution was adopted on motion of Councilmember Christopher:

A RESOLUTION

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

AGREEMENT concluded this \_\_\_\_\_ day of \_\_\_\_\_, 1985, by and between the City of Charleston, a municipal corporation of the State of South Carolina (herein the "City"), and Dr. Tanya Richardson (herein the "Contractor").

WHEREAS, the City has determined it to be in the public interest that the opportunities for benefits of its contracts and other procurements be made available to as many interested parties as possible, especially to those concerns and enterprises owned and operated by socially and economically disadvantaged persons and women and also that such firms have real opportunities to share in the permanent business opportunities that often result from City assisted projects; and

WHEREAS, the Contractor has expressed an interest in assisting the City in furtherance of these goals.



NOW, THEREFORE, for and in consideration of the mutual promises, covenants and conditions contained herein, it is agreed, by and between the parties, as follows:

#### 1. Contract of Employment:

The City does hereby engage the Contractor, and the Contractor does hereby accept the engagement of the City, to serve as the Minority Business Enterprise (MBE) Coordinator of the City and to perform the services delineated in Paragraph 2 hereof.

#### 2. Scope of Services:

The scope of services to be performed by the Contractor under this Agreement include:

- (a) providing assistance to City departments concerning the identification of workable programmatic activities which will serve to develop enterprises owned by socially and economically disadvantaged individuals and enterprises owned by women and to assist the City in developing a fair and equitable distribution of purchase activity with such firms;
- (b) establishing an annual goal to reflect the percentage of goods and services desired to be purchased from firms owned by socially and economically disadvantaged persons and firms owned by women, which annual goal shall be jointly determined by the City Council, the MBE Coordinator and other City officials, as appropriate;
- (c) assisting City departments in identifying specific contracts and specific contract elements which can be reasonably placed within a sheltered market;
- (d) encouraging, where applicable, the parceling of contracts to a size and dollar volume commensurate with the scope of skills of firms owned by socially and economically disadvantaged individuals and women;
- (e) Implementing and operating a system to monitor the performance of all City departments in meeting the procurement goals and objectives, contemplated by this Agreement and providing this information on a monthly basis to City personnel and the local Minority Business Development Center;
- (f) Identifying and registering bonafide and capable businesses owned by socially and economically disadvantaged persons and women and maintaining a current directory of such firms;
- (g) developing a strong network of interaction between the public and private sectors and such businesses owned or controlled by socially and economically disadvantaged persons and women for the purpose of identifying growth opportunities for such firms; and
- (h) developing and implementing educational programs for procurement officials and women and minority entrepreneurs through coordinated efforts with educational institutions, private/public agencies, and MBDA organizations, and to refer information and materials pertaining to courses and seminars to selected procurement officials and minority and women entrepreneurs.

#### 3. Term of Employment:

The term of this contract shall run from September 13, 1985 through August 31, 1986, unless otherwise terminated by either party, for cause, upon seven (7) days written notice.

#### 4. Compensation:

For the services to be performed by the Contractor, the City does agree to pay the Contractor a gross salary of Twenty-Four Thousand (\$24,000.00) Dollars and to provide to the contractor such office and clerical support, including supplies, as may be required in the performance of the scope of services hereinbefore delineated.

5. Independent Contractor:

The Contractor does acknowledge that she is an independent contractor, and as such, is not entitled to share in the usual and customary benefits accorded to regular City employees, such as health insurance or retirement benefits.

6. Personal Service:

This Agreement is personal to the Contractor, and the Contractor shall not in any manner assign the performance of her responsibilities hereunder to any other person, firm, corporation or other entity.

7. Governing Law:

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

IN WITNESS WHEREOF, the parties have set their hands and seals this day and year as aforewritten.

---

The following resolution was adopted on motion of Councilmember Richardson:

A RESOLUTION

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:

AGREEMENT

THIS AGREEMENT is made this \_\_\_\_\_ day of \_\_\_\_\_, 1985, between the South Carolina Department of Highways and Public Transportation ("Highway Department") and the City of Charleston, S.C. ("City").

RECITALS

WHEREAS, the City requested that it advertise, award and administer a contract for roadway improvements around "Charleston Place";

WHEREAS, The City is presently in the process of providing similar type improvements within the "Charleston Place" complex:

WHEREAS, the Highway Department is, in agreement, due to the speciality items involved, for the City to advertise, award and administer, including engineering inspection, the said contract, for roadway improvements around "Charleston Place";

NOW, THEREFORE, the parties hereto agree as follows:

1. Design of Roadway. The City, through Davis & Floyd, Engineers will design the roadway for the routes indicated on the attached map, a copy of which map is attached hereto and incorporated herein as Exhibit 1. The City will then submit such design plans to the Highway Department for the Department's approval. (Note: Map is attached to original agreement.)
2. Construction Contract Bid and Award. Following the Highway Department's approval of the design submitted pursuant to Section 1, the City will solicit competitive bids for the construction of the project, as designed, and the City will provide copies of the documents relating to the bidding process and the contract award to the Highway Department for the Department's files.
3. Construction Contract. The construction contract awarded pursuant to the bidding process shall be between the City and the general contractor to which the bid is awarded. The Highway

Department will not be a party to that contract, nor will they have any obligation or potential liability under that contract.

4. Oversight; Approval. The City will be responsible for appointing a representative, which representative shall be appointed only with the consent of the Highway Department, which consent shall not be unreasonably withheld, and for insuring that such representative observes and inspects the construction of the roadway for conformance with SCDHPT standards. During the construction activities, the SCDHPT's designated representative will make periodic inspection reviews as follows: at least once during grading and placing of drainage structures; upon completion of the grading and drainage stage and prior to placing the base course; upon completion of construction of the base course and prior to placing a prime coat or commencing paving operations; and at least once during paving operations. These periodic inspection reviews will not constitute approval by the SCDHPT of any construction activity or materials, but are to be made to insure that the construction is in conformance with SCDHPT standards and specifications. In the event of a disagreement between the two parties, the provisions of the SCDHPT Standards and Specifications shall prevail.

The City's representative as construction progresses and to arrange for the inspection reviews. In addition, the City's representative will be responsible for obtaining tests, certifications for all materials and products incorporated into the road during construction and furnishing these results for Department approval. After road construction is completed the Department will be furnished at least one set of reproducible "as built" plans. After receipt of these plans, a SCDHPT representative will make a final inspection of the roadway. Maintenance responsibility of the roads, after correction of all discrepancies which may be noted during the final inspection, will be the responsibility of the City.

5. Payment. The Department's obligation is \$834,253.00 to be paid in three (3) installments. Payments are to be made when one third (1/3) and two thirds (2/3) of the project is complete and upon completion and final acceptance of the project. The percentage of project completion will be determined and certified by the City and its Engineer. (See Exhibit 2 for determination of obligation amount.)

6. Maintenance and Insurance. The City agrees to future maintenance of the road upon completion and final acceptance of the project. The City further agrees and concurs that the sections of the roads involved will be removed from the State System. The City also agrees to indemnify and hold harmless the Department and its employees from any damages to person or property relating to this project. And further agrees to have the contractor, or contractors, to provide and maintain comprehensive insurance with the Department named as an additional insured.

7. Default. In the event of any failure by either party to comply with the provisions of this Agreement,

the other parties shall have all remedies available under law or equity.

8. Waiver. No consent of waiver, express or implied, by a party to or of any failure to comply with any provision of this Agreement shall be deemed or construed to be a consent or waiver to or of any other such failure. Failure on the part of a party to complain of any act or failure to act of any other, irrespective of how long such failure continues, shall not constitute a waiver by such party of its rights hereunder. The giving of consent by a party in any one instance shall not limit or waive the necessity to obtain such party's consent in any future instance.

9. Entire Agreement. The provisions of this Agreement represent the entire agreement with respect to all matters addressed herein, notwithstanding any provision to the contrary in any other oral or written agreement. This Agreement may not be amended, altered or modified except by a writing signed by all parties hereto.

10. Severability. In the event that any provision of this Agreement shall be held to be invalid or unenforceable, the same shall not affect in respect whatsoever the validity or enforceability of the remainder of this Agreement.

11. Survival of Rights; Assignment. Except as provided herein to the contrary, this Agreement shall be binding upon and inure to the benefit of the parties hereto, their respective heirs, executors, legal representatives and permitted successors and assigns. No party may assign its rights or obligations under this Agreement without the prior written consent of the other parties hereto.

12. Governing Law. This Agreement has been entered into in the State of South Carolina and all questions with respect to this Agreement and the rights and liabilities of the parties hereto shall be governed by the laws of the State.

13. Terminology. All personal pronouns used in this Agreement, whether used in the masculine, feminine, or neuter gender, shall include all other genders; and, where appropriate, the singular shall include the plural and vice versa. Captions are for convenience only, and neither limit nor amplify the provisions of this Agreement itself.

14. Authority to Contract. Each party hereby represents and warrants that it has the full power and authority to enter into this Agreement and to carry out the provisions hereof and that the person executing this Agreement on its behalf is duly authorized to do so.

15. Counterparts. This Agreement may be executed in any number of counterparts, each of which shall be deemed to be an original and all of which shall constitute one and the same agreement.

16. Advertise, Award and Administer Contract. The advertisement, award, administering and construction of the contract, for roadway improvements adjacent to "Charleston Place" (Roads S-104, S-107, S-663, S-664), shall comply with all applicable SCDHPT Policy and Procedures as well as all State and Federal laws governing agreements and contracts related to this contract, if applicable.

17. Federal Highway Administration Approval. It is understood that the Department's approval is subject to receiving approval from the Federal Highway Administration.

18. Successors and Assigns. The Department and City each binds himself, his successors, executors, administrators, and assigns to the other party with respect to these requirements, and also agree that neither party shall assign, sublet, or transfer his interest in the Agreement without the written consent of the other.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed on the date indicated below.

Signed, sealed and executed for the City of Charleston.

CITY OF CHARLESTON, SOUTH CAROLINA

By: \_\_\_\_\_

Its: \_\_\_\_\_

SOUTH CAROLINA DEPARTMENT OF HIGHWAYS AND PUBLIC TRANSPORTATION

By: \_\_\_\_\_

Its: \_\_\_\_\_

CERTIFICATION OF CITY

I hereby certify that I am the Mayor and duly authorized representative of the City of Charleston, South Carolina, whose address is P.O. Box 652, Charleston, S.C. 29402, and that neither I nor the above City I here represent has:

(a) employed or retained for a commission, percentage, brokerage, contingent fee, or other consideration, any firm or person (other than a bona fide employee working solely for me or the above City) to solicit or secure this Agreement:

(b) agreed, as an express or implied condition for obtaining this Agreement, to employ or retain the services of any firm or person in connection with carrying out the Agreement, or

(c) paid, or agreed to pay, to any firm, organization or person (other than a bona fide employee working solely for me or the above City) any fee, contribution, donation, or consideration of any kind for, or in connection with, procuring or carrying out the contract except as here expressly stated (if any):

In accordance with Section 635.105 of Title 23 CFR, I further certify that the work stipulated in this agreement to be performed by the City can be more advantageously performed by said City and that said City is adequately staffed and suitably equipped to undertake and satisfactorily complete such work, including the performance of proper maintenance of the highway facilities constructed under the terms of this Agreement.

I acknowledge that this certificate is to be furnished to the Department and the Federal Highway Administration, U.S. Department of Transportation, in connection with this Agreement involving participation in Federal-aid highway funds, and is subject to applicable State and Federal laws, both criminal and civil.

---

(Date)

---

(Signature)

#### CERTIFICATION OF THE STATE

I hereby certify that I am the State Highway Engineer of the Department of Highways and Public Transportation of the State of South Carolina and that the City of Charleston, South Carolina or its legal representatives have not been required directly or indirectly as an express or implied condition in connection with obtaining or carrying out this Agreement to:

(a) employ or retain, or agree to employ or retain, any firm or

(b) pay, or agree to pay, to any firm, person, or organization, any fee, contribution, donation, or consideration of any kind, except as here expressly stated (if any):

In accordance with Section 635.105 of Title 23 CFR, I further certify that the work stipulated in this agreement to be performed by the City can be more advantageously performed by said City and that said City is adequately staffed and suitably equipped to undertake and satisfactorily complete such work, including the performance of proper maintenance of the highway facilities constructed under the terms of this Agreement.

I acknowledge that this certificate is to be furnished to the Federal Highway Administration, U.S. Department of Transportation, in connection with this Agreement involving participation of Federal-aid highway funds, and is subject to applicable State and Federal laws, both criminal and civil.

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(Date)

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(Signature)

"EXHIBIT 2"

Cost Estimate for "Charleston Place"

Detours(Traffic Control)	L.S.				\$20,000.00
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Select Fill	C.Y.	2800	@	\$9.00	25,200.00
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Concrete Sidewalks 4" uniform	S.Y.	4214	@	12.00	50,568.00
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Concrete Sidewalks 6" uniform	S.Y.	232	@	18.00	4,176.00
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Concrete Curb & Gutter 1'-6"	L.F.	5852	@	7.00	39,564.00
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Type 1 Catch Basins	Ea.	57	@	700.00	39,900.00
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Drop Inlet 24" X 26"	Ea.	3	@	650.00	1,950.00
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(16" X

18" R.C.	L.F.	991	@	17.00	16,847.00
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Pipe Class III

15" R.C.	L.F.	167	@	14.00	2,338.00
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Pipe Class III

Drainage	Ea.	59	@	2000.00	118,000.00
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Tunnel Tie Ins

Gravel Ton	50	@	15.00	750.00
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Bedding for

Storm Drain

(CR-14)

Concrete for	C.Y.	25	@	200.00	5,000.00
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Pipe Cradle

Asphaltic	Ton	1,096	@	30.00	32,880.00
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Concrete

Surface Type

1

Asphaltic	Ton	1,826	@	30.00	54,780.00
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Concrete

Binder Type 2

Asphalt	Ton	148	@	220.00	32,560.00
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Cement in

Paving Mix

8" Stab.	S.Y.	16,392	@	5.50	90,156.00
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Aggr. Base

Course

Pavement	L.S.				20,000.00
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Striping &

Marking

Sub-Total	\$554,669.00
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Additional

Quantities

Removal of	L.F.	5,652	@	4.00	22,608.00
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Concrete Curb

Removal of	S.Y.	16,100	@	10.00	161,000.00
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Existing

Pavement

Sub-Total	\$183,608.00
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Total	\$738,277.00
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(13%)	95,976.00
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Engineering

&

Contingencies

GRAND \$834,253.00

TOTAL

Next on the agenda were eight (8) bills up for second reading. City Council deferred giving second reading to three (3) of the bills, i.e.: (1) to zone 31.5 acres northwest and southwest of the



intersection of Ashley River Road and Wallace School Road (TMS# 351-10-00-36, 46 and 47) SR-1 classification as the required executed restrictive covenants had not been received; (2) authorizing the Mayor to execute such documentation as necessary to amend the lease executed between the City of Charleston and Holiday Inns of America, Inc., dated July 22, 1965, as amended; and, (3) to zone 38 acres located south of the Seaboard Coast Line Railroad right-of-way and north of Piper Drive (TMS# 350-09-00-115, 116, 117 and 143) Conservation, SR-1 and DR-9 classifications as the required executed restrictive covenants had not been received.

The remaining five (5) bills received second reading on motion of Councilmember Stephens. They passed second reading on motion of Councilmember Kinloch and third reading on motion of Councilmember Ader. On the further motion of Councilmember Cochran, the rules were suspended and the five bills were immediately ratified as:

Ratification

Number 1985-117

AN ORDINANCE

TO AMEND ORDINANCE NO. 1982-52 (ENVIRONMENTAL CONTROL ORDINANCE) BY DELETING FROM SECTION 26-9 THEREOF SUBSECTION (E).

WHEREAS, Subsection (e) of Section 26-9 of Ordinance No. 1982-62 (Environmental Control Ordinance) requires that violators of Subsection 28-9, thereof pertaining to keeping property clean, be given five (5) days notice to cure prior to the issuance of a citation; and

WHEREAS, this Subsection (e) often impedes the prompt and proper enforcement of the Ordinance and the Environmental Control Ordinance otherwise provides for the issuance of courtesy notices thus making this Subsection (e) superfluous.

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

Section 1: Ordinance No. 1982-52 (Environmental Control Ordinance) be, and hereby is, amended by deleting from Section 26-9 thereof Subsection (e).

Section 2: This Ordinance shall become effective upon ratification.

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Ratification

Number 1985-118

AN ORDINANCE

TO AMEND THE ZONING ORDINANCE OF THE CITY OF CHARLESTON BY CHANGING THE ZONE MAP, WHICH IS A PART THEREOF, SO THAT PROPERTY KNOWN AS NUMBER 1105 SAVANNAH HIGHWAY (1.5 ACRES, MORE OR LESS) LOCATED EAST OF OAK FOREST DRIVE (TMS# 349-03-00-01) BE REZONED FROM SINGLE-FAMILY RESIDENTIAL (SR-2) CLASSIFICATION TO GENERAL OFFICE (GO) CLASSIFICATION.

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

Section 1. That the Zoning Ordinance of the City of Charleston be, and the same hereby is amended, by changing the zone map thereof so as to rezone the property described in Section 2 hereof by changing the zoning designation from Single-Family Residential (SR-2) to General Office (GO) classification.

Section 2. The property to be rezoned is described as follows:

1105 Savannah Highway (TMS# 349-03-00-01) (1.5 acres, more or less)

Section 3. This ordinance shall become effective upon ratification.

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Ratification

Number 1985-119

AN ORDINANCE

TO AMEND THE ZONING ORDINANCE OF THE CITY OF CHARLESTON BY CHANGING THE ZONE MAP, WHICH IS A PART THEREOF, SO THAT PROPERTY KNOWN AS NUMBER 1636 CAMP ROAD, JAMES ISLAND, (TMS# 425-06-00-97) ANNEXED INTO THE CITY OF CHARLESTON JUNE 10, 1985 (# 1985-72) BE ZONED GENERAL OFFICE (GO) CLASSIFICATION.

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

Section 1. That the Zoning Ordinance of the City of Charleston be, and the same hereby is amended, by changing the zone map thereof so that the below-described property shall become a part thereof:

1636 Camp Road, James Island, (TMS# 425-06-00-97)

Section 2. That the said parcel of land described above shall be zoned General Office (GO) classification.

Section 3. This ordinance shall become effective upon ratification.

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Ratification

Number 1985-120

AN ORDINANCE

AUTHORIZING THE MAYOR TO EXECUTE A QUIT CLAIM DEED ON BEHALF OF THE CITY OF CHARLESTON TO ST. MATTHEW BAPTIST CHURCH CONVEYING TO THE CHURCH THE INTEREST OF THE CITY IN THAT CERTAIN PARCEL OF PROPERTY ON THE NORTHWEST SIDE OF HUGER STREET, ADJACENT TO INTERSTATE NO. 26, MEASURING AND CONTAINING 37.66 FEET, MORE OR LESS, ON THE NORTHWESTERN AND SOUTHEASTERN SIDES, AND 208.66 FEET, MORE OR LESS ON ITS NORTHEASTERN AND SOUTHWESTERN SIDES, FOR THE CONSIDERATION OF \$750, WITH THE PROVISIO THAT SHOULD THIS PROPERTY EVER BE UTILIZED FOR FUNCTIONS NOT RELATED TO CHURCH PURPOSES, THE SAME SHALL REVERT TO THE CITY.

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

Section 1: The Mayor is hereby authorized to execute a Quit-Claim Deed on behalf of the City of Charleston to St. Matthew Baptist Church conveying to the Church the interest of the City in that certain parcel of property generally described as:

ALL that lot, piece, or parcel of land, situate, lying and being in the City of Charleston, State of South Carolina, on the northwest side of Huger Street adjacent to Interstate Highway No. 26, measuring 37.66 feet, more or less, on its northwestern and southeastern sides, and 208.66 feet, more or less, on its northeastern and southwestern sides, as is more fully depicted on a plat of property on the north side of Huger Street, Charleston, South Carolina, formerly owned by Coley McKay Grant Home about to be conveyed to St. Matthew Baptist Church on a survey by W. L. Gaillard dated April 8, 1977.

TMS No. 463-16-04-015.

The property to be conveyed is that portion of property heretofore conveyed to the City by the Free Kindergarten Association of Charleston by Deed of Title dated June 9, 1970 and recorded in the R.M.C. Office for Charleston County in Book S94, at Page 9.

Section 2: The Deed herein authorized for execution shall be for a consideration in the amount of \$750 and shall incorporate a clause providing that the title to the aforescribed property shall revert to the City in the event that it should ever be utilized for functions or activities not related to church purposes.

Section 3: This Ordinance shall become effective upon ratification.

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Ratification

Number 1985-121

AN ORDINANCE

AUTHORIZING THE MAYOR, TO EXECUTE ON BEHALF OF THE CITY OF CHARLESTON, SUCH DOCUMENTS AS MAY BE NECESSARY TO EFFECT THE SALE OF THOSE CERTAIN PARCELS OF PROPERTY OWNED BY THE CITY, KNOWN AND DESIGNATED IN THE STREET NUMBERING SYSTEM AS NUMBERS 49 AND 51 COLUMBUS STREET, THE SAME BEARING THE COUNTY TAX MAP NUMBERS 459-06-04-012 AND 459-06-04-013, TO ROY H. OWEN AND N. STEVEN STEINERT, OR AN ENTITY CONTROLLED BY

THEM, FOR A CONSIDERATION OF ONE HUNDRED FORTY-TWO THOUSAND FIVE HUNDRED (\$142,500.00) DOLLARS AND INCORPORATING IN THE DEED OF TITLE OR OTHER APPROPRIATE INSTRUMENT THE RIGHT OF THE CITY TO APPROVE THE INITIAL TENANT(S) SECURED FOR THESE PREMISES AND SETTING FORTH CERTAIN PROHIBITED USES OF THE PREMISES.

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

Section 1: The Mayor is hereby authorized to execute on behalf of the City of Charleston such documents as may be necessary to effect the transfer of title to those certain parcels of property owned by the City and being designated in the City street numbering system as numbers 49 and 51 Columbus Street, the same bearing the County tax numbers 459-06-04-012 and 459-06-04-013 to Roy H. Owen and N. Steven Steinert, or an entity controlled by them, pursuant to the following terms:

(a) the total purchase price shall be \$142,500;

(b) \$42,500 shall be paid at closing;

(c) the remaining \$100,000 shall be paid to the City, and shall be secured by the execution of a promissory note and first mortgage in favor of the City, which note and mortgage shall provide for interest at the rate of 12 1/2% per annum, amortized over twenty (20) years, payable on a quarterly basis commencing three (3) months after closing, with all principal and interest being due and payable to the City within eighteen (18) months after closing;

(d) the deed of title or other appropriate, recordable instrument shall be prepared to incorporate provisions which shall run with the land that accord the City the right of approval for the initial tenants of the premises and which shall delineate as prohibited uses of the premises, (1) any eating establishment which incorporates a drive-thru service window or which is affiliated with a chain or franchise operation; (2) any establishment which dispenses alcoholic beverages, beer or wine for either off-premises or on-premises consumption, provided that an establishment which sells beer or wine as an adjunct to the service of meals for on-premises consumption may be allowed if the City is accorded the opportunity to review the Lease to such establishment; (3) laundromats; (4) establishments offering any form of adult entertainment as defined by Section 54-2 of the Zoning Ordinance of the City of Charleston; (5) convenience marts; (6) any outdoor sales, rental, repair,

storage or cleaning establishment; (7) movie theaters, (8) music and dance halls; and (9) video arcades.

Section 2: This Ordinance shall become effective upon ratification.

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On motion of Councilmember Richardson, seconded by Councilmember Scott, City Council voted in favor of allowing Councilmember Ader to add an item to the agenda. The item was a resolution in support of the Waterfront Park project.

Councilmember Ader introduced and read the following resolution:

#### A RESOLUTION

WHEREAS, the Mayor and City Council of Charleston have worked on the redevelopment of the Cooper River Waterfront for more than eight years; and,

WHEREAS, the City has completed the most lengthy, comprehensive, competitive, and thorough planning process in its history for this project; and,

WHEREAS, this project will preserve the vista of the historic Cooper River for all generations and will create the most beautiful water's edge in any city in the world; and,

WHEREAS, this project will enable all the citizens of this area to have access to the water and the matchless vista of Charleston harbor; and,

WHEREAS, this project will add \$44 million to the City's tax base and relieve the burden on homeowners; and,

WHEREAS, this project will create 1,400 new jobs and many new business opportunities for residents;

NOW, THEREFORE, BE IT RESOLVED, that the City Council of Charleston strongly reaffirms its support for this project, which will be a source of excitement and pride to all citizens in the Charleston area.

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Councilmember Ader moved for adoption of the resolution, Councilmember Christopher seconded the motion. The motion carried.

Councilmember Ader asked that copies of the resolution be sent to:

Representative Thomas F. Harnett, Senator Ernest F. Hollings, and Senator Strom Thurmond. No objection was expressed to her request.

Councilmember Gaillard asked that sometime in the next month or two the developer or representatives of Festival Market Place present their proposal to City Council. He recalled they had made a presentation recently to the State Ports Authority. He felt it would be beneficial if they made the same presentation to City Council.

Corporation Counsel William B. Regan elaborated on an item that was included in the Committee on Ways and Means report. He explained that immediately before this evening's Committee on Ways and Means meeting the Committee on Public Works and Utilities approved a proposal granting an easement to the City of Charleston of portions of the sidewalk around Charleston Center. He stated that if the City accepts a deed or an easement based on the ultimate decision of the State Highway Department, that portion of the sidewalk paving will be eligible for reimbursement from the State Highway Department. He recommended adoption of the Public Works and Utilities Committee's recommendation and accept an easement or a dedication as required by the State Highway Department, Councilmember Richardson, Chairman of the

Committee on Public Works and Utilities, moved for adoption of the Committee's recommendation. Councilmember Jefferson seconded the motion. The motion carried.

The following memorandum from the Mayor was received:

MEMORANDUM

TO: Members of City Council

FROM: Joseph P. Riley, Jr.

Mayor, City of Charleston

SUBJ: Commission Vacancies

DATE: September 17, 1985

We currently have two vacancies on the Charleston Commission for Women due to the resignations of Margaret Duffy and Katherine Duffy. We regret very much that these two dedicated individuals have had to resign due to other commitments, but wish to take the opportunity to thank them for their service.

As replacements for these two members of the commission, I would like to nominate Dr. Mary Ann Christ and Mrs. Johnnie Johnson Wineglass. They have been recommended for the position by Miss Penelope Davis, Chairman, and we feel confident they will serve the City well in this position. Council is asked to confirm these appointments.

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On motion of Councilmember Scott, seconded by Councilmember Jefferson, City Council voted in favor of Dr. Mary Ann Christ and Mrs. Johnnie Johnson Wineglass being appointed to serve on the Commission for Women.

Councilmember Jefferson, a member of the Commission for Women, asked that the minutes reflect that the members of the Commission for Women recommended the appointment of Dr. Christ and Mrs. Wineglass to the Commission.

The Mayor announced with pride that the opening date of the Moja Arts Festival would be October 1st. He explained that this festival is sponsored by the City along with the community. He called attention to copies of the festival's program and encouraged everyone to participate in this exciting festival.

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

MARY R. WRIXON

Clerk of Council