



CONTRACT DOCUMENT

CHARLESTON COUNTY PARK & RECREATION COMMISSION

861 Riverland Drive

Charleston, South Carolina 29412

CONTRACT FOR JICP MASTER PLAN UPDATE - CONSULTING SERVICES

AGREEMENT

made as of _____, (month/day/year)

BETWEEN the Owner: Charleston County Park & Recreation Commission ("CCPRC")

and the Consultant: ***Company:***
Address:
Contact:
Email:
Phone:

CCPRC'S Project Number: **2022-015**

For the following Project: **James Island County Park Master Plan Update – Consulting Services,**

The Owner and Consultant agree as set forth below.

ARTICLE 1

CONSULTANT'S RESPONSIBILITIES

1.1.1 The Consultant acknowledges that it has thoroughly examined and understands the requirements of Request for Proposal (RFP) No. RFP No. 2022-015 issued by the Charleston County Park and Recreation Commission ("CCPRC") for James Island County Park Master Plan Update – Consulting Services. The general Scope of Service is attached hereto as Attachment. Consultant agrees that services, which are required to complete the set forth in Phases, the Attachments, and to otherwise meet the intent of the RFP #2022-015 are included in Consultant's lump sum fee.

1.1.2 Consultant agrees to complete all work in accordance with the work required for the RFP, and all work reasonably required in conjunction with scope of work and the RFP for the lump sum price in the not to exceed amount of (\$) **Dollars**, including all reimbursable expenses, direct and indirect personnel expenses, all anticipated equipment expenses, all photographic reproductions and reproduction services, and all materials and services of any kind required under the Contract. Consultant further acknowledges that the price shall not be adjusted without the express, written authorization of CCPRC and Consultant assumes all risk and responsibility for incurring additional cost or services beyond the scope of work, including reimbursable expenses, without first securing written authorization and agreement from CCPRC's representative to the terms and conditions of providing the additional services. All prices, terms, and conditions shall remain firm.

The following documents are attached hereto and incorporated herein by reference; however, in the case of any ambiguities with attached documents, CCPRC's contract and Procurement Policy will apply. The RFP submitted and any signed addenda shall be incorporated and become part of the agreement when signed by CCPRC.

1.2 CONSULTANT'S SERVICES

1.2.1 The Consultant's services consist of those services performed by the Consultant, Consultant's employees and sub-consultants.

1.2.2 The Consultant's services shall be performed as expeditiously as is consistent with professional skill and care and the orderly progress of the Work. The Consultant shall submit for the Owner's approval a schedule for the performance of the Consultant's services which may be adjusted as the Project proceeds and shall include allowances for periods of time required for the Owner's review and for approval of submissions by authorities having jurisdiction over the Project. Time limits established by this schedule approved by the Owner shall not, except for reasonable cause, be exceeded by the Consultant.

1.2.3 It is the responsibility of the Consultant to notify the Owner in writing if any additional surveys, and/or studies are required or advisable to accomplish the agreed phase/project. Upon approval by the Owner, the Consultant may be required to assist the owner in the selection of the sub-consultants. If any other fees will be associated with this

additional work, the Consultant must obtain the Owner's written approval, prior to performing this work.

1.2.4 Documents shall be submitted in a PDF format and with one paper copy along with all word documents, spreadsheets, and presentation files which are also required to be submitted in electronic format. All drawings will also be submitted in CAD format. Provide a second version of all CAD files with objects created by add-on software exploded.

ARTICLE 2

SCOPE OF CONSULTANT'S BASIC SERVICES

2.1 DEFINITION

2.1.1 The Consultant's Basic Services consist of those services described in James Island County Park Master Plan Update – Consulting Services, RFP and include normal civil engineering services.

ARTICLE 3

ADDITIONAL SERVICES

3.1 GENERAL

3.1.1 Additional services shall only be provided if authorized or confirmed in writing by the Owner prior to the additional services.

3.1.2 CCPRC reserves the right to unilaterally change this Agreement at any time and such change shall not affect the validity of this Agreement. Work beyond the basic Scope of Services shall be subject to a Change Order for the additional services.

ARTICLE 4

OWNER'S RESPONSIBILITIES

4.1 The Owner shall provide information regarding requirements for the Project, including a program which shall set forth the Owner's objectives, schedule, constraints and criteria, including space requirements and relationships, flexibility, expandability, special equipment, systems and site requirements.

4.2 The Owner shall establish and update an overall budget for the Project, including the Owner's other costs and reasonable contingencies related to all of these costs.

4.3 The Owner shall designate a representative authorized to act on the Owner's behalf with respect to the Project. The Owner or such authorized representative shall render

decisions in a timely manner pertaining to documents submitted by the Consultant in order to avoid unreasonable delay in the orderly and sequential progress of the Consultant's services.

4.4 The Owner shall furnish any available information in the Owner's possession such as existing surveys and studies.

4.5 The Owner shall have available its Procurement Policy and all legal, accounting and insurance counseling services as may be necessary at any time for the Project, including auditing services the Owner may require to verify the Contractor's Applications for Payment or to ascertain how or for what purposes the Contractor has used the money paid by or on behalf of the Owner.

4.6 The proposed language of certificates or certifications requested of the Consultant or sub-consultants shall be submitted to the Consultant for review and approval at least fourteen (14) days prior to execution. The Owner shall not request certifications that would require knowledge or services beyond the scope of this Agreement.

ARTICLE 5
CONSTRUCTION COST
NOT APPLICABLE

ARTICLE 6
USE OF CONSULTANT'S
DOCUMENTS

6.1 The documents prepared by the Consultant for this Project are instruments of the Consultant's service for use solely with respect to this Project and, unless otherwise provided, the Consultant shall be deemed the author of these documents and shall retain all common law, statutory and other reserved rights, including the copyright. The Owner shall be permitted to retain copies, including reproducible copies and CAD files, of the Consultant's documents for information and reference in connection with the Owner's use and occupancy of the Project.

6.2 Submission or distribution of documents to meet official regulatory requirements or for similar purposes in connection with the Project is not to be construed as publication in derogation of the Consultant's reserved rights.

ARTICLE 7
TERMINATION

7.1 This Agreement may be terminated by CCPRC for its convenience upon not less than seven (7) days written notice.

7.2 In the event of termination for convenience, the Consultant shall be compensated for services performed prior to termination, together with any Reimbursable Expenses then due as defined in Paragraph 7.3.

7.3 Termination Expenses are in addition to compensation for properly completed Basic and Additional Services, and include expenses which are directly attributable to termination. Termination Expenses shall be computed as a percentage of the total compensation for Basic Services and Additional Services earned to the time of termination, as follows:

- .1 Twenty percent (20%) of the total compensation for Basic and Additional Services earned to date if termination occurs before or during the completion of services included under item 1 of the Cost Proposal; or
- .2 Ten percent (10%) of the total compensation for Basic and Additional Services earned to date if termination occurs after the completion of services included under item 1 of the Cost Proposal.

7.4 CCPRC may terminate this agreement for default if the Consultant fails to perform in accordance with this Agreement upon 7 days written notice. In the event of termination which is the fault of the Consultant, Consultant shall provide CCPRC with all drawings and other work product and CCPRC may retain the services of a replacement consultant and if the fees and expenses of the replacement consultant and CCPRC's administrative, legal and termination costs exceed the contract balance, the Consultant agrees to indemnify and reimburse CCPRC for these costs and fees. In the event of termination for default, CCPRC shall have no further liability to the Consultant.

ARTICLE 8

MISCELLANEOUS PROVISIONS

8.1 This Agreement shall be governed by the laws of the State of South Carolina. CCPRC and the Consultant, bind themselves, their partners, successors and assigns, and legal representatives to this Agreement. The Consultant shall not assign or subcontract any portion of this Agreement without the written consent of CCPRC. This Agreement represents the entire and integrated agreement between CCPRC and the Consultant and supersedes all prior negotiations, representations, or agreements, either written or oral. This Agreement may be amended only by written instrument signed by both CCPRC and the Consultant. Nothing contained in this Agreement shall be deemed to create a contractual relationship with or cause of action in favor of a third party against CCPRC or the Consultant.

8.2 CCPRC may, at any time, by written order designated or indicated to be an addendum/change order, unilaterally make any change in the work within the general scope of the Contract without invalidating this Agreement. No order, statement, or conduct of

CCPRC's representatives shall be treated as a change under this Contract, unless so designated as a written addendum/change order.

8.3 The Consultant covenants and warrants that all work performed under this Contract shall be performed in a skillful, workmanlike and good manner and in accordance with the customs and standards of the industry with professional care. All plans prepared by the Consultant and drawings shall be adequate, accurate, and fit for their intended purpose. The Consultant further agrees to comply with all state, local and federal laws bearing upon the performance of the work and shall obtain and secure any licenses, permits and comply with any federal, state, local or municipal laws, codes, or regulations required in connection with the Consultant's work. The Consultant shall similarly be responsible for and bear all risk of all damages to persons or property that occurs as a consequence of its fault or negligence. The Consultant assumes all risk of loss and damage to all materials The Consultant provides under this Contract until delivery and acceptance of the entire work by CCPRC. The Consultant shall carry insurance in the amounts specified in the attached schedule.

8.4 CCPRC may undertake or award other contracts for additional work and the Consultant shall fully cooperate with such other contractors or consultants as CCPRC employs and carefully fits into its own work with such additional work as may be directed by CCPRC. The Consultant shall not commit or permit any act which will interfere with the performance of work by any other contractor.

8.5 The Consultant agrees that CCPRC and/or its authorized agents and representatives, until the expiration of three (3) years after final payment under this Contract, shall have access to and the right to examine and audit any directly pertinent books, documents, records or any other information maintained by the Consultant involving transactions related to this Contract. The Contract price includes all applicable federal, state, and local taxes and dues.

8.6 The Consultant acknowledges and assumes full responsibility for strict compliance with the terms and conditions of this Agreement, the RFP and Scope of Work, and agrees to indemnify and hold harmless CCPRC for any damages arising from the Consultant's failure to comply with the terms and conditions of this Agreement (including attorney's fees and costs).

8.7 The Consultant shall maintain professional and general liability insurance and provide acceptable proof of such insurance to CCPRC in an amount not less than \$1,000,000.00 in coverage.

8.8 The parties shall not be responsible for delays caused by reasons beyond a party's reasonable control and without the fault or negligence of the delayed party.

ARTICLE 9

PAYMENTS TO THE CONSULTANT

9.1 DIRECT PERSONNEL EXPENSE

9.1.1 Direct Personnel Expense is defined as the direct salaries of the Consultant's personnel engaged on the Project and the portion of the cost of their mandatory and

customary contributions and benefits related thereto, such as employment taxes and other statutory employee benefits, insurance, sick leave, holidays, vacations, pensions and similar contributions and benefits.

The Consultant shall account for such expenses using daily records and reports. CCPRC shall have the right to audit such expenses upon reasonable notice. At a minimum, invoices shall contain the identity of the provider of the services, the date of the services, a description of the services, indicating a percentage of the work completed and any applicable taxes.

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

9.2 REIMBURSABLE EXPENSES

9.2.1 The Consultant shall provide a fixed budget of reimbursable expenses. Reimbursable Expenses are in addition to compensation for Basic and Additional Services and include expenses incurred by the Consultant and Consultant's employees and consultants in the interest of the Project, as identified in the following Clauses. CCPRC shall have the right to audit such expenses upon reasonable notice.

9.2.2 Expense of transportation in connection with the Project expenses in connection with authorized out-of-town travel; long-distance communications and fees paid for securing approval of authorities having jurisdiction over the Project.

9.2.3 Expense of reproductions, postage and handling of Drawings, Specifications and other documents.

9.2.4 If authorized in advance by the Owner, expense of overtime work requiring higher than regular rates.

9.2.5 Expense of renderings, models and mock-ups requested by the Owner.

9.3 PAYMENTS ON ACCOUNTS OF BASIC SERVICES

9.3.1 Subsequent payments for Basic Services shall be made monthly and, where applicable, shall be in proportion to services performed within each phase of service.

9.4 PAYMENTS ON ACCOUNT OF ADDITIONAL SERVICES

9.4.1 Payments on account of the Consultant's Additional Services and for Reimbursable Expenses shall be made monthly upon presentation of the Consultant's statement of services rendered or expenses incurred.

9.5 PAYMENTS WITHHELD

9.5.1 No deductions shall be made from the Consultant's compensation on account of penalty, liquidated damages or other sums withheld from payments to contractors, or on account of the cost of changes in the Work other than those for which the Consultant has been found to be liable.

9.6 CONSULTANT'S ACCOUNTING RECORDS

9.6.1 Records of Reimbursable Expenses and expenses pertaining to Additional Services and services performed on the basis of a multiple of Direct Personnel Expense shall be available to the Owner or the Owner's authorized representative for audit and inspection at mutually convenient times.

ARTICLE 10

BASIS OF COMPENSATION

The Owner shall compensate the Consultant as follows:

10.1 BASIC COMPENSATION

10.1.1 FOR BASIC SERVICES, as described in Article 2, and any other services included in Article 11 as part of Basic Services. Basic Compensation shall be the following:

<i>Item 1- Site inventory, Programing, and Site Analysis</i>	\$
<i>Item 2 – Conceptual Design</i>	\$
<i>Item 3 – Design Development</i>	\$
<i>Item 4 – Final Master Plan</i>	\$

10.2 COMPENSATION FOR ADDITIONAL SERVICES

10.2.1 FOR ADDITIONAL SERVICES OF THE CONSULTANT, as described in Article 3 and compensation shall be computed as follows:

Hourly Rate plus Reimbursables or Negotiated Lump Sum for Services. Charleston County Park and Recreation Commission will not be obligated to pay any charges for additional professional services unless approved in writing by the Charleston County Park and Recreation Commission prior to request.

Reimbursables associated with additional services shall be paid at direct cost.

10.3 REIMBURSABLE EXPENSES

10.3.1 Reimbursables shall be paid at direct expense. In accordance with Article 9.2, the Consultant's fixed reimbursable budget is established as \$_____. Should the fixed reimbursable budget require adjustment as a consequence of additional work or services requested by the Owner, the Consultant shall notify per Owner and request an adjustment in writing. The Consultant bears the right for any expenses it incurs in excess of the Owner's fixed reimbursable budget. The Consultant shall submit proof of direct expenses which are subject to periodic review and audit of CCPRC.

10.4 ADDITIONAL PROVISIONS

10.4.1 Payments are due and payable within thirty (30) days from the date of the Consultant's invoice. Invoices are subject to Owner's review and adjustment. If Owner has a dispute over a portion of the invoices, the undisputed portion will be paid. Disputed and/or undisputed amounts unpaid shall bear no interest.

10.4.2 CCPRC's total liability for fees, expenses and additional services shall not exceed \$_____ without prior written authorization from CCPRC. The Consultant assumes all risk for any services or expenses incurred beyond this ceiling and guaranteed maximum absent written authorization from CCPRC.

ARTICLE 11 **INDEMNIFICATION**

11.1 Consultant 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 Consultant, its agents, servants or employees in the provision of goods or the performance of services pursuant to this RFP and contract

ARTICLE 12 **INSURANCE**

12.1 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 Consultant 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 personnel 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 with a \$1,000,000 aggregate limit.

3. WORKERS' COMPENSATION: Statutory limits are required by South Carolina state law, and employer's liability limits of \$100,000 per accident.

4. PROFESSIONAL LIABILITY: \$1,000,000 limit per claim. Professional shall obtain and maintain a professional liability insurance policy covering the performance of the professional services specified in this agreement. Evidence of such insurance shall be satisfactory in form and content to the owner, Charleston County. This coverage shall be maintained through the duration of this project and for a minimum of 1 year after substantial completion of the project.

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 13

PROMPT PAYMENT- SUBCONTRACTOR

13.1 (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.

12.1 (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.

12.1 (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.

12.1 (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 The Consultant shall provide list of all subcontractors.

AGREEMENT
OWNER

_____ Date _____

Charleston County Park and
Recreation Commission

CONSULTANT

_____ Date _____

Name
Company