MINUTES
FINANCE COMMITTEE MEETING
6:00 P.M., MAY 3, 2021
CHARLESTON COLISEUM AND CONVENTION CENTER*

Joseph Jenkins, Chairperson, called the meeting of the Charleston City Council Committee on Finance to order at 6:00 p.m., May 3, 2021.

A silent roll was taken by the Clerk and a quorum was established. The following committee members were present:

Joseph Jenkins, Chair
Bobby Reishman, Vice Chair
Ben Adams
Brent Burton
Becky Ceperley
Mary Beth Hoover
Will Laird

*In response to the COVID-19 pandemic, the meeting of the Finance Committee was held at the Charleston Coliseum and Convention Center for members and panelists. The meeting was made available to the public as a live stream via Zoom (per the agenda).

I. DISCUSSION:

a. Approval of Previous Minutes - Councilmember Reishman asked for unanimous consent to dispense with the reading of the minutes for the April 19, 2021 meeting and that they be approved as distributed. There was no objection and the minutes were approved.

II. RESOLUTIONS:

a. Resolution No. 461-21 – Authorizing the Mayor to sign and submit to the U.S Department of Housing and Urban Development the Annual Action Plan for Program Year 2021 (FY 2021 to 2022), Year 2 of the Consolidated Plan and all required certifications and agreements, including Sub-recipient project contracts relating to the Annual Action Plan.

Now Therefore, Be It Resolved By The Council Of The City Of Charleston, West Virginia:

That the Mayor is hereby authorized and directed to sign and submit to the U. S. Department of Housing and Urban Development the Annual Action Plan for Program Year 2021 (FY 2021 to 2022), Year 2 of the Consolidated Plan and all required certifications and agreements, including Sub-recipient project contracts relating to the Annual Action Plan.

Andy Backus, MOECD Director, added that this is for approval of the second year of the 5-year Consolidated Plan for CDBG fund allocations. He added that it is similar to last years plan with an emphasis on benefiting individuals with low/moderate incomes, eliminates slums/blight and addressing urgent needs.

Councilmember Reishman moved to approve the Resolution. With members present recorded thereon as voting unanimously in the affirmative, Chairperson Jenkins declared Resolution No. 461-21 approved.

b. Resolution No. 462-21 - Authorizing the Mayor or City Manager to submit an application to the U.S. Department of Homeland Security Port Security Grant Program for funds to purchase a new response boat for the Charleston Fire Department. The total grant amount is $423,448.00 with a 25% cash match.

   Now Therefore, Be It Resolved By The Council Of The City Of Charleston, West Virginia:

   That the Mayor or City Manager is hereby authorized to submit an application to the U.S. Department of Homeland Security Port Security Grant Program for funds to purchase a new response boat for the Charleston Fire Department. The total grant amount is $423,448.00 with a 25% cash match.

City Manager Jonathan Storage, added that that this is another attempt by the City to apply for a grant for a new response boat for the Charleston Fire Department.

Councilmember Jenkins confirmed that the cash match would be approximately $105,000.

Councilmember Reishman moved to approve the Resolution. With members present recorded thereon as voting unanimously in the affirmative, Chairperson Jenkins declared Resolution No. 462-21 approved.

c. <u>Resolution No. 463-21</u> - Authorizing the Mayor or City Manager to enter into an agreement with Pinnacle Consultants, LLC for asbestos inspection and testing services as the result of a competitive bidding process, where the recommended vendor submitted the best overall pricing.

<u>Now Therefore, Be It Resolved By The Council Of The City Of Charleston, West Virginia</u>:

That the Mayor or City Manager is authorized to enter into an agreement with Pinnacle Consultants, LLC for asbestos inspection and testing services as the result of a competitive bidding process, where the recommended vendor submitted the best overall pricing.

Storage added that this is part of the routine service contracts through the Building Department for asbestos testing when an abandoned property has been slated for demolition and asbestos has been identified.

Councilmember Reishman moved to approve the Resolution. With members present recorded thereon as voting unanimously in the affirmative, Chairperson Jenkins declared Resolution No. 463-21 approved.

	Astar Abatement Bonham Business Plaza 539 Two Mile Rd Charleston WV 25312 304-343-5950 vanessapritt@astarabatement.com	**Applied Geology** 1116 Smith Street, Ste: 304 Charleston WV 25301 412-736-7449 lzamiska@appliedgeology.net	**Reclaim Company LLC.** 200 8th St. Fairmont WV 26554 304-816-0194 sandeep@reclaimco.com	**Pinnacle** 10 Independent Ave. Nitro WV 25143 304-757-5204 greg.pauley@pinnaclecorp.net
Item	**Price per Unit**	**Price per Unit**	**Price per Unit**	**Price per Unit**
1. Per Structure	$285.00	$214.00	$595.00	$215.00
2. Per Bulk Sample	$5.75	$8.00	$8.00	$7.00
3. Per Sample (PLM)	$10.25	$25.00	$8.95	$14.00
4. Gravimetric Reduction Sample	$155.00	$60.00	$80.00	$25.00
TOTAL BID COST	$456.00	$307.00	$691.95	$261.00
Local Vendor Preference (4%)	**($18.24) $437.76**	**($12.28) $294.72**	**($27.68) $664.27**	**Did not apply.**

d. Resolution No. 464-21 - Authorizing the Mayor or City Manager to enter into a contract with Mr. Asphalt, Inc., in the amount of $1,821,885.00 for asphalt resurfacing of City streets pursuant to a competitive bidding process.

Now Therefore, Be It Resolved By The Council Of The City Of Charleston, West Virginia:

That the Mayor or City Manager is authorized to enter into a contract with Mr. Asphalt, Inc., in the amount of $1,821,885.00 for asphalt resurfacing of City streets pursuant to a competitive bidding process.

City Engineer, Chris Knox added this may be the first year that the City received 3 responsive bids. The project was divided into 3 sections to allow for the possibility of getting better value for the Boulevard paving.

Councilmember Laird asked how concrete streets were resurfaced. Knox replied that they are currently in pre-bid for some concrete repair, adding that the goal is to do up to $1 million of concrete patching a year. Councilmember Jenkins added that they are usually done with separate bids. Storage added that they will require the vendor to have surety bonds.

Councilmember Jenkins asked if there might be similar issues to what they faced last year. Knox replied that he planned to start the winning bidder on smaller streets at first, and will work closely with them to ensure they are meeting expectations. Storage added that they will require the vendor to have surety bonds.

Councilmember Hoover requested that Councilmembers be sent email notifications that streets in their Wards are going to be paved so they can communicate that to their residents.

Councilmember Jenkins asked if they have received confirmation that the State will indeed pave MacCorkle Ave from 35th Street to the Turnpike this year. Storage replied that it wasn't likely. Councilmember Hoover added that at the last Planning, Streets and Traffic Committee, it wasn't mentioned that repairs wouldn't start until next year.

Councilmember Reishman moved to approve the Resolution. With members present recorded thereon as voting unanimously in the affirmative, Chairperson Jenkins declared Resolution No. 464-21 approved.

			Mr. Asphalt 148 Hunters Ridge Charleston, WV 25320 P: (304) 395-3835 mrasphaltboggess@aol.com		**Bear Contracting** P.O. Box 1196 Bridgeport, WV 26330 P: (304) 326-0160 mursoebear-contracting.com		**WV Paving** 2950 Charles Ave. Dunbar, WV 25064 P: (304) 768-9733 ben.bragg@wvpaving.com	
Item	**Unit**	**Estimated Quantity**	**Price per Unit**	**Total Cost**	**Price per Unit**	**Total Cost**	**Price per Unit**	**Total Cost**
Table A- Citywide Streets								
Item No. 3.01 HLBC Base Course	Ton	300	$83.25	$24,975.00	$96.00	$28,800.00	$85.00	$25,500.00
Item No. 3.02 HLBC Wearing Course-1-1/2"	Ton	11,335	$86.00	$974,810.00	$98.00	$1,110,830.00	$95.00	$1,076,825.00
Item No. 3.03 (1 1/2")Removing Bituminous Concrete	SY	103,150	$1.75	$180,512.50	$1.90	$195,985.00	$2.96	$305,324.00
Table B- Springhill Cemetery								
Item No. 3.01 HLBC Base Course (Springhill Cemetery)	Ton	300	$83.25	$24,975.00	$90.00	$27,000.00	$91.00	$27,300.00
Item No. 3.02 HLBC Wearing Course-1-1/2" (Springhill Cemetery)	Ton	1,550	$86.00	$133,300.00	$98.00	$151,900.00	$102.00	$158,100.00
Table C- Kanawha Boulevard								
Item No. 3.02 HLBC Wearing Course-2" Kanawha Boulevard	Ton	4,750	$86.00	$408,500.00	$92.00	$437,000.00	$90.00	$427,500.00
Item No. 3.03 (2") Removing Bituminous Concrete Kanawha Boulevard	SY	42,750	$1.75	$74,812.50	$1.25	$53,437.50	$2.90	$123,975.00
TOTAL PROJECT COST- Tables A, B, & C			**$1,821,885.00**		**$2,004,952.50**		**$2,144,524.00**	
$5,000 when a project exceeds $125,000			Did not Apply		($5,000.00) $1,999,952.50		($5,000.00) $2,139,524.00	

e. Resolution No. 465-21 - Authorizing the Mayor or City Manager to enter into a contract with SQP Construction Group in the amount of $3,127,950 for the City's Slack Plaza / City Center Renovations Project as the result of a competitive bidding process.

   Now Therefore, Be It Resolved By The Council Of The City Of Charleston, West Virginia:

   That the Mayor or City Manager is authorized to enter into a contract with SQP Construction Group in the amount of $3,127,950 for the City's Slack Plaza / City Center Renovations Project as the result of a competitive bidding process.

Storage added that the Administration is ready to begin renovations at Slack Plaza / City Center. The received bids received were competitive.

Councilmember Jenkins confirmed with Storage that the $3.1 million will be City funds from the Facilities Maintenance/General Maintenance Funds that are not part of the General Fund or Rainy-Day Fund. Grant funds were utilized for engineering design. The goal is to have the project completed by the end of the year.

Councilmember Reishman moved to approve the Resolution. With members present recorded thereon as voting unanimously in the affirmative, Chairperson Jenkins declared Resolution No. 465-21 approved.

f. Resolution No. 466-21 - WHEREAS, the City is undertaking a large public parks project to reimagine the plaza space known as Slack Plaza situated between Laidley and Summers Streets in downtown Charleston, West Virginia; and

WHEREAS, the City desires to construct a new park that is inviting and lively to encourage residents to engage with one another through community events, live music, street vending, outdoor dining, and general recreation and exercise; and

WHEREAS, the City wishes to commission and install artistic pieces near one of the park entry points to be a park focal point that captures the imagination of visitors; and

Whereas, the City has identified an artist who is able and willing to produce unique sculptures for the park that will meet the City's objectives.

Now, therefore, be it Resolved by the Council of the City of Charleston, West Virginia:

That the Mayor or City Manager is authorized to enter into a contract with Simon Sculpture, Inc., in the amount of $246,000 to create and deliver sculptures to be incorporated into the Slack Plaza / City Center Renovation Project according to the terms detailed in the attached agreement.

Storage added that 2 sculptures will be entry points to the newly renovated Slack Plaza / City Center. The artist has experience with these types of sculptures.

City Treasurer, Vic Grigoraci, added that he did not see language about City B&O tax and classification within the contract. Storage replied that it is preferred that the City Collector's Office made those decisions, adding that it was not included in the contract as the terms of the contract might change after approval (change orders, etc.).

Councilmember Reishman moved to approve the Resolution. With members present recorded thereon as voting unanimously in the affirmative, Chairperson Jenkins declared Resolution No. 466-21 approved.

g. Resolution No. 468-21 - A Bill and Order relating to the laying of levies on real, personal and public utility property within the City of Charleston, West Virginia, including excess levies previously provided for in the Official Municipal Budget Document for the fiscal year beginning the first day of July, two thousand twenty-one.

WHEREAS, each Municipality is required to hold a Statutory meeting of the Council on the third Tuesday in April each year to make and enter a levy order and rate sheet; and

WHEREAS, written approval of the West Virginia State Tax Commissioner has been received and notice of the Levy Estimate has been duly published as required by law; and

WHEREAS, the levy rate attached hereto is included in the City of Charleston Municipal Budget for July 1, 2021 through June 30, 2022, before City Council for approval at a special meeting of Council held on April 20, 2021, now, therefore

Be it Ordained by the Council of the City of Charleston, West Virginia:

That the City of Charleston, West Virginia does hereby make and enter the levy order and rate sheet attached hereto, incorporated herein, and made a part hereof.

Storage added that based on an accounting quirk, it was thought that the City needed to cover more than was necessary. The City worked with the Insurance Commissioner to increase the letter of credit over time until the financial statements for the next year were released. Those statements showed that an increase was not necessary, so the resolution reflects that change.

Councilmember Reishman moved to approve the Bill. With members present recorded thereon as voting unanimously in the affirmative, Chairperson Jenkins declared Resolution No. 468-21 approved.

h. Resolution No. 469-21 - Authorizing the Mayor or City Manager to enter into a contract with WV Demolition, Inc., in the amount of $3.89 per square foot for demolition services and to enter into an agreement with RS Environmental, Inc., in the amount of $2.25 per square foot for asbestos removal, as the result of a competitive bidding process with local vendor preference consideration.

   Now, therefore, be it Resolved by the Council of the City of Charleston, West Virginia:

   That the Mayor or City Manager is authorized to enter into a contract with WV Demolition, Inc., in the amount of $3.89 per square foot for demolition services and to enter into an agreement with RS Environmental, Inc., in the amount of $2.25 per square foot for asbestos removal, as the result of a competitive bidding process with local vendor preference consideration.

Storage added that it was recommended that the services listed be split in the RFP.

Councilmember Reishman moved to approve the Bill. With members present recorded thereon as voting unanimously in the affirmative, Chairperson Jenkins declared Resolution No. 469-21 approved.

i. Resolution No. 470-21 - Authorizing the Mayor or City Manager to enter into a contract with WV Demolition, Inc., in the amount of $3.89 per square foot for demolition services and to enter into an agreement with RS Environmental, Inc., in the amount of $2.25 per square foot for asbestos removal, as the result of a competitive bidding process with local vendor preference consideration.

   Now, therefore, be it Resolved by the Council of the City of Charleston, West Virginia:

   That the Mayor or City Manager is authorized to enter into a contract with WV Demolition, Inc., in the amount of $3.89 per square foot for demolition services and to enter into an agreement with RS Environmental, Inc., in the amount of $2.25 per square foot for asbestos removal, as the result of a competitive bidding process with local vendor preference consideration.

Storage added that the project to stabilize Barlow Drive is well under way. The proposed change order is for additional work to utilize some leftover steel for the project. He added that no City funds will be used for the change order.

Councilmember Jenkins asked if the issue that some trucks were having turning onto Twilight Drive had been addressed. Knox replied that there were issues initially, but had had not heard of any recently.

Councilmember Reishman moved to approve the Bill. With members present recorded thereon as voting unanimously in the affirmative, Chairperson Jenkins declared Resolution No. 470-21 approved.

j. Bill No. 7901 - A BILL to amend and reenact Section 82-124 of the Municipal Code of the City of Charleston, relating to providing authorization for the waiver of certain fees for use of public parks and recreation facilities.

Now, therefore, be it ordained by the Council of the City of Charleston:

That Section 82-124 of the Municipal Code of the City of Charleston is hereby amended and reenacted to read as follows:

CHAPTER 82 – PARKS AND RECREATION.
ARTICLE IV – PUBLIC USE OF PARKS AND RECRATIONAL FACILITIES.
Sec. 82-124. - Waiver of swimming pool fees at certain facilities.

Notwithstanding the rental and fee schedule provided by section 82-125, the mayor, city manager, and the director of the department of parks and recreation may jointly, from time to time, and (1) when weather conditions warrant, and under circumstances which would not substantially affect the revenues of a city swimming pool facility, declare a day or some portion of a day to be a free swim day and waive the collection of the fees prescribed by section 82-125; and (2) where the interests of the community are furthered and under circumstances which would not substantially affect the revenues of the parks and recreation department, waive the collection of a fee or fees prescribed by section 82-125 on one or more days at one or more facility.

Storage added that the bill will allow the Mayor or Parks and Recreation Director to waive fees for certain activities at recreational facilities as needed.

Councilmember Reishman moved to approve the Bill. With members present recorded thereon as voting unanimously in the affirmative, Chairperson Jenkins declared Bill No. 7901 approved.

k. Bill No. 7903 - THE CITY OF CHARLESTON

Sales Tax Refunding Revenue Bonds
(Coliseum and Convention Center Project)
Series 2021

BOND AUTHORIZING ORDINANCE OF
THE CITY OF CHARLESTON

AN ORDINANCE AUTHORIZING THE ISSUANCE OF SALES TAX REFUNDING REVENUE BONDS (COLISEUM AND CONVENTION CENTER PROJECT), SERIES 2021, IN ONE OR MORE SERIES, ON A TAX-EXEMPT OR TAXABLE BASIS, IN AN AGGREGATE PRINCIPAL AMOUNT OF NOT MORE THAN $50,000,000 (THE “2021 BONDS”) BY THE CITY OF CHARLESTON (THE “ISSUER”), THE PROCEEDS OF WHICH SHALL BE EXPENDED TO REFUND ALL OR A PORTION OF THE ISSUER’S SALES TAX REVENUE BONDS (CIVIC CENTER PROJECT), SERIES 2015 (THE “2015 BONDS”), TO FUND A RESERVE FUND PLEDGED TO THE PAYMENT OF THE 2021 BONDS, IF NECESSARY, AND TO PAY COSTS OF ISSUANCE IN CONNECTION WITH THE 2021 BONDS; PROVIDING PARAMETERS FOR THE PRINCIPAL AMOUNTS, MATURITIES, INTEREST RATES AND OTHER TERMS OF THE 2021 BONDS; AUTHORIZING THE EXECUTION AND DELIVERY OF A FIRST SUPPLEMENTAL INDENTURE MODIFYING CERTAIN TERMS OF THE 2015 BONDS WITH THE CONSENT OF THE HOLDERS THEREOF; AUTHORIZING THE EXECUTION AND DELIVERY OF A SECOND SUPPLEMENTAL INDENTURE IN CONNECTION WITH THE ISSUANCE OF THE 2021 BONDS AND ANY OTHER DOCUMENTS RELATING THERETO; PROVIDING PARAMETERS FOR THE TERMS OF THE 2021 BONDS; AUTHORIZING EXECUTION AND DELIVERY OF OTHER DOCUMENTS, INSTRUMENTS, CERTIFICATES AND AGREEMENTS AND THE TAKING OF ALL OTHER ACTIONS RELATING TO THE ISSUANCE OF THE 2021 BONDS.

WHEREAS, pursuant to Section 5a of Chapter 8, Article 1 of the Code of West Virginia, 1931, as amended (the “Home Rule Act”), the Issuer has been granted “Home Rule Status” by the Municipal Home Rule Board;

WHEREAS, the City Council of the Issuer (the “City Council”) did, pursuant to the Home Rule Act and Section 2 of Chapter 8, Article 12 of the Code of West Virginia, 1931, as amended (the “Code”), and following all necessary actions, publications, public hearings and approvals, on May 20, 2013, enact an ordinance (the “Initial Sales Tax Ordinance”) levying and imposing an excise tax within the corporate boundaries of the Issuer on (i) the privilege of selling tangible personal property or custom software and furnishing certain selected services and (ii) the use of tangible personal property, custom software and the results of taxable services at a rate of one-half of one percent (0.5%) (the “Municipal Sales Tax”);

WHEREAS, pursuant to the Home Rule Act and Section 2 of Chapter 8, Article 12 of the Code, and following all necessary actions, publications, public hearings and approvals, on November 3, 2014, the City Council enacted an ordinance (the "2014 Amendatory Sales Tax Ordinance") increasing the Municipal Sales Tax from one-half of one percent (0.5%) to one percent (1.0%) effective July 1, 2015;

WHEREAS, the City Council did on January 4, 2021, following all necessary actions, publications, public hearings and approvals, enact an ordinance amending and reenacting provisions pertaining to the deposit, allocation and pledge of the Municipal Sales Tax revenues (the "2021 Amendatory Sales Tax Ordinance" and collectively with the Initial Sales Tax Ordinance and the 2014 Amendatory Sales Tax Ordinance, the "Sales Tax Ordinance");

WHEREAS, the Sales Tax Ordinance created a special revenue fund in the City Treasury designated and known as the City Sales and Use Tax Fund (the "Tax Fund") and a special revenue fund in the City Treasury designated and known as the Uniform Pensions Reserve Fund (the "Pension Fund");

WHEREAS, the Municipal Sales Tax revenues collected by the Tax Commissioner of the State of West Virginia (the "Tax Commissioner"), less any fee or charge permitted by law to be collected by the Tax Commissioner, are remitted to the Issuer quarterly on or about each January 1, April 1, July 1 and October 1 and deposited into the Tax Fund (the "Municipal Sales Tax Revenues");

WHEREAS, under Chapter 8, Article 16 of the Code of West Virginia, 1931, as amended (the "Bond Act"), the Issuer has plenary power and authority to issue revenue bonds secured by all or a portion of the Municipal Sales Tax Revenues to pay the costs of public works projects;

WHEREAS, pursuant to the Bond Act, the Issuer entered into that certain Bond Indenture dated as of August 17, 2015 (the "Original Indenture"; capitalized terms used herein and not otherwise defined shall have the meaning set forth in the Original Indenture) with United Bank (formerly known as United Bank, Inc.), as trustee (the "Trustee"), under which the Issuer issued its Sales Tax Revenue Bonds (Civic Center Project) Series 2015 in the original aggregate principal amount of $97,250,000 (the "2015 Bonds") to (i) finance the costs of design, acquisition, construction, renovation and equipping of additions, betterments and improvements to the Charleston Coliseum and Convention Center (formerly known as the Charleston Convention and Civic Center) and related improvements, (ii) fund a reserve account pledged to the payment of such obligations, if necessary, (iii) pay the costs of issuance of such obligations, and (iv) pay other costs associated with such obligations;

WHEREAS, the Issuer desires to modify certain redemption provisions of all or a portion of the 2015 Bonds with the consent of the holders thereof in accordance with the terms of the Original Indenture pursuant to a First Supplemental Indenture of Trust between the Issuer and the Trustee (the "First Supplemental Indenture");

WHEREAS, pursuant to the Bond Act, Chapter 8, Article 12 of the Code and Chapter 13, Article 2E of the Code (collectively, the "Act"), the Issuer has the plenary power and authority to issue one or more series of its Sales Tax Refunding Revenue

Bonds (Coliseum and Convention Center Project) Series 2021 (the "2021 Bonds") in an aggregate principal amount not to exceed $50,000,000 for the purposes of (i) refunding all or a portion of the 2015 Bonds for debt service savings, (ii) funding a reserve fund for the 2021 Bonds, if necessary, and (iii) paying costs of issuance of the 2021 Bonds;

WHEREAS, the 2021 Bonds will be Additional Bonds (as defined in the Original Indenture) issued on a parity with any Outstanding (as defined in the Original Indenture) 2015 Bonds, in accordance with the terms of the Original Indenture and pursuant to a Second Supplemental Indenture to be entered into between the Issuer and the Trustee (the "Second Supplemental Indenture" and collectively with the Original Indenture and the First Supplemental Indenture, the "Indenture");

WHEREAS, any Outstanding 2015 Bonds, the 2021 Bonds and any Additional Bonds issued under the Indenture from time to time shall be payable solely from and secured solely by a lien on the Municipal Sales Tax Revenues deposited in the Tax Fund;

WHEREAS, any Outstanding 2015 Bonds, the 2021 Bonds and any Additional Bonds issued under the Indenture from time to time shall not be payable from or secured by the Municipal Sales Tax Revenues deposited in the Pension Fund in accordance with the Sales Tax Ordinance;

WHEREAS, the Issuer hereby determines that it would be to the benefit of the Issuer and the inhabitants of the City of Charleston to refund all or a portion of the 2015 Bonds for debt service savings; provided, however, that the 2021 Bonds will only be issued after the Issuer has obtained from an independent certified public accountant a certification verifying the amount of savings to be achieved by the refunding shall in fact be served, based upon such independent certified public accountant's review, comparison and analysis of the net interest cost in dollars of the 2021 Bonds then proposed to be issued and the net interest cost in dollars of the 2015 Bonds then proposed to be refunded; and

WHEREAS, the Issuer deems it desirable and in keeping with its purposes under the Act, to issue the 2021 Bonds, in one or more series, in an aggregate principal amount not to exceed $50,000,000, on a taxable or tax-exempt basis determined by an Authorized Officer in the Certificate of Determination, (as such terms are hereinafter defined), for the purposes of refunding all or a portion of the 2015 Bonds.

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF CHARLESTON:

Section 1. This Ordinance is adopted and enacted pursuant to and in accordance with the provisions of the Act and other applicable provisions of law. It is hereby found and determined, following the public hearing held before the City Council, that the 2021 Bonds should be issued as hereinafter described and the issuance of the 2021 Bonds and the refunding of all or a portion of the 2015 Bonds is authorized and approved.

Section 2. To accomplish the purposes of the Act, to provide for the refunding of all or a portion of the 2015 Bonds, including any premium due thereon, to fund a reserve fund pledged to the payment of the 2021 Bonds, if necessary, and to pay costs of issuance of the 2021 Bonds, the issuance of the 2021 Bonds, in one or more series, on a taxable or tax-exempt basis determined by an Authorized Officer in the Certificate of Determination, in an aggregate principal amount not to exceed $50,000,000 is hereby authorized, approved and directed; provided, however, that the 2021 Bonds will only be issued after the Issuer has obtained a certification from an independent certified public accountant verifying the amount of savings to be achieved by the refunding shall in fact be served, based upon such independent certified public accountant's review, comparison and analysis of the net interest cost in dollars of the 2021 Bonds then proposed to be issued and the net interest cost in dollars of the 2015 Bonds then proposed to be refunded.

Section 3. The Mayor and City Manager of the Issuer (together, the "Authorized Officers" and each an "Authorized Officer") shall each have the power and authority to execute and deliver a Certificate of Determination (the "Certificate of Determination"), which will establish the material terms of the 2021 Bonds including, without limitation, (i) the aggregate principal amount of the 2021 Bonds then proposed to be issued, not to exceed $50,000,000, (ii) determining whether the 2021 Bonds shall be issued in one or more series and assigning a designation to the series then proposed to be issued, (iii) determining whether such 2021 Bonds shall be issued as tax-exempt bonds, taxable bonds, or any combination thereof, with each different mode to be issued as a separate series of bonds, (iv) fixing the maturity schedule for each series of the 2021 Bonds then proposed to be issued by the Issuer, including the amounts of serial bonds and term bonds, such maturities to be not longer than forty (40) years from the date of issuance of such series of the 2021 Bonds, (v) fixing the scheduled debt service payments for the 2021 Bonds in an aggregate amount, together with any 2015 Bonds to remain Outstanding, not to exceed $7,300,000 in any year, (vi) prescribing the interest rates or yields for each series of 2021 Bonds then proposed to be issued by the Issuer, such rates or yields not to exceed an average interest cost of three percent (3%) per annum (provided that such interest cost may exceed such amount upon the occurrence of an event of default or event of taxability under the 2021 Bonds or the Indenture), (vii) fixing the amounts and times of mandatory redemption for each such series of 2021 Bonds then proposed to be issued by the Issuer, (viii) fixing optional redemption provisions for each such series of 2021 Bonds then proposed to be issued by the Issuer, including times and redemption prices, (ix) fixing the purchase price for each such series of 2021 Bonds then proposed to be issued by the Issuer, which may include an original issue discount or premium, (x) dating each such series of 2021 Bonds then proposed to be issued by the Issuer, and (xi) approving the form of the 2021 Bonds of each such series then proposed to be issued.

Section 4. The 2021 Bonds, together with the interest thereon and other costs incidental thereto, shall be secured solely by the pledges effected by the Indenture and by the Municipal Sales Tax Revenues deposited in the Tax Fund and other revenues and properties pledged for their payment in accordance with the Act. The 2021 Bonds, together with the interest thereon and other costs incidental thereto, shall not be deemed to be and shall not constitute an indebtedness of the State of West Virginia or the Issuer, but shall be special and limited obligations of the Issuer, payable solely from the Municipal Sales Tax Revenues deposited in the Tax Fund and other revenues and properties pledged under the Indenture. Neither the 2021 Bonds nor the interest thereon, nor any other costs or charges in connection therewith, shall be a charge against or pledge of the property, faith and credit or taxing power, if any, of the State of West Virginia or the Issuer, except as to such property expressly provided therefor in the Indenture, nor shall the same ever constitute an indebtedness of the State of West Virginia, the Issuer within the meaning of any constitutional provision or statutory limitation or constitute or give rise to a pecuniary liability of the State of West Virginia or the Issuer. No recourse shall be had for the payment of the principal of and interest on the 2021 Bonds against any Authorized Officer, official or member of the Issuer. The holders of the 2021 Bonds shall have no right to have taxes levied by the legislature of the State of West Virginia or the taxing authority, if any, of the Issuer for the payment of the principal of, premium, if any, or interest on the 2021 Bonds, but the 2021 Bonds shall be payable solely from Municipal Sales Tax Revenues deposited in the Tax Fund and other revenues and properties pledged under the Indenture.

The 2021 Bonds will be payable on a parity with respect to lien on, source of and security for payment from the Municipal Sales Tax Revenues which are deposited into the Tax Fund with the lien granted in favor of any Outstanding 2015 Bonds and any Additional Bonds.

Section 5. The form of the First Supplemental Indenture with the consent of the Holders of the 2015 Bonds in accordance with the Original Indenture, substantially as submitted to the City Council in connection with the enactment of this Ordinance and made a part of this Ordinance as though set forth in full herein, shall be and the same is hereby approved. The Authorized Officers are hereby authorized and directed to execute, acknowledge, if necessary, and deliver the First Supplemental Indenture with such changes, insertions, variations and omissions as may be approved by the Authorized Officer executing the First Supplemental Indenture, subject to review, applicable revision and approval of legal counsel to the Issuer, and the City Clerk is authorized and directed to affix the seal of the Issuer thereto and to attest such seal. The execution of the First Supplemental Indenture by the Authorized Officers shall be conclusive evidence of the approval of such changes, insertions, variations and omissions.

Section 6. The form of the Second Supplemental Indenture, substantially as submitted to the City Council in connection with the enactment of this Ordinance and made a part of this Ordinance as though set forth in full herein, shall be and the same is hereby approved. The Authorized Officers are hereby authorized and directed to execute, acknowledge, if necessary, and deliver the Second Supplemental Indenture with such changes, insertions, variations and omissions as may be approved by the Authorized Officer executing the Second Supplemental Indenture, subject to review, applicable revision and approval of legal counsel to the Issuer, and the City Clerk is authorized and directed to affix the seal of the Issuer thereto and to attest such seal. The execution of the Second Supplemental Indenture by the Authorized Officers shall be conclusive evidence of the approval of such changes, insertions, variations and omissions.

Section 7. The 2021 Bonds shall be issued in fully registered form in accordance with the provisions of the Indenture and shall be delivered to the Trustee to be authenticated, registered and delivered to the purchaser thereof, in physical, non-book-entry, certificated form, in accordance with the terms of the Indenture.

Section 8. The Mayor shall execute the 2021 Bonds as necessary and the City Clerk is authorized and directed to affix the seal of the Issuer thereto and to attest such seal. The 2021 Bonds shall contain a recital to the effect that the 2021 Bonds are issued pursuant to the Act. The definitive 2021 Bonds shall be in substantially the form approved in a Certificate of Determination, with such necessary and appropriate changes, insertions, variations and omissions as are approved by the Mayor. The execution of the 2021 Bonds by the Mayor shall be conclusive evidence of the approval of such changes, insertions, variations and omissions.

Section 9. The Authorized Officers shall have the power and authority to execute and deliver a Bond Commitment Agreement or a Commitment Letter with respect to the 2021 Bonds, by and between the Issuer and the applicable purchaser of such 2021 Bonds ("Commitment Agreement").

Section 10. The Authorized Officers and the City Clerk and any other proper officers and employees of the Issuer, together with all other members and employees thereof, are hereby authorized and directed to execute, acknowledge, if necessary, and deliver any and all papers, documents, agreements, certificates and instruments, to affix the seal of the Issuer and attest the same for and on behalf of the Issuer and to do and cause to be done any and all acts and things necessary or proper for carrying out the transactions contemplated by this Ordinance, the Indenture, any Commitment Agreement and other documents relating thereto, including but not limited to the Certificate of Determination, a Tax Compliance Certificate related to the 2021 Bonds and an Escrow Agreement for the 2015 Bonds to be refunded.

Section 11. All covenants stipulations, obligations and agreements of the Issuer contained herein and contained in the Indenture, any Commitment Agreement and other documents relating thereto shall be deemed to be the special and limited covenants, stipulations, obligations and agreements of the Issuer to the full extent permitted by law, and such covenants, stipulations, obligations and agreements shall be binding upon the Issuer and its successors from time to time and upon any board or body to which any powers or duties affecting such covenants, stipulations, obligations and agreements, shall be transferred by or in accordance with law. Except as otherwise provided herein, all rights, powers and privileges conferred and duties and liabilities imposed upon the Issuer or the officials thereof and by the Indenture, any Commitment Agreement and other documents relating thereto shall be exercised or performed by the Issuer or by such officers, board or body as may be required or permitted by law to exercise such powers and to perform such duties.

Section 12. No covenant, stipulation, obligation or agreement herein contained or contained in the Indenture, any Commitment Agreement or other documents relating thereto shall be deemed to be a covenant, stipulation, obligation or agreement of any Authorized Officer, officer, agent or employee of the Issuer in his or her individual capacity, and neither the members of the Issuer nor any officer executing the 2021 Bonds shall be subject to any personal liability or accountability by reason of the issuance of the 2021 Bonds. No Authorized Officer, member, officer or employee of the Issuer shall be individually or personally liable for the payment of the principal of or the interest of any 2021 Bond, but nothing herein contained shall relieve any such Authorized Officer, member, official or employee from the performance of any official duty provided by law or this Ordinance.

Section 13. The laws of the State of West Virginia shall govern the construction of this Ordinance and all 2021 Bonds issued hereunder.

Section 14. If any section, paragraph, clause or provision of this Ordinance shall be held invalid, such invalidity shall not affect any of the remaining provisions of this Ordinance.

Section 15. All previous ordinances, orders, resolutions or parts thereof in conflict with the provisions of this Ordinance are, to the extent of such conflict, hereby repealed.

Section 16. The Issuer covenants that (i) all acts, conditions, things and procedures required to exist, to happen, to be performed or to be taken precedent to and in the adoption and entry of this Ordinance do exist, have happened, have been performed and have been taken in regular and due time, form and manner as required by and in full compliance with the laws and Constitution of the State of West Virginia applicable thereto; and (ii) the Authorized Officers, City Clerk and members of the City Council were at all times when any actions in connection with this Ordinance occurred and are duly in office and duly qualified for such office.

Section 17. The City Clerk is hereby authorized and directed to have an abstract of this Ordinance, in substantially the form attached hereto as Exhibit A, which abstract has been and is hereby determined by the City Council to contain sufficient information as to give notice of the contents of this Ordinance, published once a week for 2 successive weeks, with not less than six full days between each publication, the first such publication to be not less than 10 days before, and the second publication also being before the date set for the public hearing, in a qualified newspaper published and having a general circulation in Kanawha County, West Virginia, stating that this Ordinance has been enacted, that the Issuer contemplates the issuance of the 2021 Bonds described in this Ordinance and that any person interested may appear before the City Council at the public hearing on Monday, May 17, 2021, at 7:00 p.m., prevailing time, at the Charleston Coliseum and Convention Center, West Hall 1, Charleston, West Virginia, and be heard as to whether this Ordinance shall be made effective, and that a certified copy of this Ordinance is on file in the office of the City Clerk for review by interested persons during regular office hours. At such hearing, all objections and suggestions shall be heard and the Issuer shall then take such action as it shall deem proper.

Section 18. This Ordinance shall take effect as follows:

First Reading: April 19, 2021

Second Reading and Enactment: May 3, 2021

Public Hearing and adoption of Resolution making Ordinance Effective: May 17, 2021

CERTIFICATION

The undersigned, being the duly qualified, elected and acting City Clerk of the City of Charleston, does hereby certify that the foregoing Ordinance is a true, correct and complete copy of an Ordinance duly adopted and enacted by City Council of the City of Charleston, at a regular meeting duly held at 7:00 p.m. on May 3, 2021 (second reading and enactment), after introduction and first reading on April 19, 2021 (first reading) at a regular meeting duly held at 7:00 p.m., pursuant to proper notice, at which meetings quorums were present and acting throughout, and which Ordinance was enacted following a public hearing thereon, notice of which public hearing was published in publications having a general circulation in Kanawha County, West Virginia, the first publication having been not less than 10 days prior to such public hearing and the second publication having been prior to such public hearing.

Dated this _______ day of ____________, 2021.

By:___________________________________
Its: City Clerk

Exhibit A

Form of Notice of Public Hearing

[TO BE PUBLISHED ON
TUESDAY, MAY 4, 2021 AND TUESDAY, MAY 11, 2021]

NOTICE OF PUBLIC HEARING ON
THE CITY OF CHARLESTON
BOND ORDINANCE

A public hearing will be held on the below-entitled Ordinance at a regular meeting of the City Council of the City of Charleston (the "City Council") to be held on Monday, May 17, 2021, at 7:00 p.m. at the Charleston Coliseum and Convention Center, West Hall 1, Charleston, West Virginia. At such hearing, any person interested may appear before the City Council and present protests, and all protests and suggestions shall be heard by the City Council and it shall then take such actions as it shall deem proper in the premises upon an Ordinance entitled:

AN ORDINANCE AUTHORIZING THE ISSUANCE OF SALES TAX REFUNDING REVENUE BONDS (COLISEUM AND CONVENTION CENTER PROJECT), SERIES 2021, IN ONE OR MORE SERIES, ON A TAX-EXEMPT OR TAXABLE BASIS, IN AN AGGREGATE PRINCIPAL AMOUNT OF NOT MORE THAN $50,000,000 (THE "2021 BONDS") BY THE CITY OF CHARLESTON (THE "ISSUER"), THE PROCEEDS OF WHICH SHALL BE EXPENDED TO REFUND ALL OR A PORTION OF THE ISSUER'S SALES TAX REVENUE BONDS (CIVIC CENTER PROJECT), SERIES 2015 (THE "2015 BONDS"), TO FUND A RESERVE FUND PLEDGED TO THE PAYMENT OF THE 2021 BONDS, IF NECESSARY, AND TO PAY COSTS OF ISSUANCE IN CONNECTION WITH THE 2021 BONDS; PROVIDING PARAMETERS FOR THE PRINCIPAL AMOUNTS, MATURITIES, INTEREST RATES AND OTHER TERMS OF THE 2021 BONDS; AUTHORIZING THE EXECUTION AND DELIVERY OF A FIRST SUPPLEMENTAL INDENTURE MODIFYING CERTAIN TERMS OF THE 2015 BONDS WITH THE CONSENT OF THE HOLDERS THEREOF; AUTHORIZING THE EXECUTION AND DELIVERY OF A SECOND SUPPLEMENTAL INDENTURE IN CONNECTION WITH THE ISSUANCE OF THE 2021 BONDS AND ANY OTHER DOCUMENTS RELATING THERETO; PROVIDING PARAMETERS FOR THE TERMS OF THE 2021 BONDS; AUTHORIZING EXECUTION AND DELIVERY OF OTHER DOCUMENTS, INSTRUMENTS, CERTIFICATES AND AGREEMENTS AND THE TAKING OF ALL OTHER ACTIONS RELATING TO THE ISSUANCE OF THE 2021 BONDS.

The above-quoted title of the Ordinance describes generally the contents thereof and the purposes of the 2021 Bonds contemplated thereby. The City of Charleston (the "Issuer") contemplates the issuance of the 2021 Bonds, in one or more series, as described in the Ordinance. The aggregate proceeds of the 2021 Bonds will be used to (i) refund all or a portion of the 2015 Bonds for debt service savings, (ii) fund a reserve fund for the 2021 Bonds, if necessary, and (iii) pay costs of issuance of the 2021 Bonds. The 2021 Bonds shall be payable solely from and secured solely by a lien on the Issuer's Municipal Sales Tax Revenues deposited in the City Sales and Use Tax Fund in the City Treasury. Other than the Municipal Sales Tax, no taxes may at any time be levied for the payment of the principal of or interest on the 2021 Bonds.

The above-entitled Ordinance was introduced on first reading to the City Council on April 19, 2021 and was presented on second reading and enacted on May 3, 2021. A certified copy of the above-entitled Ordinance is on file with the City Clerk for review by interested parties during regular office hours.

Following the public hearing, the City Council intends to adopt a Resolution making the Ordinance effective.

/s/ Miles Cary
Clerk

Finance Director, Andy Wood added that there are 2 maturities in the bonds, in 2030 and 2035. Technically, as the bond documents are currently written, only the 2030 bonds are refundable. Through negotiations they were able to manage the rates for significant savings to the City.

Councilmember Burton disclosed that his relative works for the bonding firm, but not in any way that would prevent him from voting.

Councilmember Adams asked if there was a difference between the gross and the net. Wood replied that the net savings is a financial calculation that is used that considers the time value of money; the net present value savings is still very strong at approximately $2.5 million which is 6% of the refunded bonds.

Councilmember Jenkins confirmed with Wood that the cost of the services for this is significantly less than the actual savings. Amy Condaras, from Frost Brown and Todd, added that the first document is the first supplemental amending the documents to change the terms. She added that the bond holders were willing to waive the premiums and allow the bonds to be refunded. The second supplemental governs what will happen going forward.

Councilmember Reishman moved to approve the Bill. With members present recorded thereon as voting unanimously in the affirmative, Chairperson Jenkins declared Bill No. 7903 approved.

l. Bill No. 7904 - A BILL to amend and reenact Section 22-35 of the Municipal Code of the City of Charleston, as amended; and to repeal Section 22-43 of said Code, all relating to clarifying that amendments to the rates for internment at Spring Hill Cemetery Park may be approved by the City Council through resolution upon recommendation from the Spring Hill Cemetery Commission.

Now, therefore, be it ordained by the Council of the City of Charleston:

That Section 22-35 of the Municipal Code of the City of Charleston, as amended, is hereby amended and reenacted; and that Section 22-43 of said code is hereby repealed, all to read as follows:

CHAPTER 22 – CEMETERIES.
ARTICLE II – SPRING HILL CEMETERY.
DIVISION 1 – GENERALLY.

Sec. 22-35. - Price of rights of interment.

The commission may establish, and from time to time amend, a schedule of prices, which in each case must be approved by the city council by resolution, for the sale of rights of interment in the cemetery, for installation of memorials, for opening and closing of graves, and for other services or merchandise provided by the cemetery. Each schedule adopted shall be maintained on file in the office of the city clerk and available on the City or Spring Hill Cemetery website, so long as it remains in effect. Until the commission adopts a schedule of prices pursuant to this section, the price of lots in the cemetery shall be as in effect immediately prior to the effective date of this Code.

~~Sec. 22-43. - Schedule of rates for the Spring Hill Cemetery Park.~~

~~That the price for grave spaces and the fees for service at the Spring Hill Cemetery Park shall be as follows:~~

~~City Property (Riggs 10-Scruggs; JHL 1-2 Burdette 1-2; Jeffries, all sections 1-10 and Woods 18) (As determined available) .....$900.00~~

~~Hall and Edmonds and all others (As determined available) .....900.00~~

~~Lynn-Wehrle (As determined available) .....900.00~~

~~Lynn 2 .....900.00~~

~~Capito (As determined available) .....900.00~~

~~Capito Woods(flat marker area) $700.00 monument section .....900.00~~

~~Wilson .....900.00~~

~~Middleton (As determined available) .....900.00~~

~~Mausoleum Property .....No spaces available~~

~~Woods 1, 2 and 3 (As determined available) .....900.00~~

~~Swann Addition (all sections of Spring Hill excluding section 49) (As determined available) .....900.00~~

~~Section 49 (As determined available) .....900.00~~

~~Riggs-Jeffries Riggs (As determined available) .....900.00~~

~~Riggs Babyland .....100.00*~~

~~*No charge—infants up to two years of age~~

~~Wilson, Block 6-A, 7-A and 8 (As determined available) .....900.00~~

~~Wehrle Addition, section 16 (As determined available) .....900.00~~

~~Willow Lawn Addition .....800.00~~

~~Wehrle 16A (monument area) .....900.00~~

~~Cremation burial site .....350.00~~

~~Columbarium AGM 64-9-2005-1,~~
~~each niche .....1,000.00~~
~~(niche hold two standard cremations)~~
~~Garden of Memories~~

~~Niche Plate Engraving .....75.00~~

~~A second right of interment may be purchased for an additional 50 percent of the price of the lot purchased.~~

~~The following table of service pricing shall apply (includes tent and chairs):~~

~~Standard adult/Opening/closing~~

~~Weekdays M—F .....1,000.00~~

~~Weekends, Saturday/Sunday (weekends to include Monday before noon) .....1,200.00~~

~~Baby graves ..... Opening/closing~~

~~Weekdays M—F .....200.00*~~

~~*No charge—infants up to two years of age~~

~~Weekends and holidays. (Weekends to include Monday before noon and holidays) .....400.00~~

~~Mausoleum Crypt ..... Opening/closing~~

~~Weekdays M—F .....400.00~~

~~Weekends and holidays. (Weekends to include Monday before noon and holidays) .....600.00~~

~~Optional tent service for outside mausoleums .....150.00~~

~~The use of an insuraliner is required for all entombments. (Funeral homes required to supply liners).~~

~~Installation of memorials~~
~~(except government supplied)~~

~~Flat markers .....1.00~~
~~per sq. in.~~
~~Upright markers .....1.00~~
~~per sq. in.~~
~~Government supplied~~
~~V.A. Memorials .....No charge~~

~~Only granite or bronze on granite markers of a minimum thickness of 4" are allowed. (The exception shall be for Government VA Markers or matching of existing markers).~~

~~The installation of mausoleums, columbariums, and memorials requiring special needs and equipment for handling will be charged according to the individual application.~~

~~Cremation/Opening/closing (Ground Burial)~~

~~Weekdays M—F .....400.00~~

~~Weekends Sat./Sun. (Weekends to include Monday before noon) .....500.00~~

~~Opening/closing Columbarium~~

~~Weekdays M—F .....400.00~~

~~Weekends and holidays .....500.00~~

~~Committal service set-up .....150.00~~

~~Steel burial vault installation fee (concrete vault suppliers are required to set concrete vaults .....100.00~~

~~The following table of merchandise pricing shall apply:~~

~~Memorials and related merchandise not to exceed 300 percent of wholesale cost.~~

~~Outside burial container charges are not to exceed 300 percent of wholesale cost.~~

~~The purchase price and charges for other required services and materials for mausoleums and cremation depositories are based on individual application.~~

~~Custom design purchases will be priced per application.~~

~~Flower location/Setting service fee, per flower arrangement delivered by outside vendors for placement on a grave. Payable at time of delivery .....3.00~~

~~State sales tax will apply to services and merchandise as provided by law.~~

Storage added that the bill clarifies that the rates for the Spring Hill Cemetery Commission can be passed by resolution.

Councilmember Jenkins added that previously, the fees were put into City Code via ordinances, so the proposed bill will streamline that process so that the Commission can evaluate their budget; Council will still have approval of those fees.

Councilmember Reishman moved to approve the Bill. With members present recorded thereon as voting unanimously in the affirmative, Chairperson Jenkins declared Bill No. 7904 approved.

Councilmember Reishman motioned to adjourn the meeting.

Meeting adjourned.