

WILLIAM S. COGSWELL, JR.
MAYOR



City of Charleston
South Carolina
Clerk of Council Department

JENNIFER COOK
CLERK OF COUNCIL

September 22, 2025

Ms. Amy Wharton, CFO
City of Charleston
116 Meeting Street
Charleston, SC 29401

**Re: PLANNING, PERMITTING, AND ENGINEERING
BARBERRY WOODS DRAINAGE IMPROVEMENTS SMALL PROFESSIONAL
SERVICES CONTRACT**

Dear Ms. Wharton:

Enclosed please find a professional services contract with Brockington and Associates in the amount of \$21,581.15 for archaeological services as part of the Barberry Woods Drainage Improvements project. Scope includes visual and photographic inspections, excavations and processing, analysis, and curation of all recovered artifacts. Regulatory agencies discovered potential items on the site requiring a response; expeditious work to address the concerns is required since it is at an active construction site. Approval of this project will obligate \$21,581.15 of the project budget. The funding sources for this project are: Drainage Fund (\$7,826,843.00), SCOR ASIP Grant (\$4,930,000.00), and SC Conservation Bank (\$100,000.00).

This contract was approved at the Capital Projects Review meeting held September 18, 2025 per the City Council approved Procurement Policy regarding contracts under \$100,000.00. One original will be retained in the Clerk's office.

Sincerely,

Jennifer B. Cook
Clerk of Council

JBC/ws
Enclosure

cc: Jordyn Mallett (w/one original)
Alec Shirer (w/o original)
Amanda Herring (w/o original)
Melissa Cruthirds (w/o original)
Matt Frohlich (w/o original)

CITY OF CHARLESTON CONTRACT FOR PROFESSIONAL SERVICES - NO ADVERTISED SOLICITATION

THIS CONTRACT, effective the last date signed below, by and between

The Owner:

City of Charleston
80 Broad Street
Charleston, SC 29401

and the Consultant:

Brockington and Associates
498 Wando Park Boulevard, Suite 700
Mount Pleasant, SC 29464

2017-CP0007

City's Project Number

Barberry Woods Drainage Improvements Project

City's Project Name

Background

- A. The City received proposals from interested professional consultants to select a consultant to perform the professional services needed to complete the City's Project.
- B. The Consultant submitted a proposal to perform the professional services (attached as Exhibit A), and the Owner accepted the Consultant's Proposal.
- C. The professional services required is "the Work."
- D. The Consultant has represented to the Owner that it is prepared and qualified to provide the Work to complete the Project.

Agreement

- A. **Terms and Conditions.** The Work will be performed in accordance with this page and the Terms and Conditions in this Contract, which follow this page.
- B. **Compensation.** Work shall be performed and payments for acceptable work shall be made in accordance with the following, as further set forth in Article 3:


The CONTRACT SUM payable to the Consultant (check the applicable boxes):

<input checked="" type="checkbox"/> Lump Sum	\$ 21,581.15
<input checked="" type="checkbox"/> Expenses included in Lump Sum	
<input type="checkbox"/> Expenses reimbursed at actual cost <input type="checkbox"/> plus 10%	
<input type="checkbox"/> Expenses Not to Exceed	\$ _____
 <input type="checkbox"/> Time and Expense	
<input type="checkbox"/> Total Not to Exceed	\$ _____
<input type="checkbox"/> Labor Not-to-Exceed	\$ _____
<input type="checkbox"/> Expenses reimbursed at actual cost <input type="checkbox"/> plus 10%	
<input type="checkbox"/> Expenses Not-to-Exceed	\$ _____
TOTAL:	\$ _____

The undersigned states that they are authorized to execute this Contract and bind their respective agencies or entities to the obligations in this Contract.

City of Charleston


By:


William S. Cogswell, Jr., Mayor
Amy Wharton, CFO
Matthew Frohlich, Deputy CFO

Date Signed: 9/11, 2025

Consultant

By:


Signature
name Eric Poplin
title Vice President

Date Signed: _____, 2025

ARTICLE 1 - GENERALLY

- A. The Work** means the services required by the Contract Documents, whether completed or partially completed, and includes all other labor, materials, equipment, and services provided or to be provided by the Consultant to fulfill the Consultant's obligations.
- B. The Contract** consists of the following Contract Documents, all of which are fully incorporated into this Contract whether or not attached to this Contract as an exhibit, and Consultant has received a copy of each of these documents:
1. A fully executed Contract for Professional Services – No Advertised Written Solicitation, which includes the Terms and Conditions;
 2. Consultant's Proposal; and
 3. All Change Orders and Change Directives
- C. Conflict between Contract Documents.** If any provision in the Contract Documents is inconsistent or in conflict with the other, the following order shall prevail: (1) this Contract, (2) the most recent Change Orders or Change Directives; (3) Consultant's Proposal; (4) Consultant's Fee Schedule.
- D.** All Exhibits and any modifications either to the Exhibits or this Agreement are incorporated into this Contract, except that all terms and conditions in the Consultant's Proposal or Fee Schedule are void unless specifically listed as follows:
1. N/A
- E.** All terms and conditions in any documentation submitted by Consultant in support of a Change Directive or Change Order are void unless specifically incorporated into a Change Order.

ARTICLE 2 - SCOPE OF SERVICES; TIME FOR PERFORMANCE

- A. Scope of Services.** The Consultant will perform the Work required to complete the Project according to the Contract Documents.
- B. Contract Term**
1. The initial term of this Contract begins on the effective date.
 2. The termination date of this Contract will be the later of date of final payment or Date of Final Completion except that Articles 7, 11, and 12 survive termination of this Contract.
- C. Time For Performance**
1. The Consultant must begin the Work upon receipt of a Notice to Proceed from the City Representative; and
 2. Date of Final Completion: The Consultant must complete the Work within 365 days of the Notice to Proceed, unless extended in writing by the City.

ARTICLE 3 -CONSIDERATION AND PAYMENTS

- A.** The Consultant agrees to provide the Work to the Owner for the Compensation as set forth on page 1 of this Contract. The Consultant shall be entitled to additional compensation for work done beyond the Work if approved in advance in writing by the Owner.
- B.** The Owner shall make payments to the Consultant for undisputed Work in accordance with Title 29, Chapter 6 of the SC Code of Laws, as amended.
- C.** The Consultant shall make payments to its Consultants and Additional consultants in accordance with Title 29, Chapter 6 of the SC Code of Laws, as amended.
- D.** If applicable, the Consultant's request for payment under a TIME AND EXPENSE contract shall be based on actual hours worked during the billing period, using the approved the Consultant's Hourly Rate and Reimbursables Schedule, not exceeding the scheduled amounts shown on Page 1 of this Contract.
- E.** Payment under a FLAT FEE OR LUMP SUM contract shall be paid within thirty (30) days of receipt of the invoice. The invoice for the Consultant's Work shall be submitted to the City at the completion of the Work and after the City's acceptance of the Work in its entirety.
- F.** All requests for payment shall be submitted in the form and manner required by the Owner and shall be accompanied by appropriate supporting documentation.

ARTICLE 4 - CONSULTANT'S RESPONSIBILITIES

- A.** The Consultant shall designate one or more representatives to be assigned for the duration of the Project. These representatives shall be authorized to act on behalf of the Consultant in all matters related to the Consultant's performance(s) under this Contract. The Consultant shall not replace a designated representative without notice to the Owner and with good cause shown.
- B.** The Consultant shall notify the Owner, in writing, of information necessary from the Owner for the Project. The Consultant shall allow sufficient time for Owner to acquire and respond with such information.
- C.** The Consultant shall provide the Work in a manner that meets or exceeds the care and skill ordinarily used by members of the subject profession practicing under similar circumstances at the same time and in the same locality.
- D.** The Consultant shall manage and coordinate its Work, consult with the Owner, research applicable design criteria, attend all Project meetings, communicate with members of the Project team, and report progress to the Owner.

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- E.** The Consultant shall have, at the time of execution and for the duration of this Contract, all professional and business insurance, licenses, and permits required to provide the Work in the City of Charleston and as required by this Contract.
- F.** The Consultant shall be entitled to rely on the accuracy of information provided by the Owner. Notwithstanding the foregoing, the Consultant shall review all information provided by the Owner and shall give prompt and timely notice to the Owner of any apparent deficiencies or inconsistencies in the information furnished by the Owner.
- G.** The Consultant will cooperate with the Owner and any other contractor in furthering the interests of the Owner.

ARTICLE 5 - OWNER'S RESPONSIBILITIES

- A.** The Owner shall provide all available programmatic and budgetary requirements for the Project.
- B.** The Owner shall designate one or more representatives with authority to act on the Owner's behalf in all matters related to the Owner's duties under this Contract.
- C.** The Owner shall provide the Consultant with available information about the site and work area that is necessary for the Consultant to perform the Work. The Owner shall cooperate with the Consultant in the identification and acquisition of any additional information required.
- D.** The Owner shall make timely decisions on all issues related to the Contract and shall promptly advise the Consultant of any errors or deficiencies in the Consultant's performance under this Contract.

ARTICLE 6 - SUBCONSULTANTS / SUBCONTRACTORS

- A.** All subconsultants or subcontractors required for the performance of the Consultant's Work are identified in the Contract Documents, and that the fees for such personnel are incorporated into the Contract Sum set forth on page one of this Contract.
- B.** Subconsultants or subcontractors may be employed to perform portions of the Work under this Contract as required and approved by the Owner in advance. The Consultant may apply a multiplier, not to exceed 1.1, to the approved fees of such subconsultants or subcontractors.

ARTICLE 7 - LIMITATIONS OF RESPONSIBILITY and INDEMNITY

- A.** The Consultant shall not be responsible for the failure of any contractor, sub-contractor, vendor, or other project participant, not hired by the Consultant, to fulfill its contractual

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responsibilities to the Owner or to comply with Federal, State, or local laws, regulations, and codes.

- B.** The Consultant shall indemnify and hold the Owner, council members, and employees harmless from claims, liability, losses, and causes of action, including the cost and fees of defense of any action, arising out of any willful or negligent act, error, or omission of the Consultant, including those parties contracted by the Consultant as subcontractors, incidental to the performance of the Work under this Agreement. This obligation shall survive the suspension or termination of this Contract. The limits of insurance coverage required herein shall not serve to limit this indemnity obligation. The recovery of costs and fees shall extend to those incurred in the enforcement of this indemnity.

C. Errors and Omissions

1. Owner shall notify the Consultant whenever the Owner believes the Consultant's Work contains errors or omissions, and the Consultant shall agree to correct all errors and omissions without cost to the Owner.
2. The Consultant agrees to pay the Owner for any costs the Owner is responsible for paying because of the Consultant's errors or omissions. Each error and omission shall constitute a separate offense.

ARTICLE 8 - DOCUMENTS

- A.** At the completion of the project, the Consultant shall provide the Owner with all contract documents, electronically, on a computer disk or thumb drive. Specifications shall be in Microsoft Word format and as-built drawings shall be in AutoCAD in a format acceptable to Owner.
- B.** All documents prepared or furnished by the Consultant pursuant to this Contract are instruments of service and the Consultant shall maintain an ownership and property interest therein.
- C.** Documents prepared or furnished by the Consultant pursuant to this Contract may not be reused by the Consultant on other projects or for other clients without the prior written permission of the Owner.
- D.** The Consultant hereby grants to the Owner a non-exclusive license to reproduce or otherwise utilize the Consultant's documents for the purposes of constructing, operating, maintaining, repairing, using, renovating, expanding, modifying, or otherwise enjoying the beneficial use of the Project at no additional cost to the Owner. The Consultant shall incur no liability for the Owner's reproduction or reuse of the Consultant's documents.
- E.** Subconsultants and subcontractors used by the Consultant for the Work of this Contract shall be bound by the conditions of this Article.

ARTICLE 9 - DISPUTE RESOLUTION

The parties agree to attempt in good faith to resolve their disputes arising from a claim or controversy arising out of or relating to this Contract. To the extent that the parties are unable to resolve a claim or controversy arising out of or relating to this Contract, the parties agree that any suit, action or proceeding arising out of or relating to this Contract shall be instituted and maintained only in a state or Federal court located in Charleston County, South Carolina. The Consultant agrees that any act by the Owner regarding this Contract is not a waiver of either the State's sovereign immunity or the State's immunity under the Eleventh Amendment of the United States Constitution. As used in this paragraph, the phrase "the State" includes any governmental entity transacting business with the Consultant pursuant to the Contract (including the Owner).

ARTICLE 10 - SUSPENSION AND TERMINATION

- A.** The Owner may direct the Consultant to suspend performance under this Contract at any time.
- B.** The Consultant may suspend its performance under this Contract if the Owner fails to make payments of undisputed amounts to the Consultant as required by the terms of this Contract. Prior to the suspension of performance, the Consultant shall give written notice to the Owner and shall allow the Owner no fewer than twenty-one (21) calendar days to make payment, otherwise the suspension may take effect without further notice by the Consultant.
- C.** If the performance of Work is suspended by either party for a period of more than thirty (30) days but less than one hundred eighty (180) days due to no fault of the Consultant, the Consultant's time schedules shall be equitably adjusted. If a project is interrupted for one hundred eighty (180) days or more due to no fault of the Consultant, the Consultant's compensation shall be equitably adjusted to provide for expenses incurred in resuming the Consultant's Work and the time schedules for the remaining Work shall be equitably adjusted.
- D.** The Owner may terminate this Contract for the convenience of the Owner with not less than seven (7) days' written notice to the Consultant.
- E.** If either party fails to substantially perform according to the terms of this Contract, the other party may terminate this Contract upon not less than seven (7) days written notice. The notice of termination shall set forth with specificity the grounds for termination and may, at the sole option of the terminating party, give the other party a stated period of time in which it may cure the alleged breach.

ARTICLE 11 - INSURANCE

- A.** The Consultant shall purchase and maintain the following insurances with a current Best's rating of A-, VII, or better to protect against claims that may arise out of the Consultant's

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operations under the Work of this Contract. The limits shall be written on an occurrence basis and must be in force for the duration of the Contract or longer. The Consultant is responsible for any deductibles or self-insured retentions. Insurances required include:

1. Commercial General Liability (using form CG 00 01 04 13 or equivalent)
2. Business Automobile Liability (using form CA 00 01 11 20 or equivalent)
3. Workers Compensation and Employer's Liability; and
4. Professional Liability – coverage must continue for a minimum of one year after Substantial Completion of the Project.

B. The Consultant's Commercial General Liability Insurance shall include at a minimum the following provisions:

1. Premises – Operations;
2. Independent Contractor's Protective;
3. Products and Completed Operations;
4. Personal and Advertising Injury;
5. Contractual Liability;
6. Broad Form Property Damage, including Completed Operations; and
7. Non-Owned and Hired Vehicles (if not covered by a Business Auto Liability policy).

C. The insurance required by this Article shall be written for not less than the following limits unless higher limits are required by law or other provisions in the Contract:

Coverage		Minimum Limits
Commercial General Liability:		
General Aggregate (per project)		\$ 2,000,000
Products/Completed Operations		\$ 1,000,000
Personal and Advertising Injury		\$ 1,000,000
Each Occurrence		\$ 1,000,000
Fire Damage		\$ 50,000
Medical Expense (any one person)		\$ 5,000
Business Auto Liability (including all owned, non-owned, and hired vehicles):		
Combined Single Limit		\$ 1,000,000
-OR-		
Bodily Injury & Property Damage (each)		\$ 1,000,000
Workers Compensation		
State		Statutory
Employer's Liability		\$ 100,000 Per Accident \$500,000 Disease, Policy Limit \$100,000 Disease, Each Employee
Professional Liability		
Per Claim		\$ 1,000,000
Aggregate		\$ 2,000,000

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- D.** Any general aggregate limit on the commercial general liability insurance policy shall be applicable on a 'per policy' basis, which shall be indicated on the certificate of insurance or confirmed via an attached policy endorsement.
- E.** Consultant and its insurers shall name the Owner and Owner's employees, officials, and volunteers as additional insureds on the Commercial General Liability and Automobile Liability policies on a primary and non-contributory basis. Owner and Owner's employees, officials and volunteers shall also benefit from a waiver of subrogation from the Consultant and the Consultant's insurers with regard to any claim covered by the Consultant's insurance.
- F.** Each policy must contain a provision or endorsement that coverages afforded under the policies will not be cancelled unless at least thirty (30) days prior written notice (10 days for non-payment) has been given to the Owner.
- G.** Proof of Insurance.
 - 1. Consultant must, prior to starting any work, provide a certificate of insurance in the form of the latest edition of the ACORD 25 evidencing the above-required insurance coverages, limits, and terms with the Owner listed as the Certificate holder. The City of Charleston reserves the right to require complete, certified copies of all required insurance policies, at any time.
 - 2. In no event shall any failure of the Owner to receive certificates of insurance as required above, be construed as a waiver by the Owner of the Consultant's obligations to obtain and maintain insurance pursuant to this Article.
 - 3. Cancellation of insurance without providing proof of compliant replacement insurance shall be grounds for the immediate termination of the Contract.
 - 4. Required certificates should be mailed to:
City of Charleston
Department of Stormwater Management
2 George Street, STE 2100
Charleston, SC 29401

ARTICLE 12 - MISCELLANEOUS PROVISIONS

- A.** The Consultant and Owner each bind themselves, their partners, directors, officers, successors, executors, administrators, assigns, and legal representatives. Neither party shall assign, sublet, or transfer their interest in this Contract without the written consent of the other party.
- B.** This Contract represents the entire and integrated agreement between the Owner and the Consultant. It supersedes all prior and contemporaneous communications, representations, and agreements, whether written or oral, relating to the subject matter of this Contract.
- C.** Nothing in this Contract shall be construed to give any rights, contractual relationship, or benefit to a third party against either the Owner or the Consultant.

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- D.** Nothing in this Contract shall prevent the Consultant from employing any independent consultant, associate, or sub-contractor to assist in the performance of the Work.
- E.** Unless otherwise included in the Contract, nothing shall require the Consultant to discover, handle, remove, or dispose of any hazardous or toxic materials in any form at the project site.
- F.** Time and Expense Records of the Consultant's personnel, consultants, and reimbursable expenses pertaining to the Work shall be kept on a generally recognized accounting basis and shall be available to the Owner for audit at mutually agreeable times and places for a period no less than 3 years after the conclusion of this Contract.

EXHIBIT A
SCOPE OF WORK



Jordyn Mallett
Stormwater Management Division
Department of Planning, Permitting, and Engineering
2 George Street, Suite 2100
Charleston, South Carolina 29401

August 10, 2025

Re: Archaeological Survey of the Barberry Woods Drainage Improvement Project

Dear Ms. Mallett:

Brockington has prepared a cost proposal to conduct an archaeological survey of accessible portions of the Barberry Woods Drainage Improvement Project on Johns Island, South Carolina. This proposal includes activities outlined by the SC State Historic Preservation Office (SHPO) in their 2023 and 2025 correspondence concerning the project. All activities performed for this survey will conform to the SHPO's standards and guidelines for archaeological investigations. The total estimated cost for the survey will be **\$21,581.15**.

The survey will entail

- Coordination with the City, the SHPO, the US Army Corps of Engineers, and other relevant stakeholders as necessary to ensure the efficient completion of the survey
- Visual inspection and photo-documentation of the disturbed portions of the tract where archaeological investigations will not be undertaken
- Excavation of shovel tests at 15-meter intervals along the perimeter of the project's Limits of Disturbance (LoD), currently delimited by silt fencing- estimated 160 shovel tests
- Excavation of shovel tests at 15-meter intervals in areas where limited excavation or grading has occurred within the LoD – estimated 27 shovel tests
- Excavation of shovel tests at 15-meter intervals in the undisturbed portions in Parcels 3120000965 and 3131400161 – estimated 109 shovel tests
- Excavation of additional shovel tests to delimit archaeological sites should artifact deposits be encountered during the visual inspection or the shovel testing
- Laboratory processing, analysis, and curation of all recovered artifacts (estimated 100-200 items)
- Preparation of a report, in draft and final formats, describing the results of the investigations and presenting recommendations concerning the National Register of Historic Places (NRHP) eligibility of archaeological sites identified within the project
- Delivery of the recovered artifacts and appropriate project notes to an approved curation facility

We expect the field and laboratory activities to require 4-6 weeks to complete and preparation of the draft report an additional 4-6 weeks to complete. Agency review will require 30 days. We will prepare a final report within 2-4 weeks of receipt of agency comments and deliver the materials to a curation facility within 4-6 weeks of the acceptance of the final report.



A signed service agreement or Purchase Order will serve as Notice to Proceed. Brockington will invoice monthly for costs incurred during that period up to 90 per cent of the total budget. We will submit a final invoice upon acceptance of the final report.

I will be happy to discuss any aspect of the proposal with you at your convenience. Thank you for the opportunity to assist you with this project.

Sincerely,

A handwritten signature in black ink that reads "Eric C. Poplin".

Eric C. Poplin, Ph.D., RPA #12294
Principal Investigator

Brockington and Associates, Inc.
An 8(a) Certified, Woman-Owned Small Business

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Mount Pleasant, South Carolina 29464
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