

CHARLESTON CITY COUNCIL

Regular Meeting

September 19, 2022

at 7:00 PM



THIS MEETING WILL TAKE PLACE IN PERSON AND CAN BE VIEWED LIVE VIA

<https://charlestonwv.civicclerk.com/web/home.aspx>

Council Chambers, Third Floor
City Hall, 501 Virginia St. E.
Charleston, WV

AGENDA

CALL TO ORDER BY THE MAYOR

INVOCATION AND PLEDGE OF ALLEGIANCE

ROLL CALL

PUBLIC SPEAKERS AND CLAIMS

1. **INTERESTED PUBLIC SPEAKERS MUST REGISTER AT THE CLERK'S TABLE IN PERSON NO EARLIER THAN 15 MINUTES BEFORE THE MEETING STARTS. FIVE (5) SPEAKERS WILL BE PERMITTED (RULE NO. 22 (B)).**
2. Claims 9-19-2022

PROCLAMATIONS

1. 9-19-2022

COMMUNICATIONS

1. 9-19-2022

REPORTS OF STANDING COMMITTEES

ORDINANCE AND RULES

1. Resolution No. 724-22 - Declaring the City Council for the City of Charleston's support for the Kanawha County Schools' 2022 Excess Levy.

2. Bill No. 7964 Committee Substitute - A BILL to amend the Municipal Code of the City of Charleston by adding a new Division consisting of four sections related to creating the Charleston Victims Assistance Program Commission. (the language of the proposed Committee Substitute has been listed on the agenda)

FINANCE

1. Resolution No. 720-22 - Authorizing the Mayor or City Manager to submit an application to the Kanawha County Commission under the Kanawha County Public Safety Grant Program.
2. Resolution No. 721-22 – Authorizing the Mayor or City Manager to purchase 16 2023 Ford Interceptors from Stephens Auto to be used by the Charleston Police Department.
3. Resolution No. 722-22 - Authorizing approval of Amendment No. 3 of the FY 2022-2023 General Fund Budget as indicated on the attached list of accounts.

REPORTS OF OFFICERS

1. 9-19-2022

NEW BILLS

1. 9-19-2022

UNFINISHED BUSINESS AND/OR MISCELLANEOUS BUSINESS

REMARKS BY MEMBERS

ROLL CALL

ADJOURNMENT

THE NEXT REGULAR MEETING OF COUNCIL WILL BE OCTOBER 3, 2022 AT 7:00 PM.

***Meetings may be recorded and broadcast via internet <https://charlestonwv.civicclerk.com>**

RECEIVED

AUG 31 2022

OFFICE OF CITY CLERK



AFFIDAVIT
City of Charleston



STATE OF WEST VIRGINIA
COUNTY OF KANAWHA, to-wit:

The Mayor, Recorder, or 1/er Municipal Attorney of the City of Charleston, West Virginia, will take notice that this day appeared before the undersigned authority,

Leslie Ann Skidmore, Claimant,
who, after being first by me duly sworn, deposes and says:

That this affiant resides at: 603 Monroe St. Charleston Wv 25302

Telephone Number: 681-532-9420

and that on the 27th day of April, 2022, at approximately 2:37 am/pm
in the City of Charleston, West Virginia, he/she sustained

loss of 4 BF Goodrich tires 235/70 R16 tires \$230.00 each
a 10-in 1 Ninja Foodi XL Pro Air Fry Oven and a set of jumper cables \$14.00
Nature Of Injury And/Or Damage \$29.99

As A Result Of:

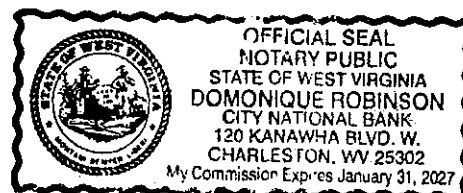
a city worker coming on my front bank and throwing
the tires in a tire truck and ~~put~~ putting other items
in the street for anyone to pick up.

As a result of which accident, the Claimant, Leslie Ann Skidmore, does hereby
make claim against the City of Charleston, West Virginia, for damages incurred and to be incurred by
him/her in the future.

Leslie Ann Skidmore
Signature of Claimant

Taken, subscribed and sworn to before me this 31 day of August, 2022
My commission expires 1/31/2027.

Domonique Robinson
Notary Public



**EXECUTIVE DEPARTMENT
CITY OF CHARLESTON
PROCLAMATION**

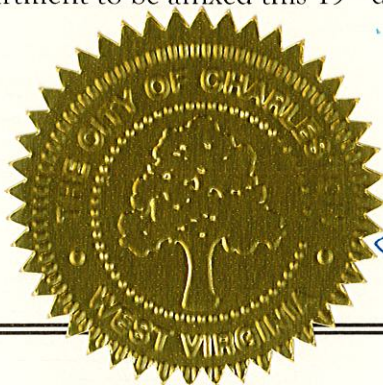
- WHEREAS:** "Sickle cell anemia" and "sickle cell disease," refer to a group of inherited disorders in which a person's body produces abnormally shaped red blood cells resembling a crescent or sickle and do not last as long as normal red blood cells, which leads to anemia; and
- WHEREAS:** Sickle cell disease is a chronic condition that can affect any organ; research indicates that patients experience many severe complications, including stroke, infections, and pulmonary embolism, and have a shorter life expectancy than the general population; and
- WHEREAS:** The sickle cells also get stuck in blood vessels and block blood flow, resulting in vaso-occlusive crises, which can cause pain and organ damage; decrease quality of life; cause life-threatening complications, including stroke; are the primary cause of hospitalizations in sickle cell disease; and are associated with increased mortality; and
- WHEREAS:** Sickle cell disease is a genetic disorder where individuals with the disease are born with two sickle cell genes, each inherited from one parent. An individual with only one sickle cell gene has a "sickle cell trait"; and
- WHEREAS:** The United States Centers for Disease Control and Prevention estimates that sickle cell disease affects approximately 100,000 Americans, and it is estimated that close to 200 West Virginians have sickle cell disease; and
- WHEREAS:** Individuals living with sickle cell disease encounter barriers to obtaining quality care—including limitations in geographic access to care, the varied use of effective treatments, the high reliance on emergency care and public health programs, and the limited number of providers with knowledge and experience to manage and treat sickle cell disease; and
- WHEREAS:** While there is no widely available cure for sickle cell disease, one-time gene therapies, including gene editing therapeutic approaches, are being developed and may offer potential cures for some patients.

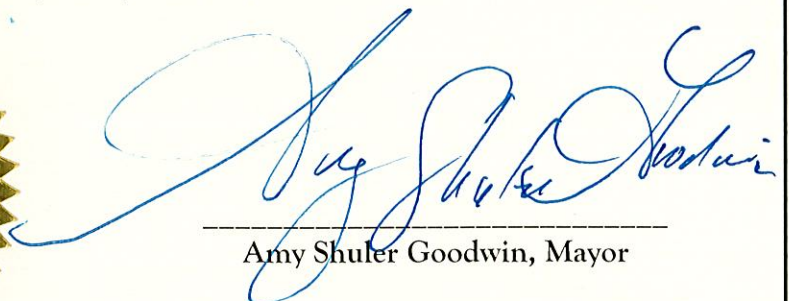
NOW THEREFORE, I, Amy Shuler Goodwin, Mayor of the City of Charleston do hereby proclaim September 2022, as

Sickle Cell Disease Awareness Month

In Charleston, West Virginia.

IN WITNESS WHEREOF, I have set my hand and caused the Seal of the Executive Department to be affixed this 19th day of September 2022.



A blue ink signature of Amy Shuler Goodwin, Mayor of the City of Charleston, is written over a horizontal line. The signature is cursive and stylized.

Amy Shuler Goodwin, Mayor



**TO: MILES CARY
CITY CLERK**

**FROM: AMY SHULER GOODWIN
MAYOR**

RE: MUNICIPAL BEAUTIFICATION COMMISSION

DATE: SEPTEMBER 19, 2022



I recommend the following individual be appointed to the Municipal Beautification Commission:

Eleanor Gould – replaces Bobbi Holland with an expiration date of 9-19-25

I respectfully request City Council's approval of this recommendation.

ASG/mls





**TO: MILES CARY
CITY CLERK**

**FROM: AMY SHULER GOODWIN
MAYOR**

RE: CHARLESTON CONVENTION & VISITORS BUREAU

DATE: SEPTEMBER 19, 2022

I recommend the following individual be appointed to the Charleston Convention & Visitors Bureau:

Stephanie Casey, General Manager of the Charleston Marriott Town Center – she is replacing David Hicks. Ms. Casey will be filling one of the board requirements for a Hotel General Manager – Full Service Convention Facility.

I respectfully request City Council's approval of this recommendation.

ASG/mls



Resolution No. 724-22

Introduced in Council:

Adopted by Council:

September 19, 2022

Introduced by:

Referred to:

Becky Ceperley, Chad Robinson,
Bobby Reishman and Emmett Pepper

Ordinance and Rules

Resolution No. 724-22 - Declaring the City Council for the City of Charleston's support for the Kanawha County Schools' 2022 Excess Levy.

WHEREAS, the elected leaders of the City of Charleston recognize the importance of Kanawha County Schools' ability to operate an award-winning, properly funded public school system for the future of our city, county, and state; and

WHEREAS, the Citizens of the City of Charleston have historically supported the Excess Levy, which has been in effect since 1937 and helps provide enough funds for quality facilities, course options, and staffing toward the best education possible for students in our city and county; and

WHEREAS, the Excess Levy provides funds for needed custodians, counselors, and art teachers; important safety and security improvements; and required building maintenance, including roof and air conditioner repairs and replacements; and

WHEREAS, the failure of the Excess Levy would result in the loss of one-fourth of Kanawha County Schools' current operating budget, which would be devastating to our school system, our classrooms, our teachers, and our students; and

WHEREAS, our school system needs these excess levy funds to offer a broad curriculum competitive with our surrounding counties and states, and so that Kanawha County will be able to continue to offer quality classes in well-maintained classrooms in a comfortable and safe learning environment.

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

That the elected leaders of the City of Charleston believe that the Kanawha County Schools Excess Levy is crucial to the successful operation of our schools, we recognize the importance of a strong school system to the long-term success of public-school students in Charleston, and we endorse for approval the Kanawha County Schools Excess Levy election that is on the ballot on November 8, 2022.

Bill No. 7964 Committee Substitute

Introduced in Council:

June 6, 2022

Introduced by:

Deanna McKinney

Adopted by Council:

Referred to:

Ordinances & Rules

Bill No. 7964 Committee Substitute - A BILL to amend the Municipal Code of the City of Charleston, as amended, by adding thereto a new Division consisting of four sections, designated Sections 2-721, 2-722, 2-723, and 2-724, all relating to creating the ~~violence prevention~~Charleston Victims Assistance Program eCommission; setting forth the composition, terms, and certain procedural requirements; declaring the ~~violence prevention~~victims assistance commission's powers and duties; providing rule-making authority for the ~~violence prevention~~victims assistance commission; and requiring an annual report from the ~~violence prevention~~victims assistance commission.

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

That the Municipal Code of the City of Charleston, as amended, be amended by adding thereto a new Division consisting of four sections, designated Sections 2-721, 2-722, 2-723, and 2-724, all to read as follows:

CHAPTER 2. – ADMINISTRATION.

ARTICLE VII. – BAORDS, COMMITTEES AND COMMISSIONS.

DIVISION 12. – ~~VIOLENCE PREVENTION~~VICTIMS ASSISTANCE COMMISSION.

Sec. 2-721. – ~~Violence Prevention~~Victims Assistance Commission created.

There is hereby created the "City of Charleston ~~Violence Prevention~~Victims Assistance Commission" and it shall exist as an agency of the city to account for revenues received from transfers from other funds and other available sources, including donations, to be used for victims assistance and violence prevention education efforts and support ~~for victims of violence~~.

Sec. 2-722. - Composition and organization of commission.

(a) Composition. The City of Charleston ~~Violence Prevention~~Victims Assistance Commission shall consist of seven members, each appointed by the Mayor. Of the seven members, one shall be the Chief of Police, two shall be members of City Council, and four shall be residents of the City who have an expressed interest and history in violence prevention or providing support for victims of violence. Of these four resident members, at least one shall have experience as a social worker or mental health worker

and at least one shall be a spiritual leader.

(b) Terms of Service. The appointments of members other than the council members and Chief of Police shall be made such that each appointment is for a 3-year term. Each such member shall serve until their successors are duly appointed and qualified, unless removed from the commission by a majority vote of the commission due to any violation of the rules or by-laws authorized by subsection (d) of this section. Vacancies other than by reason of expiration of term of office shall be filled for the unexpired term only. The council members of the commission shall serve for a term coextensive with their term as a member of council. The Chief of Police shall serve for a term coextensive with his or her term of Chief of Police.

(c) Service without compensation. All members shall serve without compensation.

(d) Governance. Members of the commission shall select annually from its membership a chair, a vice-chair, and any other officers as it determines necessary for the performance of its duties. The commission may adopt such rules or by-laws as may be necessary for the transaction of its business, including but not limited to a requirement for regular attendance at meetings in order to maintain a seat on the commission.

(e) Meetings. Meetings of the commission shall be open to the public and be properly noticed in accordance with the Open Governmental Proceedings Act, West Virginia Code Chapter 6, Article 9A. The commission shall meet monthly, and may meet more frequently if it elects. The Chair shall provide an agenda for meetings of the commission to the City Clerk for posting consistent with the Open Governmental Proceedings Act at least three business days prior to any meeting.

(f) Quorum. A majority of the members of the commission shall constitute a quorum. A majority vote of the members present at a meeting shall be required for any action or decision of the commission.

Sec. 2-723. – Duties and powers.

The ~~violence prevention~~victims assistance commission's duties shall include, but not be limited to:

(1) Coordinating the efforts of the City and community groups for the National Night Out, National Gun Violence Awareness Day, and other violence prevention efforts involving the City of Charleston.

(2) Identifying opportunities to collaborate on educational programs with other organizations and committees with the goal of reducing and preventing violence in the community, including but not limited to collaborating with the State of West Virginia's Victim Assistance Program;

(3) Identifying opportunities to support victims of violence in the community, including but not limited to facilitating connections with the State of West Virginia's

82 Victim Assistance Program;

83 _____ (4) Identifying resources that may be used to help fund the efforts of the
84 commission as stated herein, including but not limited to making contact with the State
85 of West Virginia's Victim Assistance Program;

86 _____ (5) Reviewing and recommending approval of applications for funds, as
87 available, related to violence prevention and victim compensation; and

88 _____ (6) Working with the City of Charleston to identify policy or procedure changes
89 that could-provides assistance to victims of violence and to help prevent violence-or
90 support victims of violence.

91
92 **Sec. 2-724. - Finances and reporting.**

93
94 _____ The commission shall prepare an annual report of the violence preventionvictims
95 assistance commission and an annual budget based on the city's fiscal year. The report
96 and budget shall be presented to council annually at the second meeting in December.
97

Bill No. 7964

Introduced in Council:

June 6, 2022

Introduced by:

Deanna McKinney

Adopted by Council:

Referred to:

Ordinances & Rules

Bill No. 7964 - A BILL to amend the Municipal Code of the City of Charleston, as amended, by adding thereto a new Division consisting of four sections, designated Sections 2-721, 2-722, 2-723, and 2-724, all relating to creating the violence prevention commission; setting forth the composition, terms, and certain procedural requirements; declaring the violence prevention commission's powers and duties; providing rule-making authority for the violence prevention commission; and requiring an annual report from the violence prevention commission.

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

That the Municipal Code of the City of Charleston, as amended, be amended by adding thereto a new Division consisting of four sections, designated Sections 2-721, 2-722, 2-723, and 2-724, all to read as follows:

CHAPTER 2. – ADMINISTRATION.

ARTICLE VII. – BAORDS, COMMITTEES AND COMMISSIONS.

DIVISION 12. – VIOLENCE PREVENTION COMMISSION.

Sec. 2-721. – Violence Prevention Commission created.

There is hereby created the "City of Charleston Violence Prevention Commission" and it shall exist as an agency of the city to account for revenues received from transfers from other funds and other available sources, including donations, to be used for violence prevention education efforts and support for victims of violence.

Sec. 2-722. - Composition and organization of commission.

(a) Composition. The City of Charleston Violence Prevention Commission shall consist of seven members, each appointed by the Mayor. Of the seven members, one shall be the Chief of Police, two shall be members of City Council, and four shall be residents of the City who have an expressed interest and history in violence prevention or providing support for victims of violence. Of these four resident members, at least one shall have experience as a social worker or mental health worker and at least one shall be a spiritual leader.

36 (b) Terms of Service. The appointments of members other than the council
37 members and Chief of Police shall be made such that each appointment is for a 3-year
38 term. Each such member shall serve until their successors are duly appointed and
39 qualified, unless removed from the commission by a majority vote of the commission
40 due to any violation of the rules or by-laws authorized by subsection (d) of this section.
41 Vacancies other than by reason of expiration of term of office shall be filled for the
42 unexpired term only. The council members of the commission shall serve for a term
43 coextensive with their term as a member of council. The Chief of Police shall serve for a
44 term coextensive with his or her term of Chief of Police.

45
46 (c) Service without compensation. All members shall serve without
47 compensation.

48
49 (d) Governance. Members of the commission shall select annually from its
50 membership a chair, a vice-chair, and any other officers as it determines necessary for
51 the performance of its duties. The commission may adopt such rules or by-laws as may
52 be necessary for the transaction of its business, including but not limited to a
53 requirement for regular attendance at meetings in order to maintain a seat on the
54 commission.

55
56 (e) Meetings. Meetings of the commission shall be open to the public and be
57 properly noticed in accordance with the Open Governmental Proceedings Act, West
58 Virginia Code Chapter 6, Article 9A. The commission shall meet monthly, and may meet
59 more frequently if it elects. The Chair shall provide an agenda for meetings of the
60 commission to the City Clerk for posting consistent with the Open Governmental
61 Proceedings Act at least three business days prior to any meeting.

62
63 (f) Quorum. A majority of the members of the commission shall constitute a
64 quorum. A majority vote of the members present at a meeting shall be required for any
65 action or decision of the commission.

66
67 **Sec. 2-723. – Duties and powers.**

68
69 The violence prevention commission's duties shall include, but not be limited to:

70 (1) Coordinating the efforts of the City and community groups for the National
71 Night Out, National Gun Violence Awareness Day, and other violence prevention efforts
72 involving the City of Charleston.

73 (2) Identifying opportunities to collaborate on educational programs with other
74 organizations and committees with the goal of reducing and preventing violence in the
75 community;

76 (3) Identifying opportunities to support victims of violence in the community;

77 (4) Identifying resources that may be used to help fund the efforts of the
78 commission as stated herein;

79 (5) Reviewing and recommending approval of applications for funds, as
80 available, related to violence prevention and victim compensation; and

81 (6) Working with the City of Charleston to identify policy or procedure changes

82 that could help prevent violence or support victims of violence.

83
84 **Sec. 2-724. - Finances and reporting.**

85
86 The commission shall prepare an annual report of the violence prevention
87 commission and an annual budget based on the city's fiscal year. The report and
88 budget shall be presented to council annually at the second meeting in December.
89

Resolution No. 720-22

Introduced in Council:

September 19, 2022

Adopted by Council:

Introduced by:

Joseph Jenkins

Referred to:

Resolution No. 720-22 - Authorizing the Mayor or City Manager to submit an application to the Kanawha County Commission under the Kanawha County Public Safety Grant Program in the amount of \$20,000 and administer any funds awarded.

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

That the Mayor or City Manager is authorized to submit an application to the Kanawha County Commission under the Kanawha County Public Safety Grant Program in the amount of \$20,000 and administer any funds awarded. These funds will be used by the Charleston Police to purchase two pole cameras and a drone for criminal investigative purposes. These funds will be used by the Charleston Police to purchase two pole cameras and a drone for criminal investigative purposes.

Resolution No. 721-22

Introduced in Council:

September 19, 2022

Adopted by Council:

Introduced by:

Joseph Jenkins

Referred to:

Resolution No. 721-22 - Authorizing the Mayor or City Manager to purchase sixteen (16) 2023 Ford Interceptors from Stephens Auto Center in the amount of \$681,008.00 to be used by the Charleston Police Department.

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

That the Mayor or City Manager is authorized to purchase sixteen (16) 2023 Ford Interceptors from Stephens Auto Center in the amount of \$681,008.00 to be used by the Charleston Police Department, where twelve (12) vehicles will be used as patrol units, three (3) vehicles will be used as supervisor vehicles, and one (1) vehicle will be used by the Crime Scene Unit. The purchase price was determined through a competitive pouching process administered by the West Virginia State Police.

STEPHENS

AUTO CENTER



PO BX 278 – 104 Stephens Drive – Rt. 119 & Lory Rd. – Danville WV 25053

(304) 369-2411 – www.stephensauto.com – 1-800-925-2411

DATE 31-AUG-2022

CITY OF CHARLESTON
PO BOX 2749
CHARLESTON, WV 25330
ATTN: Jamey Noland

BELOW IS A QUOTE YOU REQUESTED:

2023 FORD POLICE UTILITY INTERCEPTOR AWD

3.3 V6 TI-VCT ENGINE

10-SPEED AUTO TRANSMISSION

COURTESY DISABLE

DRIVER LED SPOT LAMP

KEYLESS ENTRY-4 FOBS

REAR DOOR LOCKS INOP

DEFLECTOR PLATE

REVERSE SENSING

ULTIMATE WIRING KIT DEDUCT: (-\$526.00)

CONNECTOR KIT FRONT/REAR DEDUCT: (-\$174.00)

\$41,743.00

ADDITIONAL OPTIONS ADDED

POLICE PERIMETER ALERT	\$675.00
PRE-COLLISION ASSIST	\$145.00

TOTAL QUOTE \$42,563.00 PER VEHICLE (16) \$681,008.00

THANKS FOR THE OPPORTUNITY TO EARN YOUR BUSINESS



Michael W. Ballard

This price is pending my Award
letter from the State & Order
Code from Ford by 9-9-22.

M.W.B 9-7-22



State of West Virginia
Agency Master Agreement

Order Date: 2022-08-17

CORRECT ORDER NUMBER MUST
APPEAR ON ALL PACKAGES,
INVOICES, AND SHIPPING PAPERS.
QUESTIONS CONCERNING THIS
ORDER SHOULD BE DIRECTED TO
THE DEPARTMENT CONTACT.

Order Number:	AMA 0612 9113 DPS2300000005 1	Procurement Folder:	1091672
Document Name:	Open End Contract/Police Utility Vehicles/WO Custom Color	Reason for Modification:	
Document Description:	OE Contract/Police Utility Vehicles/WO Custom Color		
Procurement Type:	Agency Master Agreement		
Buyer Name:	Carole Woodyard		
Telephone:	(304) 746-2141		
Email:	carole.a.woodyard@wvsp.gov		
Shipping Method:	Best Way	Effective Start Date:	2022-08-16
Free on Board:	FOB Dest, Freight Prepaid	Effective End Date:	2023-08-15

VENDOR		DEPARTMENT CONTACT	
Vendor Customer Code:	000000199714	Requestor Name:	Carole Woodyard
STEPHENS AUTO CENTER		Requestor Phone:	(304) 746-2141
PO BOX 278		Requestor Email:	carole.a.woodyard@wvsp.gov
DANVILLE	WV 25053278		
US			
Vendor Contact Phone:	999-999-9999	Extension:	
Discount Details:			
	Discount Allowed	Discount Percentage	Discount Days
#1	No	0.0000	0
#2	No		
#3	No		
#4	No		

INVOICE TO	SHIP TO
WEST VIRGINIA STATE POLICE	WEST VIRGINIA STATE POLICE
4124 KANAWHA TURNPIKE	4124 KANAWHA TURNPIKE
SOUTH CHARLESTON	SOUTH CHARLESTON
WV 25309	WV 25309
US	US

Total Order Amount: Open End

DEPARTMENT AUTHORIZED SIGNATURE

SIGNED BY : Carole Woodyard

DATE: 2022-08-17

ELECTRONIC SIGNATURE ON FILE

Extended Description:

Open End Contract/Police Utility Vehicles WITHOUT Custom Color

Line	Commodity Code	Manufacturer	Model No	Unit	Unit Price
1	25101702			EA	\$42443.00
	Service From	Service To			
Commodity Line Description: Police 4 door Utility Vehicles MG Custom Co					

Commodity Line Description: Police,4 door,Utility Vehicles/WO Custom Color

Extended Description:

Police 4 door, Utility Vehicles
WITHOUT Custom Colors

3.3 V6

Bid Form

DPS 23*01		BID OPENING: 8-10-22		
Item #	Description	*Estimated Annual Quantity	Unit Price	Extended Price
1.	2022 Or present model year, Four (4) Door Police Utility Vehicle	150	\$	\$
	Price with Custom Paint for West Virginia State Police (Blue & Gold)		\$	
	Price without Custom Paint		\$ 42,443	
			Total	

Bidder / Vendor Information:

Name: Stephens Auto Center

Address: PO Box 278
Danville, WV 25053

Phone #: 304-369-2411 Ext. 33

Email Address: mballard@stephensauto.com

Contact Coordinator Information:

Name: Mike Ballard

Address: PO Box 278
Danville, WV 25053

Phone #: 304-369-2411 Ext. 33

Email Address: mballard@stephensauto.com

*Quantities are estimated annual usage for bidding purposes and bidder's information.

REQUEST FOR QUOTATION
2022 or newer or current model year, Police Utility Four (4) Door

SPECIFICATIONS

1. **PURPOSE AND SCOPE:** The West Virginia State Police is soliciting bids to establish an open-end contract for 2022, or present model year, Four (4) Door Utility.
2. **DEFINITIONS:** The terms listed below shall have the meanings assigned to them below. Additional definitions can be found in Section 2 of the General Terms and Conditions.
 - 2.1 **“Contract Item” or “Contract Items”** means the list of items identified in Section 3.1 below and on the Pricing Pages.
 - 2.2 **“Pricing Pages”** means the schedule of prices, estimated order quantity, and totals contained in wvOASIS or attached hereto as Exhibit A, and used to evaluate the Solicitation responses.
 - 2.3 **“Solicitation”** means the official notice of an opportunity to supply the State with goods or services that is published by the West Virginia State Police Purchasing Division.

3. GENERAL REQUIREMENTS:

- 3.1 **Contract Items and Mandatory Requirements:** Vendor shall provide Agency with the Contract Items listed below on an open-end and continuing basis. Contract Items must meet or exceed the mandatory requirements as shown below.

3.1.1 2022 or newer, or present model year, Four (4) Door Utility.

- 3.1.1.1 **Standard Equipment Requirements** – The following are mandatory as related to the standard equipment requirements of the vehicle. The requested vehicle must contain the following unless otherwise noted.

- A. All-Wheel-Drive (AWD)
- B. Suspension – Front and Rear Independent, Roll stability control
- C. Brakes – Vendors Heaviest Available 4 Wheel Disc Brakes with Heaviest Available front and rear Calipers
- D. Engine – V-6 (Six Cylinder) pricing for different engine options if available

REQUEST FOR QUOTATION
2022 or newer or current model year, Police Utility Four (4) Door

- E. Alternator – Minimum 220 Amp
- F. Transmission and Oil Cooler – Vendors Heaviest Available
- G. Battery – Minimum 900 Cold Cranking Amps
- H. Transmission – Minimum 10 Speed Transmission, Column Shifted
- I. Cooling System – Vendors Heaviest and Highest Volume Radiator Available
- J. Engine Hour Meter
- K. Fuel Tank – Minimum 19 Gallon
- L. Exterior Key Locks – Driver, Front Passenger and Deck Lid; 4 Keys and Fobs
- M. Mirrors – Power Electric Remote, Manual Fold Away
- N. Wheels – Vendors Heaviest and Strongest Available 18" Steel with Full Size Spare
- O. Flooring – Vendors Heaviest and Strongest Vinyl
- P. Seats – Front, Heaviest Available cloth, with Minimum 6 way power driver seat with manual lumbar and 2 way manual passenger seat. Rear seat vinyl bench 40/20/40 split.
- Q. Minimum 9" space between front Driver and Passenger Seat for Aftermarket Consoles.
- R. Tilt Steering Column
- S. Audio – AM/FM Stereo with ~~Single CD player~~ ^{N/A} with MP3 Capability
- T. Rear View Camera
- U. Reverse Back Up Sensor with Audible Interior Alarm

REQUEST FOR QUOTATION
2022 or newer or current model year, Police Utility Four (4) Door

- V. Power Windows with one-touch up/down Driver's Side with Disable Feature
- W. Windshield Wipers – Two Speed with Intermittent Mode
- X. Cruise Control
- Y. Electric Rear Window Defroster
- Z. Power Trunk Lid Release
- AA. LED Spotlight drivers side
- BB. License Plate Mounts – Front and Rear
- CC. Rear Door Handles Inoperable / Rear Locks Inoperable / Rear Window Switches Inoperable
- DD. Undercarriage Deflector Plate
- EE. Minimum of 52.0 Cubic Feet of available trunk space
- FF. Dark Car Feature (Courtesy Lamps Disable when any Door is Opened)
- GG. Bluetooth Cellular Hands Free Feature
- HH. Pre-wiring for grille LED lights, siren and speaker (60A)
- II. Wiring to support up to six (6) LED lights (engine compartment/grille)
- JJ. Wiring for 10-amp siren/speaker circuit engine cargo area
- KK. Wiring to support up to six (6) rear LED lights in rear cargo compartment
- LL. Any wiring harnesses or connectors to support the above listed police lighting applications (GG, HH, II, and JJ)

REQUEST FOR QUOTATION
2022 or newer or current model year, Police Utility Four (4) Door

MM. Trailer tow wiring harness.

NN. Pricing with Custom Paint for West Virginia State Police

OO. Pricing without Custom Paint

3.1.1.2 2022 or newer or current model year, Four (4) Door Utility will be purchased from available stock colors for the above described model. All bumper coverings and/or body side moldings are to be of the same color.

3.1.1.3 Warranty: The following are mandatory requirements as related to warranty.

A. Basic Comprehensive Warranty coverage – The vendor shall provide the vehicle manufacture's basic whole vehicle warranty. The minimum length of warranty shall be three (3) years/ 36,000 miles and shall cover the entire vehicle bumper to bumper.

B. Basic Corrosion- the vendor shall provide the manufacture's standard Basic Corrosion warranty.

4. CONTRACT AWARD:

4.1 Contract Award: The Contract is intended to provide Agencies with a purchase price on all Contract Items. The Contract shall be awarded to the Vendor that provides the Contract Items meeting the required specifications for the lowest overall total cost as shown on the Pricing Pages.

4.2 Pricing Pages: Vendor should complete the Pricing Pages by filling in the unit price, the extended price, the total and the vendor information. Vendor should complete the Pricing Pages in their entirety as failure to do so may result in Vendor's bids being disqualified
The Pricing Pages contain a list of the Contract Items and estimated purchase volume. The estimated purchase volume for each item represents the approximate volume of anticipated purchases only. No future use of the Contract or any individual item is guaranteed or implied.

Vendor should electronically enter the information into the Pricing Pages through wvOASIS, if available, or as an electronic document

5. ORDERING AND PAYMENT:

- 5.1 Ordering:** Vendor shall accept orders through wvOASIS, regular mail, facsimile, e-mail, or any other written form of communication. Vendor may, but is not required to, accept on-line orders through a secure internet ordering portal/website. If Vendor has the ability to accept on-line orders, it should include in its response a brief description of how Agencies may utilize the on-line ordering system. Vendor shall ensure that its on-line ordering system is properly secured prior to processing Agency orders on-line.
- 5.2 Payment:** Vendor shall accept payment in accordance with the payment procedures of the State of West Virginia.

6. DELIVERY AND RETURN:

- 6.1 Delivery Time:** Vendor shall deliver standard orders within one hundred twenty (120) calendar days after orders are received. Vendor shall deliver emergency orders within sixty (60) calendar day(s) after orders are received. Vendor shall ship all orders in accordance with the above schedule and shall not hold orders until a minimum delivery quantity is met.

The Vendor will deliver vehicles: Vehicles purchased by the West Virginia State Police will be delivered to 725 Jefferson Road, South Charleston, WV during the hours between: 9:00 AM. EST. and 4:00 PM. EST. excluding State and Federal Holidays. Vehicles will not be accepted until inspected and approved by Agency. All repairs and corrections will be the responsibility of the Vendor. Vendor will provide Vendor's license, insurance (as required for dealer license) and reasonable management assistance for pre-delivery acceptance inspections.

- 6.2 Late Delivery:** The Agency placing the order under this Contract must be notified in writing if orders will be delayed for any reason. Any delay in delivery that could cause harm to an Agency will be grounds for cancellation of the delayed order, and/or obtaining the items ordered from a third party.
- 6.3 Delivery Payment/Risk of Loss:** Standard order delivery shall be F.O.B. destination to the Agency's location. Vendor shall include the cost of standard order delivery charges in its bid pricing/discount and is not permitted to charge the Agency separately for such delivery. The Agency will pay delivery charges on all emergency orders provided that Vendor invoices those delivery costs as a separate charge with the original freight bill attached to the invoice.
- 6.4 Return of Unacceptable Items:** If the Agency deems the Contract Items to be unacceptable, the Contract Items shall be returned to Vendor at Vendor's expense

REQUEST FOR QUOTATION
2022 or newer or current model year, Police Utility Four (4) Door

and with no restocking charge. Vendor shall either make arrangements for the return within five (5) days of being notified that items are unacceptable, or permit the Agency to arrange for the return and reimburse Agency for delivery expenses. If the original packaging cannot be utilized for the return, Vendor will supply the Agency with appropriate return packaging upon request. All returns of unacceptable items shall be F.O.B. the Agency's location. The returned product shall either be replaced, or the Agency shall receive a full credit or refund for the purchase price, at the Agency's discretion.

- 6.5 Return Due to Agency Error:** Items ordered in error by the Agency will be returned for credit within 30 days of receipt, F.O.B. Vendor's location. Vendor shall not charge a restocking fee if returned products are in a resalable condition. Items shall be deemed to be in a resalable condition if they are unused and in the original packaging. Any restocking fee for items not in a resalable condition shall be the lower of the Vendor's customary restocking fee or 5% of the total invoiced value of the returned items.

7. VENDOR DEFAULT:

7.1 The following shall be considered a vendor default under this Contract.

- 7.1.1** Failure to provide Contract Items in accordance with the requirements contained herein.
- 7.1.2** Failure to comply with other specifications and requirements contained herein.
- 7.1.3** Failure to comply with any laws, rules, and ordinances applicable to the Contract Services provided under this Contract.
- 7.1.4** Failure to remedy deficient performance upon request.

7.2 The following remedies shall be available to Agency upon default.

- 7.2.1** Immediate cancellation of the Contract.
- 7.2.2** Immediate cancellation of one or more release orders issued under this Contract.

REQUEST FOR QUOTATION
2022 or newer or current model year, Police Utility Four (4) Door

7.2.3 Any other remedies available in law or equity.

8. MISCELLANEOUS:

- 8.1 No Substitutions:** Vendor shall supply only Contract Items submitted in response to the Solicitation unless a contract modification is approved in accordance with the provisions contained in this Contract.
- 8.2 Vendor Supply:** Vendor must carry sufficient inventory of the Contract Items being offered to fulfill its obligations under this Contract. By signing its bid, Vendor certifies that it can supply the Contract Items contained in its bid response.
- 8.3 Inspection of Sample Vehicle(s):** Within three (3) weeks after issuance of a Purchase Order, the successful vendor shall make arrangements to deliver to the West Virginia State Police, 725 Jefferson Road, South Charleston, WV. A sample vehicle having the same general body, chassis, engine and transmission as the vehicle on which the bid was submitted. It will be used as a prototype for determining the methods of attaching various items of police equipment.
- 8.4 Pre-Delivery:** Prior to delivery each new vehicle must be completely serviced in accordance with Manufactures New-Car dealer "make ready" preparation and in accordance with these specifications and the manufactures recommendations. Each vehicle shall contain a pre-delivery check sheet signed by the mechanic(s) or individuals that serviced the same prior to the Agency inspection. Vehicle Owner's manual must be delivered with the vehicle. Upon delivery to the Agency the vehicle must be clean inside and out. No dealer insignia or dealer name is to be attached to the vehicle in any form.
- 8.5 Reports:** Vendor shall provide quarterly reports and annual summaries to the Agency showing the Agency's items purchased, quantities of items purchased, and total dollar value of the items purchased. Vendor shall also provide reports, upon request, showing the items purchased during the term of this Contract, the quantity purchased for each of those items, and the total value of purchases for each of those items. Failure to supply such reports may be grounds for cancellation of this Contract.
- 8.6 Contract Manager:** During its performance of this Contract, Vendor must designate and maintain a primary contract manager responsible for overseeing Vendor's responsibilities under this Contract. The Contract manager must be available during normal business hours to address any customer service or other issues related to this Contract. Vendor should list its Contract manager and his or her contact information below.

REQUEST FOR QUOTATION
2022 or newer or current model year, Police Utility Four (4) Door

Contract Manager: Mike Ballard
Telephone Number: 304-369-2411 Ext. 33
Fax Number: 304-369-2490
Email Address: mballard@stephensauto.com

Resolution No. 722-22

Introduced in Council:

September 19, 2022

Adopted by Council:

Introduced by:

Joseph Jenkins

Referred to:

1 Resolution No. 722-22 - Authorizing approval of Amendment No. 3 of the FY 2022-2023 General
2 Fund Budget as indicated on the attached list of accounts.

3

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

5

6 That Amendment No. 3 of the FY 2022-2023 General Fund Budget as indicated on the attached
7 list of accounts is approved.

General Fund FY 2022-2023 Budget Amendment No. 3 - September 19, 2022

Revenues and Fund Balances

Account No.	Department	Account Description	Current Amount	Increase/ (Decrease)	Amended Amount
Net Increase/(Decrease) to Revenues				-	-

Expenditures

Account No.	Department	Account Description	Current Amount	Increase/ (Decrease)	Amended Amount
001 976 00 800 4 459	Capital Outlay - Refuse	Capital Outlay - Equipment	1,611,956	15,000	1,626,956
001 699 00 000 5 598	Contingency	Contingency	214,554	(15,000)	199,554
Net Increase/(Decrease) to Expenditures				-	

Description:

To allow for the purchase of mechanical tipper arms for 2 recycling packer trucks.

Reportable: To maintain compliance with the budgetary guidelines of the State of West Virginia.

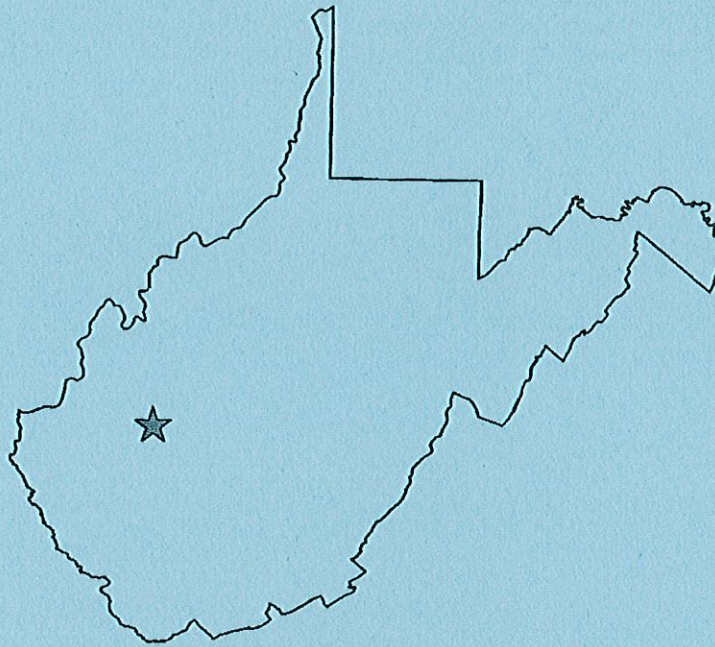


City of Charleston West Virginia

City Treasurer's Report to City Council

Month Ended

August 2022



Respectfully submitted,

Victor Grigoraci, CPA – City Treasurer

<u>Fund / Description</u>	<u>Balance August 2021</u>	<u>Balance July 2022</u>	<u>Collections August 2022</u>	<u>Withdrawals August 2022</u>	<u>Balance August 31, 2022</u>
001 General Fund	10,615,782.63	15,461,784.96	8,912,263.21	8,542,601.50	15,831,446.67
002 Coal Severance Tax	92.26	17,849.56	0.00	17,840.00	9.56
003 Municipal Stabilization	20,564,867.94	19,172,438.02	38,266.11	0.00	19,210,704.13
007 Business Improvement Dist Fund	0.00	33,300.30	501.38	1,715.44	32,086.24
009 Community Development	5,316.18	1,909.29	179,606.96	161,843.97	19,672.28
014 IT Infrastructure	1,041,702.47	1,555,439.74	3,102.95	1,200.00	1,557,342.69
015 Charleston Land Reuse	247,932.76	198,317.55	491.18	3,282.00	195,526.73
017 Project West Invest	564.21	566.32	1.13	0.00	567.45
018 Planning Grant	0.00	2.66	19,679.37	12,740.00	6,942.03
019 Tourism & Promotions	490,587.80	712,784.75	1,401.71	25,000.00	689,186.46
020 Business Development	1,318,621.70	1,316,221.51	2,627.03	0.00	1,318,848.54
021 Community Participation	68,620.45	46,806.38	93.42	0.00	46,899.80
024 LGBTQ Working Group	484.19	1,265.48	2.52	0.00	1,268.00
026 Uniform Pension Reserve Fund	26,132,027.57	32,390,738.75	-72,659.78	584,687.00	31,733,391.97
035 Municipal Beautification	32,789.35	133,184.97	264.63	3,100.00	130,349.60
036 Special Demolition	33,291.90	22,774.63	45.46	0.00	22,820.09
037 Sister Cities	27,612.01	27,715.31	55.31	0.00	27,770.62
038 Solid Waste	762,271.08	423,094.86	424,574.32	43,273.26	804,395.92
040 Landfill Closure	3,559,758.17	3,965,677.11	29,130.63	0.00	3,994,807.74
041 Police Contributions	15,040.56	119,261.17	238.03	0.00	119,499.20
042 Police Evidence	916,326.39	720,532.98	1,354.32	101,447.06	620,440.24
043 Forfeited Funds	419,528.86	773,167.92	10,259.47	17,185.11	766,242.28
044 Municipal Court	258,857.43	268,336.49	37,371.00	18,366.00	287,341.49
045 Homeland Security	20,450.97	29,571.29	27,413.60	9,170.00	47,814.89
046 Home-ARP Inv Trust Fund	0.00	0.22	0.00	0.00	0.22
047 Health Insurance Reserves	6,246,443.33	6,269,784.47	12,513.81	0.00	6,282,298.28
048 Wayfinding Commission	21,250.26	21,329.76	41.07	3,882.95	17,487.88
049 Live On The Levee	8,252.59	23,218.88	28,029.61	33,192.25	18,056.24
073 American Rescue Plan	18,401,939.69	34,729,061.95	69,967.10	261,870.48	34,537,158.57
080 Human Rights	176,793.29	176,793.29	0.00	0.00	176,793.29
081 Home Program	528.18	21,056.66	75,476.23	23,816.39	72,716.50
085 Firefighters Assistance Grant	77.08	77.08	0.00	0.00	77.08
088 SBA Riverfront Project Donation Account	9.18	9.18	0.00	0.00	9.18
088 SBA Riverfront Project Grant Account	10,167.71	10,167.71	0.00	0.00	10,167.71
090 Byrne Justice	0.00	118.00	1,306.00	1,424.00	0.00
094 Byrne Justice	800.36	0.00	0.00	0.00	0.00
095 Police Grants	103,617.49	275,533.17	35,121.65	6,775.68	303,879.14
096 Historic Preservation	8,417.47	0.00	0.00	0.00	0.00
099 Public Arts Grant	208,914.34	216,853.42	0.00	0.00	216,853.42
100 Sinking Fund	4,025,091.28	2,029,713.53	4,051.09	0.00	2,033,764.62
200 Infrastructure	153,584.84	154,158.74	307.69	0.00	154,466.43
214 Civic Center Capital Improvement	367,733.93	255,540.13	505.68	2,500.00	253,545.81
215 Municipal Auditorium Capital Improvement	168,845.48	262,184.57	523.29	0.00	262,707.86
220 General Maintenance	4,163,928.46	3,969,844.40	7,885.01	45,844.20	3,931,885.21
221 City Service Fee Capital Project	3,011,465.56	2,785,580.09	5,231.68	513,169.83	2,277,641.94
222 Facilities Maintenance	1,663,994.73	1,959,706.09	3,886.05	25,346.45	1,938,245.69
223 Green Initiative Fund	0.00	250,603.78	500.18	0.00	251,103.96
224 Sidewalk Improvement Fund	0.00	250,583.21	500.13	0.00	251,083.34
255 Ballpark Maintenance	92,343.21	96,352.15	192.31	0.00	96,544.46
402 Civic Center Revenue	70,275.07	320,752.13	601,694.15	544,097.44	378,348.84
406 Parking System Revenue	4,796,969.29	5,078,230.52	238,882.67	107,465.29	5,209,647.90
426 Parking Operation and Maintenance	2,816,416.21	3,335,413.79	6,651.91	13,500.00	3,328,565.70
427 Civic Center TIF Project	462,274.19	496,590.07	991.14	0.00	497,581.21
900 M - DENT	606,965.59	812,308.88	57,313.03	40,917.66	828,704.25
901 Pending Forfeiture	1,166,552.18	1,153,747.37	2,302.76	0.00	1,156,050.13
Working Cash Advance Fund	32,925.00	34,525.00	0.00	0.00	34,525.00
Total All Funds	115,319,102.87	142,382,580.24	10,769,958.20	11,167,253.96	141,985,284.48

Bill No. 7972

Introduced in Council:

September 19, 2022

Introduced by:

Sam Minardi

Adopted by Council:

Referred to:

Planning/Streets & Traffic

Bill No. 7972 - A Bill to establish a no parking zone on the north side of Ravinia Road located from a point 50 feet west of Zel Road to a point 120 feet west of Zel Road along an area where a guard rail currently is in place and amending the Traffic Control Map and Traffic Control File, established by the code of the City of Charleston, West Virginia, two thousand and three, as amended, Traffic Laws, Section 263, Division 2, Article 4, Chapter 114, to conform therewith.

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

Section 1. That a no parking zone is hereby established on the north side of Ravinia Road located from a point 50 feet west of Zel Road to a point 120 feet west of Zel Road along an area where a guard rail currently is in place.

Section 2. The Traffic Control Map and Traffic Control File, established by the code of the City of Charleston, West Virginia, two thousand and three, as amended, Traffic Laws, Section 263, Division 2, Article 4, Chapter 114, shall be and hereby are amended, to conform to this Ordinance.

Section 3. All prior Ordinances, inconsistent with this Ordinance are hereby repealed to the extent of said inconsistency.

Bill No. 7973

Introduced in Council

Adopted by Council

September 19, 2022

Introduced by:

Joseph Jenkins

Referred to

Finance Committee

Bill No. 7973 - A Bill granting a non-exclusive franchise to Zayo Group, LLC for the use of the streets and other public rights-of-way of the City of Charleston, West Virginia, for the purposes of constructing, installing and maintaining network facilities for telecommunication services within the City of Charleston.

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

That Zayo Group, LLC is hereby granted a non-exclusive franchise and is authorized to have access to the public rights-of-way in the City of Charleston for the purposes of constructing, installing and maintaining network facilities for telecommunication services within the City of Charleston upon the following terms and conditions which are agreed to by Zayo Group, LLC as evidenced by its signature below:

FRANCHISE AGREEMENT

This Franchise Agreement (hereinafter “Agreement”) is made and entered into this ____ day of _____, 2022 by and between the City of Charleston (the “City”) and Zayo Group, LLC (“Zayo”).

RECITALS

WHEREAS, Zayo is a limited liability company duly organized and existing under the laws of the State of Delaware, and has been authorized by the West Virginia Public Service Commission to provide all forms of telecommunication services in the State of West Virginia; and

WHEREAS, Zayo is a telecommunications provider that seeks to construct, install and maintain network facilities for telecommunications services within the City of Charleston using the Public Rights-of-Way (“PROW”), which are limited resources; and

WHEREAS, in accordance with the provisions of W. Va. Code § 8-31-1, the City of Charleston has the authority to grant access to its PROW; and

WHEREAS, Section 37 of the Charter of the City of Charleston authorizes the City to enter into franchise agreements with public utilities by ordinance duly passed by the council; and

WHEREAS, Section 102-212 of the Code of the City of Charleston requires a franchise agreement before any person may occupy the PROW; and

WHEREAS, The City is mindful that access to the PROW for the installation of new facilities by multiple firms may have an adverse impact upon the community unless facilities are installed and maintained pursuant to an overall plan that manages the use of the PROW; and

WHEREAS, the City has determined that service to be provided by Zayo through its facilities to be located and maintained within the City is beneficial to the public and businesses within the City and further desires to promote the entry and operation of fiber optic service providers and facilities in a competitively neutral manner; and

WHEREAS, this ordinance is designed to protect the health, welfare and general economic wellbeing of the City of Charleston; and

NOW, THEREFORE, in consideration of the recitals and the mutual promises contained herein, the City and Zayo agree as follows:

ARTICLE I GENERAL AND DEFINITIONS

A. General. Zayo promises to remain in good standing with West Virginia and the City by being licensed to do business and remaining current on all taxes and fees. Zayo further promises to notify the City immediately of the change of any of the following current information:

1. Responsible official and telephone and mailing address:

Zayo Group, LLC

Attn: Director, Underlying Rights – East Region

1821 30th Street, Unit A

Boulder, CO 80301

(303) 381-4683

2. Local agent, address and telephone for service of process:

Roger Radcliff

OSP PM VA / MD

Zayo Group

21635 Red Rum Blvd., Suite 165 Ashburn, VA 20147

roger.radcliff@zayo.com Cell- 571-220-9646

3. Business name and type of business entity: Zayo Group, LLC, a Delaware limited liability company.

B. Defined Terms:

1. Fiber Optic or Other Cable and Related Facilities (sometimes hereinafter referred to as “Facilities” and/or “Equipment”) means fiber optic cables or other cable facilities, conduits, lines, converters, splice boxes, handholds, manholes, vaults, equipment, drains, surface location markers, appurtenances and related Facilities located or to be located by Zayo within the PROW of the City of Charleston and used or useful for the transmission of Telecommunications Services.

2. Law means any local, state or federal legislative, judicial or administrative order, certificate, decision, statute, constitution, ordinance, resolution, regulation, rule, tariff, guideline or other requirement as amended, now in effect or subsequently enacted or issued during the term of this Agreement.

3. Public Rights-of-Way (“PROW”) means the surface and area across, in, over, along, upon and below the surface of the public streets, rights of way, roads, sidewalks, lanes, courts, ways, alleys, boulevards, and places including, without limitation, all public utility easements and public service easements as the same now or may thereafter exist that are under jurisdiction of the City of Charleston.

4. Telecommunications Services means all telecommunications services that Zayo may provide under Law.

**ARTICLE II
GRANT OF AUTHORITY AND PERMISSION
TO PLACE FACILITIES IN PUBLIC RIGHTS-OF-WAY**

A. Access. Subject to the terms of this Agreement, the City hereby grants to Zayo the non-exclusive right to construct, install, maintain, locate, move, operate, place, protect, reconstruct, reinstall, relocate, remove and replace Fiber Optic or Other Cable and Related Facilities in any PROW of the City. Zayo shall be solely responsible for obtaining any required consents from State or County agencies, or private parties, to the extent that its operations affect State, County, or private property. For purposes of this Agreement, Zayo is only authorized to install underground Facilities but may access and use the PROW above ground for the installation, maintenance, repair, of its Facilities and Equipment, and for other related legitimate purposes authorized herein. It is expressly agreed that this Agreement does not give Zayo the right to occupy any PROW with permanent above ground cabinets, pads and other similar above-ground structures or facilities that require the installation of new poles or construction. If Zayo desires to occupy any PROW with

such a structure or facility, a separate permit and city approval will be required. This paragraph does not limit Zayo's ability to contract with other entities for access to Facilities and Equipment in the PROW.

1. This grant of authority is exclusive to Zayo and its agents. Zayo is not authorized to rent space or allow use of the Facilities to other providers who do not have a franchise or license agreement with the City and approval by the City to access. To clarify, the Facilities can be used for any Telecommunications Services, including, but not limited to, the lease, license or granting of indefeasible or other rights of use in optical fiber strands.

2. Zayo acknowledges and understands that the City desires to minimize installation and maintenance work within the PROW. Therefore, Zayo shall follow a process consistent with the West Virginia Division of Highways Dig Once Policy to make fair and reasonable accommodation to share installation costs if competitors elect to place Facilities along the same PROW as described in the permit sought. To comply with the West Virginia Division of Highways Dig Once Policy, Zayo shall follow the process set forth in West Virginia Code § 17-2E-5, as of the effective date of this Agreement, with the following changes:

- A. References to the "council" or the "division" shall be interpreted as being to the City Engineer;
- B. The rules promulgated by the commissioner of the division pursuant to West Virginia Code § 17-2E-5(f) shall similarly apply as if promulgated by the City Engineer. Any issues in applying the rules shall be brought to the attention of the City Engineer directly.

3. All installation and maintenance of fiber-optic Facilities to be installed within the PROW require the written approval of City in accordance with the City's standard permitting process.

4. Zayo recognizes and accepts the risk that the City retains the right to amend existing, and pass new, PROW ordinances governing its PROW within the term of this Agreement, subject to applicable law. In the event the City passes any such ordinance which might affect Zayo's operations under this Agreement, both Zayo and the City agree to enter into good faith negotiations to enable Zayo to conform its activities under this Agreement within a reasonable period of time. Zayo expressly acknowledges that any changes to City Code made by City Council regarding issues impacting Zayo's operations under this Agreement will be controlling and the possibility and outcome of such changes is expressly understood and contemplated by Zayo in this Agreement.

5. With respect to the PROW, Zayo shall provide the City with detailed Plans of the Project so the City can have appropriate verification that:

- A. The installation of the Facilities will not adversely affect the safety, design, construction, operation, maintenance or stability of the City's street system;

- B. Operation under the Agreement will not interfere with or impair the present use or anticipated future expansion of the affected street;
- C. The direct and indirect environmental and economic effects that would result from disapproval of the use of the PROW for the accommodation of the Facilities would be contrary to the public interest;
- D. The installation will not involve tree removal or tree trimming that conflicts with City policy;
- E. The installation shall be located in an area that is as far along the outer limit of the PROW as is practicable; and

B. No Property Interest. This Agreement is not a grant by the City of any fee simple or superior property interest and is made subject and subordinate to the prior and continuing right of the City to control and use the PROW as a street and/or sidewalk and for the purpose of laying, installing, maintaining, repairing, protecting, replacing and removing sanitary sewers, water mains, storm drains, gas mains, poles and for other municipal uses and with the right of ingress and egress, along, over, across and in said PROW.

C. No Interference. In the performance and exercise of its rights and obligations under this Agreement, Zayo shall not interfere with the existence and operation of any and all PROW, and private rights-of-way, sanitary sewers, water mains, storm drains, gas mains, poles, overhead and underground electric and telephone wires, television cables, public works, telecommunication or utility Facilities, or City of Charleston property without the prior approval of the owner(s) of the affected property or properties, including the City.

Nothing in this Agreement abrogates the right of the City to perform any public works or public improvements. If Facilities of Zayo interfere with the installation, construction, operation, maintenance, repair or removal of such public works or public improvements, Zayo at its own expense, within sixty (60) days after notice by the City (or such longer period of time as may be reasonably necessary and as may be agreed upon by the City and Zayo through good faith negotiation), shall protect, alter, remove or relocate Facilities, as directed by the City. If Zayo refuses or neglects to so protect, alter, remove or relocate Facilities or Equipment within the sixty (60) days after notice or the agreed negotiated time, the City may break through, remove, alter or relocate Facilities or Equipment without any liability to City, and Zayo shall pay to the City the costs incurred in connection with such breaking through, removal, alteration or relocation provided that reasonable efforts shall be used to minimize any damage to Zayo's Facilities or Equipment. The City shall invoice Zayo for the costs and expenses incurred for such break through, removal, alteration, or relocation of Facilities and Equipment, which invoice will be payable within sixty (60) days of the date of the invoice. If Zayo fails to make payment during the required time period, the City may file a lien against the Facilities and Equipment. The City may enforce this lien and collect these costs and expenses, including reasonable attorney fees, as debts owed to the City, by bringing action in any court of

competent jurisdiction and by the City exercising the City's rights to draw on bonds or letters of credit.

D. Relocation of Facilities for Government. Except as provided below, Zayo will protect, support, temporarily disconnect, relocate, or remove any of its property at the time and in the manner required by the City or any other governmental entity for any legitimate and reasonably necessary or convenient governmental purpose at Zayo's expense. Except in an emergency, the City will provide written notice describing where the work is to be performed at least sixty (60) days before the deadline for performing the work. Zayo may seek an extension of the time to perform the work where it cannot be performed within sixty (60) days even with the exercise of due diligence, and such request for an extension will not be unreasonably refused.

E. Relocation of Facilities for a Third Party. If any removal, relaying, or relocation is required to accommodate the installation, construction, operation, or repair of the facilities or equipment of another party ("Third Party") authorized to use the PROW because Zayo's Facilities or equipment were improperly installed, and if installed properly the removal, relocation or relaying would be unnecessary, Zayo will, after sixty (60) days' advance written notice, take action to effect the necessary changes requested by such Third Party. Unless the matter is governed by a valid contract or applicable law, the reasonable cost of removal, relaying, or relocation will be borne by Zayo.

F. Term. The period of this Agreement shall be for an initial term of fifteen (15) years commencing at the date of the signing of this Agreement, with the right to renew for consecutive additional five (5) year terms, unless either party notifies the other in writing at least sixty (60) days prior to the expiration of the term of its intent to seek a modification or termination of the Agreement.

G. Regulatory Approvals. Zayo shall obtain all necessary approvals from the appropriate federal and state authorities to offer Telecommunications Services through its Facilities and Equipment, and shall, upon the City's request, submit evidence of such approvals to the City.

H. Street Closings. Nothing in this Agreement waives or releases the rights of the City in and to the streets. If all or part of the streets are eliminated, discontinued, closed or demapped in accordance with applicable law, the Agreement shall cease with respect to such streets upon the later to occur of (a) the effective date that such streets become eliminated, discontinued, closed or demapped and conditions specified by the City are met; or (b) in the case of any transfer of title to such streets to a private Person, the closing date of such transfer.

ARTICLE III INSTALLATION OF FACILITIES

A. Permits. As required by Law, Zayo shall apply for a permit for all work and each job within the PROW, and shall comply with all terms and conditions of any such permit. Zayo shall furnish City detailed plans of the work and other such information as required by Law, and shall pay all standard permitting and related processing, field marking, engineering and inspection fees prior to issuance of a permit in accordance with the rates in effect at the time of payment. Improvements shall be constructed and installed in accordance with the Law. Zayo shall comply with all existing PROW ordinances and permitting requirements and with any future or revised ordinances and requirements.

B. Facilities Map. Zayo shall maintain an accurate map showing the location of its existing Facilities, including conduit lines, equipment, and any other details of the Facilities as may be requested by the City. If any of the requested information is considered proprietary, Zayo will notify the City of this opinion, and the City will strive to keep it confidential, as permitted by law. Zayo will submit an existing Facilities Map as a condition of this Agreement. As for new installations, after the effective date of this Agreement, Zayo shall submit the proposed mapping of its plans for new installation to the City prior to any installation. As-built drawings of any new installation of Facilities shall be furnished to the city within sixty (60) days of completion of such installation. All mapping shall be provided in a format compatible to the City's GIS System, including, but not limited to, AutoCAD, Civil 3D or such other format agreed to by the Parties.

C. Exclusion of Certain Locations/Facilities. Prior to its installation of any Facilities in the PROW, and after Zayo provides the City with its proposed plans for the Facilities, the City may in its discretion designate certain locations for Facilities in the PROW to be excluded from use by Zayo for its Facilities, which, in the reasonable judgment of the City Engineer, are incompatible with the proposed Facilities or would be rendered unsafe or unstable by the installation. The City Engineer may further exclude certain other locations that have been designated or planned for other use or are not otherwise available for use by Zayo due to engineering, technological, proprietary, legal or other limitations or restrictions as may be reasonably determined by the City. In the event such exclusions conflict with reasonable requirements of Zayo, City will cooperate in good faith with Zayo and exercise commercially reasonable efforts to attempt to find suitable alternatives, if available, provided that the City shall not be required to incur financial costs nor may Zayo require the City to acquire new locations for Zayo.

D. City's Trees. In installing or maintaining its Facilities or structures along the PROW, Zayo shall not injure or in any manner cut or trim the trees or branches of trees in such PROW without the permission of the City. All such trimmings shall be performed in a safe and orderly manner and in accordance with applicable Law. Zayo shall be responsible for removing all trimmings from the PROW upon completion.

E. Installation, operation, maintenance, repair, relocation and removal of Facilities. The installation, operation, maintenance, repair and removal of Zayo's Fiber Optic or Other Cable and Related Facilities shall be accomplished without cost or expense to the City and in such a manner so as not to endanger persons or property, or unreasonably obstruct travel on any road, walk or other access thereon within the PROW. During the performance of installation, along with any subsequent maintenance, repair, relocation or removal, Zayo shall be solely responsible for putting in place adequate safety measures and warnings for both pedestrians and vehicular traffic, including, but not limited to, barricades, flashing lights, flaggers, and all other measures required by law or necessary under the circumstances. Zayo shall notify the City Traffic Engineering Department and City Engineer of traffic and parking disruptions prior to beginning work. Zayo will maintain its Facilities in good order and operating condition and in compliance with all applicable PROW construction and other applicable federal, state and local regulatory codes throughout the term of this Agreement. Zayo shall justly compensate owners of property for any damages caused by installing, operating, maintaining, repairing, relocating or removing its Facilities.

F. Restoration of Public Rights-of-Way. After the installation, along with any subsequent maintenance, repair, relocation or removal, of the Fiber Optic or Related Facilities, Zayo shall, at its own cost, repair and return the PROW at a minimum to the same or similar condition existing before such installation, maintenance, repair, relocation or removal, in a manner as may be reasonably specified by the City and to the reasonable satisfaction of the City. Zayo shall be responsible for damage to City of Charleston street pavements, existing utilities, curbs, gutters and sidewalks related to Zayo's installation, construction, operation, maintenance, repair, relocation or removal of its Fiber Optic or Other Cable and Related Facilities in PROW, and shall repair, replace and restore in kind, any such damaged property at its sole expense. Upon failure of Zayo to repair, replace and restore any such damaged property in a manner as may be reasonably specified by the City and to the reasonable satisfaction of the City Engineer, after thirty (30) days notice in writing shall have been given by the City (or such longer period of time as may be reasonably necessary and as may be agreed upon by the City and Zayo through good faith negotiation), the City may cause such necessary repair, replacement or restoration to be made and may collect the costs and expenses incurred for such repair, replacement or restoration from Zayo. The City may collect these costs and expenses, including reasonable attorney fees, as debts owed to the City, by bringing action in any court of competent jurisdiction.

G. Insurance. Zayo shall provide proof to City of and shall maintain throughout the term of this Agreement liability insurance with regard to all damages in the minimum types and amounts of:

- (1) General Liability - including premises, products and complete operations.
 - (i) Bodily injury liability
 - \$1,000,000 each person
 - \$1,000,000 each occurrence

- (ii) Property damage liability, or \$1,000,000 each occurrence
 - (iii) Bodily injury and property damage combined \$1,000,000 single limit
- (2) Comprehensive - Automobile Liability Insurance, including owned, non-owned and hired vehicles.
 - (i) Bodily injury liability \$1,000,000 each person
\$1,000,000 each occurrence
 - (ii) Property damage liability \$1,000,000 each occurrence
 - (iii) In lieu of (1) and (2)
Bodily injury and property damage combined \$1,000,000 single limit
- (3) Zayo agrees that with respect to the above-required insurance, the contracts will contain the following required provisions:
 - (i) The City of Charleston and its officers, agents, employees, and elected officials shall be named as additional insureds (as the interests of each may appear) as to the general liability coverage; and
 - (ii) Policies shall provide primary coverage and shall reflect that Zayo is responsible for any and all deductibles.

H. Construction Bond or letter of credit. Upon commencement of installation of the Facilities, Zayo shall deposit with the City of Charleston a surety bond or irrevocable letter of credit naming the City of Charleston as an obligee in the amount of Fifty Thousand Dollars (\$50,000.00). Zayo's obligation to maintain the surety bond shall terminate upon the satisfactory completion of the installation and the approval of the City Engineer. The City of Charleston may draw against the surety bond, up to its full face amount, for any loss or damage to the PROW utilized by Zayo due to damage caused to the PROW and not remedied to City's reasonable satisfaction after notice to Zayo of the loss or damage and a reasonable opportunity for Zayo to remedy said loss or damage. This bonding requirement is in addition to bonding requirements for obtaining construction permits, if any. Following the release of the Bond or letter of credit upon completion of installation, Zayo may undertake maintenance and repairs of its installed Fiber Optic or Other Cable and Related Facilities upon obtaining the necessary permits and the payment of associated fees; provided that in the event Zayo undertakes repairs on an emergency basis at a time when permitting offices are closed, Zayo will notify the City Engineer of said emergency repair on the next business day following initiation of the emergency repair.

I. Indemnification. To the fullest extent permitted by law, Zayo agrees to indemnify, defend and hold harmless the City of Charleston its officers, employees, agents, and officials from and against any and all claims, demands, losses, damages,

liabilities, fines, and penalties, and all costs and expenses incurred in connection therewith, including, without limitation, reasonable attorney's fees and costs of defense (collectively, the losses), arising out of or related to: the installation, operation, maintenance, repair, relocation or removal of the Fiber Optic and Related Facilities; the negligent or wrongful acts or omissions of Zayo, its officers, employees, and agents; or, any breach by Zayo of its obligations described in this Agreement; provided, Zayo shall not be responsible for any liability arising from the sole negligence or willful misconduct of the City of Charleston, its officers, employees, and agents.

IN NO EVENT SHALL EITHER PARTY BE LIABLE TO THE OTHER PARTY FOR ANY INCIDENTAL, SPECIAL, PUNITIVE, OR CONSEQUENTIAL DAMAGES WHATSOEVER, ARISING OUT OF OR IN CONNECTION WITH THIS AGREEMENT

J. Timing of Cable/Line Installation Work

The City shall be consulted, through the permit review process, before the installation of Fiber Optic or Other Cable and Related Facilities so it has the ability to approve final locations and timing of construction/installation and to coordinate such work with other City or public projects including, but not limited to, street paving.

**ARTICLE IV
FRANCHISE FEE AND INTEREST**

A. Franchise Fee. Upon completion of installation of its Facilities or any part thereof in the PROW, Zayo shall provide to the City, for its share of the City's costs of managing the PROW as contemplated by this Agreement, \$0.25 per linear foot per year for Facilities placed in the PROW.

B. No credits or deductions towards Other Fees. Zayo shall pay all standard, permit, right of way and user fees to the City of Charleston in accordance with Law. The compensation and other payments made pursuant to this agreement shall be in addition to any and all taxes or other fees or charges that Zayo shall be required to pay to the City, pursuant to current and future ordinances, or to any state or federal agency, all of which shall be separate and distinct obligations of Zayo.

C. Interest on Late Payments. If any payment required by this Agreement is not actually received by the City on or before the applicable dates fixed in this Agreement or applicable law, Zayo shall pay interest thereon, to the extent permitted by law, from the due date to the date paid at a rate equal to the rate of interest then changed by the City for late payment of business and occupation taxes.

D. Nonpayment of Franchise Fee. Failure of Zayo to pay its undisputed Franchise Fee within sixty (60) days of its due date shall constitute a breach of this Agreement and subject to the Termination provisions set forth in Article V.

ARTICLE V GENERAL PROVISIONS

A. Notices. Notices pursuant to this Agreement shall be in writing and addressed as follows:

To the City of Charleston, care of the City Manager, P. O. Box 2749,
Charleston, WV 25301, with a copy to the City Attorney at the same
address.

To Zayo: Zayo Group, LLC
Attn: Director, Underlying Rights – East Region
1821 30th Street, Unit A
Boulder, CO 80301
legal@zayo.com

If notice is to Licensee:
Zayo Group, LLC
Attn: General Counsel, Legal
1821 30th Street, Unit A
Boulder, Colorado 80301

Billing:
Zayo Group, LLC
Attn: Accounts Payable
1821 30th Street, Unit A
Boulder, Colorado 80301
ap@zayo.com

Emergencies (24/7):
Network Operations Center & Repair
Phone: (888) 404 9296
E-mail: zayoncc@zayo.com

Either party may change the address at which it will receive notices by providing written notice of the change to the other party.

B. Assignment. Notwithstanding any provision of this agreement, Zayo may

not assign, transfer, lease, or sell any of the rights and privileges granted hereunder without approval of City, which approval shall not be unreasonably withheld, conditioned or delayed; provided, that, unless otherwise provided by applicable law, no consent need be obtained to assign, transfer, lease or sell any rights and privileges granted hereunder to any of Zayo's affiliates or any party providing financing to Zayo; provided, however, that no assignment, transfer, lease or sale shall be effective until the assignee, transferee, lessee, or the purchaser, including an affiliate, has filed with the City a duly executed instrument reciting the fact of such assignment, transfer, lease or sale and accepting the terms of the Agreement and agreeing to perform all of the conditions thereof.

C. Abandonment or Termination. Zayo shall notify the City at least thirty (30) days in advance of Zayo's intent to abandon the Facilities, or any portion thereof, or to terminate this Agreement. Upon receipt of such notice of abandonment or termination, the City may, at the City's sole discretion, permit some or all of the Facilities to remain in place and ownership of such Facilities shall, if requested by City, be transferred to the City. If the City elects not to accept ownership of the Facilities within thirty (30) days after the receipt of notice of abandonment or termination by Zayo, Zayo shall, upon reasonable request by City, remove its Facilities at its own expense within thirty (30) days of the City's election not to accept ownership. In the event Zayo fails to remove or is not reasonably capable of removing its Facilities within thirty (30) days after abandonment or termination (or such longer period of time as may be reasonably necessary and as may be agreed upon by the City and Zayo through good faith negotiation), the City may, at City's reasonable discretion, permit the Facilities to remain abandoned in place, or City may undertake removal of the Facilities itself, without further notice, and charge the cost for removal to Zayo who shall pay said costs within thirty (30) days of the demand to do so. The City may collect its verifiable costs incurred from Zayo by exercising the City's rights to draw on bonds, letters of credit, or Guaranteed Fees, if any, and, to the extent such bonds, letters of credit, or Guaranteed Fees are not sufficient to cover such costs, the City may collect the remaining costs and expenses, including reasonable attorney fees, as debts owed to the City, by bringing action in any court of competent jurisdiction. The City shall also have a lien on the property of Zayo in an amount equal to all such costs, expenses, and legal fees associated with collection efforts.

D. Dispute Resolution, Choice of Law and Venue. If any breach, default, or other dispute arises out of this Agreement, the Parties agree that they will exercise good faith and commercially reasonable efforts to resolve said breach, default or other dispute through negotiation. Consistent with that agreement, each party agrees to disclose all material facts relevant to any dispute to the other party during any such negotiation. If the parties cannot resolve the matter without litigation, the Parties acknowledge and agree that either the Circuit Court of Kanawha County, West Virginia or the Federal District Court for the Southern District of West Virginia shall have exclusive jurisdiction to resolve the breach, default or other dispute giving rise to the litigation. The law of West Virginia shall govern any dispute that arises out of this Agreement.

E. Severability. In the event any of the provisions of this agreement are determined to be illegal or unenforceable, all other terms shall remain in full force and effect.

F. Bankruptcy. Zayo agrees to notify the City of any bankruptcy filings and any significant proceeding or motion that might affect the City's interests. The parties agree that this Agreement is personal and cannot be assigned without the consent of the City. If property is abandoned due to bankruptcy, Zayo will adhere to requirements of the subsection C titled "Abandonment or Termination" above.

G. Conflicts of law. If there is a conflict between the provisions of this Agreement and any laws, whether federal, state, or city, including all future laws and ordinances, the contract provision will be superseded by any such law and have no effect notwithstanding the contract clause of the United States Constitution.

I. Termination. The City of Charleston has the right to terminate this Agreement upon thirty (30) days written notice to Zayo, if Zayo commits a material breach of the terms of this Agreement, and such breach remains uncured in a ninety (90) day period. Among other things, the failure of Zayo to remove or relocate Facilities as provided in Article II of this Agreement, the failure of Zayo to pay the City back its invoiced costs and expenses, necessitating the filing of a lien, as provided in Article II of this Agreement, or the failure of Zayo to pay its Franchise Fee as provided in Article IV of this Agreement will be considered a material breach of this Agreement.

J. Survival. The insurance and indemnity obligations contained in Article III, Sections G and I herein shall remain in full force and effect and shall survive the completion or earlier termination of this Agreement.

[Remainder of page intentionally blank – signature pages follow]

IN WITNESS WHEREOF, the parties have duly executed this Agreement.

Zayo Group, LLC

By: _____

Dated: _____

STATE OF _____,
COUNTY OF _____, TO-WIT;

The foregoing instrument was acknowledged before me this ____ day of _____, 2022, by _____, in the capacity as _____ of **Zayo Group, LLC**.

My commission expires: _____.

Notary Public

CITY OF CHARLESTON

By: _____

Dated: _____

STATE OF WEST VIRGINIA,
COUNTY OF KANAWHA, TO-WIT;

The foregoing instrument was acknowledged before me this _____ day of _____, 2022, by _____, in the capacity as _____ of the **City of Charleston**, West Virginia.

My commission expires: _____.

Notary Public