

Telephone: 843-549-2545

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City of Walterboro

242 Hampton Street

Walterboro, South Carolina 29488

Mailing Address:

Post Office Box 709

Walterboro, South Carolina 29488-0008

Walterboro City Council

Regular Meeting

August 10, 2010

City Hall

6:15 P.M.

A G E N D A

I. Call to Order:

1. Invocation.
2. Pledge of Allegiance.

II. Public Input on Agenda Items:

III. Presentation:

1. Award of USDA Rural Development Grants - Nickie Toomes.

IV. Approval of Minutes:

1. Minutes of the July 27, 2010 Regular Meeting (Minutes attached).

V. Old Business:

1. Consideration of Appointments to City Boards and Commissions.

VI. New Business:

1. Acceptance of USDA Rural Development Grant in the Amount of \$10,470 Toward Purchase of Dispatch Console and Fire Water Hoses & Fittings.
2. Acceptance of USDA Rural Development Grant Award in the Amount of \$17,250 Toward Purchase of Three Police Vehicles and One Truck for Water Department.
3. Consideration of Proposal to Perform Survey for Downtown Arborscape Project (\$18,053.63) - B. P. Barber (Proposal Attached).
4. Consideration of Proposal to Prepare Design Development Documents for the Downtown Arborscape Project (\$59,500) - Wood + Partners, Inc. (Proposal Attached).

VII. Committee Reports:

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City Council Meeting
Agenda
August 10, 2010

VIII. Executive Session:

1. Discussion of Matters Relating to Proposed Provision of Services Encouraging the Location or Expansion of Industry or Other Businesses in the Area.

IX. ADJOURNMENT.

**CITY OF WALTERBORO
SUMMARY OF
2010 BOARDS AND COMMISSIONS
VACANCIES
As of 8/10/10**

	<u>Term Expires</u>	<u>Contacted Will Serve YES OR NO</u>
<u>Accommodations Tax Board 3 yr term (1 OPENING)</u>		
1. Geeta Patel (Moved)	1/2009	Need New Appointment
No Interest Letters Received		
<u>Election Commission 6 yr term (1 OPENING)</u>		
1. Joe Mire	1/2010	YES
Received Interest Letter from Ted Tucker, 307 Churchill Rd.		
<u>Tree Protection Committee 2 yr term (2 OPENINGS)</u>		
1. Jimmy Powers (deceased)	1/2010	Need new appointment
2. Shawn Jadrnicek (resigned)	1/2011	Need new appointment
No Interest Letters Received		
<u>Youth Advisory Commission 2 yr term (1 OPENING)</u>		
1. Melissa Terry		
2. Wayne Alvin Bennett		
3. Pastor Lesley L. Bligen		
4. Trey Black		
5. Cathy Turner		
6. Tom Lohr		
7. (Vacancy - Student from Colleton Prep Academy)		
No New Interest Letters Received.		
<u>North Lemacks Street Revitalization Committee (Temporary)</u>		
1. John Brown, Sr. (resigned)		Need new appointment

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**NEW BUSINESS
AGENDA ITEMS 1 AND 2
Draft Copy of Conditions Letter
USDA Rural Development Grants**

LOC'S PUBLIC BODY GRANT ONLY-EQUIPMENT

Date:

Mr. Jeffrey V. Lord, City Manager
City of Walterboro
242 Hampton Street
Walterboro, SC 29488

Dear Mr. Lord,

This letter establishes conditions which must be understood and agreed to by you before further consideration may be given your application. This letter is not to be considered as grant approval or as a representation as to the availability of funds. The docket may be completed on the basis of USDA Rural Development administering a Community Facilities (CF) grant not to exceed \$17,250.00.

This project is for the purchase of three police vehicles and a pick-up truck for the City of Walterboro. Any change in project cost, source of funds, scope of services, or any other significant changes in the project or applicant must be reported to and approved by Rural Development by written amendment to this letter. Any changes not approved by Rural Development shall be cause for discontinuing processing of the application. The proposed funding for this project is set forth on the attached copy of Form RD 1942-14, "Association Project Fund Analysis."

The City of Walterboro is required to identify and report to Rural Development any known relationship or association with a Rural Development employee.

Please execute and return to Rural Development the following completed items if you desire that further consideration be given to your application: Forms RD 1942-46, "Letter of Intent to Meet Conditions;" 400-1, "Equal Opportunity Agreement;" 400-4, "Assurance Agreement;" 442-7, "Operating Budget;" and 1940-1, "Request for Obligation of Funds."

If the conditions set forth in this letter are not met within 180 days from the date hereof, Rural Development reserves the right to discontinue the processing of the application.

The conditions are as outlined below:

- A. Organization:** Consideration for this grant is based on the municipality of City of Walterboro being chartered by the Secretary of State of South Carolina.
- B. Maximum Amount of Grant To Be Considered:** \$17,250.00
- C. Contribution Required of Applicant:** The City of Walterboro will contribute \$97,750.00 to the project. These funds must be disbursed in accordance with the

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requirements of the sources of funds and must be available before proceeding with procurement. Rural Development will monitor the disbursement of all proceeds.

D. Responsibilities of the Applicant: The City of Walterboro recognizes certain responsibilities in receiving this grant:

1. Attached is a copy of Form RD 3570-3 "Agreement for Administrative Requirements for Community Facilities Grants" for your review. You will be required to execute the agreement at the time of grant closing.
2. The City of Walterboro understands that any property acquired or improved with Federal grant funds may have use and disposition conditions which apply to the property as provided by 7 CFR 3015, 3016, or 3019 in effect at this time and as may be subsequently modified.
3. The City of Walterboro understands that any sale or transfer of property is subject to the interest of the United States Government in the market value in proportion to its participation in the project as provided by 7 CFR 3015, 3016, or 3019 in effect at this time and as may be subsequently modified.

E. Special Requirements:

1. A dedication ceremony is expected for this project. Any public information events are to be coordinated in advance with Rural Development. These events are to be planned in order for the public to be aware of this project and Rural Development's participation in the project.
2. All documents requiring the signature of the officials will be executed by the City Manager, attested by the City Clerk, and the impression of the City's seal affixed thereon.
3. Furnish a certified list of the governing body, samples of their signatures, and terms of their offices.
4. Prior to the approval of the grant, you will have certified on at least two different occasions as to your inability to finance this project from your own resources or other credit at reasonable rates and terms. This was based on prevailing private and cooperative rates and terms in or near your community for loans for similar purposes and periods of time.
5. The City of Walterboro will operate its facilities on a fiscal year that begins July 1 and ends June 30.
6. The City of Walterboro should inform the general public regarding the development of the proposed project. At least one public information meeting must be held. This meeting must give the citizenry an opportunity to become acquainted with the proposed project and to comment on such items as economic and environmental impacts, service area, alternatives to the project, or any other issue identified by Rural

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Development. You are required, at least 10 days prior to the meeting to publish a notice of the meeting in a newspaper of general circulation in the service areas, post a public notice at your principal office, and notify Rural Development. You are also to provide Rural Development a copy of the published notice and minutes of the public meeting. A public referendum can be used to satisfy this requirement in lieu of this meeting.

7. This financial assistance is subject to your compliance with the Civil Rights Act of 1964, and the Age Discrimination Act of 1975.
8. Under section 504 of the Rehabilitation Act of 1973, as amended (29 U.S.C. 794), no handicapped individual in the United States shall, solely by reason of their handicap, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Rural Development financial assistance.
9. Prior to the closing of the grant, it will be necessary that our Rural Development Area Office conduct a compliance review. Your office's full cooperation will be necessary in accomplishing this certification and review. During the review, the representative of the Rural Development Area Office will complete and execute Form RD 400-8, "Compliance Review." So as to assist the Rural Development Area Office with the Compliance Review, you will need to have available a numerical breakdown of the Town of Kingstree's service area population into the following categories: Black, Hispanic, Asian or Pacific Islander, American Indian or Alaskan Native, White, and Other. The nondiscrimination poster, "And Justice for All," is to be displayed at your offices and facilities. Also at this time the City of Walterboro must present evidence that the \$59,400.00 cash contribution required in paragraph C is available for use.
10. Unless the requirements of the Letter of Conditions have already been satisfied, Rural Development will request to meet with the City of Walterboro's officials, attorney, and any other parties that may be involved in the project during the 4th month after the date of Form RD 1942-46, "Letter of Intent to Meet Conditions." The purpose of this meeting will be to determine the progress that has been made in complying with the "Letter of Conditions" and to establish goals and a timetable for completing work on the conditions that have not yet been satisfied.
11. If there is a significant reduction in project costs, the City of Walterboro funding needs will be reassessed before grant closing. This reassessment will include the necessary revisions of the grant docket and the Letter of Conditions. The reassessment and revisions will be based on revised project costs and Rural Development regulations effective at the time the grant was approved. Grant funds not needed to complete the proposed project will be de-obligated.
12. Form AD-1047, "Certification Regarding Debarment, Suspension and other Responsibility Matters - Primary Covered Transactions," must be executed by the (authorized official). If the (authorized official) is unable to certify to any of the

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statements in this certification, the City of Walterboro must attach an explanation to this proposal. The City of Walterboro agrees by executing this form, it will not knowingly enter into any transaction with a person or entity debarred, suspended, declared ineligible, or voluntarily excluded from participation in this project, unless authorized by Rural Development.

The City of Walterboro further agrees by executing this form that it will include and maintain in its files Form AD-1048, "Ineligibility, and Voluntary Exclusion - Lower Tier Covered Transactions," a copy of which is attached without modification, in all transactions, in this project in excess of \$25,000.

13. The city manager (authorized official) must execute form AD-1049 "Certification Regarding Drug-Free Workplace Requirements (Grants) Alternative I - for Grantees Other Than Individuals. By executing this form, the City of Walterboro is agreeing to establish and maintain a drug-free workplace with its employees.
14. "Certification for Contracts, Grants, and Loans," Exhibit A-1 of RD Instruction 1940-Q, is to be executed by the (authorized official). This is the City of Walterboro's certification that they will comply with Section 319 of Public Law 101-121, which prohibits applicants and recipients of Federal contracts, grants, and loans from using appropriated Federal funds for lobbying the Federal Government in connection with a specific award. In addition, contractors and subcontractors that bid on contracts exceeding \$100,000 must submit an executed copy of the Certification.

Also, the expenditure of other than appropriated Federal funds for lobbying activities must be disclosed by completion and submission of Form SF-LLL, "Disclosure of Lobbying Activities."

Failure to file the required certification or disclosure shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

15. The City of Walterboro must adopt the attached grant resolution agreeing to the responsibilities and requirements of Form RD 1940-1, "Request for Obligation of Funds", with attachment, and authorizing the execution of this and other forms related to the grant application.
16. The City of Walterboro represents that it has not paid, and also agrees not to pay, any bonus or commission for the purpose of obtaining an approval of its application for this assistance.

F. Funds Disbursement:

1. Funds will be requested by the City of Walterboro in writing. Form RD 440-11, "Estimate of Funds Needed for 30 day Period Commencing _____," may be used for making this request. Funds are to be deposited in the City of Walterboro's equipment account and Partial Payment Estimates and invoices paid by the City of Walterboro

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from this account, after prior approval by Rural Development. Funds required by Rural Development to be deposited in the equipment account are considered project funds and are to be used only for authorized purposes. A pledge of collateral should be obtained for any funds in the account in excess of \$100,000. Any funds remaining in this account after payment of all Rural Development approved project costs are to be handled as unused grant funds. If necessary, and approved by the Rural Development Community Programs Director, the grant funds may be disbursed through a supervised bank account selected by the City of Walterboro. This bank will pledge collateral security to be maintained at a level equal to the greatest amount on deposit at any one time, less \$100,000.

G. Procurement and Contract Award:

1. Procurement transactions shall be conducted in a manner that provides maximum open and free competition. Procurement procedures shall not restrict or eliminate competition. The method of procurement must be approved by Rural Development.
2. Request For Proposals/Specifications are to be approved by Rural Development. Rural Development is to concur before a proposal is accepted by the City of Walterboro .
3. The seller of the equipment is to be required to execute Form AD-1048. A copy is to be submitted to Rural Development.

H. Accounting Methods, Management Reports and Audit Reports:

Audits may be required in the years in which grant funds are received. Audits are to be performed in accordance with generally accepted government auditing standards (GAGAS) issued by the Comptroller General of the United States, 1994 Revision, and any subsequent revisions.

Audit Requirements:

- a) Audits are to be conducted by an independent licensed certified public accountant (CPA). A CPA will be considered independent if the CPA meets the standards for independence contained in the American Institute of Certified Public Accountants (AICPA) Code of Professional Conduct in effect at the time the CPA's independence is under review, does not have any direct financial interest or any material indirect financial interest in the borrower during the period covered by the review; and is not, during the period of the audit, connected with the borrower as promoter, underwriter, trustee, director, officer or employee.
- b) Audits are to be performed in accordance with generally accepted government auditing standards (GAGAS) issued by the Comptroller General of the United States, 1994 Revision, and any subsequent revisions.

The City of Walterboro is to be audited in accordance with the Office of Management and Budget (OMB) Circular A-133 in years it expends \$500,000 or more in Federal

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funds. The OMB will assign a cognizant Federal agency to oversee the implementation of this circular. If an agency is not assigned, the Center will be under the general oversight of the Federal agency that provided the most funds. Reports required by this circular must be submitted no later than 9 months after the end of the City of Walterboro's fiscal year.

The City of Walterboro is to be audited in accordance with the generally accepted government auditing standards (GAGAS) and Rural Development requirements in years it expends less than \$500,000 in Federal funds. These audits are to be completed with two copies of the report submitted to the Rural Development Area Office no later than 150 days following the end of the Town of Kingtree's fiscal year.

I. Reports:

1. Reports: Forms SF-269, "Financial Status Report", and a Project Performance Activity Report will be required on a quarterly basis (due 15 working days after end of quarter). A final Project Performance Report will be required with the last Form SF-269. The Final report may serve as the last quarterly report. You are to constantly monitor performance to ensure that time schedules are being met, projected work by time periods is being accomplished, and other performance objectives are being achieved.

The project performance reports shall include, but not be limited to, the following:

- a. A comparison of actual accomplishments to the objectives established for that period;
- b. Reasons why established objectives were not met;
- c. Problems, delays, or adverse conditions which will affect attainment of overall project objectives, prevent meeting time schedules or objectives, or preclude the attainment of particular project work elements during established time periods. This disclosure shall be accompanied by a statement of the action taken or planned to resolve the situation; and
- d. Objectives and timetable established for the next reporting period.

J. Insurance Coverage:

1. Worker's Compensation Insurance – will be required on all employees in accordance with appropriate state laws. Evidence of such compliance must be furnished to Rural Development. If Worker's Compensation is not required, a statement of such determination by your attorney is to be furnished to Rural Development.
2. Liability and Property Damage Insurance - Public Liability and Property Damage Insurance is required for County owned trucks, tractors, or other vehicles that are driven over public highways.

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The necessary forms referred to in this letter will be supplied by Rural Development.
You will have the full cooperation of this agency and if we can be of any further assistance to you, please let us know.

Sincerely,

MIKE J. HUCKS
Community Programs Director

Attachments



BP Barber
Engineering • Experience • Excellence

**NEW BUSINESS
AGENDA ITEM 3
Proposal to Perform Survey for Downtown
Arborscape Project - B. P. Barber**

May 27, 2010

Mr. Todd Theodore
Wood and Partners, Inc.
7 Lafayette Pl., Suite 100
Hilton Head Island, SC 29926

RE: Proposal and Engineering Agreement
City of Walterboro Arborscape Surveying

Dear Mr. Theodore:

BP Barber is pleased to submit this proposal for surveying various streets in the City of Walterboro, located in Colleton County, South Carolina. Included in this proposal is a brief description of the project, the proposed scope of services and associated cost, and terms and conditions of the agreement. BP Barber respectfully requests that your written authorization be received prior to start of any work. The signed contract may be sent to the below address, this signed contract shall serve as our notice to proceed.

BP Barber appreciates the opportunity to submit this proposal and looks forward to working with you on this project. Please call Bryan Kizer or Lee Howell at (843) 767-4602 should you have any questions.

Project Information

The project consists of various streets in the City of Walterboro Downtown area. The surveying work will take place during normal business hours with the businesses operating normally. The survey operations are not to seriously impede traffic flow nor business operations. The scope of work outlined below contains an Option 1 and an Option 2. The deliverable and work scope for each scope will be the same.

Proposed Scope of Work

For each street, BP Barber will search the Colleton County Property Records and County Tax Assessor Files for plats and deeds to help determine the locations of property corners along the route. Complete title searches will not be performed by BP Barber. The survey will show the elevations of the street, based on cross sections at intervals of 50 feet. Data located will consist of cross sections (extended from the street centerline to the face of the adjacent building, or 60 feet from the centerline), elevations at centerline of pavement, top of curbs, gutter, building corners, first floor doorways with heights, floor elevations at doorways, first floor window sills with elevations and window heights, apparent number of floors for buildings, significant trees,

planters, driveways and alleys, visible storm and sanitary sewer structures, utility boxes, paint stripes for parking spaces, parking type (regular, compact, accessible), and any other visible improvements found within the project area. For the locations of buried utilities such as telephone, power, and gas, Palmetto Utility Protection Services (PUPS) will be contacted. When available, and if desired, the names of the businesses in the buildings will be noted.

The deliverable will be four copies of the final map with seals and signatures of the survey. Also, Wood and Partners will be provided with a CD with an AutoCAD file containing the surface information, spot elevations, and graphics.

Please find the pricing below for the tow options requested:

1. **Option 1: E. Washington and N. Walter Street:** BP Barber shall survey the portion of East Washington Street from the intersection of Jefferies Boulevard (US 17) easterly to the intersection of N Walter Street. Then N Walter Street from E. Washington Street northerly to the intersection with Wichman Street (US 17). The total project length is approximately 900 linear feet. BP Barber shall

Compensation to BP Barber for Task 1.....Lump Sum, \$ 6,104.10

2. **Option 2: E. Washington, N. Walter, and N. Lucas Streets:** This portion is East Washington Street from the intersection of Jefferies Boulevard (US 17) easterly to the intersection of N. Memorial Avenue. Then N. Walter Street from Hampton Street northerly to Wichman Street (US 17) to the intersection with Wichman Street (US 17). Then N. Lucas Street from Hampton Street northerly to Wichman Street (US 17) to the intersection with Wichman Street (US 17) The total project length is approximately 3,300 linear feet.

Compensation to BP Barber for Task 2.....Lump Sum, \$ 11,949.53

Terms and Conditions

BP Barber (hereinafter called the "ENGINEER") hereby proposes and agrees to serve as Consulting Engineer for Wood and Partners, Inc., (hereinafter called the "CLIENT") in the engineering design and surveying services as hereinafter described all as related to the further development of various streets for the Downtown Arborscape (hereinafter called the "PROJECT") in the City of Walterboro, Colleton County, South Carolina. The ENGINEER proposes to assist and advise the CLIENT as specifically set forth below. The services to be performed by the ENGINEER under this Agreement are intended solely for the benefit of the CLIENT. Nothing contained herein shall confer any rights or create any duties on the part of the ENGINEER toward any person or persons not a party to this Agreement including, but not limited to any contractor, subcontractor, supplier, or the agents, officers, employees, insurers, or sureties of any of them. The ENGINEER's services shall be performed in a manner consistent with that degree of skill and care ordinarily exercised by practicing design professionals performing similar services in the same locality, at the same site and under the same or similar

circumstances and conditions. The ENGINEER makes no other representations or warranties, whether expressed or implied, with respect to the services rendered hereunder.

A. Scope of Services

Upon written notification from the CLIENT to proceed, the ENGINEER shall provide the services described in the attached proposal included herein under "Proposed Scope of Services."

B. Terms of the Agreement

1. Under the section of this Agreement entitled "Compensation", costs are included for providing four (4) sets of completed documents to the CLIENT for his use. The ENGINEER will provide the necessary number of documents to the various permitting and/or approval agencies listed above at no additional cost to the CLIENT. **All testing, application, review and permit fees shall be paid directly by the CLIENT.**
2. **The CLIENT and ENGINEER agree that the ENGINEER's work under this Agreement shall not include any building(s) design, landscaping, irrigation, electric and gas, lighting, signage, or any amenity areas.**

C. Special Services

In addition to the foregoing services, the following special services may be required but are not provided for in this agreement:

1. Full Title searches.
2. Certified boundary surveys of adjoining parcels for condemnation.
3. Services on areas not included in the above.
4. Determination of buried utility connections and paths
5. Payment for these services shall be based on an hourly rate basis, in accordance with the "Hourly Rate Schedule" found in Attachment A.

D. Compensation

The CLIENT shall compensate the ENGINEER for his services under this Agreement in accordance with the payment schedule in the attached proposal included herein.

The CLIENT agrees to make payment, in full, to the ENGINEER within thirty days of the date of the ENGINEER's invoice.

1. The ENGINEER may submit, not more frequently than monthly, periodic payment requests for work completed to date.

2. If payment is not made within forty-five days, the CLIENT agrees that the ENGINEER shall be due interest (beginning forty-five days after the date of the invoice) on the unpaid balance at the rate of one and one-half percent per month.
3. If payment, in full, is not received by the ENGINEER within forty-five days of the date of the invoice, the ENGINEER may cease work on the Project until such time as payment, in full, is received. The CLIENT agrees to indemnify and hold the ENGINEER harmless for any claims or liability resulting from such interruption of work.
4. The CLIENT agrees that the ENGINEER may, at its option, request prepayment of the ENGINEER's estimated amount of final payment prior to issuing the ENGINEER's certifications of Project completion to permitting recording, and/or approval agencies.

E. Termination of Agreement for Cause

If, through any cause, the ENGINEER, shall fail to fulfill, in as timely and proper a manner as is consistent with the professional standard of care, his obligations under this Agreement, or if the ENGINEER shall violate any of the covenants, agreements or stipulations of this Agreement, the CLIENT shall thereupon have the right to terminate this Agreement by giving at least seven (7) days written notice to the ENGINEER of such termination and specifying the date of such termination.

F. Termination for Convenience of Client

The CLIENT may terminate this Agreement at any time by providing at least a seven-day notice in writing from the CLIENT to the ENGINEER. If the Agreement is terminated by the CLIENT as provided herein, the ENGINEER will be paid an amount which bears the same ratio to the total compensation as the services actually performed bear to the total services of the ENGINEER covered by this Agreement, less payment of compensation previously made. If this Agreement is terminated due to the fault of the ENGINEER, the aforementioned paragraph, *Termination of Agreement for Cause*, shall apply.

G. Agreed Remedy

1. The CLIENT agrees that the ENGINEER's liability for damages on account of errors, omissions, or other professional negligence will be limited to a sum not to exceed a maximum of the total amount of Compensation for the services provided.

H. Waiver of Subrogation

The CLIENT and the ENGINEER waive all rights for damages each against the other and against the contractors, consultants, agents and employees of the other, but only to the extent covered by property insurance during or after construction except such rights as

they may have to the proceeds of such insurance. The CLIENT and the ENGINEER each shall require similar waivers from their contractors, consultants and agents.

I. Ownership of Documents

All documents, including, but not limited to, drawings, specifications, reports, plats, boring logs, field notes, laboratory test data, calculations and estimates prepared by the ENGINEER are *Instruments of Service* for use solely with respect to **this** Project. **This includes all documents in electronic form.** The ENGINEER shall be deemed the author and client of the *Instruments of Service* and shall retain all common law, statutory, and other reserved rights, including copyrights. Further, the *Instruments of Service* shall not be sold or distributed to any third party without the express written permission of the ENGINEER.

The CLIENT agrees that all documents of any nature furnished to the CLIENT or the CLIENT's agents or designees, if not paid for, will be returned upon demand and will not be used by the CLIENT for any purpose whatsoever. The CLIENT further agrees that under no circumstances shall any documents produced by the ENGINEER, pursuant to this Agreement, be used for future additions or alterations to this Project or at any other Project not expressly provided for in this Agreement without the express written permission of the ENGINEER. At the request and expense of the CLIENT, the ENGINEER will provide the CLIENT with copies of documents created in the performance of the ENGINEER's services for a period not exceeding five years following submission of the services contemplated by this Agreement.

Any reuse or distribution to third parties without the express written permission of the ENGINEER is prohibited. Such reuse or distribution to third parties will be at the CLIENT'S sole risk and without liability to ENGINEER or its employees, subsidiaries, independent professional associates, subconsultants, and subcontractors. CLIENT shall, to the fullest extent permitted by law, defend, indemnify, and hold harmless ENGINEER from and against any and all costs, expenses, fees, losses, claims, demands, liabilities, suits, actions, and damages whatsoever arising out of or resulting from such unauthorized reuse or distribution.

J. Successors and Assigns

The CLIENT and the ENGINEER each binds himself and his partners, successors, executors, administrators and assigns to the other party of this Agreement and to the partners, successors, executors, administrators and assigns of such other party, in respect to all covenants to this Agreement; except as above, neither the CLIENT nor the ENGINEER shall assign, sublet or transfer his interest in this Agreement without the written consent of the other. Nothing herein shall be construed as creating any personal liability on the part of any officer or agent of any public body, which may be a party hereto, nor shall it be construed as giving any rights or benefits hereunder to anyone other than the CLIENT and the ENGINEER. Provided, however, that claims for money due or

N. Governing Law

The laws of the state in which the ENGINEER's office executing this Agreement is located shall govern the validity and interpretation of this Agreement.

O. Invalid Terms

In the event any of these Contract Provisions are found to be illegal or otherwise unenforceable, the unenforceable Contract Provision will be stricken. Striking such a Contract Provision shall have no effect on the enforceability of the remaining Contract Provisions and those remaining Contract Provisions shall continue in full force and effect as if the unenforceable Contract Provision were never included in the Agreement.

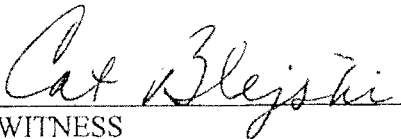
P. Reliance

ENGINEER shall be entitled to rely, without liability, on the accuracy and completeness of any and all information provided by CLIENT's consultants and contractors, and information from public records, without the need for independent verification.

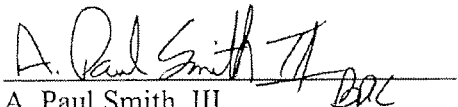
Q. Certifications

ENGINEER shall not be required to sign any documents, no matter by whom requested, that would result in the ENGINEER having to certify, guaranty, or warrant the existence of conditions that ENGINEER cannot ascertain.

This Agreement formally entered into and agreed upon this _____ day of _____, 2010.


WITNESS

BP BARBER


A. Paul Smith, III
Vice President

WOOD + PARTNERS, INC.

WITNESS

Todd Theodore

NEW BUSINESS
AGENDA ITEM 4
Proposal to Prepare Design Development Documents for
Downtown Arborscape Project - Wood + Partners

 **AIA** Document B101™ – 2007

Standard Form of Agreement Between Owner and Architect

AGREEMENT made as of the 16 day of June in the year 2010
(In words, indicate day, month and year.)

BETWEEN the Architect's client identified as the Owner:
(Name, legal status, address and other information)

Mr. Jeffrey V. Lord
City Manager
City of Walterboro, SC
242 Hampton Street
Walterboro, SC 29488

and the Architect:
(Name, legal status, address and other information)

Todd Theodore , RLA
Wood + Partners, Inc.
7 Lafayette Place
Hilton Head Island, SC 29926

for the following Project:
(Name, location and detailed description)

City of Walterboro, SC - Downtown Arborscape - Phase I Renovations
This project is a scope amendment to the Downtown Arborscape original contract for Inventory and Assessment Services, Dated September 23, 2009 and is for Design Development through Construction Administration Services for the Downtown Walterboro Arborscape Project. Project areas includes Washington St. from Jefferies Blvd. to N. Memorial Ave., Walter St. from Hampton St. to Wichman St. and N. Lucas St. from Hampton St. to Wichman St.
WPi Project Number: 01-10016

The Owner and Architect agree as follows.

ADDITIONS AND DELETIONS:
The author of this document has added information needed for its completion. The author may also have revised the text of the original AIA standard form. An *Additions and Deletions Report* that notes added information as well as revisions to the standard form text is available from the author and should be reviewed. A vertical line in the left margin of this document indicates where the author has added necessary information and where the author has added to or deleted from the original AIA text.

This document has important legal consequences. Consultation with an attorney is encouraged with respect to its completion or modification.

init.

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- 7 COPYRIGHTS AND LICENSES
- 8 CLAIMS AND DISPUTES
- 9 TERMINATION OR SUSPENSION
- 10 MISCELLANEOUS PROVISIONS
- 11 COMPENSATION
- 12 SPECIAL TERMS AND CONDITIONS
- 13 SCOPE OF THE AGREEMENT

EXHIBIT A INITIAL INFORMATION

ARTICLE 1 INITIAL INFORMATION

§ 1.1 This Agreement is based on the Initial Information set forth in this Article 1 and in optional Exhibit A, Initial Information:

(Complete Exhibit A, Initial Information, and incorporate it into the Agreement at Section 13.2, or state below Initial Information such as details of the Project's site and program, Owner's contractors and consultants, Architect's consultants, Owner's budget for the Cost of the Work, authorized representatives, anticipated procurement method, and other information relevant to the Project.)

§ 1.2 The Owner's anticipated dates for commencement of construction and Substantial Completion of the Work are set forth below:

- .1 Commencement of construction date:

| To be determined

- .2 Substantial Completion date:

| To be determined

§ 1.3 The Owner and Architect may rely on the Initial Information. Both parties, however, recognize that such information may materially change and, in that event, the Owner and the Architect shall appropriately adjust the schedule, the Architect's services and the Architect's compensation.

ARTICLE 2 ARCHITECT'S RESPONSIBILITIES

§ 2.1 The Architect shall provide the professional services as set forth in this Agreement.

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§ 2.2 The Architect shall perform its services consistent with the professional skill and care ordinarily provided by architects practicing in the same or similar locality under the same or similar circumstances. The Architect shall perform its services as expeditiously as is consistent with such professional skill and care and the orderly progress of the Project.

§ 2.3 The Architect shall identify a representative authorized to act on behalf of the Architect with respect to the Project.

§ 2.4 Except with the Owner's knowledge and consent, the Architect shall not engage in any activity, or accept any employment, interest or contribution that would reasonably appear to compromise the Architect's professional judgment with respect to this Project.

§ 2.5 The Architect shall maintain the following insurance for the duration of this Agreement. If any of the requirements set forth below exceed the types and limits the Architect normally maintains, the Owner shall reimburse the Architect for any additional cost:

(Identify types and limits of insurance coverage, and other insurance requirements applicable to the Agreement, if any.)

.1 General Liability

\$1,000,000

.2 Automobile Liability

\$1,000,000

.3 Workers' Compensation

\$100,000

.4 Professional Liability

\$1,000,000

ARTICLE 3 SCOPE OF ARCHITECT'S BASIC SERVICES

§ 3.1 The Architect's Basic Services consist of those described in Article 3 and do not include irrigation and fountain design, civil, structural, mechanical, and electrical engineering services. Services not set forth in this Article 3 are Additional Services.

§ 3.1.1 The Architect shall manage the Architect's services, consult with the Owner, research applicable design criteria, attend Project meetings, communicate with members of the Project team and report progress to the Owner.

§ 3.1.2 The Architect shall coordinate its services with those services provided by the Owner and the Owner's consultants. The Architect shall be entitled to rely on the accuracy and completeness of services and information furnished by the Owner and the Owner's consultants. The Architect shall provide prompt written notice to the Owner if the Architect becomes aware of any error, omission or inconsistency in such services or information.

§ 3.1.3 As soon as practicable after the date of this Agreement, the Architect shall submit for the Owner's approval a schedule for the performance of the Architect's services. The schedule shall include allowances for periods of time required for the Owner's review, for the performance of the Owner's consultants, and for approval of submissions by authorities having jurisdiction over the Project. Once approved by the Owner, time limits established by the schedule shall not, except for reasonable cause, be exceeded by the Architect or Owner. With the Owner's approval, the Architect shall adjust the schedule, if necessary as the Project proceeds until the commencement of construction.

§ 3.1.4 The Architect shall not be responsible for an Owner's directive or substitution made without the Architect's approval. The Owner will be responsible for managing Bidding or Negotiation and Construction Phase Administration of the Construction Contract.

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(Paragraphs deleted)

§ 3.2 SCHEMATIC DESIGN PHASE SERVICES (Not In Contract)

(Paragraphs deleted)

§ 3.3 DESIGN DEVELOPMENT PHASE SERVICES

§ 3.3.1 Based on the Owner's approval of previously prepared and approved Conceptual Master Plans, Inventory and Site Assessment Documents, and on the Owner's authorization of any adjustments in the Project requirements and the budget for the Cost of the Work, the Architect shall prepare Design Development Documents for the Owner's approval. The Design Development Documents shall illustrate and describe the development of the approved Schematic Design Documents and shall consist of drawings and other documents including plans, sections, elevations, typical construction details, and diagrammatic layouts of building systems to fix and describe the size and character of the Project as to architectural, structural, mechanical and electrical systems, and such other elements as may be appropriate. The Design Development Documents shall also include outline specifications that identify major materials and systems and establish in general their quality levels.

§ 3.3.2 The Architect shall update the estimate of the Cost of the Work.

§ 3.3.3 The Architect shall submit the Design Development documents to the Owner, advise the Owner of any adjustments to the estimate of the Cost of the Work, and request the Owner's approval.

§ 3.4 CONSTRUCTION DOCUMENTS PHASE SERVICES

§ 3.4.1 Based on the Owner's approval of the Design Development Documents, and on the Owner's authorization of any adjustments in the Project requirements and the budget for the Cost of the Work, the Architect shall prepare Construction Documents for the Owner's approval. The Construction Documents shall illustrate and describe the further development of the approved Design Development Documents and shall consist of Drawings and Specifications setting forth in detail the quality levels of materials and systems and other requirements for the construction of the Work. The Owner and Architect acknowledge that in order to construct the Work the Contractor will provide additional information, including Shop Drawings, Product Data, Samples and other similar submittals.

§ 3.4.2 The Architect shall incorporate into the Construction Documents the design requirements of governmental authorities having jurisdiction over the Project.

§ 3.4.3 During the development of the Construction Documents, the Architect shall assist the Owner in the development and preparation of (1) bidding and procurement information that describes the time, place and conditions of bidding, including bidding or proposal forms; (2) the form of agreement between the Owner and Contractor; and (3) the Conditions of the Contract for Construction (General, Supplementary and other Conditions). The Architect shall also compile a project manual that includes the Conditions of the Contract for Construction and Specifications and may include bidding requirements and sample forms.

§ 3.4.4 The Architect shall update the estimate for the Cost of the Work.

§ 3.4.5 The Architect shall submit the Construction Documents to the Owner, advise the Owner of any adjustments to the estimate of the Cost of the Work, take any action required under Section 6.5, and request the Owner's approval.

§ 3.5 BIDDING OR NEGOTIATION PHASE SERVICES (By Owner)

§ 3.5.1 GENERAL

The Architect shall assist the Owner on an as requested basis.

§ 3.5.2 COMPETITIVE BIDDING (By Owner)

§ 3.5.2.1 Bidding Documents shall consist of bidding requirements and proposed Contract Documents.

§ 3.5.2.2 On an as requested basis, the Architect can assist the Owner in bidding the Project by

- .1 procuring the reproduction of Bidding Documents for distribution to prospective bidders;

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2. distributing the Bidding Documents to prospective bidders, requesting their return upon completion of the bidding process, and maintaining a log of distribution and retrieval and of the amounts of deposits, if any, received from and returned to prospective bidders;
3. organizing and conducting a pre-bid conference for prospective bidders;
4. preparing responses to questions from prospective bidders and providing clarifications and interpretations of the Bidding Documents to all prospective bidders in the form of addenda; and
5. organizing and conducting the opening of the bids, and subsequently documenting and distributing the bidding results, as directed by the Owner.

(Paragraph deleted)

§ 3.5.3 NEGOTIATED PROPOSALS (BY OWNER)

§ 3.5.3.1 Proposal Documents shall consist of proposal requirements and proposed Contract Documents.

§ 3.5.3.2 On an as requested basis, the Architect can assist the Owner in obtaining proposals by

1. procuring the reproduction of Proposal Documents for distribution to prospective contractors, and requesting their return upon completion of the negotiation process;
2. organizing and participating in selection interviews with prospective contractors; and
3. participating in negotiations with prospective contractors, and subsequently preparing a summary report of the negotiation results, as directed by the Owner.

(Paragraph deleted)

§ 3.6 CONSTRUCTION PHASE SERVICES (By Owner)

§ 3.6.1 On an as requested basis, the Architect can assist with administration of the Contract between the Owner and the Contractor as set forth below and in AIA Document A201™-2007, General Conditions of the Contract for Construction. If the Owner and Contractor modify AIA Document A201-2007, those modifications shall not affect the Architect's services under this Agreement unless the Owner and the Architect amend this Agreement.

§ 3.6.2 If requested by the Owner, the Architect shall advise and consult with the Owner during the Construction Phase Services. The Architect shall have authority to act on behalf of the Owner only to the extent provided in this Agreement. The Architect shall not have control over, charge of, or responsibility for the construction means, methods, techniques, sequences or procedures, or for safety precautions and programs in connection with the Work, nor shall the Architect be responsible for the Contractor's failure to perform the Work in accordance with the requirements of the Contract Documents. The Architect shall be responsible for the Architect's negligent acts or omissions, but shall not have control over or charge of, and shall not be responsible for, acts or omissions of the Contractor or of any other persons or entities performing portions of the Work.

(Paragraphs deleted)

§ 3.6.2 EVALUATIONS OF THE WORK

§ 3.6.2.1 If requested by the Owner, the Architect shall visit the site at approved intervals as appropriate to the stage of construction, to become generally familiar with the progress and quality of the portion of the Work completed, and to determine, in general, if the Work observed is being performed in a manner indicating that the Work, when fully completed, will be in accordance with the Contract Documents. However, the Architect shall not be required to make exhaustive or continuous on-site inspections to check the quality or quantity of the Work. On the basis of the site visits, the Architect shall keep the Owner reasonably informed about the progress and quality of the portion of the Work completed, and report to the Owner (1) known deviations from the Contract Documents and from the most recent construction schedule submitted by the Contractor, and (2) defects and deficiencies observed in the Work.

(Paragraphs deleted)

§ 3.6.3 CERTIFICATES FOR PAYMENT TO CONTRACTOR

§ 3.6.3.1 If requested by the Owner, the Architect shall assist with reviewing Contractor payment requests.

(Paragraphs deleted)

§ 3.6.4 SUBMITTALS

§ 3.6.4.1 If requested by the Owner, the Architect shall assist with reviewing Contractor's submittals.

(Paragraphs deleted)

§ 3.6.5 CHANGES IN THE WORK

§ 3.6.5.1 If requested by the Owner, the Architect shall assist with reviewing changes in Work.

(Paragraph deleted)

§ 3.6.6 PROJECT COMPLETION

§ 3.6.6.1 If requested by the Owner, the Architect shall assist with site inspections and project close out.

(Paragraphs deleted)

ARTICLE 4 ADDITIONAL SERVICES

§ 4.1

(Paragraphs deleted)

GENERAL

§ 4.1.1 The services described in this Article 4 are not included in Basic Services unless so identified in Article 12, and they shall be paid for by the Owner as provided in this Agreement, in addition to the compensation for Basic Services. The services described under Paragraphs 4.2 and 4.4 shall only be provided if authorized or confirmed in writing by the Owner. If services described under Contingent Additional Services in Paragraph 4.3 are required due to circumstances beyond the Architect's control, the Architect shall notify the Owner prior to commencing such services. If the Owner deems that such services described under Paragraph 4.3 are not required, the Owner shall give prompt written notice to the Architect. If the Owner indicates in writing that all or part of such Contingent Additional Services are not required, The Architect shall have no obligation to provide those services.

(Table deleted)

§ 4.2 PROJECT REPRESENTATION BEYOND BASIC SERVICES

§ 4.2.1 If construction representation at the site is required, the Architect shall provide one or more Project Representatives to assist in carrying out such additional on-site responsibilities.

§ 4.2.2 Project Representatives shall be selected, employed and directed by the Architect, and the Architect shall be compensated therefor as agreed by the Owner and Architect. The duties, responsibilities and limitations of authority of Project Representatives shall be as described in the edition of AIA Document B352 or current equivalent as of the date of this Agreement, unless otherwise agreed.

§ 4.2.3 Through the presence at the site of such Project Representatives, the Architect shall endeavor to provide further protection for the Owner against defects and deficiencies in the Work, but the furnishing of such project representation shall not modify the rights, responsibilities or obligations of the Architect or the Owner as described elsewhere in this Agreement.

§ 4.3 CONTINGENT ADDITIONAL SERVICES

§ 4.3.1 Making revisions in drawings, specifications or other documents when such revisions are:

- .1 inconsistent with approvals or instructions previously given by the Owner, including revisions made necessary by adjustments in the Owner's program or Project budget;
- .2 required by the enactment or revision of codes, laws or regulations or official

(Paragraphs deleted)

interpretations subsequent to the preparation of such documents; or

- .3 due to changes required as a result of the Owner's failure to render decisions in a timely manner.

§ 4.3.2

(Paragraphs deleted)

Providing services required because of significant changes in the Project including, but not limited to, size, quality, complexity, the Owner's schedule, budget for Cost of the Work, or the method of bidding or negotiating and contracting for construction, except for services required under Subparagraph 6.7.

§ 4.3.3

(Paragraphs deleted)

Preparing Drawings, Specifications and other documentation and supporting data, evaluating Contractor's proposals, and providing other services in connection with Change Orders and Construction Change Directives.

§ 4.3.4 Providing services in connection with evaluating substitutions proposed by the Contractor and making subsequent revisions to Drawings, Specifications and other documentation resulting therefrom.

§ 4.3.5 Providing consultation concerning replacement of Work damaged by fire or other cause during construction, and furnishing services required in connection with the replacement of such Work.

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§ 4.3.6 Providing services made necessary by the default of the Contractor, by major defects or deficiencies in the Work of the Contractor, or by failure of performance of either the Owner or Contractor under the Contract for Construction.

§ 4.3.7 Providing services in evaluating an extensive number of claims submitted by the Contractor or others in connection with the Work.

§ 4.3.8 Preparation for, and attendance at, a public presentation, meeting or hearing, a dispute resolution proceeding or a legal proceeding except where the Architect is party thereto.

§ 4.3.9 Preparation of design and documentation for alternate, separate or sequential bids, proposal requests proposed by the Owner or providing services in connection with bidding, negotiation or construction.

§ 4.4 OPTIONAL ADDITIONAL SERVICES

§ 4.4.1 Providing analyses of the Owner's needs and programming the requirements of the Project.

§ 4.4.2 Providing financial feasibility or other special studies.

§ 4.4.3 Providing planning surveys, site evaluations or comparative studies of prospective sites.

§ 4.4.4 Providing special surveys, environmental studies and submissions required approvals of governmental authorities or others having jurisdiction over the Project.

§ 4.4.5 Providing services relative to future facilities, systems and equipment.

§ 4.4.6 Providing services to investigate existing conditions or facilities or to make measured drawings thereof.

§ 4.4.7 Providing services to verify the accuracy of drawings or other information furnished by the Owner.

§ 4.4.8 Providing coordination of construction performed by separate contractors or by the Owner's own forces and coordination of services required in connection with construction performed and equipment supplied by the Owner.

§ 4.4.9 Providing services in connection with the work of a construction manager or separate consultants retained by the Owner.

§ 4.4.10 Evaluation of the qualifications of bidders or persons providing proposals.

§ 4.4.11 Providing detailed quantity surveys or inventories of material, equipment and labor.

§ 4.4.12 Providing analyses of owning and operating costs.

§ 4.4.13 Making investigations, inventories of materials or equipment, or valuations and detailed appraisals of existing facilities.

§ 4.4.14 Preparing a set of reproducible record drawings showing significant changes in the Work made during construction based on marked-up prints, drawings and other data furnished by the Contractor to the Architect.

§ 4.4.15 Providing assistance in the utilization of equipment or systems such as testing, adjusting and balancing, preparation of operation and maintenance manuals, training personnel for operation and maintenance, and consultation during operation.

§ 4.4.16 Providing services after issuance to the Owner of approved Construction Documentation.

§ 4.4.17 Preparing digital data for transmission to the Owner's consultants and contractors, or to other Owner authorized recipients;

§ 4.4.18 Providing services of consultants for other than landscape architectural portions of the Project provided as

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User Notes:

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a part of Basic Services.

§ 4.4.18 Providing other services not otherwise included in this Agreement or not customarily furnished in accordance with generally accepted landscape architectural practices.

Additional Services	Responsibility (Architect, Owner or Not Provided)	Location of Service Description (Section 4.2 below or in an exhibit attached to this document and identified below)
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ARTICLE 5 OWNER'S RESPONSIBILITIES

§ 5.1 Unless otherwise provided for under this Agreement, the Owner shall provide information in a timely manner regarding requirements for and limitations on the Project, including a written 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. Within 15 days after receipt of a written request from the Architect, the Owner shall furnish the requested information as necessary and relevant for the Architect to evaluate, give notice of or enforce lien rights.

§ 5.2 The Owner shall establish and periodically update the Owner's budget for the Project, including (1) the budget for the Cost of the Work as defined in Section 6.1; (2) the Owner's other costs; and, (3) reasonable contingencies related to all of these costs. If the Owner significantly increases or decreases the Owner's budget for the Cost of the Work, the Owner shall notify the Architect. The Owner and the Architect shall thereafter agree to a corresponding change in the Project's scope and quality.

§ 5.3 The Owner shall identify a representative authorized to act on the Owner's behalf with respect to the Project. The Owner shall render decisions and approve the Architect's submittals in a timely manner in order to avoid unreasonable delay in the orderly and sequential progress of the Architect's services.

§ 5.4 The Owner shall furnish surveys to describe physical characteristics, legal limitations and utility locations for the site of the Project, and a written legal description of the site. The surveys and legal information shall include, as applicable, grades and lines of streets, alleys, pavements and adjoining property and structures; designated wetlands; adjacent drainage; rights-of-way, restrictions, easements, encroachments, zoning, deed restrictions, boundaries and contours of the site; locations, dimensions and necessary data with respect to existing buildings, other improvements and trees; and information concerning available utility services and lines, both public and private, above and below grade, including inverts and depths. All the information on the survey shall be referenced to a Project benchmark.

§ 5.5 The Owner shall furnish services of geotechnical engineers, which may include but are not limited to test borings, test pits, determinations of soil bearing values, percolation tests, evaluations of hazardous materials, seismic evaluation, ground corrosion tests and resistivity tests, including necessary operations for anticipating subsoil conditions, with written reports and appropriate recommendations.

§ 5.6 The Owner shall coordinate the services of its own consultants with those services provided by the Architect. Upon the Architect's request, the Owner shall furnish copies of the scope of services in the contracts between the Owner and the Owner's consultants. The Owner shall furnish the services of consultants other than those designated in this Agreement, or authorize the Architect to furnish them as an Additional Service, when the Architect requests such services and demonstrates that they are reasonably required by the scope of the Project. The Owner shall require that its consultants maintain professional liability insurance as appropriate to the services provided.

§ 5.7 The Owner shall furnish tests, inspections and reports required by law or the Contract Documents, such as structural, mechanical, and chemical tests, tests for air and water pollution, and tests for hazardous materials.

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§ 5.8 The Owner shall furnish all legal, insurance and accounting services, including auditing services, that may be reasonably necessary at any time for the Project to meet the Owner's needs and interests.

§ 5.9 The Owner shall provide prompt written notice to the Architect if the Owner becomes aware of any fault or defect in the Project, including errors, omissions or inconsistencies in the Architect's Instruments of Service.

§ 5.10 Except as otherwise provided in this Agreement, or when direct communications have been specially authorized, the Owner shall endeavor to communicate with the Contractor and the Architect's consultants through the Architect about matters arising out of or relating to the Contract Documents. The Owner shall promptly notify the Architect of any direct communications that may affect the Architect's services.

§ 5.11 Before executing the Contract for Construction, the Owner shall coordinate the Architect's duties and responsibilities set forth in the Contract for Construction with the Architect's services set forth in this Agreement. The Owner shall provide the Architect a copy of the executed agreement between the Owner and Contractor, including the General Conditions of the Contract for Construction.

§ 5.12 The Owner shall provide the Architect access to the Project site prior to commencement of the Work and shall obligate the Contractor to provide the Architect access to the Work wherever it is in preparation or progress.

ARTICLE 6 COST OF THE WORK

§ 6.1 For purposes of this Agreement, the Cost of the Work shall be the total cost to the Owner to construct all elements of the Project designed or specified by the Architect and shall include contractors' general conditions costs, overhead and profit. The Cost of the Work does not include the compensation of the Architect, the costs of the land, rights-of-way, financing, contingencies for changes in the Work or other costs that are the responsibility of the Owner.

§ 6.2 The Owner's budget for the Cost of the Work is provided in Initial Information, and may be adjusted throughout the Project as required under Sections 5.2, 6.4 and 6.5. Evaluations of the Owner's budget for the Cost of the Work, the preliminary estimate of the Cost of the Work and updated estimates of the Cost of the Work prepared by the Architect, represent the Architect's judgment as a design professional. It is recognized, however, that neither the Architect nor the Owner has control over the cost of labor, materials or equipment; the Contractor's methods of determining bid prices; or competitive bidding, market or negotiating conditions. Accordingly, the Architect cannot and does not warrant or represent that bids or negotiated prices will not vary from the Owner's budget for the Cost of the Work or from any estimate of the Cost of the Work or evaluation prepared or agreed to by the Architect.

§ 6.3 In preparing estimates of the Cost of Work, the Architect shall be permitted to include contingencies for design, bidding and price escalation; to determine what materials, equipment, component systems and types of construction are to be included in the Contract Documents; to make reasonable adjustments in the program and scope of the Project; and to include in the Contract Documents alternate bids as may be necessary to adjust the estimated Cost of the Work to meet the Owner's budget for the Cost of the Work. The Architect's estimate of the Cost of the Work shall be based on current area, volume or similar conceptual estimating techniques. If the Owner requests detailed cost estimating services, the Architect shall provide such services as an Additional Service under Article 4.

§ 6.4 If the Bidding or Negotiation Phase has not commenced within 90 days after the Architect submits the Construction Documents to the Owner, through no fault of the Architect, the Owner's budget for the Cost of the Work shall be adjusted to reflect changes in the general level of prices in the applicable construction market.

§ 6.5 If at any time the Architect's estimate of the Cost of the Work exceeds the Owner's budget for the Cost of the Work, the Architect shall make appropriate recommendations to the Owner to adjust the Project's size, quality or budget for the Cost of the Work, and the Owner shall cooperate with the Architect in making such adjustments.

§ 6.6 If the Owner's budget for the Cost of the Work at the conclusion of the Construction Documents Phase Services is exceeded by the lowest bona fide bid or negotiated proposal, the Owner shall

- .1 give written approval of an increase in the budget for the Cost of the Work;
- .2 authorize rebidding or renegotiating of the Project within a reasonable time;
- .3 terminate in accordance with Section 9.5;

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- 4 in consultation with the Architect, revise the Project program, scope, or quality as required to reduce the Cost of the Work; or
- 5 implement any other mutually acceptable alternative.

§ 6.7 If the Owner chooses to proceed under Section 6.6.4, the Architect, without additional compensation, shall modify the Construction Documents as necessary to comply with the Owner's budget for the Cost of the Work at the conclusion of the Construction Documents Phase Services, or the budget as adjusted under Section 6.6.1. The Architect's modification of the Construction Documents shall be the limit of the Architect's responsibility under this Article 6.

ARTICLE 7 COPYRIGHTS AND LICENSES

§ 7.1 The Architect and the Owner warrant that in transmitting Instruments of Service, or any other information, the transmitting party is the copyright owner of such information or has permission from the copyright owner to transmit such information for its use on the Project. If the Owner and Architect intend to transmit Instruments of Service or any other information or documentation in digital form, they shall endeavor to establish necessary protocols governing such transmissions.

§ 7.2 The Architect and the Architect's consultants shall be deemed the authors and owners of their respective Instruments of Service, including the Drawings and Specifications, and shall retain all common law, statutory and other reserved rights, including copyrights. Submission or distribution of Instruments of Service 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 reserved rights of the Architect and the Architect's consultants.

§ 7.3 Upon execution of this Agreement, the Architect grants to the Owner a nonexclusive license to use the Architect's Instruments of Service solely and exclusively for purposes of constructing, using, maintaining, altering and adding to the Project, provided that the Owner substantially performs its obligations, including prompt payment of all sums when due, under this Agreement. The Architect shall obtain similar nonexclusive licenses from the Architect's consultants consistent with this Agreement. The license granted under this section permits the Owner to authorize the Contractor, Subcontractors, Sub-subcontractors, and material or equipment suppliers, as well as the Owner's consultants and separate contractors, to reproduce applicable portions of the Instruments of Service solely and exclusively for use in performing services or construction for the Project. If the Architect rightfully terminates this Agreement for cause as provided in Section 9.4, the license granted in this Section 7.3 shall terminate.

§ 7.3.1 In the event the Owner uses the Instruments of Service without retaining the author of the Instruments of Service, the Owner releases the Architect and Architect's consultant(s) from all claims and causes of action arising from such uses. The Owner, to the extent permitted by law, further agrees to indemnify and hold harmless the Architect and its consultants from all costs and expenses, including the cost of defense, related to claims and causes of action asserted by any third person or entity to the extent such costs and expenses arise from the Owner's use of the Instruments of Service under this Section 7.3.1. The terms of this Section 7.3.1 shall not apply if the Owner rightfully terminates this Agreement for cause under Section 9.4.

§ 7.4 Except for the licenses granted in this Article 7, no other license or right shall be deemed granted or implied under this Agreement. The Owner shall not assign, delegate, sublicense, pledge or otherwise transfer any license granted herein to another party without the prior written agreement of the Architect. Any unauthorized use of the Instruments of Service shall be at the Owner's sole risk and without liability to the Architect and the Architect's consultants.

ARTICLE 8 CLAIMS AND DISPUTES

§ 8.1 GENERAL

§ 8.1.1 The Owner and Architect shall commence all claims and causes of action, whether in contract, tort, or otherwise, against the other arising out of or related to this Agreement in accordance with the requirements of the method of binding dispute resolution selected in this Agreement within the period specified by applicable law, but in any case not more than 10 years after the date of Substantial Completion of the Work. The Owner and Architect waive all claims and causes of action not commenced in accordance with this Section 8.1.1.

§ 8.1.2 To the extent damages are covered by property insurance, the Owner and Architect waive all rights against each other and against the contractors, consultants, agents and employees of the other for damages, except such

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rights as they may have to the proceeds of such insurance as set forth in AIA Document A201 -2007, General Conditions of the Contract for Construction. The Owner or the Architect, as appropriate, shall require of the contractors, consultants, agents and employees of any of them similar waivers in favor of the other parties enumerated herein.

§ 8.1.3 The Architect and Owner waive consequential damages for claims, disputes or other matters in question arising out of or relating to this Agreement. This mutual waiver is applicable, without limitation, to all consequential damages due to either party's termination of this Agreement, except as specifically provided in Section 9.7.

§ 8.2 MEDIATION

§ 8.2.1 Any claim, dispute or other matter in question arising out of or related to this Agreement shall be subject to mediation as a condition precedent to binding dispute resolution. If such matter relates to or is the subject of a lien arising out of the Architect's services, the Architect may proceed in accordance with applicable law to comply with the lien notice or filing deadlines prior to resolution of the matter by mediation or by binding dispute resolution.

§ 8.2.2 The Owner and Architect shall endeavor to resolve claims, disputes and other matters in question between them by mediation which, unless the parties mutually agree otherwise, shall be administered by the American Arbitration Association in accordance with its Construction Industry Mediation Procedures in effect on the date of the Agreement. A request for mediation shall be made in writing, delivered to the other party to the Agreement, and filed with the person or entity administering the mediation. The request may be made concurrently with the filing of a complaint or other appropriate demand for binding dispute resolution but, in such event, mediation shall proceed in advance of binding dispute resolution proceedings, which shall be stayed pending mediation for a period of 60 days from the date of filing, unless stayed for a longer period by agreement of the parties or court order. If an arbitration proceeding is stayed pursuant to this section, the parties may nonetheless proceed to the selection of the arbitrator(s) and agree upon a schedule for later proceedings.

§ 8.2.3 The parties shall share the mediator's fee and any filing fees equally. The mediation shall be held in the place where the Project is located, unless another location is mutually agreed upon. Agreements reached in mediation shall be enforceable as settlement agreements in any court having jurisdiction thereof.

§ 8.2.4 If the parties do not resolve a dispute through mediation pursuant to this Section 8.2, the method of binding dispute resolution shall be the following:

(Check the appropriate box. If the Owner and Architect do not select a method of binding dispute resolution below, or do not subsequently agree in writing to a binding dispute resolution method other than litigation, the dispute will be resolved in a court of competent jurisdiction.)

- Arbitration pursuant to Section 8.3 of this Agreement
- Litigation in a court of competent jurisdiction
- Other (Specify)

§ 8.3 ARBITRATION

§ 8.3.1 If the parties have selected arbitration as the method for binding dispute resolution in this Agreement, any claim, dispute or other matter in question arising out of or related to this Agreement subject to, but not resolved by, mediation shall be subject to arbitration which, unless the parties mutually agree otherwise, shall be administered by the American Arbitration Association in accordance with its Construction Industry Arbitration Rules in effect on the date of this Agreement. A demand for arbitration shall be made in writing, delivered to the other party to this Agreement, and filed with the person or entity administering the arbitration.

§ 8.3.1.1 A demand for arbitration shall be made no earlier than concurrently with the filing of a request for mediation, but in no event shall it be made after the date when the institution of legal or equitable proceedings based on the claim, dispute or other matter in question would be barred by the applicable statute of limitations. For statute of limitations purposes, receipt of a written demand for arbitration by the person or entity administering the

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arbitration shall constitute the institution of legal or equitable proceedings based on the claim, dispute or other matter in question.

§ 8.3.2 The foregoing agreement to arbitrate and other agreements to arbitrate with an additional person or entity duly consented to by parties to this Agreement shall be specifically enforceable in accordance with applicable law in any court having jurisdiction thereof.

§ 8.3.3 The award rendered by the arbitrator(s) shall be final, and judgment may be entered upon it in accordance with applicable law in any court having jurisdiction thereof.

§ 8.3.4 CONSOLIDATION OR JOINDER

§ 8.3.4.1 Either party, at its sole discretion, may consolidate an arbitration conducted under this Agreement with any other arbitration to which it is a party provided that (1) the arbitration agreement governing the other arbitration permits consolidation; (2) the arbitrations to be consolidated substantially involve common questions of law or fact; and (3) the arbitrations employ materially similar procedural rules and methods for selecting arbitrator(s).

§ 8.3.4.2 Either party, at its sole discretion, may include by joinder persons or entities substantially involved in a common question of law or fact whose presence is required if complete relief is to be accorded in arbitration, provided that the party sought to be joined consents in writing to such joinder. Consent to arbitration involving an additional person or entity shall not constitute consent to arbitration of any claim, dispute or other matter in question not described in the written consent.

§ 8.3.4.3 The Owner and Architect grant to any person or entity made a party to an arbitration conducted under this Section 8.3, whether by joinder or consolidation, the same rights of joinder and consolidation as the Owner and Architect under this Agreement.

ARTICLE 9 TERMINATION OR SUSPENSION

§ 9.1 If the Owner fails to make payments to the Architect in accordance with this Agreement, such failure shall be considered substantial nonperformance and cause for termination or, at the Architect's option, cause for suspension of performance of services under this Agreement. If the Architect elects to suspend services, the Architect shall give seven days' written notice to the Owner before suspending services. In the event of a suspension of services, the Architect shall have no liability to the Owner for delay or damage caused the Owner because of such suspension of services. Before resuming services, the Architect shall be paid all sums due prior to suspension and any expenses incurred in the interruption and resumption of the Architect's services. The Architect's fees for the remaining services and the time schedules shall be equitably adjusted.

§ 9.2 If the Owner suspends the Project, the Architect shall be compensated for services performed prior to notice of such suspension. When the Project is resumed, the Architect shall be compensated for expenses incurred in the interruption and resumption of the Architect's services. The Architect's fees for the remaining services and the time schedules shall be equitably adjusted.

§ 9.3 If the Owner suspends the Project for more than 90 cumulative days for reasons other than the fault of the Architect, the Architect may terminate this Agreement by giving not less than seven days' written notice.

§ 9.4 Either party may terminate this Agreement upon not less than seven days' written notice should the other party fail substantially to perform in accordance with the terms of this Agreement through no fault of the party initiating the termination.

§ 9.5 The Owner may terminate this Agreement upon not less than seven days' written notice to the Architect for the Owner's convenience and without cause.

§ 9.6 In the event of termination not the fault of the Architect, the Architect shall be compensated for services performed prior to termination, together with Reimbursable Expenses then due and all Termination Expenses as defined in Section 9.7.

§ 9.7 Termination Expenses are in addition to compensation for the Architect's services and include expenses directly attributable to termination for which the Architect is not otherwise compensated, plus an amount for the Architect's anticipated profit on the value of the services not performed by the Architect.

§ 9.8 The Owner's rights to use the Architect's Instruments of Service in the event of a termination of this Agreement are set forth in Article 7 and Section 11.9.

ARTICLE 10 MISCELLANEOUS PROVISIONS

§ 10.1 This Agreement shall be governed by the law of the place where the Project is located, except that if the parties have selected arbitration as the method of binding dispute resolution, the Federal Arbitration Act shall govern Section 8.3.

§ 10.2 Terms in this Agreement shall have the same meaning as those in AIA Document A201-2007, General Conditions of the Contract for Construction.

§ 10.3 The Owner and Architect, respectively, bind themselves, their agents, successors, assigns and legal representatives to this Agreement. Neither the Owner nor the Architect shall assign this Agreement without the written consent of the other, except that the Owner may assign this Agreement to a lender providing financing for the Project if the lender agrees to assume the Owner's rights and obligations under this Agreement.

§ 10.4 If the Owner requests the Architect to execute certificates, the proposed language of such certificates shall be submitted to the Architect for review at least 14 days prior to the requested dates of execution. If the Owner requests the Architect to execute consents reasonably required to facilitate assignment to a lender, the Architect shall execute all such consents that are consistent with this Agreement, provided the proposed consent is submitted to the Architect for review at least 14 days prior to execution. The Architect shall not be required to execute certificates or consents that would require knowledge, services or responsibilities beyond the scope of this Agreement.

§ 10.5 Nothing contained in this Agreement shall create a contractual relationship with or a cause of action in favor of a third party against either the Owner or Architect.

§ 10.6 Unless otherwise required in this Agreement, the Architect shall have no responsibility for the discovery, presence, handling, removal or disposal of, or exposure of persons to, hazardous materials or toxic substances in any form at the Project site.

§ 10.7 The Architect shall have the right to include photographic or artistic representations of the design of the Project among the Architect's promotional and professional materials. The Architect shall be given reasonable access to the completed Project to make such representations. However, the Architect's materials shall not include the Owner's confidential or proprietary information if the Owner has previously advised the Architect in writing of the specific information considered by the Owner to be confidential or proprietary. The Owner shall provide professional credit for the Architect in the Owner's promotional materials for the Project.

§ 10.8 If the Architect or Owner receives information specifically designated by the other party as "confidential" or "business proprietary," the receiving party shall keep such information strictly confidential and shall not disclose it to any other person except to (1) its employees, (2) those who need to know the content of such information in order to perform services or construction solely and exclusively for the Project, or (3) its consultants and contractors whose contracts include similar restrictions on the use of confidential information.

ARTICLE 11 COMPENSATION

§ 11.1 For the Architect's Basic Services described under Article 3, the Owner shall compensate the Architect as follows:

(Insert amount of, or basis for, compensation.)

| See Article 12 for Basic Compensation

§ 11.2 For Additional Services designated in Section 4.1, the Owner shall compensate the Architect as follows:
(Insert amount of, or basis for, compensation. If necessary, list specific services to which particular methods of compensation apply.)

init.

See Section 11.3 below

§ 11.3 For Additional Services that may arise during the course of the Project, including those under Section 4.3, the Owner shall compensate the Architect as follows:
(Insert amount of, or basis for, compensation.)

Compensation for additional services rendered by principals, employees and professional consultants shall be based on WPI Agreement Terms and Conditions / Hourly Rates in effect at the time the work is accomplished.

§ 11.4 Compensation for Additional Services of the Architect's consultants when not included in Section 11.2 or 11.3, shall be the amount invoiced to the Architect plus twenty-five percent (25%), or as otherwise stated below:

or as negotiated at time service added.

§ 11.5 Where compensation for Basic Services is based on a stipulated sum or percentage of the Cost of the Work, the compensation for each phase of services shall be as follows: (See Article 12 for Basic Compensation)
(Table deleted)

§ 11.6 When compensation is based on a percentage of the Cost of the Work and any portions of the Project are deleted or otherwise not constructed, compensation for those portions of the Project shall be payable to the extent services are performed on those portions, in accordance with the schedule set forth in Section 11.5 based on (1) the lowest bona fide bid or negotiated proposal, or (2) if no such bid or proposal is received, the most recent estimate of the Cost of the Work for such portions of the Project. The Architect shall be entitled to compensation in accordance with this Agreement for all services performed whether or not the Construction Phase is commenced.

§ 11.7 The hourly billing rates for services of the Architect and the Architect's consultants, if any, are set forth below. The rates shall be adjusted in accordance with the Architect's and Architect's consultants' normal review practices.

(If applicable, attach an exhibit of hourly billing rates or insert them below.)

See attached WPI Agreement Terms and Conditions / Hourly Rates

(Table deleted)

§ 11.8 COMPENSATION FOR REIMBURSABLE EXPENSES

§ 11.8.1 Reimbursable Expenses are in addition to compensation for Basic and Additional Services and include expenses incurred by the Architect and the Architect's consultants directly related to the Project, as follows:

- .1 Transportation and authorized out-of-town travel and subsistence;
- .2 Long distance services, dedicated data and communication services, teleconferences, Project Web sites, and extranets;
- .3 Fees paid for securing approval of authorities having jurisdiction over the Project;
- .4 Printing, reproductions, plots, standard form documents;
- .5 Postage, handling and delivery;
- .6 Expense of overtime work requiring higher than regular rates, if authorized in advance by the Owner;
- .7 Renderings, models, mock-ups, professional photography, and presentation materials requested by the Owner;
- .8 Architect's Consultant's expense of professional liability insurance dedicated exclusively to this Project, or the expense of additional insurance coverage or limits if the Owner requests such insurance in excess of that normally carried by the Architect's consultants;
- .9 All taxes levied on professional services and on reimbursable expenses;
- .10 Site office expenses; and
- .11 Other similar Project-related expenditures.

§ 11.8.2 For Reimbursable Expenses the compensation shall be the expenses incurred by the Architect and the Architect's consultants plus fifteenth percent (15%) of the expenses incurred.

Init.

§ 11.9 COMPENSATION FOR USE OF ARCHITECT'S INSTRUMENTS OF SERVICE

If the Owner terminates the Architect for its convenience under Section 9.5, or the Architect terminates this Agreement under Section 9.3, the Owner shall pay a licensing fee as compensation for the Owner's continued use of the Architect's Instruments of Service solely for purposes of completing, using and maintaining the Project as follows:

§ 11.10 PAYMENTS TO THE ARCHITECT

§ 11.10.1 An initial payment of 0 (\$ zero) shall be made upon execution of this Agreement and is the minimum payment under this Agreement. It shall be credited to the Owner's account in the final invoice.

§ 11.10.2 Unless otherwise agreed, payments for services shall be made monthly in proportion to services performed. Payments are due and payable upon presentation of the Architect's invoice. ~~Amounts unpaid thirty (30) days after the invoice date shall bear interest at the rate entered below, or in the absence thereof at the legal rate prevailing from time to time at the principal place of business of the Architect.~~
~~(Insert rate of monthly or annual interest agreed upon.)~~

One and one-half percent (1.5%) above prime computed monthly after thirty (30) days.

§ 11.10.3 The Owner shall not withhold amounts from the Architect's compensation to impose a penalty or liquidated damages on the Architect, or to offset sums requested by or paid to contractors for the cost of changes in the Work unless the Architect agrees or has been found liable for the amounts in a binding dispute resolution proceeding.

§ 11.10.4 Records of Reimbursable Expenses, expenses pertaining to Additional Services, and services performed on the basis of hourly rates shall be available to the Owner at mutually convenient times.

ARTICLE 12 SPECIAL TERMS AND CONDITIONS

Special terms and conditions that modify this Agreement are as follows:

See Attached Article 12 for other conditions or services and WPI Agreement Terms and Conditions / Hourly Rates

ARTICLE 13 SCOPE OF THE AGREEMENT

§ 13.1 This Agreement represents the entire and integrated agreement between the Owner and the Architect and supersedes all prior negotiations, representations or agreements, either written or oral. This Agreement may be amended only by written instrument signed by both Owner and Architect.

§ 13.2 This Agreement is comprised of the following documents listed below:

- .1 AIA Document B101™-2007, Standard Form Agreement Between Owner and Architect
- .2 AIA Document E201™-2007, Digital Data Protocol Exhibit, if completed, or the following:

(Paragraphs deleted)

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

OWNER

ARCHITECT

(Signature)

Jeffrey V. Lord City Manager

(Printed name and title)

(Signature)

Mark L. Baker ASLA, Partner

(Printed name and title)

Init.

ARTICLE 12 - OTHER CONDITIONS OR SERVICES

- 12.1 Wherever used, the term Architect shall be used to represent Landscape Architect.
- 12.2 Amend Article 3 "Scope of Architect's Basic Services" to include the following:
- 12.2.1 Add the following to Article 3.1.5: Basic services shall include design development through construction document services; and may include limited bidding and negotiation and construction administration services for the Walterboro Arborscape Project.
- 12.2.2 Basic services shall include the preparation of one set of design and bid documents.
- 12.2.3 Delete Article 3.2 - "Schematic Design Phase" in its entirety.
- 12.3 Change to Article 3.5 - "Bidding or Negotiation Phase" to "Article 3.5 -- Limited Bidding or Negotiation Phase Services" which includes the following services:
- 12.3.1 The Architect will, on an as requested basis by the Owner, provide limited Bidding or Negotiation Phase services.
- 12.3.2 These services may include assisting with preparation of an advertisement for bids for the Owners use, assist in review of bid documents submitted by contractors, assist in negotiating a contract amount and assist in preparing contracts for construction.
- 12.3.3 Two days time estimated in fee for this phase. If additional time is requested then fees will be adjusted accordingly.
- 12.4 Change Article 3.6 - "Construction Phase -- Administration of the Construction Contract" to "Article 3.6 -- Limited Construction Phase Services" which includes the following services:
- 12.4.1 The Architect and Consultants will, on an as requested basis by the Owner, provide Limited Construction Phase services.
- 12.4.2 The Owner will assume the primary responsibility for the Construction Phase and the Administration of the Construction Contract and will assign an Owner's Representative to administer the Contract for Construction.
- 12.4.3 The Architect's limited services may include site visits on an as requested basis at intervals appropriate to the stage of the Contractor's operations to become generally familiar with the progress of the Work completed by the Contractor to assist with determining the date of substantial completion and the date of final completion and prepare appropriate punch lists for work to be completed by the Contractor.
- 12.4.4 The Owner's Representative will be responsible for review of and certification of amounts due the Contractor and issue certificates for payment in such amounts.
- 12.4.5 Six days time estimated in fee for this phase. If additional time is requested then fees will be adjusted accordingly.
- 12.5 Additional Services:
- 12.5.1 The following services shall be provided only when authorized in writing by the Owner, and they shall be paid for by the Owner as additional services.
- 12.5.1.1 Providing services to investigate soils or geotechnical conditions.
- 12.5.1.2 Providing services to investigate survey or permit environmental conditions such as wetlands, hazardous waste or endangered species or archaeological or cultural resources.
- 12.5.1.3 Conducting additional public workshops, trips or meetings.
- 12.5.1.4 Providing services for professional consultants beyond WPI staff or consultants listed herein.
- 12.5.1.5 Providing permitting and submittal services to local, state or federal agencies.
- 12.5.1.6 Providing Civil Engineering services or fountain design services.
- 12.5.1.7 Providing more than one bid package or managing more than one construction contract such as an early site work package.

Walterboro Arborscape Project
 Article 12

- 12.6 Owner's Responsibility - The Owner shall provide the following.
- 12.6.1 Land surveys of existing conditions for the study area.
 - 12.6.2 Testing and submittal and application fees, if required.
 - 12.6.3 Documentation pertinent to previous planning efforts, zoning and other regulatory agencies.
 - 12.6.4 Local permitting, submittals and reviews.
 - 12.6.5 Lead Bidding and Negotiation and Construction Phase Services.
- 12.7 Basic Compensation - Compensation for basic services shall be as outlined below, plus reimbursable expenses:
- 12.7.1 Basic Design Development and Construction Document Services will be provided on a lump sum basis as outlined below. Payments for each of these phases shall total the following percentages of the total compensation for design development and construction document services:
 - Design Development Services\$18,000.00
 - Construction Document Services \$27,000.00
 - Total Design and Construction Document Services \$45,000.00
 - 12.7.2 Bidding or Negotiation and Construction Administration Services will be provided on hourly basis, and shall be based the WPI Agreement Terms and Conditions / Hourly Rates in effect at the time the work is accomplished and are estimated to be as follows:
 - Limited Bidding & Negotiation Estimated Fee\$2,500.00
 - Limited Construction Administration Estimated Fee \$7,500.00
 - Total Estimated Fees for Limited BN & CA Services \$10,000.00
- 12.8 For all services, monthly billing shall be forwarded based the percentage of WPI's work completed and are due when received and accepted by the Client.
- 12.9 Invoices are due upon receipt. Payment shall be considered overdue after thirty (30) days from date of invoice and one and one-half percent (1.5%) per month is automatically added to the principal balance then remaining and work shall cease until payment is received. WPI shall be reimbursed all costs incurred in collecting overdue accounts under this agreement, including legal and/or attorneys' fees.
- 12.10 Reimbursable expenses are in addition to the Compensation for Basic and Additional Services and include actual expenditures made by WPI, its employees, or professional consultants in the interest of the Project shall be billed at a rate of a multiple of one and one fifteenth (1.15) times the amount expended. Reimbursable include expenses such as those listed in the attached Agreement Terms and Conditions/Hourly Rates Sheet and are estimated to be \$4,500.00.
- 12.11 For additional consultant services a multiple of one and one quarter (1.25) times the amount billed to WPI.
- 12.12 If the Contract time initially established in the Construction Contract is exceeded by more than Thirty (30) days, compensation for Basic Services performed by Principals, Employees and Professional Consultants required to complete administration of the Construction Contract beyond the Thirtieth (30th) Day shall be computed as set forth in Additional Services.
- 12.13 Standard Agreement Terms and Conditions / Hourly Rates are attached.

END OF ARTICLE 12



Agreement Terms and Conditions / Hourly Rates

To: Mr. Jeffrey V. Lord
City of Walterboro

Date: June 16, 2010

Re: City of Walterboro, SC -- Downtown Arborscape -- Phase I Renovations

Wood+Partners (WPI) shall provide planning and landscape architectural services, based on the attached proposal dated June 16, 2010, under the terms and conditions outlined below.

- 1. For additional services provided on a time and material / hourly basis, compensation shall be at the following hourly rates, effective January 1, 2007 (fees for additional services will be negotiated with City prior to beginning work):

Table with 2 columns: Job Title and Hourly Rate. Includes Senior Partner (\$200.00), Partner (\$185.00), Principal (\$145.00), Senior Project Manager/Associate (\$125.00), Senior Project Manager (\$120.00), Project Manager/Associate (\$115.00), Project Manager/Landscape Architect/Designer (\$100.00), Landscape Architect/Planner (\$90.00), Project Planner (\$80.00), Technician (\$65.00), Administrative/Clerical (\$50.00), and Licensed Arborist (\$100.00).

- 2. All project related reimbursable expenses (i.e., reproduction, copies, plots, postage, delivery, fax, telephone, renderings, accommodations, meals, travel, etc.) in connection with this project will be billed to the client at 1.15 times their cost. Auto mileage will be billed at the rate allowed by the IRS.
3. Upon execution of this agreement Client shall identify persons whom are responsible for approval and processing of WPI's invoices and identify timing of such approvals and processing.
4. Upon request, updates on time incurred and general account status may be obtained weekly or monthly at Client's expense.
5. WPI may require interim lump sum payments.
6. Invoices are due upon receipt. Payment shall be considered overdue after thirty (30) days from date of invoice.
7. If Client for any reason fails to pay WPI's invoices within 30 days of date of invoice, WPI has the right to cease work on the project and Client shall waive any claim against WPI for cessation of services. WPI shall retain all work products until outstanding payment in full is received.
8. In the event any invoice has not been paid in 60 days, WPI shall seek appropriate alternative actions to secure payment due.
9. Any dispute arising from or out of this Agreement shall be resolved in a Federal or State Court of competent jurisdiction and venue in Colleton County, South Carolina. Unless otherwise provided, this Agreement shall be governed by the law of South Carolina. WPI

Name: Mr. Jeffrey V. Lord
City of Walterboro Downtown Arborscape
Date: June 16, 2010
Page: 2 of 2



- shall be reimbursed all cost incurred in collecting overdue accounts under this agreement including legal and/or attorneys' fees.
10. Fees for additional consultant costs including but not limited to Architectural, Structural, Civil, Mechanical and Electrical Engineering, Surveying, Soils and Environmental Services will be negotiated with the City if needed.
 11. The client will provide complete and accurate information and participate in reviews, minimizing time and expense for WPI and the Client. Client will designate person(s) to whom WPI is responsible and Client will remunerate in a timely manner. When the Client authorizes designated person(s) to act for it, the Client agrees to be bound to the actions taken or requested by that person. If Client is a corporation, the designated individuals shall be jointly and severally obligated to comply with the terms herein.
 12. The terms of this agreement are not contingent on financing, sales or other performance based criteria.
 13. Termination of this agreement or renegotiations may be effected by either party giving written notice; Client must also comply with terms of compensation herein stated.
 14. Work products (such as sketches, plans, diagrams, documents, reports, etc.) produced under this agreement are instruments of service and shall remain the property of Wood+Partners Inc and shall be used by the City for only the use intended.

Wood+Partners Inc.

Company City of Walterboro

_____, LS

Accepted _____, LS

Name: Mark L. Baker, ASLA

Name: Jeffrey V. Lord

Title: Partner

Title: City Manager

Date: June 16, 2010

Date: _____

Walterboro City Council
Regular Meeting
July 27, 2010

MINUTES

A Regular Meeting of Walterboro City Council was held at City Hall on Tuesday, July 27, 2010 at 6:15 P.M., with Mayor Bill Young presiding.

PRESENT WERE: Mayor Bill Young, Council Members: Dwayne Buckner, Randy Peters, Charles Lucas, Ted Parker, Franklin Smalls and Tom Lohr. City Manager Jeff Lord, City Clerk Betty Hudson, City Attorney George Cone and Attorney Ashley Amundson were also present. There were approximately 26 persons present in the audience.

There being a quorum present, Mayor Young called the meeting to order and called on Council Member Smalls for the invocation and Council Member Peters to lead the Pledge of Allegiance to our flag.

PUBLIC INPUT ON AGENDA ITEMS:

Marsha Johnson, city resident, raised a concern with the Accommodations Tax Advisory Committee's recommendation regarding the Walterboro Soccer Club. This organization had submitted a funding request for \$25,000. She asked what kind of community the Walterboro Soccer Club serves. Ms. Alta Mae Marvin, present on behalf of the A-Tax Advisory Committee, pointed out that the Soccer Club had requested funds of \$25,000, and the Committee had recommended only \$15,000 in A-Tax funds, pending on the jurisdiction to be decided by Columbia.

Ms. Alta Mae Marvin further explained that the Accommodations Tax funds have to be spent on bringing in people from out-of-town. Ms. Johnson then asked, who do they serve, who are the members of the club and what part of the community will they serve? Ms. Marvin responded that the Soccer Club will serve the entire community and most of the hotels that the tourists will be staying in are in the city limits and will be adding to the accommodations tax and benefitting the citizens of Walterboro. Ms. Johnson then asked specifically, who are members of the Walterboro Soccer Club? Mayor Young responded, I think that anybody that wants to be a member, can be a member. Finance Director Bill Floyd added, this is a 501(C)3 organization. He stated, it is a mandate of the Accommodation Tax Laws that the money be spent on tourism. Ms. Johnson then stated, there is nothing in the paperwork presented which indicates who the Walterboro Soccer Club is, who can join it and how many kids are in it.

Mr. Young responded that when his children played soccer, it was open to anybody that wanted in the county.

PRESENTATION OF CERTIFICATES BY WORLD CHANGERS:

Mr. John Barnes and Wayne Lake were present on behalf of the World Changers organization to thank the City for its support with their 2010 World Changers Project just completed. Mr. John Barnes, Project Coordinator for World Changers, told Council, our collective efforts serve to help many in our community. This year's effort also included a block party where a large number of our residents came together for a great time in fellowship. He announced that the organization will sponsor another project next year on July 11-16th. Again, we would be honored to be able to partner with the City in this endeavor. Certificates of appreciation were then given to City Council, the City Manager, the City Building Department, and the City Fire and Police Department.

Mayor Young told Messrs. Barnes and Lake, we appreciate what you do. I can't tell you how much it means to the needy in our community and all those who needed repairs and got repairs, that they would not have gotten otherwise. You had a huge

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task just feeding and housing everybody here. You did a great job, we are proud of you, and proud we can be associated with you.

Concluding, Mr. Barnes announced that we have churches are anxiously waiting for the August 1 sign up date. Also, the churches from abroad have already told us that they are ready to come back to Walterboro.

PUBLIC HEARING:

Next, the Mayor opened a public hearing, duly advertised, to receive public comments on proposed Ordinance # 2010-**10** (corrected to # 2010-**11**), being: An Ordinance Authorizing the City of Walterboro to Join with the Walterboro-Colleton County Airport Commission in Conveying its Interest in One Hundred Twenty (120) Acres, More or Less, of Land to the County of Colleton, Subject to Limitation and Restrictions and Matters Related Thereto.

The Mayor opened the floor for public comment. Attorney Cone pointed out that the ordinance copy enclosed with the agenda packet, has one amendment to it. The amendment allows the City to reserve any easements necessary for any utilities, sewer and water lines that pass through it. Other than that, the ordinance is the same. Mayor Young asked if this takes care of the timber rights. Attorney Cone answered that the City is not addressing the timber rights in our ordinance, but it is our understanding that the Airport Commission is requesting the timber rights be reserved with the funds going to the Airport Commission.

Council Member Peters then asked whether the Airport Commission voted to pass this? Mayor Young responded that the Airport Commission had voted to pass this. Also, you will receive a legal briefing in Executive Session, and hopefully if you have any questions those will be answered.

Council Member Buckner then made a comment concerning the exchange of the property that the City is proposing in the ordinance. He said, it is my hope that we would receive something in exchange for the City of Walterboro giving up its interest in that 120 acres. My hope would be that the Colleton County Council would approve us having a seat on the Colleton County Recreation Commission in exchange for the City of Walterboro relinquishing its interest, and I have spoken with all of the County Council Members except Dr. Flowers, who I could not reach. They don't have a problem with giving the City of Walterboro a seat on the County Recreation Commission in exchange for us giving up our interest in the 120 acres. So, I would hope that after the Executive Session that we could add that to the Ordinance.

As a point of order, Mayor Young reminded Council Member Buckner that the appropriate time to discuss that concern would not be in the public hearing, but after the Executive Session under Old Business.

APPROVAL OF THE MINUTES:

The Minutes of the July 13, 2010 Regular Meeting were approved as submitted on the **MOTION** of Council Member Buckner, seconded by Council Member Lucas, and passed with all members voting in favor.

PROCLAMATIONS AND RESOLUTIONS:

A proclamation recognizing and congratulating Ms. Octavia W. Kinsey on her 100th Birthday and designating August 7, 2010 as "Octavia Kinsey Day" in the City was declared by the Mayor and read into the records. Ms. Kinsey, a Walterboro resident for over 60 years, was present along with members of her family. A written copy of

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the proclamation was presented to her by the Mayor. A copy of said proclamation is attached as part of these minutes.

NEW BUSINESS:

1. Consideration of Bids Received for the Francis Street Water System Improvements Project

The City Manager briefed Council on this agenda item. He stated that on April 13th, Council approved the submittal of a CDBG grant application for the Francis Street Waterline. This is a looping project which will provide increased water flows through that area, as well as help with the new commissioning of the downtown water tower. The City was awarded this grant. This is to accept the low bidder for the construction of that project. The recommendation from the City's engineers is to accept the low bidder, BES, Inc. of Beaufort in the amount of \$298,403.

Eight bids were submitted as follows:

BES, Inc., Beaufort, SC	\$298,403.00
Green Construction Co., Summerville, SC	\$305,754.25
Eadies Construction, Ridgeville, SC	\$324,227.00
James F. Pederson Co. Inc., Hollywood, SC	\$334,368.80
Tideland Utilities, Summerville, SC	\$336,716.75
Terry Lee Contracting Co., Inc., Hardeeville, SC	\$348,996.00
JR Wilson Construction, Inc., Hampton, SC	\$350,053.00
L-J Inc., Columbia, SC	\$523,935.40

A **MOTION** was made by Council Member Parker to accept the low bid of \$298,403 from BES, Inc.(Beaufort Engineering Services, Inc.). Council Member Smalls seconded the motion. In discussing the motion, Council Member Buckner asked the City Manager, in our approval of this proposed contract with BES, did we include any stipulation that they would have to hire any local people for jobs as subcontractors on this work? City Manager Lord responded that this was not included, but their subcontractor who will be doing the majority of the work is located off Cane Branch Road, which is almost in the city limits.

Council Member Buckner then stated, in the future, I would like to see more stipulation that local workers are hired when we award contracts, because right now at least from the project that's going on right now, I don't really see that happening.

City Manager Lord then pointed out that federal funding has its own guidelines as to what is required. We have to follow their guidelines first, and it would not allow us to do that. He further stated, they have requirements for the low qualified bidder, and they also have other requirements based on minority representation.

The motion then passed with all members voting in favor.

2. Funding Recommendations from the Accommodations Tax Advisory Committee

Finance Director Bill Floyd reported that the Accommodations Tax Advisory Board had made several recommendations for funding. It is projected that the City will receive \$212,000 in accommodations tax this year from the state. That money is allocated so that the first \$25,000, plus five percent (5%) of the balance goes to the City. The next 30% goes to a designated agency, and then the balance goes into a 65% Tourism Fund. Most of the money that is being allocated and requested here is from that fund. Mr. Floyd noted that the total amount of A-Tax funds available through Fiscal Year 2011 is \$137,491.00.

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The following funding recommendations were submitted by the A-Tax Advisory Committee for approval by Council:

	<u>Requested</u>	<u>Approved</u>
<u>Request for 30% money</u>		
Walterboro-Colleton Chamber of Commerce	\$ 50,000	\$ 50,000
<u>Requests for 65% Tourism Fund</u>		
Chamber as sponsor for Walterboro Criterium	\$ 18,000	\$ 18,000
Colleton Co. Historical & Preservation Society	\$ 7,850	\$ 5,000
Salkehatchie Stew	\$ 7,000	\$ 7,000
Walterboro Exit 53 Merchants Association	\$ 19,860	\$ 15,000
SC Artisans Center- Marketing & Promotion	\$ 14,000	\$ 14,000
Colleton County Rice Festival	\$ 15,000	\$ 10,000
Walterboro Soccer Club	\$ 25,000	\$ 15,000
City of Walterboro Billboard Program	\$ 20,000	\$ 20,000
Total 65% Requests	\$126,710	\$104,000

With regard to the Walterboro Soccer Club's request, Mr. Floyd reported that the Club requested \$25,000, and the committee approved \$15,000. The Committee approved this request subject to the interpretation of the State A-Tax Board on whether it's acceptable to spend money from this fund outside the city limits of Walterboro. Mayor Young added, this is also a unique case too, because the City actually owns that land with the county that the Soccer Club is using. Even though it's not in the city limits, it is owned by the City.

A **MOTION** was made by Council Member Peters to approve the funding recommendations as submitted from the Accommodations Tax Advisory Committee. Council Member Lohr seconded the motion. In discussing the motion, Council Member Buckner asked Mr. Floyd, could you tell me the rationale behind the Advisory Committee's decision to cut the funding for the Colleton County Rice Festival from \$15,000 to \$10,000. Mr. Floyd responded that one of the things they looked at is the amount of money they have available. The past funding for that festival by this committee has been in the \$5,000 range. So, this was a significantly larger increase. The amount awarded basically doubles what was given this festival last year.

It was noted that this was the first time a funding request had been submitted by the Walterboro Soccer Club. Council Member Buckner then asked Mr. Floyd, could you tell me the committee's rationale behind a first-time organization receiving more funding than the Rice Festival? What was the rationale behind that appropriation? Mr. Floyd responded that each organization submitted a budget, and each only received a portion of what they asked for, and they are totally different programs.

Council Member Lohr then commented on the Walterboro Soccer Club. He pointed out that in Lexington County, they have a tremendous tennis complex and they host tournaments, etc. So, I think Brantley, who is present tonight, could tell us that we have had a good turnout at recent tournaments at our baseball complex. The participants were not all close enough to return back home. That's proof that it will, at some point, have some attraction to people coming and lodging overnight. It will also involve a good many kids who perhaps have no interest in other sports. This should tie in to keeping some of our youth busy. Again, it's going to be county-wide, but there will also be some kids in the City who probably will be very interested.

Ms. Alta Mae Marvin told Council Member Buckner that there are only certain things that the accommodations tax funds can be spent on. So, often we (the committee) have to eliminate budgetary items when looking at requests, because they

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don't meet the guidelines. Also, the money has to be spent on bringing tourists into the community. It cannot be spent on something that is mostly for the people from Walterboro. So, we have to be very careful about it. The committee is extremely conscientious about being sure we strictly follow those guidelines that are issued by Columbia.

Council Member Peters then stated, I know the Accommodations Board has accommodated certain projects for the Rice Festival, but isn't this the first time that they have directly given money to the Rice Festival for the festival itself? Ms. Marvin responded, for the City of Walterboro's Accommodations Tax Committee, that is correct. Ms. Marvin then said, we did give some advertising money for the Rice Run last year, but this is the first year that the Colleton County Rice Festival has approached the Accommodations Tax Committee for funding.

Council Member Buckner then asked, what is the Walterboro Exit 53 Merchants Association? Finance Director Floyd responded that this organization includes every merchant, hotel and restaurant at that exit, which is twenty plus businesses in Walterboro. This is a fairly new organization. This is about the 3rd time, I believe, that they have come to the Accommodations Tax Board. They are a 501(C)3 organization.

Council Member Peters pointed out that the request from the Merchants Association is just for billboards. It's not like we are giving them money to help form their association, this is for billboards. Ms. Alta Mae Marvin pointed out that those billboards will have to have a red rocker and meet the guidelines set by the City of Walterboro's Tourism Commission. So, they will tie in with the other billboards being funded by the Accommodations Tax Board.

The motion then passed with all members voting in favor.

Without objection, the Mayor then announced that he would add one item to the agenda, under Committee Reports - An Update Report on the Youth Advisory Commission by Council Member Lohr.

NEW BUSINESS (Cont.)

3. Appeal on Water Bill for St. Jude's Episcopal Church - Paul Pye

Mr. Paul Pye, junior warden of St. Jude's Episcopal Church, appeared before Council concerning a water bill received by the Church. He told Council that a leak caused by a lightning strike on a pipe had caused gallons of water to flow into the ground. As a result, St. Jude's Church received a water bill for \$2,840.00. The City graciously took off the sewer part, because the water did not enter the sewer. Then, the church received a final bill of \$725.17 for the water itself. He stated, what I am asking Council to do is to lower that amount. The church is on a very strict budget. Mr. Pye told Council that the church's water bill usually runs about \$153 bimonthly. He asked if the bill could be reduced to double the \$153 amount, come down to \$153, or \$300 (twice that amount). Anything less than \$725 would be appreciated, he said.

A **MOTION** was made by Council Member Buckner to reduce the water bill for St. Jude's Episcopal Church to their normal average water bill rate of \$153.00. He said, I am familiar with their work in the community, their help to those who are less fortunate and their help to individuals with their electric bills. Also, they have a yearly Thanksgiving feast where they feed the community.

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City Attorney Cone then told Council, you might want to inquire of the City Manager if any of our bond issues prohibit us from forgiving water bills. I hate to bring that up, but I think it's appropriate, because we have certain agreements with the state in connection with bond issues to bill our sewer and water systems.

City Manager Lord informed Council that in the past when it comes to sewer forgiveness that's in the ordinance - that's something that we can handle in house, but when it comes to water because it did go through the meter, that's something that we do not have the authority to reduce.

Mayor Young then stated, I think that what George is saying - are there any restrictions placed on us from doing that by the bond company? Mr. Lord responded that he did not have an answer to that question.

Mayor Young felt that no action could be taken on this until we get that information. Mayor Young stated, we need to know whether or not we are prohibited by law from doing that. Council Member Buckner then **WITHDREW** his motion. City Manager Lord said, I'll check on it and get some information to you. The Mayor suggested that this item be carried over to the next meeting.

When questioned by Council Lucas on whether this matter could be handled tonight, Mayor Young suggested that Council could entertain Mr. Buckner's motion to approve it, pending finding out if we are allowed to do that, and then the matter would be taken care of.

Council Member Buckner then **MOVED** that Council reduce the St. Jude's Episcopal Church's water bill to their average water bill of \$153 a cycle, provided that it doesn't interfere with any agreements in our bond issues. Council Member Smalls seconded the motion. In discussing the motion, Council Member Peters said, I am for doing this, but I must point out that everybody else who has come before us in the past, we have not done this, that I can remember. Now, we have dropped services, dropped cut-off fees and have allowed them ample time to pay the bills, but because of these issues, we have not been able to waive anybody's water bill. Mayor Young said, most times, we will cut things in half or something like that, without actually reducing it completely. **The motion then passed with a vote of 5/0, with Mayor Young, Council Members Buckner, Peters, Smalls and Parker voting in favor. No votes were cast against the motion. Council Member Lucas abstained as a member of the Church, and Council Member Lohr abstained since his wife is also a member of the Church.**

Mayor Young reminded Mr. Pye that the matter is contingent upon the City not having a problem with the bond issue. Mr. Pye then stated, I will wait to hear from you.

COMMITTEE REPORTS:

Ad-on Agenda Item - Update on the Youth Advisory Commission by Council Member Tom Lohr

Council Member Lohr gave a brief report on the first meeting of the Youth Advisory Commission held on July 20. The following items were discussed by the Commission members.

1. Nature of what the Advisory Committee would be.
2. Council Member Lohr would give all the reports to City Council, since most of the members are very busy people.
3. The definition of youth - did we want to narrow it down or leave it open.

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4. Activities - what kind of activities.
5. When will the activities be held. It will be different in summer time from school time.
6. If it's an activity, we have to have a place, we would need to get permission from certain places.
7. I think that anything you do where you will have at least 3 or 4 kids, you will need adult supervision, have some resources, volunteers or something like that.

Mr. Lohr stated the committee had no problem coming up with something new, but I think the first thing we need to do is to keep from being a typical bureaucratic organization, where we go out and start doing things that somebody else is already doing. I can tell you already, that I have been highly enlightened as far as some of the things that are already going on in our City.

We felt like one thing that would be good to do is getting kids information about what we do have, or if we come up with something new, how will we get that information to them. So, we talked about City Council agreeing in some way (we did not define how) to be a clearinghouse for information. We talked about a website and newspaper notices, but I am not limiting how we get the information out. We will accept any information that you want to suggest to us.

Some questions that were raised: 1) Don't forget that we have the old football stadium in town, 2) next year we will probably have the Colleton Middle School gymnasium and facilities. We don't have any ownership of them, but we are brainstorming to answer these questions about what kind of activities and where are they going to be.

Mr. Lohr stated that Mr. Wayne Bennett had suggested the following idea: If you want to know the commonality of people who are currently incarcerated, it may have something to do with whether they were kept busy throughout their growth, but the main thing that they have a commonality on is the lack of literacy. If they don't have a certain level of education, they are not going to get a job and then if they don't have a job, they have time on their hands at very inopportune times. Councilman Lohr pointed out that Mr. Bennett has a perspective on what to do, and how to try and help kids to stay off the streets and stay on the straight and narrow. He was not opposed to having fun activities for the youth, but you have to remember what's the common factor down at the end as they turn the key and incarcerate them. Council Member Lohr also reported that Mr. Bennett suggested that the Commission deal with youth from 0 to 17 years of age.

Council Member Lohr told Council of an announcement that had been requested by Mr. Wayne Bennett, who works with the SC Dept of Juvenile Justice. They are trying to present good role models for children who may be potential problems. There will be a Mentor Training Session at Clemson Extension Auditorium (which is at the old hospital) on Thursday, July 29, from 6:00 P.M. to 8:00 P.M. They have a goal of 50, they now have 20 and need 30 more people. Mr. Lohr also reported that Ms. Cathy Turner also announced that on August 7, they will be having an After School Bash at the current Colleton County High School Track.

In concluding, Council Member Lohr told Council that he would not be opposed to considering submitting something in the budget for the committee down the road at the next budget time, depending on what was requested to be funded.

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The Mayor then entertained a motion to enter an Executive Session. Council Member Parker so **MOVED**, and Council Member Smalls seconded the motion. The motion passed unanimously.

The Mayor then announced that the meeting would convene into an Executive Session for: 1) a personal matter to consider boards, commissions and officers appointments, 2) for a discussion of matters relating to proposed provision of services encouraging the location or expansion of industry or other businesses in the area, and 3) for a discussion of negotiations incident to proposed contractual arrangements and receipt of legal advice. The meeting then convened into Executive Session.

The meeting returned to Open Session at approximately 8:00 P.M. and the Mayor announced the next agenda item.

OLD BUSINESS:

1. **Ordinance # 2010-10 (Corrected to # 2010-11 - NOTE # 2010-10 HAD ALREADY BEEN USED PREVIOUSLY, SO THIS ORDINANCE WAS RENUMBERED TO # 2010-11)**

A motion was made Council Member Peters, seconded by Council Member Lucas, giving **Second Reading and Adoption** to Ordinance # **2010-11**: being: AN ORDINANCE AUTHORIZING THE CITY OF WALTERBORO TO JOIN WITH THE WALTERBORO - COLLETON COUNTY AIRPORT COMMISSION IN CONVEYING ITS INTEREST IN ONE HUNDRED TWENTY (120) ACRES, MORE OR LESS, OF LAND TO THE COUNTY OF COLLETON, SUBJECT TO LIMITATION AND RESTRICTIONS AND MATTERS RELATED THERETO.

In discussing the motion, Council Member Buckner stated that he will vote "no" against this ordinance, because we are giving up our interest in 120 acres of land to the county in exchange for \$3. I have spoken with Councilman Whetsell, Councilman Buckner, Councilman Robinson and Councilman Murdaugh, who did not have a problem with the exchange of giving up our interest in this property, and allowing the City Council to have an appointment on the Colleton County Recreation Commission. Therefore, as the way it reads now, our citizens is left with nothing - \$3 in exchange for giving up our interest in this property. Therefore, I cannot support the ordinance as written.

Mayor Young then stated, I am going to support the ordinance because we are giving up our interest in the property, so that the county can provide recreational opportunities for all of our citizens, as we agreed to work toward when the county took over active recreation in the county and the city took over passive recreation in the City, that we agreed on some months ago. So, I will vote in favor of this, so that we can have increased recreational opportunities for all the children in Colleton County.

Council Member Parker then stated, this project is going to be a \$2.5 million dollar project that's going to benefit everybody in Colleton County, not just the citizens of Walterboro, and not just the citizens of the county. It will benefit everybody within the boundaries of Colleton County.

Attorney George Cone explained that the City is only giving up its interest in the property for 20 years, if that's how long it takes them to pay it off, but not more than 25 years. When paid off after that time, the ownership will revert to the way it is now, except it will have the improvements on it. The Airport Commission will also resume their care and custody control of the property.

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Council Member Buckner then stated, from my understanding, the citizens of Walterboro not only pay county property tax, but in addition to that, I believe they also pay city taxes. So, therefore, our citizens should have a say in what happens at the Colleton County Recreation Complex, and if we are giving up our interest with nothing to show but \$3. The county is willing to give us a voice on their Recreation Commission. I just wanted to point that out. Our citizens desire to have some say in what happens out there at the Recreation Commission.

Council Member Lohr, stated, I know that the current structure of the Recreation Commission is advisory in nature only. It has far less to no power from the previous Recreation Commission. So, I don't know what we are gaining by having someone on the committee which basically is an advisory committee.

Council Member Peters stated, if the \$3 is a problem, why don't we just say \$0 dollars? Attorney Cone explained that some consideration has to be cited. It's just reciting that you have something of value which is \$3. So, basically we are gifting it to them for the period of their loan.

Mayor Young then stated, I think if we want to talk to the county about representation, we can talk to them about it, without trying to blackmail them into it through this ordinance. So, I would be opposed to trying to add that language to the ordinance. We negotiated this with them in good faith, and they are expecting us to pass the ordinance tonight and that's what we need to do.

The motion then passed with a vote of 6/1 with Mayor Young, Council Members Peters, Lucas, Parker, Smalls and Lohr voting in favor, and Council Member Buckner voting against the motion for adoption.

There being no further business to consider a motion to adjourn was made by Council Member Parker, seconded by Council Member Lucas and passed unanimously. The Mayor adjourned the meeting at 8:10 P.M. Notice of this meeting was distributed to all local media and posted on the City Hall bulletin board at least twenty-four hours prior to meeting time.

Respectfully,

Betty J. Hudson
City Clerk