

JOHN J. TECKLENBURG
MAYOR

City of Charleston
South Carolina
Clerk of Council Department

VANESSA TURNER MAYBANK
CLERK OF COUNCIL

NOTICE OF MEETING

A meeting of the Committee on Real Estate will be held beginning at 3:00 p.m. Monday, September 21, 2020, **Conference Call: 1-929-205-6099; Access Code: 835 678 884**. The agenda will be as follows:

AGENDA

Invocation – Councilmember Appel

Approval of Minutes:

September 8, 2020

- a. Request authorization for the Mayor to execute a change order to the Agreement for Voluntary Cleanup Contract Services (Revision 1) Housing Parcel (VCC 17-6523-NRP) (the “VCC”) from S&ME, Inc., relating to that certain parcel, containing 0.71 acres, more or less, located at the southern terminus of F Street (Charleston County TMS No. 4600404118) pursuant to the attached “Change to Agreement for Services” with S&ME, Inc. The change order would increase the scope of services S&ME proposes to perform on the site, as required under the VCC, to include additional soil quality assessment and to prepare a corrective measures (“CMP”) and media management plan (“MMP”). SCDHEC will require these additional measures under the VCC. The change order will increase the total contract price from \$76,945.00 to \$86,110.00, for a total increase of \$9,165.00.
- b. Authorize the Mayor to execute an MOU with Enough Pie for the installation of an artistic mural on the I-26 bridge columns between Cypress and Romney Streets near the Vivian Moultrie Playground. (41 Ashley Avenue – Vivian Anderson Moultrie Park)
- c. Approve an Agreement to Buy and Sell Real Estate between the City and Shade Tree Holdings, LLC, a South Carolina limited liability company, for the sale of approximately 3.329 acres located on Wildst Battery Dr. (at the intersection of Maybank Hwy. and Wildst Battery Dr. on Johns Island), to the City for the purchase price of \$800,000. (TMS: 313-00-00-337)

d. Consider the following annexation:

- (i) 1858 Christian Road (TMS# 353-14-00-095) 0.22 acre, West Ashley (District 7). The property is owned by William J. and Elizabeth K. Trull.

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

a.)

COMMITTEE / COUNCIL AGENDA

TO: John J. Tecklenburg, Mayor
FROM: Chip McQueeney DEPT. Legal Dept.

SUBJECT: **REVISED AGREEMENT WITH S&ME, INC. TO PERFORM ENVIRONMENTAL SERVICES RELATING TO THE VOLUNTARY CLEANUP CONTRACTS FOR THE CITY'S PROPERTY ON F STREET (TMS NO. 460-04-04-118)**

REQUEST: Request authorization for the Mayor to execute a change order to the Agreement for Voluntary Cleanup Contract Services (Revision 1) Housing Parcel (VCC 17-6523-NRP) (the "VCC") from S&ME, Inc., relating to that certain parcel, containing 0.71 acres, more or less, located at the southern terminus of F Street (Charleston County TMS No. 4600404118) pursuant to the attached "Change to Agreement for Services" with S&ME, Inc. The change order would increase the scope of services S&ME proposes to perform on the site, as required under the VCC, to include additional soil quality assessment and to prepare a corrective measures ("CMP") and media management plan ("MMP"). SCDHEC will require these additional measures under the VCC. The change order will increase the total contract price from \$76,945.00 to \$86,110.00, for a total increase of \$9,165.00.

COMMITTEE OF COUNCIL: Real Estate DATE: September 21, 2020

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

| | Yes | N/A | Signature of Individual Contacted | Attachment |
|-------------------------|-------------------------------------|--------------------------|-----------------------------------|-------------------------------------|
| Corporate Counsel | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <u>Daniel S. McQueeney, Jr.</u> | <input checked="" type="checkbox"/> |
| Director of Real Estate | <input type="checkbox"/> | <input type="checkbox"/> | | <input type="checkbox"/> |
| Director of Housing | <input type="checkbox"/> | <input type="checkbox"/> | | <input type="checkbox"/> |
| | <input type="checkbox"/> | <input type="checkbox"/> | | <input type="checkbox"/> |

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

If yes, provide the following: Dept./Div: Housing & Comm. Dev. Account #: 473020-55206

Balance in Account \$9,165.00 Amount needed \$9,165.00

NEED: Identify any critical time constraint(s).

***FUNDING TO COME FROM FEE-IN-LIEU (\$9,165.00)**

CFO's Signature: _____

Mayor's Signature: _____
John J. Tecklenburg, Mayor



August 5, 2020

City of Charleston | Legal Department
50 Broad Street
Charleston, South Carolina 29401

Attention: Chip McQueeney, Esquire

Reference: **Proposal for Additional Voluntary Cleanup Contract (VCC) Services
Housing Parcel (VCC 17-6523-NRP)**
Charleston, South Carolina
S&ME Proposal No. 42-1900660B

Dear Mr. McQueeney:

S&ME, Inc. (S&ME) appreciates the opportunity to provide this proposal to perform additional environmental services related to the Voluntary Cleanup Contract (VCC) for the Housing Parcel (also known as Lowcountry Low Line Section D). This revised proposal provides our understanding of the project and outlines our proposed scope of services, schedule, and fees. The attached Change to Agreement for Services (Form CA-071) is incorporated into this proposal by reference.

◆ Project Information

S&ME is currently performing VCC services for the City of Charleston (City) regarding the approximate 0.708-acre Housing Parcel pursuant to S&ME Proposal No. 42-1900660A-R1 dated July 31, 2019. The Housing Parcel is subject to VCC 17-6523-NRP between the City and the South Carolina Department of Health and Environmental Control (SCDHEC). The VCC services currently being performed by S&ME include performing a soil and groundwater quality assessment of the Housing Parcel.

S&ME is also currently performing VCC services for the City regarding the larger, approximate 9-acre Lowline Parcel pursuant to S&ME Proposal No. 42-1900660A-R1 dated July 31, 2019. However, this proposal for additional VCC services does not address the Lowline Parcel; this proposal only addresses the Housing Parcel. A separate proposal(s) to perform additional VCC services regarding the Lowline Parcel (subject to VCC 17-6524-NRP) will be provided, as necessary.

Based on the soil quality data collected on the Housing Parcel to date (as further detailed in the Scope of Services section below), the SCDHEC is requiring additional assessment of soil to delineate an area which appears to exhibit elevated concentrations of lead. We anticipate the SCDHEC will require the City prepare a Corrective Measures and Media Management Plan (CM/MMP) to address contaminants identified in soil on the Housing Parcel.

This proposal is provided based on the soil quality data collected on the Housing Parcel to date and recent email correspondence with the City.



**Proposal for Additional Voluntary Cleanup Contract (VCC) Services
Housing Parcel (VCC 17-6523-NRP)**

Charleston, South Carolina
S&ME Proposal No. 42-1900660B

We understand the City plans for affordable housing to be developed on the Housing Parcel.

◆ Scope of Services

S&ME proposes to perform additional VCC services at the Housing Parcel, as required by VCC 17-6523-NRP (Basic Services). The proposed additional VCC ESA services include the following tasks:

- Task A: Perform Additional Soil Quality Assessment
- Task B: Prepare a Corrective Measures and Media Management Plan

The proposed tasks are further described below.

Task A: Additional Soil Quality Assessment

The scope of the additional soil quality assessment (i.e., the number of samples to be collected and analyzed) presented below is based on the previous soil assessment results, recent correspondence with the SCDHEC, and our experience with other VCC projects. The actual scope of the additional soil assessment will be based on soil conditions on the Housing Parcel.

The surface soil sample collected from field screening boring FSZ3 exhibited a lead concentration of 2,145 parts per million (ppm) as measured with an x-ray fluorescence (XRF) instrument. As the lead concentration was greater than 2,000 ppm, the SCDHEC requested we submit the sample to a laboratory for analysis by SW-846 method 6010 to corroborate the XRF reading. We submitted the sample to Pace Analytical Services, LLC (Pace) for analysis of lead and the lead result was 3,100 ppm [or milligrams per kilogram (mg/kg)]. Based on XRF reading and laboratory result for surface soil sample FSZ3-0-1, the SCDHEC is requiring additional assessment of soil to delineate the area of surface soil with lead concentrations greater than 2,000 ppm or mg/kg.

The additional soil assessment will consist of collecting additional soil samples around field screening boring FSZ3 and field screening the additional samples with an XRF instrument.

We will step out around boring FSZ3 in an approximate 5-ft grid pattern and collect soil samples from at least four locations around boring FSZ3. We will collect soil samples at each location from the ground surface to 1 ft below ground surface (bgs) and from 1 to 2 ft bgs, and field screen each sample for lead with an XRF instrument. If an XRF reading is greater than 2,000 ppm in a soil sample, we will continue to step out in an approximate 5-ft grid pattern until soil sample XRF readings are less than 2,000 ppm. To corroborate the XRF readings, we will submit the delineation soil samples (the samples at the edge of the delineation with XRF reading less than 2,000 ppm) to a lab for analysis of lead by SW-846 method 6010. For the purposes of the proposal, we anticipate submitting ten soil samples to a laboratory for analysis of lead.

The SCDHEC may require the City excavate and properly dispose the soil exhibiting lead concentrations greater than 2,000 ppm or mg/kg. As such, we also propose to collect a representative sample of soil from the area exhibiting lead concentrations greater than 2,000 ppm or mg/kg and submit the sample to a laboratory for analysis of arsenic and lead by the Toxicity Characteristic Leaching Procedure (TCLP). The purpose of the arsenic and lead TCLP testing is to evaluate future disposal requirements for soil removed from the Housing Parcel.



Proposal for Additional Voluntary Cleanup Contract (VCC) Services Housing Parcel (VCC 17-6523-NRP)

Charleston, South Carolina
S&ME Proposal No. 42-1900660B

We will collect the soil samples using a decontaminated, stainless-steel hand auger, spoon, or shovel. The collected soil samples will be appropriately homogenized and placed in the appropriate containers for XRF field screening or laboratory analysis, as appropriate. When necessary (between sampling locations), sampling equipment will be properly decontaminated in the field before being re-used to collect additional samples.

After completing the soil sampling activities, we will abandon the soil borings in accordance with the South Carolina Well Regulations and Standards (R. 61-71).

Upon receipt of the laboratory analytical results from the laboratory, we will incorporate the XRF field screening and laboratory analytical results in the VCC Environmental Site Assessment (ESA) Report for the Housing Parcel currently being prepared pursuant to S&ME Proposal No. 42-1900660A-R1 dated July 31, 2019.

Task B: Media Management and Corrective Measures Plan

Based on the soil quality data collected on the Housing Parcel to date, we anticipate the SCDHEC will require the City prepare a CM/MMP to address soil contaminants identified on the Housing Parcel. As such, we anticipate the forthcoming VCC ESA Report for the Housing Parcel will recommend preparation of a combined CM/MMP.

S&ME proposes to develop a combined CM/MMP discussing the corrective measures requirements and protocol for excavation, site worker protection, management of environmental media (soil and groundwater), and disposal options. We anticipate the corrective measures to address contaminants in soil will include construction of exposure barriers and possible limited soil removal (based on the findings of the additional soil assessment described above).

S&ME will provide a draft editable copy of the CM/MMP to City for review, comment, and approval. Upon receiving the City's approval, S&ME will submit the combined CM/MMP to SCDHEC, on City's behalf, for their review, comment, and approval. If SCDHEC has comments, S&ME will provide responses to the comments.

We understand the City plans to include the SCDHEC-approved CM/MMP as part of a request for proposals (RFP) for affordable housing on the Housing Parcel to be issued by the City.

◆ Excluded Services

Without attempting to provide a complete list of all or potential services performed by S&ME that will be excluded from this proposal, the following services are specifically excluded. Some of the services can be provided by S&ME, however, a separate proposal would be required if these services are desired.

- Removing and disposing segregated sources and/or waste materials that may be identified during the additional soil assessment tasks;
- Preparation of Corrective Measure Report(s) or Stewardship Plan(s);
- Performing observations or characterization of soil or groundwater during construction;
- Preparation or recording of restrictive covenants; and
- Surveying.



Proposal for Additional Voluntary Cleanup Contract (VCC) Services Housing Parcel (VCC 17-6523-NRP)

Charleston, South Carolina
S&ME Proposal No. 42-1900660B

◆ Limitations and Exceptions

This proposal is solely intended for the Basic Services as described in the Scope of Services. The Scope of Services may not be modified or amended, unless the changes are first agreed to in writing by the Client and S&ME. Use of this proposal and corresponding final reports is limited to the above-referenced project and client. No other use is authorized by S&ME.

Environmental soil site assessments are inherently constrained in the sense that conclusions and recommendations are developed from information obtained from limited research and evaluation. The laboratory analytical results are representative of conditions that existed on the date these samples were collected. Conclusions about the property conditions under no circumstances comprise a warranty that conditions in all areas within the property are of the same quality as those sampled. In addition, contamination may exist in forms not indicated by the limited assessment. Changes in regulations, interpretations, and/or enforcement policies may occur at any time and such changes could affect our conclusions.

The scope of service, conclusions and recommendations are limited by the testing methods and equipment used based on applicable standards of normal practice in the geographic area at the time this work is performed. No other warranty, expressed or implied, is made.

◆ Client Responsibilities

For S&ME to conduct the Basic Services described herein, the client must take responsibility for the following activities:

- Provide signed Change to Agreement for Services and
- Provide safe and reasonable access to the properties during our field sampling efforts.

◆ Schedule

We are prepared to conduct the additional soil assessment and present the draft CM/MMP to you for review within approximately three weeks of your authorization to proceed, provided the Client Responsibilities are met, to include safe and reasonable access, and weather permitting. We anticipate the laboratory will provide us the analytical results approximately one week after the laboratory's receipt of the soil samples. Upon your authorization, we will submit the finalized CM/MMP to the SCDHEC on your behalf. If necessary, we will endeavor to respond to SCDHEC comments on the CM/MMP in a timely manner.

◆ Fee

We propose to perform the Basic Services as described herein for an estimated fee of **\$9,165.00**, as detailed in the attached fee estimate. We will invoice based on the actual quantities expended on the project and will not exceed the total budgeted fee unless we obtain your prior approval.

Any deviation from the Scope of Services specified herein whether by client or SCDHEC direction or by S&ME recommendation and client approval may require an approved change order. If a change order is required, we



**Proposal for Additional Voluntary Cleanup Contract (VCC) Services
Housing Parcel (VCC 17-6523-NRP)**

Charleston, South Carolina
S&ME Proposal No. 42-1900660B

will notify you of the change prior to performing the services and will not perform the services without your prior authorization.

The fee estimate for the additional soil assessment (Task A of the fee estimate) is based on anticipated soil conditions at the properties. We anticipate the field assessment tasks can be completed in one day.

◆ **Authorization**

Our Change to Agreement for Services, Form Number CA-071, is attached and is incorporated as a part of this proposal. Please indicate your acceptance of our proposal by signing and returning the agreement to our office. If you elect to accept our proposal by issuing a purchase order, then please specifically reference this proposal and an authorization to proceed with the performance of our services. However, the terms and conditions included in any purchase order shall not apply, as our agreement is for services not compatible with purchase order agreements. If this proposal is transmitted to you via email, and if you choose to accept this proposal by email, your reply email acceptance will serve as your representation to S&ME that you have reviewed the proposal and the associated Change to Agreement for Services (CA-071) and hereby accept both as written.

◆ **Closing**

S&ME appreciates the opportunity to submit this proposal and provide you with our environmental services. Should you have any questions, please feel free to contact either of us at 843.884.0005.

Sincerely,

S&ME, Inc.

A handwritten signature in blue ink, appearing to read 'Andrew Wertz'.

Andrew Wertz, P.E.
Senior Engineer/Project Manager

A handwritten signature in blue ink, appearing to read 'Chuck Black'.

Chuck Black, P.E.
Principal Engineer

Attachments: Fee Estimate
Change to Agreement for Services (Form CA-071)

Attachments

Attachment I – Fee Estimate

Fee Estimate
Proposal for Additional VCC Services
Housing Parcel (VCC 17-6523-NRP)
Charleston, South Carolina
S&ME Proposal No. 42-1900660B
August 5, 2020

| Task | Description | Est Qty | Unit | Rate | Total |
|---|--|---------|--------|----------------------------------|--------------------|
| A. Additional Soil Quality Assessment | | | | | |
| | Principal / Project Director | 1 | hour | \$ 185.00 | \$ 185.00 |
| | Senior Engineer/Project Manager | 6 | hour | \$ 135.00 | \$ 810.00 |
| | Project Professional | 8 | hour | \$ 115.00 | \$ 920.00 |
| | Envr Technician | 10 | hour | \$ 75.00 | \$ 750.00 |
| | Sampling/Decontamination/Field Screening (XRF) Equipment | 1 | day | \$ 650.00 | \$ 650.00 |
| | Lead Analysis (Soil) | 10 | sample | \$ 45.00 | \$ 450.00 |
| | TCLP Metals (Soil) | 1 | sample | \$ 130.00 | \$ 130.00 |
| | | | | <i>Estimated Fee for Task A:</i> | <i>\$ 3,895.00</i> |
| B. Corrective Measures and Media Management Plan | | | | | |
| | Principal / Project Director | 2 | hour | \$ 185.00 | \$ 370.00 |
| | Senior Engineer/Project Manager | 24 | hour | \$ 135.00 | \$ 3,240.00 |
| | Project Professional | 12 | hour | \$ 115.00 | \$ 1,380.00 |
| | CAD Operator | 4 | hour | \$ 70.00 | \$ 280.00 |
| | | | | <i>Estimated Fee for Task B:</i> | <i>\$ 5,270.00</i> |
| | | | | Total Estimated Fee | \$ 9,165.00 |

Notes:

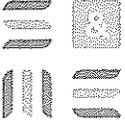
S&ME will charge only for quantities used.

Additional services requested or required will be billed at the unit rates.

Lab Analysis for Lead assumes expedited one-week turnaround time.

Lab Analysis for TCLP Metals assumes standard two-week turnaround time.

Attachment II – Change to Agreement for Services (CA-071)



CHANGE TO AGREEMENT FOR SERVICES

Form CA-071

| | | | | | |
|--------------------------------------|--|-------------------------|---|-----------------------|--|
| Date: August 5, 2020 | | Job Number: 4213-17-302 | | Change Number: 01 | |
| S&ME, Inc. (hereafter Consultant) | | | Client Name: City of Charleston (hereafter Client) | | |
| Address: 620 Wando Park Boulevard | | | Address: 50 Broad Street | | |
| City: Mount Pleasant | | | City: Charleston | | |
| State: South Carolina | | Zip: 29464 | | State: South Carolina | |
| | | | | Zip: 29401 | |
| Telephone: 843-884-0005 | | | Telephone: 843-724-3730 | | |
| Fax: | | | Fax: | | |

PROJECT

Project Name: Housing Parcel and Low Line VCC Services

Project location: (Street Address) Former Norfolk Southern Railroad

City: Charleston

State: South Carolina

Zip: 29403

AGREEMENT FOR SERVICES

Date of Agreement For Services between Client and Consultant: October 11, 2019

WHEREAS, Client and Consultant have previously entered into an Agreement For Services on the date indicated, to perform services on the above project.

WHEREAS, during the performance of the services, Client and Consultant have agreed that it is necessary to change the Agreement between Consultant and Client.

NOW THEREFORE, in consideration of Consultant's promise to perform the services and Client's promise to pay for the services, Consultant and Client agree to incorporate the "Change To Agreement For Services" indicated below into Agreement For Services.

CHANGE TO AGREEMENT FOR SERVICES

The above identified Agreement For Services is changed pursuant to proposal number: 42-1900660B dated: 8/5/2020

This Change will extend the time required for completion of the Agreement: Approximately 3 weeks

The total agreement amount after this Change to Agreement For Services: \$76,945 + \$9,165 = \$86,110

CLIENT'S SIGNATURE BELOW IS CLIENT'S ACCEPTANCE OF THIS CHANGE TO AGREEMENT FOR SERVICES AND AUTHORIZATION TO CONSULTANT TO PROCEED IMMEDIATELY WITH THIS CHANGE TO THE AGREEMENT FOR SERVICES.

Agreed to and executed by Client's and Consultant's authorized representatives.

CLIENT: _____

S&ME, Inc.

BY: _____
(Signature)

BY: _____
(Signature)

(Print Name / Title)

(Print Name / Title)

DATE: _____

DATE: _____

Client's FAXED or DIGITAL signature to be treated as original signature

REAL ESTATE COMMITTEE
GENERAL FORM

TO: John J. Tecklenburg, Mayor DATE: September 22, 2020

FROM: Janie E. Borden DEPT: Legal Department

ADDRESS: 41 Ashley Avenue (Vivian Anderson Moultrie Park)

TMS: _____

AUTHORIZATION FOR THE MAYOR TO EXECUTE AN MOU WITH ENOUGH PIE FOR THE
INSTALLATION OF AN ARTISTIC MURAL ON THE I-26 BRIDGE COLUMNS BETWEEN
CYPRESS AND ROMNEY STREETS NEAR THE VIVIAN MOULTRIE PLAYGROUND.

ACTION REQUEST: _____

COORDINATION: The request has been coordinated with:
All supporting documentation must be included

| | <u>Signature</u> | <u>Attachments</u> |
|---------------------------------|----------------------|-------------------------------------|
| Department Head | <u>Jason Kromley</u> | <input type="checkbox"/> |
| Legal Department | <u>[Signature]</u> | <input checked="" type="checkbox"/> |
| Chief Financial Officer | <u>[Signature]</u> | <input type="checkbox"/> |
| Director Real Estate Management | <u>Leigh Bailey</u> | <input checked="" type="checkbox"/> |
| | | <input type="checkbox"/> |

FUNDING: Was funding needed? Yes No

If yes, was funding previously approved? Yes No

If approved, provide the following: Dept/Div. _____ Acct: _____

Balance in Account _____ Amount needed for this item _____

***Commercial Property and Community & Housing Development have an additional form.**

COMMERCIAL REAL ESTATE FORM

TO: Real Estate Committee DATE: 09/22/2020

FROM: Janie Borden DEPT: Legal Department

ADDRESS: 41 Ashley Avenue (Vivan Anderson Moultrie Park)

TMS: _____

Authorization for the Mayor to execute an MOU with Enough Pie for the installation of an artistic mural on the I-26 bridge columns between Cypress and Romney Streets near the Vivian Anderson

ACTION REQUEST: Moultrie Playground.

ACTION: What action is being taken on the Property mentioned?

ACQUISITION Seller (Property Owner) _____ Purchaser _____

DONATION/TRANSFER
Donated By: _____

FORECLOSURE
Terms: _____

PURCHASE
Terms: _____

CONDEMNATION
Terms: _____

OTHER
Terms: _____

SALE Seller (Property Owner) _____ Purchaser _____

NON-PROFIT ORG, please name _____
Terms: _____

OTHER
Terms: _____

EASEMENT Grantor (Property Owner) _____ Grantee _____

PERMANENT
Terms: _____

TEMPORARY

COMMERCIAL REAL ESTATE FORM

Terms: _____

LEASE

Lessor: _____ Lessee: _____

INITIAL

Terms: _____

RENEWAL

Terms: _____

AMENDMENT

Terms: _____

Improvement of Property

Enough Pie to supply materials and labor to install and maintain the mural

Owner: _____

Terms: _____

BACKGROUND CHECK: If Property Action Request is for the sale or lease of city property, has a background check been completed?

Yes No N/A

Results: _____

Signature: _____

Director Real Estate Management

ADDITIONAL: Please identify any pertinent detail (Clauses, Agreement Terms, Repeals, etc.) regarding City Property.

NEED: Identify any critical time constraint(s).

STATE OF SOUTH CAROLINA)
)
COUNTY OF CHARLESTON)

MEMORANDUM OF UNDERSTANDING

This Memorandum of Understanding (the “MOU” or “Agreement”) is executed by and between **The City of Charleston** (hereinafter the “City”), a municipal corporation organized under the laws of South Carolina with its principal office at 80 Broad Street, Charleston, SC 29401 and **Enough Pie** (hereinafter the “EP”), a nonprofit organization in good standing with the South Carolina Secretary of State with its principal office at 1630 Meeting Street, Suite 306, Charleston, SC 29405 EP and the City shall be collectively referred to herein as the “Parties.”

WHEREAS, the City is committed to providing its citizens with meaningful recreational opportunities, both active and passive, and in furtherance thereof, maintains and operates a City-wide system of parks and green spaces; and,

WHEREAS, EP is a South Carolina nonprofit organization whose purpose is to use creativity to connect and empower the community in Charleston’s Upper Peninsula through creative place making, dynamic partnerships, artistic collaborations and civic engagement. EP’s work involves enhancing private and public parks and green spaces, providing programming for creative acts of connecting neighbors, and providing education and training in creative, hands-on, community-led engagement; and,

WHEREAS, EP and the City seek to further opportunities to collaborate with individuals and the public to provide creative opportunities and programs to drive beautification of appropriate public parks and green spaces through the use of creativity and artistic touches; and,

WHEREAS, EP and the City are collaborating on an artistic installation (“Project”), that would improve the I-26 Bridge Columns from Cypress Street to Romney Street at or near the Vivian Moultrie Park (“Site”) by painting a cohesive mural on these columns (“Artwork”) as more particularly described and shown on Exhibit 1, attached hereto and incorporated herein by reference; and,

WHEREAS, EP and City find it is desirable and prudent to commit to the terms of this collaboration through a written Agreement, by way of this Memorandum of Understanding.

NOW, THEREFORE, in consideration of the above-stated premises and subject to the terms and conditions hereinafter set forth, the Parties agree as follows:

1. The date of this MOU (the “Effective Date”) will be the date this Understanding is signed by the last party to sign it (as indicated by the date associated with that party’s signature). Extension of this Understanding may be granted upon the request of one party and the consent of the other thereto. Such extension shall be in writing, signed by both Parties.
2. EP shall perform all services and furnish all supplies, material, equipment, and labor as necessary for the design, installation, and maintenance of the Artwork at the Site.

3. EP agrees that all services performed hereunder shall be performed in accordance with all applicable laws, regulations, ordinances, etc., and in a professional manner with all necessary care, skill, and diligence.
4. EP agrees that all services performed hereunder shall be performed in accordance with SCDOT's General Provisions for the Application of Encroachment Permit more particularly described on Exhibit 2, attached hereto and incorporated herein by reference.
5. EP agrees that all services performed hereunder shall also be performed in accordance with SCDOT's Special Provisions for Bridge Column Painting more particularly described on Exhibit 3, attached hereto and incorporated herein by reference.
6. EP agrees that it shall ensure that the Artwork, as installed, shall not interfere with the intended use of the Site, including, but not limited to, pedestrian and other traffic flow.
7. EP agrees to only use materials for the Artwork that are durable, taking into consideration that the Site is an unsecured public space that may be exposed to elements such as weather, temperature variation, vibration, and considerable movement of people and equipment.
8. EP shall be responsible for the proper care and maintenance of the Artwork including, but not limited to graffiti removal and repairs necessitated by vandalism.
9. EP agrees that the Artwork shall not contain any words, profanity, or inappropriate emblems, slogans, or marks.
10. EP shall arrange for the installation of the Artwork in consultation with the City, and supervise and approve the installation.
11. EP shall be responsible for all costs associated with the design, installation, and maintenance of the Artwork.
12. The Parties agree that the Artwork shall conform with Exhibit 1 and comply with the regulations and requirements of Exhibit 2 and Exhibit 3. In the event that the Artwork or Project fails to comply with any of these three Exhibits, the City will notify EP in writing and provide EP with ninety (90) days to correct the noncompliance. In the event the noncompliance is not corrected within ninety days of receipt of notice, the City may remove the Artwork and charge the costs of such removal to EP.
13. The Parties agree that at the termination of this Agreement and any future extensions as contemplated herein, the Artwork becomes the property of the City. The City may, but shall not be required, to keep, remove, or maintain the Artwork.

14. EP shall indemnify, protect, defend and hold harmless the City from and against all liabilities, obligations, losses, damages, judgments, costs or expenses (including legal fees and costs of investigation) arising from, in connection with or caused by the Artwork.
15. EP shall carry liability insurance during the term of this Understanding with minimum policy limits of not less than Three Hundred Thousand and No/100 (\$300,000) Dollars for injuries or death sustained by one person, Six Hundred Thousand and No/100 (\$600,000) Dollars for injuries or death sustained in one occurrence, and Three Hundred Thousand and No/100 (\$300,000) Dollars for property damage.
16. EP agrees that prior to the execution of any change in the Design Review Committee approved design, EP shall present proposed changes in writing to the City for further review and approval. EP agrees to provide a detailed description of any significant changes in the artistic expression, design, dimensions and materials of the Artwork that is not permitted by nor in substantial conformity with the already approved Design Review Committee design. A significant change is any change which materially affects the appearance or location of the Artwork.
17. EP agrees that it shall be solely responsible for coordinating public information materials and activities related to any public presentation of the Artwork.
18. EP warrants, except as otherwise disclosed in writing to the City, the Artwork is unique and original and does not infringe upon any copyright or the rights of any person.
19. This Agreement shall not be construed to create and shall not create any rights enforceable by the general public or others who are not parties to this Agreement.
20. This Agreement shall be construed and enforced in accordance with the laws of the State of South Carolina. Any action or proceeding to enforce or interpret this Agreement and any action or proceeding arising from or relating to this Agreement or its breach shall be brought exclusively in the federal or state courts located in Charleston County, South Carolina, and the parties hereto consent to the exercise of personal jurisdiction over them by any such courts for purposes of any such action or proceeding.
21. This Agreement shall expire ten (10) years from the date of execution by all Parties hereto, unless all Parties agree to a subsequent extension.
22. This Agreement may be executed in one or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same document. In addition, this Agreement may contain more than one counterpart of the signature page(s), all of which signature page(s) may be attached to one copy of this Agreement to constitute the entire executed Agreement.

- 23. This Agreement may be amended only by a written instrument executed by the City and EP.
- 24. This Agreement is the sole and entire Agreement and understanding between the City and EP with respect to the matters contemplated in this Agreement. All prior agreements, understandings, or representations, with respect to the matters contemplated in this Agreement, whether oral or written, shall be merged into this Agreement and shall not be construed to change, amend or invalidate this Agreement.

[The remainder of this page has been intentionally left blank. The signature pages follow.]

IN WITNESS WHEREOF, the Parties hereto, by their authorized representatives, have signed, sealed and delivered this Memorandum of Understanding in Charleston, South Carolina.

For City:

Name

Title

Date

Witness

Witness

For Enough Pie:

Name

Title

Date

Witness

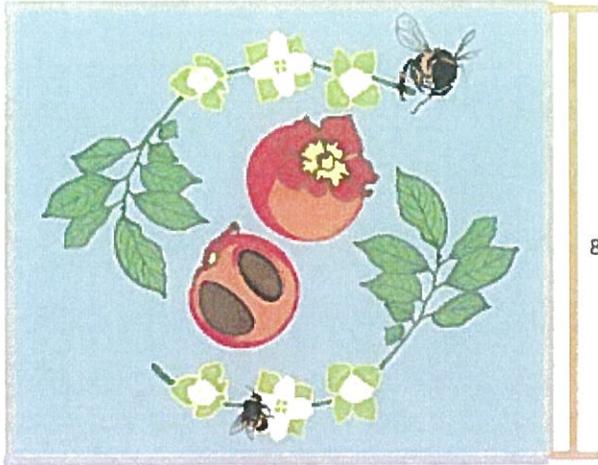
Witness

EXHIBIT

1 pg 1 of 4

ENOUGH PIE BOTANICAL GARDEN
VIVIAN MOULTRIE PARK UNDERPASS COLUMNS
ARTWORK SKETCHES BY LOCAL ARTISTS
Kick Off: May 25 -- Memorial Day, 2020

ARTIST MURAL TEMPLATE



H=
8.5FT

CIRCUMFRENCE = 9.42 FT
SURFACE AREA = 80.07 FT

ARTIST MURAL TEMPLATE



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8.5FT

CIRCUMFRENCE = 9.42 FT
SURFACE AREA = 80.07 FT

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EXHIBIT

109 304



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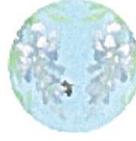
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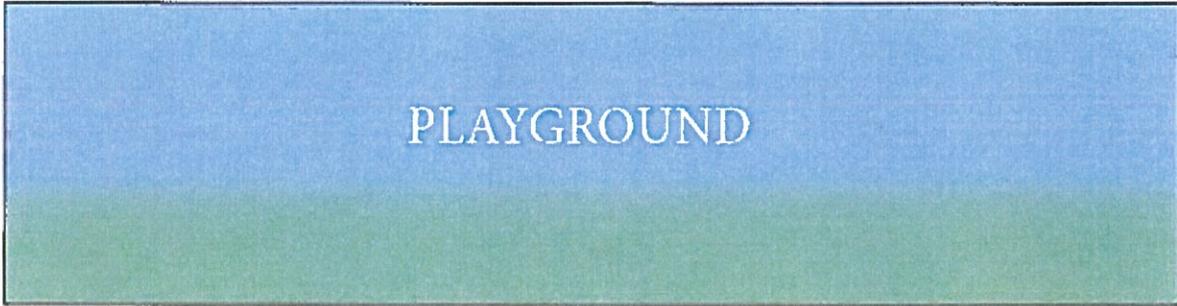
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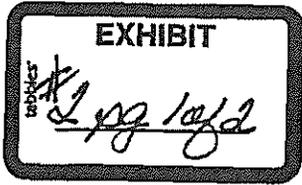


D



E





Print this form for signature and upload.

General Provisions

Application for Encroachment Permit
General Provisions

1. **DEFINITIONS:** The word "Permittee" used herein shall mean the name of the person, firm, or corporation to whom this permit is addressed, his, her, its, heirs, personal representatives, successors and assigns. The word "DEPARTMENT" shall mean the South Carolina Department of Transportation.
2. **NOTICE PRIOR TO STARTING WORK:** Before starting the work contemplated herein within the limits of the highway right of way, the Department's Resident Maintenance Engineer in the county in which the proposed work is located shall be notified 24 hours in advance so that he may be present while the work is under way.
3. **PERMIT SUBJECT TO INSPECTION:** This permit shall be kept at the site of the work at all times while said work is under way and must be shown to any representative of the Department or law enforcement officer on demand.
4. **PROTECTION OF HIGHWAY TRAFFIC:** The applicant shall be responsible for the protection of the highway traffic at all times during the construction, maintenance, removing or moving of the encroachment permitted herein. Detours, barricades, warning signs and flagmen, as necessary, shall be provided by and at the expense of the Permittee and shall be in accordance with the "Manual on Uniform Traffic Control Devices" (MUTCD). The work shall be planned and carried out so that there will be the least possible inconvenience to the motoring public. The Permittee agrees to observe all rules and regulations of the Department while carrying on the work contemplated herein and take all other precautions that circumstances warrant.
5. **STANDARDS OF CONSTRUCTION:** All work shall conform to the Department's standards of construction and shall be performed in a workman-like manner. The applicant shall make adequate provisions for maintaining the proper drainage of the highway as it may be affected by the encroachment permitted herein. All work shall be subject to the supervision and satisfaction of the Department.
6. **FUTURE MOVING OF PHYSICAL APPURTENANCES:** If, in the opinion of the State Highway Engineer, it should ever become necessary to move or remove the physical appurtenances, or any part thereof contemplated herein, on account of change in location of the highway, widening of the highway, or for any other sufficient reason, such moving shall be done on demand of the Department at the expense of the Permittee.
7. **RESTORATION OF HIGHWAY FACILITIES UPON MOVING OR REMOVING OF PHYSICAL APPURTENANCES:** If, and when, the physical appurtenances contemplated herein shall be moved or removed, either on the demand of the Department or at the option of the Permittee, the highway and facilities shall immediately be restored to their original condition at the expense of the Permittee.
8. **COSTS:** All work in connection with the construction, maintenance, moving or removing of the physical appurtenances contemplated herein shall be done by and at the expense of the Permittee.
9. **ADDITIONAL PERMISSIONS:**
 - (a) It is distinctly understood that this permit does not in any way grant or release any rights lawfully possessed by the abutting property owners. The Permittee shall secure any such rights, as necessary, from said abutting property owners.
 - (b) The Permittee shall be responsible for obtaining all other approvals or permits necessary for installation of the encroachment from other government entities.



(c) There shall be no excavation of soil nearer than two feet to any public utility line or appurtenant facility except with the consent of the owner thereof, or except upon special permission of this Department after an opportunity to be heard is given the owner of such line or appurtenant facility.

10. ADDITIONAL WORK PERFORMANCE:

(a) All crossings over the highway shall be constructed in accordance with "Specifications for Overhead Crossings of Light and Power Transmission Lines and Telegraph Lines over each other and over Highway Rights of Way in South Carolina," as approved by the Public Service Commission of South Carolina and effective as of date of this permit.

(b) All tunneling, boring, or jacking shall be done in such a way as not to disturb the highway surfacing.

(c) No pavement shall be cut unless specifically authorized herein.

(d) No excavation shall be nearer than three feet to the edge of pavement unless specifically authorized herein.

(e) Underground facilities will be located at minimum depths as defined in the "Utility Accommodations Manual" for the transmittant, generally as follows: 4 feet minimum for hazardous or dangerous transmittant, 3 feet minimum for other lines. The Department may approve shallower depths if adequate protection is provided. Such approval must be obtained in writing.

(f) Service and other small diameter pipes shall be jacked, driven, or otherwise forced underneath the pavements on any surfaced road without disturbing the pavement. The section under the highway pavement and within a distance of three (3) feet on either side shall be continuous without joints.

11. ACCESS:

(a) Permittee is responsible for maintaining reasonable access to private driveways during construction.

(b) It is expressly provided that, with respect to any limited access highway, the Permittee shall not have or gain access from the main traveled way of the highway, or the on or off ramps to such facility, except upon approval by the Department.

12. DRIVEWAYS:

(a) The existing crown of the highway shall be continued to the outside shoulder line of the highway.

(b) If the driveway or approach is concrete pavement, the pavement shall be constructed at least 6 inches thick and with a minimum of class 2500 concrete. There shall be a bituminous expansion joint, not less than 3/4 inches in thickness, placed between the highway paving and the paving of the approach for the full width of the approach.

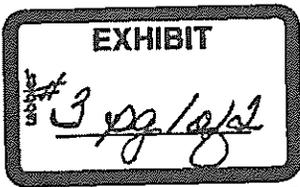
13. BEAUTIFICATION:

(a) All trees, plants, flowers, etc. shall be placed in accordance with the provisions specifically stipulated herein.

(b) All trees, plants, flowers, etc. shall be maintained by, and at the expense of, the Permittee and the provisions of this permit shall become null and void, if and when said Permittee ceases to maintain said trees, plants, flowers, etc.

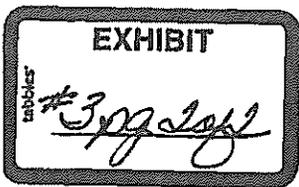
14. AS-BUILT PLANS:

(a) The applicant shall provide the Department with survey-quality as-built plans in accordance with the requirements set forth in the Department's "A Policy for Accommodating Utilities on Highway Rights of Way".



9999 SPECIAL PROVISIONS – Bridge Column Painting

1. To facilitate structural inspections, no mural may be applied to more than 1/3rd of a column's perimeter. If the remaining 2/3rd of the column is painted/coated for any reason it shall be uniform/solid and light in color. The color shall be as close as feasible to "concrete grey".
2. Area shall be kept clean and in good repair.
3. City shall be responsible for removal of offensive messages in a timely manner
 - a) If the murals are to be removed for any reason they shall be removed by power washing, or other means acceptable to the Department. Alternately they may be covered by the application of a coating that is uniform/solid and light in color. The color shall be as close as feasible to "concrete grey". When a mural is covered, the entire column perimeter should be coated from the ground line to the underside of the concrete cap.
4. City shall remove murals in the event it poses operational concerns due to deterioration or inadequate maintenance.
5. In the event the City fails to maintain, repair, rehabilitate columns in a timely manner, SCDOT may remove the murals after 60 days following notification to the City. The City will be billed for all costs associated with removal and restoration of the area.
6. City shall be responsible for cost and placement of "No Parking" signs in the event motorists start parking within the clear zone of the highway.
7. SCDOT reserves the right to remove the murals due to construction, rehabilitation, or other necessary activities affecting the transportation facilities without any obligation, compensation to, or approval of the City.
8. SCDOT will strive to notify the City of its intent to remove murals to allow for timely removal and salvage by the City
9. SCDOT reserves the right to remove or alter murals that present an immediate safety hazard to the public without delay or advanced notification to the City.
10. Murals shall not contain religious, political, special interest, private, or commercial messages of any sort, including, but not limited to, symbols, logos, business names, trade names, jingles, or slogans.
11. Murals shall not display telephone numbers, street addresses, Internet addresses, or any words that face traffic.
12. Murals shall not contain advertising, names, or artist recognition.
13. Murals shall not contain any promotion of causes
14. Murals shall not create a distraction to the motoring public, no words that face traffic.
15. Murals shall not have reflective or glaring surface finishes
16. Murals shall not include illumination that impairs or distracts the vision of transportation system users. Other lighting may be permitted. Ground mounted up-lights are acceptable.
17. Murals shall not display blinding or intermittent or moving lights, including changeable message signs, digital displays or lighted static displays such as LED.
18. Murals shall not include moving elements (kinetic art) or simulated movement.
19. Murals shall neither interfere with official traffic control devices nor interfere with the operations right of way above the right of way.



20. Murals shall not make use of or simulate colors or combinations of colors usually reserved for official traffic control devices described in the Manual on Uniform Traffic Control Devices.
21. Murals shall not negatively impact existing highway features, including existing signs, irrigation systems, necessary drainage patterns, and facilities.

The City shall provide the following with encroachment permit submittal:

1. Documentation indicating jurisdiction over the permit area
2. Approval of content/messages on Murals
3. Letter of commitment to ensure maintenance of the Murals and any associated landscaping/lighting including timely repair/removal of unauthorized messages.

REAL ESTATE COMMITTEE
GENERAL FORM

TO: Real Estate Committee DATE: September 22, 2020

FROM: Real Estate Division DEPT: BFRC

ADDRESS: Approximately 3.329 acres located on Wildst Battery Dr. (intersection of Maybank Hwy. and Wildst Battery Dr. on Johns Island)

TMS: 313-00-00-337

PROPERTY OWNER: Shade Tree Holdings, LLC

ACTION REQUEST: Approve an Agreement to Buy and Sell Real Estate between the City and Shade Tree Holdings, LLC, a South Carolina limited liability company, for the sale of the above-referenced property to the City for a purchase price of \$800,000.

ORDINANCE: Is an ordinance required? Yes No

COORDINATION: The request has been coordinated with:
All supporting documentation must be included

| | <u>Signature</u> | <u>Attachments</u> |
|---------------------------------|---------------------|-------------------------------------|
| Department Head | _____ | <input type="checkbox"/> |
| Legal Department | _____ | <input type="checkbox"/> |
| Chief Financial Officer | _____ | <input type="checkbox"/> |
| Director Real Estate Management | <i>Leigh Bailey</i> | <input checked="" type="checkbox"/> |
| _____ | _____ | <input type="checkbox"/> |

FUNDING: Was funding needed? Yes No
If yes, was funding previously approved?* Yes No

*If approved, provide the following: Dept/Div. _____ Acct: _____

Balance in Account _____ Amount needed for this item _____

NEED: Identify any critical time constraint(s).

*Commercial Property and Community & Housing Development have an additional form.

COMMERCIAL REAL ESTATE FORM

TO: Real Estate Committee DATE: September 22, 2020

FROM: Real Estate Division DEPT: BFRC

ADDRESS: Approximately 3.329 acres located on Wildst Battery Dr. (intersection of Maybank Hwy. and Wildst Battery Dr. on Johns Island)

TMS: 313-00-00-337

PROPERTY OWNER: Shade Tree Holdings, LLC

ACTION REQUEST: Approve an Agreement to Buy and Sell Real Estate between the City and Shade Tree Holdings, LLC, a South Carolina limited liability company, for the sale of the above-referenced property to the City for a purchase price of \$800,000.

ORDINANCE: Is an ordinance required? Yes No

ACTION: What action is being taken on the Property mentioned?

ACQUISITION Seller (Property Owner) Shade Tree Partners, LLC Purchaser City of Charleston

DONATION/TRANSFER
Donated By: _____

FORECLOSURE
Terms: _____

PURCHASE
Terms: The purchase of approximately 3.329 acres of vacant land on Wildst Battery Dr. on Johns Island for the construction of a new fire station. The purchase price is \$800,000.

CONDEMNATION
Terms: _____

OTHER
Terms: _____

SALE Seller (Property Owner) _____ Purchaser _____

NON-PROFIT ORG, *please name* _____
Terms: _____

OTHER
Terms: _____

COMMERCIAL REAL ESTATE FORM

EASEMENT | Grantor (Property Owner) _____ Grantee _____

PERMANENT
Terms: _____

TEMPORARY
Terms: _____

LEASE Lessor: _____ Lessee: _____

INITIAL
Terms: _____

RENEWAL
Terms: _____

AMENDMENT
Terms: _____

Improvement of Property
Owner: _____
Terms: _____

BACKGROUND CHECK: If Property Action Request is for the sale or lease of city property, has a background check been completed?

Yes No N/A

Results: _____

Signature: Leigh Bailey
Director Real Estate Management

ADDITIONAL: Please identify any pertinent detail (Clauses, Agreement Terms, Repeals, etc.) regarding City Property.

NEED: Identify any critical time constraint(s).

AGREEMENT TO BUY AND SELL REAL ESTATE

This agreement is made and entered into as of the Effective Date (as defined herein) by and between **SHADE TREE HOLDINGS, LLC**, a South Carolina limited liability company (the "Seller") and **THE CITY OF CHARLESTON**, a South Carolina municipal corporation (the "Buyer").

WITNESSETH:

1. **Sale of the Property.** The Seller agrees to sell by general warranty deed and the Buyer agrees to purchase on the terms hereafter stated on the Closing Date (hereafter defined), that certain piece, parcel or tract of land containing 3.329 acres, more or less, together with the buildings and other improvements thereon, if any, located at the corner of Maybank Highway and Wildst Battery Boulevard, City of Charleston, County of Charleston, State of South Carolina, having TMS Number 313-00-00-337, and being more particularly shown on **Exhibit "A"**, attached hereto and incorporated by reference herein (the "Property");
2. **Purchase Price.** The purchase price for the Property shall be **Eight Hundred Thousand and no/100 Dollars (\$800,000.00)** (the "Purchase Price") and shall be payable in immediately available funds at Closing.
3. **Effective Date.** The effective date shall be the date which: (i) all parties have fully executed this agreement; and (ii) all parties have notice that all other parties have executed this agreement.
4. **Right to Go on Property.** Prior to the date of Closing (as defined herein), Buyer and its agents and representatives shall have the right to go on the Property for the purpose of conducting soil tests, surveys, environmental audits and other investigations, and undertaking such other activities as are appropriate to planning the development of the Property.
5. **Closing.** The closing of this transaction (the "Closing") shall occur at the offices of Buyer's attorney, in Charleston, South Carolina, unless otherwise agreed to by the parties, on a date determined as follows:
 - a. Buyer shall have until the date of Closing to conduct an appraisal or any and all inspections or investigations it deems necessary to insure material compliance of the Property with Buyer's intended use of the Property. Seller shall cooperate with Buyer in facilitating Buyer's inspections and due diligence. Buyer may terminate this Agreement for any reason or no reason, in Buyer's sole discretion, by giving written notice to Seller on or before the date of Closing. Upon termination, this Agreement shall be null and void, except for any rights or obligations that expressly survive termination.
 - b. If Buyer does not terminate this Agreement on or before Closing, the Closing shall occur on the later of 45 days following either: City Council approval, or the end of the due diligence period. The Closing Date shall be determined by the

Buyer. TIME IS OF THE ESSENCE.

6. **Closing Documents**. At least two business days before Closing, Seller shall execute and deliver to Buyer's attorney in trust the following items, in form and substance reasonably acceptable to Buyer:

- a. A general warranty deed conveying valid, insurable (at standard rates), marketable, recordable and infeasible fee simple title to the Property, free and clear of all liens and encumbrances except: (1) ad valorem real property taxes for the fiscal year in which the closing occurs (to be prorated as of the Closing date), (2) general utility easements and restrictions of record properly indexed in the Charleston County ROD office that do not restrict or prohibit use or limit the development of the Property, (3) any other matters expressly approved in writing by Buyer (collectively the "Permitted Exceptions").
- b. An owner's affidavit in form reasonably acceptable to Buyer's title insurance company affirming that there are no outstanding possessory rights, liens or rights to claim rights or liens against the Property.
- c. Such other documents or instruments as may be reasonably required by Buyer, the Escrow Agent or the Buyer's title insurer, required by other provisions of this Agreement, or reasonably necessary to effectuate the Closing.
- d. A current certificate of tax compliance from the South Carolina Department of Revenue as to the Seller.

7. **Closing Expenses**. Each party shall be responsible for the following closing expenses:

- a. Seller shall be responsible for the cost of preparation of its general warranty deed and all deed transfer fees, including documentary stamps and deed recording fees, such as those imposed under Chapter 24 of Title 12 of the South Carolina Code of Laws and other normal Seller closing costs.
- b. Buyer shall be responsible for all expenses incurred by it in investigating the Property, including the cost of title examination, survey, all reports, tests or other products of Buyer's inspection, which shall be the sole and exclusive property of Buyer and other normal Buyer closing costs.
- c. The parties shall each be responsible for their respective attorneys' fees.

8. **Ad Valorem Taxes**. All ad valorem taxes constituting a lien against the Property for the year in which the Closing occurs shall be prorated as of the Closing date. After Closing, at such time as the ad valorem taxes are capable of an exact determination, the party having the information permitting the exact determination, shall send the other Party a detailed report; and within thirty (30) days Buyer and Seller shall adjust the amounts apportioned and pay to the other party whatever amount shall be necessary to compensate the other party for the difference

between the amount paid at closing and the exact amount of ad valorem taxes due on the Property for the year in which the Closing occurs. Seller shall be responsible for all roll back taxes, if any, special assessments, and all other taxes. This Section shall survive Closing.

9. **RESERVED**

10. **Condemnation.** If any taking pursuant to the power of eminent domain is threatened or occurs as to all or any material portion of the Property before the Closing date, or a sale occurs in lieu thereof, Seller shall immediately notify Buyer, and Seller may elect to terminate this Agreement by delivery of written notice of termination to Buyer within thirty (30) days after written notice from Seller of the condemnation or threat thereof. If the Seller does not terminate this Agreement and wishes to proceed to Closing, Buyer shall have fifteen (15) days to notify Seller in writing that it intends to terminate this Agreement. If Buyer does not terminate and wishes to proceed to Closing, all proceeds, awards and other payments arising from any such taking or sale shall be assigned to and paid to Buyer, without any adjustment of the purchase price. If Seller or Buyer elect to terminate this Agreement as set forth herein, the parties hereto shall have no further obligations or liabilities under this Agreement except as specifically provided herein to the contrary.

12. **Real Estate Commission.** Buyer and Seller each represent that there is no broker or agent that has any claim to a commission with respect to the sale contemplated hereby except The AgentOwned Realty Co. (the "Broker"). Buyer and Seller agree that the Seller is solely responsible for the entire payment of any fees due and payable to the Broker at Closing.

13. **Assignment.** Without the prior written consent of Seller, Buyer shall only have the right to assign this Agreement to any entity controlled by, under common control with, or affiliated with Buyer. Seller's consent shall not be unreasonably withheld, conditioned, or delayed.

14. **Default/Remedy.** In the event that the Seller or the Buyer fails to perform its obligations hereunder, the party claiming default shall make written demand for performance. If Seller defaults and fails to comply with such written demand within ten (10) days after receipt thereof, Buyer may terminate this Agreement, in which case this Agreement shall be null and void; or Buyer may enforce the remedy of specific performance of this Agreement by Seller, and Seller shall be responsible for Buyer's costs, including reasonable attorney's fees and court costs; or Buyer may seek such other remedy provided for at law or in equity. If the Buyer defaults and fails to comply with such written demand within ten (10) days after receipt thereof, Seller's sole remedy shall be to terminate this Agreement.

15. **Time of the Essence.** The parties agree that time shall be of the essence in the performance of all of the terms and conditions of this Agreement. If the time period by which any right, option or election provided under this Agreement must be exercised, or by which any act must be performed, or by which Closing must be held, expires on a Saturday, Sunday or a holiday, then such time period shall be automatically extended to and through the next day which is not a Saturday, Sunday or a holiday.

20. **Controlling Law.** Agreement will be construed, and the rights of Seller and Buyer under this Agreement will be determined in accordance with the laws of the State of South Carolina.
21. **Construction of Terms.** Where appropriate, any word denoting the singular shall be deemed to denote the plural, and vice versa.
22. **Execution of Documents.** Each party hereto covenants and agrees that it will at any time, and from time to time, do such acts and execute, acknowledge and delivery, or cause to be executed, acknowledged and delivered such documents in order to carry out fully and effectuate the transaction herein contemplated.
23. **Attorneys' Fees.** In the event that either party obtains a judgment against the other as a result of a suit or other proceeding instituted to enforce rights hereunder, such prevailing party shall also be entitled to recover all costs, expenses, and attorneys' fees incurred by such party in connection with such suit or proceeding.
24. **Interpretation.** No ambiguity in this Agreement shall be construed against the draftsman or principal draftsman of this Agreement.
24. **Miscellaneous.** If either party is a corporation, limited liability company, trust, partnership or other entity, it shall provide evidence that: (i) the persons executing this agreement are authorized to act on behalf of the entity, and (ii) that the entity is validly and legally existing and in good standing under the laws of the state of its organization and authorized to do business in the State of South Carolina.

[The remainder of this page was intentionally left blank]

IN WITNESS WHEREOF, the Seller and Buyer have executed this Agreement to Buy and Sell Real Estate under seal on the date(s) set forth below.

WITNESSES:

SELLER:

Shade Tree Partners, LLC

DocuSigned by:

Donald Berg Member/Manager

Name: Donald Berg Member/Manager

Title:

Date: 9/3/2020, 2020

WITNESSES:

BUYER:

**The City of Charleston, a South
Carolina municipal corporation**

By:

Name: John J. Tecklenburg

Title: Mayor

Date: _____, 2020

EXHIBIT "A"
(Legal Description of Property)

LEGAL DESCRIPTION

d(i).



Ratification
Number _____

AN ORDINANCE

TO PROVIDE FOR THE ANNEXATION OF PROPERTY KNOWN AS 1858 CHRISTIAN RD (0.22 ACRE) (TMS# 353-14-00-095), WEST ASHLEY, CHARLESTON COUNTY, TO THE CITY OF CHARLESTON, SHOWN WITHIN THE AREA ANNEXED UPON A MAP ATTACHED HERETO AND MAKE IT PART OF DISTRICT 7. THE PROPERTY IS OWNED BY WILLIAM J AND ELIZABETH K TRULL.

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

Section 1. 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 all persons owning real estate 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 all persons owning real estate 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 part of the City of Charleston and is annexed to and made part of present District 7 of the City of Charleston, to wit:

SAID PROPERTY to be annexed, 1858 Christian Rd, (0.22 acre) is identified by the Charleston County Assessors Office as TMS# 353-14-00-095, (see attached map).

Section 3. This ordinance shall become effective upon ratification.

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

By: _____
John J. Tecklenburg
Mayor

Attest: _____
Vanessa Turner Maybank
Clerk of Council

Annexation Profile

Parcel Address: 1858 Christian Rd

Presented to Council: 9/22/2020

Status: Received Signed Petition

Owner Names: William J and Elizabeth K Trull

Year Built: 1964

Parcel ID: 3531400095

Number of Units: 1

Number of Persons: 0

Race: Vacant

Acreage: 0.22

Mailing Address: 1495 Indian St

Current Land Use: Residential

Mt Pleasant, SC 29464

Current Zoning: R-4

Requested Zoning: SR-1

City Area: West Ashley

Recommended Zoning: SR-1

Subdivision: West Ashley Plantation

Appraised Value: \$152,800.00

Council District: 7

Assessed Value: \$9,170.00

Within UGB: Yes

Stormwater Fees: To Be Calculated

| | |
|-----------------------------------|--|
| Police | Located in existing service area - Team 4 |
| Fire | Located in existing service area - Station 16 |
| Public Service | |
| Sanitation | Located in existing service area. One additional stop. |
| Storm Water | Contiguous to existing service area. |
| Streets and Sidewalks | No additional City-maintained right-of-way |
| Traffic and Transportation | |
| Signalization | None |
| Signage | None |
| Pavement Markings | None |
| Charleston Water System | CWS service area. |
| Planning | |
| Urban Growth Line | Property is a developed site within the line. |
| City Plan (Century Five) | Suburban Edge |
| Elevation Range | 9-12 ft |
| Parks | Already being served. |

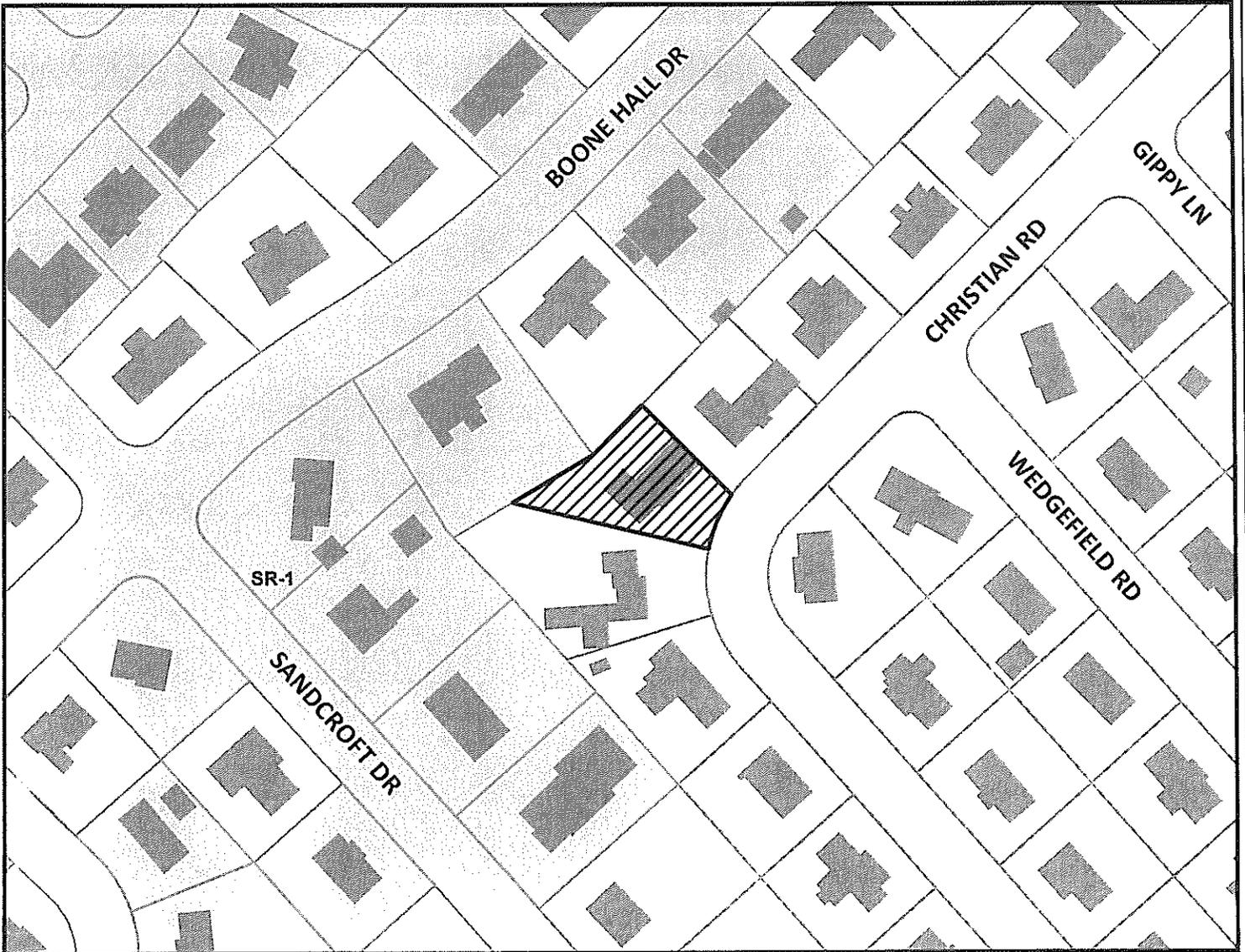
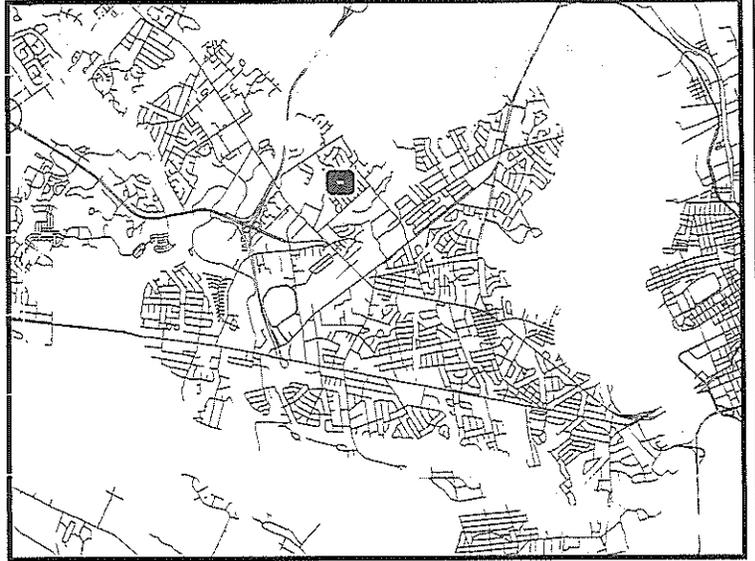
Notes/Comments:

City Plan Recommendation:

The existing development and proposed zoning is consistent with the City Plan. Recommend annexation.

Annexation Map

Location: West Ashley
Property Address: 1858 Christian Rd
Tax Map # (TMS): 3531400095
Area (Acres): approx. 0.22
Council District: 7



City of Charleston
Dept. of Planning, Preservation &
Sustainability
2 George St, Third Floor
Charleston, SC 29401
www.charleston-sc.gov

Date: 9/11/2020

Legend

- Parcels
- Water
- Charleston City Limits
- Annexation Area



0 50 100
Feet