



**CHARLESTON COUNTY PARK & RECREATION COMMISSION**  
**861 Riverland Drive**  
**Charleston, South Carolina 29412**

**CONTRACT**

AGREEMENT

Entered this Month, Date, Year

Between

VENDOR : *Name:*  
*Address:*  
*Phone:*  
*Contact Name:*  
*Email:*

And

OWNER: Charleston County Park & Recreation Commission  
("CCPRC")

CCPRC's PROJECT #: **2019-021**

PROJECT: *Photo Opportunities during Holiday Festival of Lights (HFOL)*

**ARTICLE 1**  
THE CONTRACT DOCUMENTS

The Contract Documents for this Contract consist of this Agreement, any Exhibits or special conditions attached hereto, the Specifications and all Addenda issued prior to execution of the Agreement between the Owner and Vendor, all change orders issued subsequent thereto, and to all documents listed below:

ATTACHMENT: PROPOSAL AND COST PROPOSAL

**ARTICLE 2**  
SCOPE OF SERVICES

This Contract gives Charleston County Park and Recreation Commission (“CCPRC”) is seeking qualified photographers and/or photography studios opportunities during the 2019 Holiday Festival of Lights and other photo opportunities. No guarantee is expressed or implied as to the total quantity of services to be purchased under this Agreement by CCPRC.

**ARTICLE 3**  
DURATION OF CONTRACT

The initial contract period shall start on the date of this Agreement and shall terminate at the end of the one year. All prices, terms, and conditions shall remain firm Vendor for the initial period of the Contract and for any renewal period. CCPRC, at its discretion, may renew this Contract up to four additional one year options, based on satisfactory performance and a determination that it will be in the best interest of CCPRC. The period of this contract including all options shall not extend beyond a period of five years.

**ARTICLE 4**  
PRICES, TERMS AND PAYMENTS

CCPRC is requesting, at a minimum, a revenue share of 30%, with the selected Vendor receiving 70%, with option to change to 65/35 revenue split in the fifth year. The selected vendor will invoice CCPRC weekly for the wholesale amount for the photo’s sold with payment within 30 days. CCPRC will act as a reseller and assumes all SC Sales Tax obligations and collecting and remitting the sales tax to the South Carolina Department of Revenue.

Out of state Vendors are required to complete form I-312, Nonresident Taxpayer Registration Affidavit Income Tax Withholding form.

**ARTICLE 5**  
**WARRANTY**

Vendor warrant that its products will be merchandisable, of good quality, and fit for their intended purpose.

**ARTICLE 6**  
**NON-CONFORMANCE TO CONTRACT CONDITIONS**

CCPRC may withhold acceptance of, or reject any items which are found, upon examination, not to meet the specification requirements. Upon verbal notice of rejection to do so, Vendor shall immediately remove and provide an adjustment to the price. Rejection for non-conformance, failure to provide services conforming to specifications, or failure to meet delivery schedules may result in Vendor being found in default.

**ARTICLE 7**  
**INSPECTION, ACCEPTANCE AND TITLE**

Inspection and acceptance will be at destination. Title and risk of loss or damage to all items shall be the responsibility of Vendor until acceptance for payment by CCPRC.

**ARTICLE 8**  
**GOVERNMENTAL RESTRICTIONS**

In the event any governmental restrictions may be imposed which would necessitate alteration of the material quality, workmanship, or performance of the items offered on this bid prior to their delivery, it shall be the responsibility of the successful vendor to notify CCPRC at once, indicating in his letter the specific regulation which required an alteration. CCPRC reserves the right to accept any such alteration, including any price adjustments occasioned thereby, or to cancel the contract at no further expenses to the CCPRC.

**ARTICLE 9**  
**LEGAL REQUIREMENTS**

Applicable provisions of all Federal, State, County and local laws, and of all ordinance, rules and regulations including the CCPRC Procurement Policy shall govern development; submittal and evaluation of proposals received in response hereto and shall govern any and all claims and disputes which may arise between person(s) submitting a proposal in response hereto and CCPRC and through its officers, employees and authorized representative, or any other person, natural or otherwise. Lack of knowledge by any offerer shall not constitute a recognizable defense against the legal effect thereof.

**ARTICLE 10**  
ASSIGNMENT

Vendor shall not transfer, subcontract, or assign the performance required by this proposal without the prior written consent of the CCPRC's Executive Director. Any Award issued pursuant to this proposal and monies which may become due hereunder are not assignable except with the prior written approval of the Executive Director.

**ARTICLE 11**  
INDEMNIFICATION

Vendor shall indemnify, save harmless, and defend CCPRC, its officers, agents and employees from and against any claims, demands, or causes of action of whatsoever kind or nature arising out of error, omission, negligent act, conduct, or misconduct of Vendor, its agents, servants or employees in the provision of goods or the performance of services pursuant to this RFP and contract.

**ARTICLE 12**  
CANCELLATION

Time of the Essence for work under this contract and if, in the opinion of CCPRC, Vendor fails to perform or deliver or the Vendor willfully or negligent does not comply with specifications, requirements, terms and conditions of the Contract, CCPRC reserves the right to cancel the Contract by means of written notification,

**ARTICLE 13**  
QUALIFICATIONS OF OFFEROR

Proposals will be considered only from firms normally engaged in providing the types of commodities/services specified herein. CCPRC reserves the right to inspect the facilities, equipment, personnel, and organization, or to take any other action necessary to determine ability to perform in accordance with specifications, terms, and conditions. CCPRC will determine whether the evidence of ability to perform is satisfactory and reserves the right to reject proposals where evidence or evaluation is determined to indicate inability to perform.

**ARTICLE 14**  
TERMINATION

If, in the opinion of CCPRC, Vendor fails to perform or deliver product after reasonable notice or the Vendor willfully or negligently does not comply with specifications, requirements, terms and conditions of the Contract, CCPRC reserves the right to cancel the Contract by means of written notification.

In the event that the Vendor is terminated under this Article, the Vendor shall not be entitled to any further payments under this agreement. Vendor agrees to pay the owner the cost of obtaining photo opportunities. Vendor agrees to pay owner the excess cost of obtaining other

photo opportunities and services and pay promptly to the Owner, on demand, the full amount of such excess, including costs of collection, attorneys' fees, and interest thereon at the maximum legal rate of interest per annum until paid. Additionally, Owner shall have the right to terminate this Contract, by written notice, without Vendor being at fault, for any cause or for its convenience (including without limitation on public funds), and require Vendor to immediately stop work. In such event, Owner shall pay Vendor for the work actually performed in an amount proportionate to this Contract sum. Owner shall not be liable to Vendor for any other costs, nor for prospective, lost or anticipated profits on work not performed. Any default termination subsequently determined to have been erroneous, shall be treated as a termination for convenience.

#### A. For Convenience

The Procurement Coordinator, by advance written notice, may terminate this Contract when it is in the best interests of CCPRC. If this Contract is so terminated, the Contractor shall be compensated for all necessary and reasonable direct costs of performing the Work actually accomplished. The Contractor will not be compensated for any other costs in connection with a termination for convenience. The Contractor will not be entitled to recover any damages in connection with a termination for convenience.

#### B. For Default

If the Contractor refuses or fails to perform the services or any separable part thereof in a timely or workmanlike manner in accordance with the Contract, or otherwise fails, in the sole opinion of CCPRC, to comply with any of the terms and conditions of the Contract deemed, in the sole opinion of CCPRC, to be material (including, without limitation, the requirement that Contractor obtain and maintain in force all necessary permits), such refusal or failure shall be deemed a default under this Contract. In the event of a default under this section, CCPRC shall have the right to terminate forthwith this Contract by written notice to the Contractor. In the event of such default, the advance notice period for termination is waived and the Contractor shall not be entitled to any costs or damages resulting from a termination under this section. Whether or not the Contractor's right to proceed with the Work is terminated, it and its sureties shall be liable for any damage to CCPRC resulting from Contractor's default. Any wrongful termination for default shall be deemed by the Parties a termination for convenience.

#### C. Termination for Non-Appropriation of Funds

The Procurement Coordinator, by written advance notice, may terminate this Contract in whole or in part in the event that sufficient appropriation of funds from any source (whether a federal, state, county or other source) are not made or sufficient funds are otherwise unavailable, in either case, to pay the charges under this Contract. If this Contract is so terminated, the Contractor shall be compensated for all necessary and reasonable direct costs of performing the Work actually provided to the date of such termination. The Contractor will not be compensated for any other costs in connection with a termination for non-appropriation. The Contractor will not be entitled to recover any damages in connection with a termination for non-appropriation, including, but not limited to, lost profits.

D. Rights

The rights and remedies of CCPRC provided in this section are in addition to any other rights and remedies provided by law or under this Contract.

**ARTICLE 15**

NOTICE TO SELLER TO DELIVER

No delivery shall become due or be acceptable without approval of the authorized representative unless otherwise provided in the Contract.

**ARTICLE 16**

MODIFICATIONS

Any modifications or changes to any contract entered into as a result of this proposal must be by written change order with the same formality and of equal dignity prior to the initiation of any such change.

**ARTICLE 17**

DISPUTES

Disputes shall be resolved in accordance with CCPRC's Procurement Policy. Any litigation shall be in a court of competent jurisdiction (non-jury) in Charleston, South Carolina.

**ARTICLE 18**

INSURANCE

Prior to commencement of the project, the Contractor, at his expense, will procure insurance naming the Charleston County Park and Recreation Commission as an additional insured on the liability coverage and furnish certificate as to such, certifying the coverage as follows:

- A. All such coverage required by statute or regulation of Charleston County and the State of South Carolina.
- B. The Contractor shall maintain limits no less than the following:
  1. **GENERAL LIABILITY:** \$1,000,000 combined single limit per occurrence for bodily injury, property damage, and personal injury with a \$1,000,000 general aggregate limit.
  2. **AUTOMOBILE LIABILITY:** \$1,000,000 combined single limit per accident for bodily injury and property damage.
  3. **WORKERS' COMPENSATION:** Statutory limits are required by South Carolina state law, and employer's liability limits of \$1,000,000 per accident.

- C. The required insurance policy at the time of issue must be written by a company licensed to do business in the State of South Carolina and acceptable to the Charleston County Park and Recreation Commission.

**ARTICLE 19**  
TERMS

Terms used in this Agreement which are defined in the Contract Documents shall have the meanings designated in those Contract Documents.

**ARTICLE 20**  
PROMPT PAYMENT- SUBCONTRACTOR

**(1)** Subject to the provisions on retainage provided in Paragraph (2) below, when a subcontractor has satisfactorily performed a work item of the subcontract, the Contractor must pay the subcontractor for the Work item within seven (7) Calendar Days of the Contractor's receipt of payment from CCPRC. A subcontractor shall be considered to have "satisfactorily performed a work item of the subcontract" when CCPRC pays the Contractor for that Work item.

**(2)** The Contractor may withhold as retainage up to five (5%) percent of a subcontractor's payment until satisfactory completion of all work items of the subcontract. "Satisfactorily completion of all work items of the subcontract" shall mean when CCPRC pays the Contractor for the last work item of the subcontract. The Contractor must release to the subcontractor any retainage withheld within seven (7) Calendar Days from the date the Contractor receives payment from CCPRC for the last work item of the subcontract.

**(3)** Prior to receiving payment of each monthly estimate, the Contractor shall certify to CCPRC that the construction estimate is complete and that all subcontractors have been paid for work covered by previous estimates.

**(4)** Failure to comply with any of the above provisions shall result in one or more of the following sanctions:

- (1) no further payments to the Contractor unless and until compliance is achieved;
- (2) the Contractor being placed in default; and/or
- (3) the Contractor being declared delinquent

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

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AGREEMENT

OWNER

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Charleston County Park and  
Recreation Commission

Date

VENDOR

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Signature  
Name  
Company

Date