



CITY OF CHARLESTON West Virginia



Council Member – 12th WARD

Joseph Jenkins
839 Gordon Drive
Charleston, West Virginia 25303
304-575-9202
joseph.jenkins@cityofcharleston.org

Finance Committee, Chair
Parking Committee, Chair
Ordinance and Rules Committee

AGENDA
FINANCE COMMITTEE MEETING
Monday, September 16, 2024
6:15 PM

AV ROOM #308, CITY HALL, CHARLESTON, WV

AVAILABLE TO VIEW VIA LIVESTREAM AT <https://charlestonwv.civicclerk.com/web/home.aspx>

I. DISCUSSION:

- a. Approval of Previous Minutes 9-3-2024

II. RESOLUTIONS:

- a. Resolution No. 24-014 - Authorizing the Mayor or City Manager to purchase a Packer Truck from WV Tractor Company for the Refuse Department.
- b. Resolution No. 24-015 - Authorizing the Mayor or City Manager to purchase a backhoe from State Equipment for the Refuse Department.
- c. Resolution No. 24-016 - Authorizing the Mayor or City Manager to enter into a service contract to conduct the City's single audit for fiscal years 2024, 2025 and 2026.
- d. Resolution No. 24-017 - Authorizing the Mayor or City Manager to enter into a 5-year contract with Leads Online to purchase mobile device and geo-location data trackers for the Charleston Police Department's Criminal Investigations Department.
- e. Resolution No. 24-018 - Authorizing the Mayor or City Manager to enter into a 5-year contract with Carahsoft Technology Corp for web security gateway services for Information Systems.
- f. Resolution No. 24-019 - Authorizing the Mayor or City Manager to enter into a one-year, open ended contract with Stephens Auto for vehicle needs in various City departments.
- g. Resolution No. 24-020 - Authorizing the Mayor or City Manager to enter into a contract for engineering services with Potesta and Associates, Inc. related to the development and assessment of stabilization alternatives and cost/benefit analysis for the Blaine Boulevard project pursuant to competitive selection process.

- h. Resolution No. 24-021 - Authorizing the Mayor or City Manager to enter into a purchase sale agreement to acquire property located at One Piedmont Road in Charleston, West Virginia for the intended future use as the Charleston Police Department's headquarters.

III. THE AGENDA WAS AMENDED ON 9-12-2024

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

MINUTES
FINANCE COMMITTEE MEETING
6:30 P.M., SEPTEMBER 3, 2024
AV ROOM #308, CITY HALL

Joseph Jenkins Chair, called the meeting of the Charleston City Council Committee on Finance to order at 6:30 p.m., September 3, 2024.

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

Joseph Jenkins, Chair
Becky Ceperley
Mary Beth Hoover
Larry Moore
Chad Robinson
Shawn Taylor

Absent:
Brent Burton, Vice Chair

Other Councilmembers present:
Frank Annie
Bruce King
Chelsea Steelhammer
Emmett Pepper
Joe Solomon

I. DISCUSSION:

a. Approval of Previous Minutes - Councilmember Taylor asked for unanimous consent to dispense with the reading of the minutes for the August 19, 2024 meeting and that they be approved as distributed. There were no objections, and the minutes were approved.

II. RESOLUTIONS:

- a. Resolution No. 24-006 – Authorizing settlement of a pending claim against the City by Angela Ryerson related to a July 28, 2023 incident where a City driven vehicle collided with the claimant’s vehicle and the City driven vehicle was found to be at fault, as contained in Claim #021905, as recommended by the City Solicitor.

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

That the City Council hereby authorizes and approves the settlement of a pending claim against the City by Angela Ryerson, as contained in Claim #021905, in the amount of \$55,000.00, as recommended by the City Solicitor. The City Council authorizes the City Solicitor and City Manager to take all necessary steps to finalize resolution of the claim.

City Attorney Kevin Baker added that a fire truck crashed into another car where Virginia intersects with Dickenson Street. The Police Department determined that the City was at fault. The claimant sustained about \$29,000 in medical bills, and the amount of \$55,000 was settled pre-suit.

Councilmember Taylor added that it was a good result.

Councilmember Ceperley appreciated that the Police were not biased in their decision.

Councilmember Taylor moved to approve the Resolution. With members present recorded thereon as voting unanimously in the affirmative, Chairperson Jenkins declared Resolution No. 24-006 approved.

- b. Resolution No. 24-007 – Authorizing the Mayor or City Manager to renew a twenty-year lease agreement with the Federal Aviation Administration (“FAA”) for a small circle of land on the southeasterly side of Spring Hill Cemetery for the continued placement of a FAA tower.

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

That the Mayor or City Manager is hereby authorized to renew a twenty-year lease agreement with the Federal Aviation Administration (“FAA”) for a small circle of land on the southeasterly side of Spring Hill Cemetery.

City Manager Ben Mishoe added that the resolution would authorize the City to enter into another 20-year lease with the Federal Aviation Administration for their tower.

Councilmember Taylor moved to approve the Resolution. With members present recorded thereon as voting unanimously in the affirmative, Chairperson Jenkins declared Resolution No. 24-007 approved.

- c. Resolution No. 24-008 - Authorizing the Mayor or City Manager to enter into a contract with THP Limited, Inc. in the amount of \$152,500.00 for the development, design, construction document preparation, bidding, and construction oversight for various repairs at the City's six municipally owned parking garages, where THP Limited, Inc. was previously selected through a competitive procurement process.

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

That the Mayor or City Manager is hereby authorized to enter into a contract with THP Limited, Inc. in the amount of \$152,500.00 for the development, design, construction document preparation, bidding, and construction oversight for various repairs at the City's six municipally owned parking garages.

Mishoe added that the resolution is for the development, design, construction document preparation, bidding, and construction oversight for various repairs at the City's six municipally owned parking garages.

Councilmember Taylor asked why the budget for garages #3 and #4 were higher than the others. Mishoe replied that both buildings needed the staircases repaired.

Anthony Mette, representing THP Limited added that the 5-year plan was laid out so that projects will be done in one or two garages at a time for efficiency.

Councilmember Taylor moved to approve the Resolution. With members present recorded thereon as voting unanimously in the affirmative, Chairperson Jenkins declared Resolution No. 24-008 approved.

- d. Resolution No. 24-009 - Authorizing the Mayor or City Manager to purchase two new Elgin Pelican three-wheel street sweepers from West Virginia Tractor Company in the amount of \$287,403.65 each, totaling \$574,807.30 for both, to replace street sweepers numbered 83 and 86 as part of the regular inventory schedule and as approved in FY24-25 budget, and where the price was determined through a competitively secured Sourcewell contract.

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

That the Mayor or City Manager is hereby authorized to purchase two new Elgin Pelican three-wheel street sweepers from West Virginia Tractor Company in the amount of \$287,403.65 each, totaling \$574,807.30 for both, to replace street sweepers numbered 83 and 86 as part of the regular inventory schedule and as approved in FY24-25 budget.

Mishoe added that the purchase will be to replace two street sweepers as part of the regular replacement schedule.

Councilmember Taylor confirmed with Department Head Bill Tate that the department has four sweepers total, which is enough to service the City.

Councilmember Taylor moved to approve the Resolution. With members present recorded thereon as voting unanimously in the affirmative, Chairperson Jenkins declared Resolution No. 24-009 approved.

- e. Resolution No. 24-011 - Authorizing the Mayor or City Manager to enter into a three-year contract with Segra to provide phone services and equipment for all City departments and locations at a monthly amount not to exceed \$6,500.00, with the expected amount being \$6,088.86, where the price was determined pursuant to a competitively sourced contract with the State of West Virginia, and where the rates will be locked for the three-year term of the agreement.

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

That the Mayor or City Manager is hereby authorized to enter into a three-year contract with Segra to provide phone services and equipment for all City departments and locations at a monthly amount not to exceed \$6,500.00, with the expected amount being \$6,088.86, where the price was determined pursuant to a competitively sourced contract with the State of West Virginia, and where the rates will be locked for the three-year term of the agreement.

Mishoe added that the resolution is for a 3-year contract to lease phone equipment and IP service to replace phones, etc. throughout City offices.

Councilmember Taylor moved to approve the Resolution. With members present recorded thereon as voting unanimously in the affirmative, Chairperson Jenkins declared Resolution No. 24-011 approved.

- f. Resolution No. 24-012 - Authorizing the Mayor or City Manager to purchase emergency lights, light bars and accessories for the Charleston Police Ford Fleet from Rocky Fork Enterprizes, LLC for the Charleston Police Department at a total of \$115,362.00 pursuant to a competitive bid process.

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

That the Mayor or City Manager is authorized to purchase emergency lights, light bars and accessories for the Charleston Police Ford Fleet from Rocky Fork Enterprizes, LLC for the Charleston Police Department at a total of \$115,362.00 pursuant to a competitive bid process.

Mishoe added that the purchase will outfit the newly purchased vehicles with lights, sirens and accessories.

Councilmember Taylor moved to approve the Resolution. With members present recorded thereon as voting unanimously in the affirmative, Chairperson Jenkins declared Resolution No. 24-012 approved.

- g. Resolution No. 24-013 - Authorizing the Mayor or City Manager to enter into an agreement with Rocky Fork Enterprizes, LLC to install new emergency equipment in 2025 Ford Interceptors for the Charleston Police Department at a total of \$47,600.00 pursuant to a competitively sourced contract.

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

That the Mayor or City Manager is authorized to enter into an agreement with Rocky Fork Enterprizes, LLC to install new emergency equipment in 2025 Ford Interceptors for the Charleston Police Department at a total of \$47,600.00 pursuant to a competitively sourced contract.

Mishoe added that the resolution is to install the equipment purchased in Resolution No. 24-012.

Councilmember Jenkins asked why two resolutions were necessary. Mishoe replied that the previous resolution did not include installation. They believed that a more competitive price would come from a bid.

Councilmember Taylor moved to approve the Resolution. With members present recorded thereon as voting unanimously in the affirmative, Chairperson Jenkins declared Resolution No. 24-013 approved.

Councilmember Taylor motioned to adjourn the meeting.
Meeting adjourned.

Resolution No. 24-014

Introduced in Council:

September 16, 2024

Adopted by Council:

Introduced by:

Joseph Jenkins

Referred to:

Finance

1 Resolution No. 24-014 – Authorizing the Mayor or City Manager to purchase one 2024
2 Freightliner M2-106 Packer Truck from WV Tractor Company, for the Refuse Department at a
3 total of \$203,012.77 pursuant to a competitively sourced contract.

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

6
7 That the Mayor or City Manager is authorized to purchase one 2024 Freightliner M2-106 Packer
8 Truck from WV Tractor Company, for the Refuse Department at a total of \$203,012.77 pursuant
9 to a competitively sourced contract.



INSTRUCTIONS: This form must be submitted to the City Manager's Office for any purchase of materials or supplies costing **\$2,500 or more**. A minimum of 3 quotes is required for this form.

CITY OF CHARLESTON

Purchase Request

Replacing Refuse Truck 800/105
FY 2023-2024 Budget

Date: 5-22-2024

To: CITY MANAGER,

I request permission to purchase the following materials and/or supplies: To Purchase a new
2024 Freightliner M2-106 Packer with Newway Bed off
Sourcemul Contract through WV Tractor

Purchase justification: This is replacing Refuse truck 800/105
FY-2023-2024 Budget. Also this truck will be
delivered this July Early August of this year.

If approved, the total purchase price will be: \$ 203,012.77

(Check One)

- ☐ The price is less than the \$25,000 permitted for purchases without advertising for bids and needing approval from City Council. I have not purposefully split the purchase request to keep the purchase under the \$25,000 threshold and have not favored a particular vendor. I have not shared competitive information with any vendor(s).
- ☐ The proposed vendor is a sole source provider for the materials/supplies requested. (Skip to **ITEM A** on page 2.)

I have contacted the following responsible vendors and have attached their written quotes for the requested item(s): (Minimum of 3 Quotes Required)

- | | | |
|----|---------------------------|-----------------------------------|
| 1. | <u>WV Tractor Company</u> | Price Quote: \$ <u>203,012.77</u> |
| 2. | _____ | Price Quote: \$ _____ |
| 3. | _____ | Price Quote: \$ _____ |
| 4. | _____ | Price Quote: \$ _____ |
| 5. | _____ | Price Quote: \$ _____ |

The apparent low-bid vendor *meeting specifications* is: _____

AND

☐ The low-bid vendor is not delinquent on any financial obligations owed to the City of Charleston according to the City Collector's records, and I recommend authorizing the purchase through the low-bid vendor.

OR

☒ I recommend not contracting with the lowest bidder meeting specifications and instead recommend contracting with WV Tractor Company because:

This is getting purchased off the Sourcewell contract

Additionally, the recommended vendor is not delinquent on any financial obligations owed to the City of Charleston according to the City Collector's records.

ITEM A (For Sole Source Procurements ONLY)

Explain what is unique about this vendor/brand and why your department must purchase this product:

Identify at least 1 independent third party who has verified the vendor is a sole source for the item(s) requested to be purchased, and submit his/her written opinion regarding the vendor's sole source status:

(Name & Phone Number) _____

REQUESTOR'S DECLARATION

I declare that I have fully complied with the letter and intent of the City Code as it pertains to procurement and have exercised reasonable precaution to procure the item(s) requested above at the lowest price, consistent with good service and quality.

I also declare that I have no personal or business relationship with the listed vendor(s) that would be considered a conflict of interest, except as follows:

(List Actual, Potential, or Perceived Conflicts of Interest) _____

Request Submitted By: Her only Department: Equipment Maintenance

Is this purchase being paid with grant funds? ☐ Yes ☒ No

Funds Approval: _____ Date: _____
Authorized Financial Officer

Account Number: _____

City Manager Approval: _____ Date: _____



WEST VIRGINIA TRACTOR COMPANY

CONSTRUCTION, MINING, MUNICIPAL & INDUSTRIAL EQUIPMENT

P.O. BOX 473, 214 VIRGINIA ST. W., CHARLESTON, WV 25322/25302

(304) 346-5901

May 20, 2024

City of Charleston
P.O. Box 2749
Charleston, WV 25330
Attn: Kevin Oxley

Subj: Sourcewell Proposal for Refuse Packer Trucks

Ladies and Gentlemen:

We are pleased to offer the following described equipment for your consideration:

- 1 NEW-WAY Cobra 20RL 20 cu. yd. rear load refuse packer complete with the following standard equipment:
Multi stage cylinder push out system
Signal button on right side at rear with cab buzzer
PTO with cab controls and solenoid speed-up switch
Tailgate lift and ejection controls at front of body
Hydraulic return line filter and oil level sight gauge
Packer controls at rear of tailgate, curb side
Bolt-on steps and grab handles both sides of tailgate
Back-up alarm and tailgate ajar alarm
Lights and reflectors to meet FMVSS #108 standards, plus overhead light bar with turn and stop lights and cluster lights
Auto-lock tailgate
Side door in left front of body
Rear vision and audio camera system with flat color monitor
One year packer warranty
Parts, operator, safety and service manuals
All other standard equipment, plus:
New wide 3.2 cu. yd. hopper with inside cylinders, ¼" floor
Magnum package - reinforced hopper and packer elements as specified
12,000 lb. hydraulic winch container attachment with safety latches
Hot shift PTO with over speed device
Perkins 6620 rotary tipper - center mount
Additional driver alert buzzer on left side
(2) LED hopper work lights
(2) LED oval strobe lights in upper light bar
(2) LED oval strobe lights in top front of body
Hopper closure turnbuckles in addition to hydraulic closure
60" rubber fender skirt over rear wheels
White paint to match truck cab
Dealer prep and operator training
Factory mounting on:
2024 Freightliner M2-106 Plus cab and chassis with Cummins L9 330 HP
1000 lb/ft diesel engine with exhaust brake, Allison 3000 RDS
automatic transmission, 30k rear axle and suspension, 14.6k front
axle and suspension, 11R22.5-16 tires, 50 gal aluminum fuel tank, air
ride driver seat, 2 man passenger seat, air conditioning, AM/FM/WB
radio

Page 2

LIST PRICE: F.O.B. Charleston.....\$218,293.30

SOURCEWELL DISCOUNT:.....\$15,280.53

SOURCEWELL FINAL PRICE:.....\$203,012.77

Availability: About late July to August 2024, depending on truck delivery and other factors we don't control, such as COVID and supply chain shortages.

Terms: Net 10 days or municipal lease purchase plan by check or wire

West Virginia Tractor has been a refuse packer dealer in Charleston since 1955.

As required by law, we are licensed to do business in West Virginia (West Virginia Tax Dept. #1038-0884), the West Virginia Secretary of State, the West Virginia Insurance Commission, the City of Charleston (#468086), and by the WVDMV as a new vehicle dealer (D-43).

We qualify for and request the City of Charleston resident vendor preference in accordance with your terms.

West Virginia Tractor Company is an Equal Opportunity Employer and does not discriminate against any employee or applicant for employment because of race, religion, color, sex, handicap or national origin. We are also in compliance with West Virginia Code 21A-2-6, Unemployment and Workers Compensation status with the Bureau of Employment Programs.

Thank you for your consideration. If you have any questions or need any additional information, please feel free to call me at any time. We invite you to visit our web site at www.wvtractor.com. Again, thanks.

Sincerely,



Mike Grady, Vice President

Resolution No. 24-015

Introduced in Council:

Adopted by Council:

September 16, 2024

Introduced by:

Referred to:

Joseph Jenkins

Finance

1 Resolution No. 24-015 – Authorizing the Mayor or City Manager to purchase one Case 5805V TV
2 Tractor loader backhoe from State Equipment, for the Refuse Department at a total of
3 \$118,620.03 pursuant to a competitively sourced contract.

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

6
7 That the Mayor or City Manager is authorized to purchase one Case 5805V TV Tractor loader
8 backhoe from State Equipment, for the Refuse Department at a total of \$118,620.03 pursuant
9 to a competitively sourced contract.



INSTRUCTIONS: This form must be submitted to the City Manager's Office for any purchase of materials or supplies costing **\$2,500 or more**. A minimum of 3 quotes is required for this form.

CITY OF CHARLESTON

Purchase Request

New Refuse Backhoe
loader

FY2024-2025 Budget

Date: 7-18-24

To: CITY MANAGER,

I request permission to purchase the following materials and/or supplies: New Case
5805V TC Tractor loader Backhoe off Sourcewell Contract
through State Equipment.

Purchase justification: This was added to refuse Fleet so they
can get Bulk items throughout the city.

If approved, the total purchase price will be: \$118,620.03

(Check One)

- ☐ The price is less than the \$25,000 permitted for purchases without advertising for bids and needing approval from City Council. I have not purposefully split the purchase request to keep the purchase under the \$25,000 threshold and have not favored a particular vendor. I have not shared competitive information with any vendor(s).
- ☐ The proposed vendor is a sole source provider for the materials/supplies requested. (Skip to **ITEM A** on page 2.)

Sourcewell Contract

- ## State Equipment

AND

- OR

- ☒

Additionally, the recommended vendor is not delinquent on any financial obligations owed to the City of Charleston according to the City Collector's records.

Explain what is unique about this vendor/brand and why your department must purchase this product:

(Name & Phone Number)

REQUESTOR'S DECLARATION

I declare that I have fully complied with the letter and intent of the City Code as it pertains to procurement and have exercised reasonable precaution to procure the item(s) requested above at the lowest price, consistent with good service and quality.

I also declare that I have no personal or business relationship with the listed vendor(s) that would be considered a conflict of interest, except as follows:

(List Actual, Potential, or Perceived Conflicts of Interest) _____

Request Submitted By: Ken Onyiah Department: Equipment Maintenance

Is this purchase being paid with grant funds? ☐ Yes ☒ No

Funds Approval: _____ Date: _____
Authorized Financial Officer

Account Number: _____

City Manager Approval: _____ Date: _____

State Equipment, Inc.
560 New Goff Mountain Road
Charleston ,WV 25313



Quote For:	Kevin Oxley
Company	City of Charleston
Address	
City/State/Zip	
Phone#	
Fax#	
Cell #	304-590-5373
E-Mail	

Quote Date:	7/17/2024
Valid Date:	7/31/2024
Prepared By:	Jcook

Quantity	Description	Sourcewell Quote	Price
1	New Case 580SV TC Tractor Loader Backhoe		
	Cab, Heat, AC, Radio, 12.5 - 16.5 Front Tires, 19.5 - 24 Rear Tires		
	Pilot Controls, 4WD, Extendahoe, Flip Pads, Auxiliary Hydraulics, Rotating Beacon		
	List Price		\$163,841.00
	Sourcewell Discount 28%		(-\$45,875.48)
	Sub Total		\$117,965.52
	Special Discount 16%		(-\$18,874.48)
	Sub Total		\$99,091.03
	Hydraulic Thumb		\$7,695.00
	24" Bucket		\$2,000.00
	Quick Coupler		\$2,000.00
	PDI		\$700.00
	6-in-1 Bucket w/ Forks		\$5,586.00
	FRT		\$1,548.00
	Sub Total		\$118,620.03
	Approx Freight		Inc.
	Sales Tax		Exempt
	Total		\$118,620.03

Additional Information:

--

If you have any questions concerning this quote please contact:

Jimmy Cook

304-539-8475

jcook@stateequipment.com

1 Resolution No. 24-016

2

3 Introduced in Council:

Adopted by Council:

4 September 16, 2024

5

6 Introduced by:

Referred to:

7 Joseph Jenkins

Finance Committee

8

9 Resolution No. 24-016 – Authorizing the Mayor or City Manager to enter into a three-year contract with
10 Suttle and Stalnaker to conduct a Single Audit for the City of Charleston for Fiscal Year 2024, Fiscal Year
11 2025, and Fiscal Year 2026 in the amount of \$105,840 for Fiscal Year 2024, \$112,320 for Fiscal Year
12 2025, and \$118,800 for Fiscal Year 2026 in accordance with Federal OMB Circular A-133. The total
13 contract amount for all three years is \$316,000 for Suttle & Stalnaker and \$24,960 to the West Virginia
14 State Auditor’s Office for processing fees.

15

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

17 That the Mayor or City Manager is hereby authorized to enter into a three-year contract with Suttle and
18 Stalnaker to conduct a Single Audit for the City of Charleston for Fiscal Year 2024, Fiscal Year 2025, and
19 Fiscal Year 2026 in the amount of \$105,840 for Fiscal Year 2024, \$112,320 for Fiscal Year 2025, and
20 \$118,800 for Fiscal Year 2026 in accordance with Federal OMB Circular A-133. The total contract amount
21 for all three years is \$316,000 for Suttle & Stalnaker and \$24,960 to the West Virginia State Auditor’s
22 Office for processing fees.

Resolution No. 24-017

Introduced in Council:

September 16, 2024

Adopted by Council:

Introduced by:

Joseph Jenkins

Referred to:

Finance

Resolution No. 24-017 – Authorizing the Mayor or City Manager to enter into a five-year contract with Leads Online to purchase mobile device and geo-location data trackers for the Charleston Police Department's Criminal Investigations Department at a total of \$28,480 pursuant to a competitive bid process.

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 five-year contract with Leads Online to purchase and install mobile device and geo-location data trackers for the Charleston Police Department at a total of \$28,480 pursuant to a competitive bid process.

General Info

Total:

\$28,480.00

Number	Description
2024-36 Mobile Device and Geo-Location Data Tracker	Summary: The City of Charleston is seeking bids for the purchase of a Mobile Device and Geo-Location Data Tracker. The following should be an outline of service components and installation requirements.
Deadline	
08/29/2024 10:00 AM EDT	
Vendor	Allows zero unit prices and labor
LeadsOnline	Yes
Submitted	Allows negative unit prices and labor
08/21/2024 02:28 PM EDT	Yes
Signed by	
Shawna Evans Account Holder Shawna Evans	
Opened	
08/29/2024 10:00 AM EDT By jamie.bowles@cityofcharleston.org	

ATTACHMENT LIST

2024-36 Mobile Device and Geo-Location Data Tracker.pdf (99.3 KB)
INFORMATION FOR BIDDERS- (168 KB)
Terms and Conditions.pdf (149 KB)
Local Vendor Purchasing Affidavit - City of Charleston.pdf (137 KB) OPTIONAL
COC Purchasing Affidavit.pdf (60.2 KB)

ADDENDUM ACKNOWLEDGMENT

Click "+" to add addenda. If no addendum, type "N/A."

Addendum Number: *

N/A

Date of Acknowledgment: *

N/A

EXCEPTIONS AND DEVIATIONS

Optional: Vendor is not required to complete.

Bidder shall fully describe every variance, exception and/or deviation. Please include with your bid form. Additional sheets may be used if required.

Enter exceptions and deviations below: *

Please see attachment "LeadsOnline SSA for Charleston WV PD.pdf".

BID AND PROPOSAL FORM (1 OF 3)

Shawna Evans

required

☒ I acknowledge that I have read the solicitation carefully and agree to its terms.

*

BID AND PROPOSAL FORM (2 OF 3)

\$28,480.00

Description	Quantity	Unit Price	Total Bid	Extension
Alternates are not included in bid total.				
YEAR 1- Mobile Device and Geo-Location Data Tracker	1.00	\$5,299.00	5299.00	\$5,299.00
YEAR 2- Mobile Device and Geo-Location Data Tracker	1.00	\$5,458.00	5458.00	\$5,458.00
YEAR 3- Mobile Device and Geo-Location Data Tracker	1.00	\$5,622.00	5622.00	\$5,622.00
YEAR 4- Mobile Device and Geo-Location Data Tracker	1.00	\$5,903.00	5903.00	\$5,903.00
YEAR 5- Mobile Device and Geo-Location Data Tracker	1.00	\$6,198.00	6198.00	\$6,198.00
				Total: \$28,480.00

BID AND PROPOSAL FORM (3 OF 3)

- ☒
Local Vendor Preference: - - By checking this box and signing below, I hereby certify and attest I have read the Local Vendor Preference statement found on the "Information for Bidders" document attached to this solicitation.
- *
- ☒
Business & Occupation Tax: - - By checking this box and signing below, I hereby certify and attest I have read the Business & Occupation Tax statement found on the "Information for Bidders" document attached to this solicitation.
- *
- ☒
Equal Employment Opportunities: - - I acknowledge and agree that, in the performance of any City contract, the vendor will not discriminate against any employee or applicant for employment because of race, color, religion, age, sex, sexual orientation, gender identity, disability, or national origin.
- *

Authorized Bidder’s Signature: *

Shawna Evans

Title: *

Account Manager

Date: *

08/21/2024

Company Name: *

Address: *

6900 Dallas Pkwy Ste 825, Plano, TX 75024-4200

Telephone Number: * Fax Number:

(800) 311-2656

Email Address: *

accounting@leadsonline.com

LIST OF STOCKHOLDERS

Provide a list of all stockholders by name and address owning 5% or more of the bidder's current stock must be submitted with the bid. In the case of partnerships or sole proprietorships, those receiving a 5% or more share of the company's net profit must be listed.

If attaching PDF copy of List of Stockholders, type "Attached" in the fields below.

Click "+" to add Stockholders. If none, type "N/A."

Stockholder Name: *

TA XIV-B LO Subsidiary Partnership LP (US)

Stockholder Address: *

200 Clarendon St, Fl 56, Boston, MA 02116

Click "+" to add Stockholders. If none, type "N/A." 1

Stockholder Name: *

TA LO/FT Aggregator, LLC

Stockholder Address: *

200 Clarendon St, Fl 56, Boston, MA 02116

Click "+" to add Stockholders. If none, type "N/A." 2

Stockholder Name: *

TA LO Holdings LLC (US)

Stockholder Address: *

200 Clarendon St, Fl 56, Boston, MA 02116

Click "+" to add Stockholders. If none, type "N/A." 3

Stockholder Name: *

Finback Investment Partners 2021 Fund, L.P.

Stockholder Address: *

One Alhambra Plaza, Ste 1225, Coral Gables, FL 33134

Click "+" to add Stockholders. If none, type "N/A." 4

Stockholder Name: *

Finley E311 Trust

Stockholder Address: *

2861 Timbercrest Lane, Highland Village, TX 75077

VENDOR PROTESTS

In the event that any vendor desires to protest City's selection, such vendor (hereinafter "Protestor") shall submit its protest in writing, which must be received by City within seven (7) calendar days of after City Council approves of the award. Provided that the City Manager reserves the right to extend the time for submission of the protest if he determines it is reasonable under the circumstances.

The written protest must be submitted to the **City Manager's Office, Attention: Benjamin Mishoe 501 Virginia Street East, Room 101; Charleston, WV 25301.**

Only vendors who have submitted a timely and responsive proposal may protest City's selection. No protest may be filed if the RFP is withdrawn or if all proposals received in response to the RFP are rejected.

Protests shall include the following information:

1. The Protestor's name, address, telephone number, and fax number;
2. The solicitation number;
3. A detailed statement of the legal and/ or factual grounds for the protest;
4. Copies of all relevant and supporting documentation, if necessary; and
5. A statement as to the form of resolution or relief sought.

FAILURE TO SUBMIT THIS INFORMATION SHALL BE GROUNDS FOR REJECTION OF THE PROTEST.

The City Manager may refuse to review any protests when the matter involved is the subject of litigation before a court of competent jurisdiction; if the merits have previously been decided by a court of competent jurisdiction; or if it has been decided by

the City Manager in a previous protest.

At the time of submitting the written protest, Protestor shall submit a certified check in the amount of one thousand dollars (\$1,000.00) or bond equal to five percent (5%) of the price of the selected proposal, whichever is greater. In the event the proposal being protested is for contracted services, an estimated average of the contract value will be determined in order to calculate the five percent (5%) bond value. This bonding requirement is designed to protect against frivolous claims and unnecessary expenditures of public funds and to allow City to offset any and all costs, fees, expenses or damages of any kind whatsoever incurred by City as the result of an unsuccessful protest.

In the event the protest is unsuccessful, the certified check or bond will be used by City to recoup any and all costs, fees, expenses, or damages of any kind whatsoever incurred by City and related in any way to the unsuccessful protest. Costs, fees, expenses, and damages shall include, but shall not be limited to, increased costs of labor, materials or services resulting from any delay, professional fees, including, but not limited to, attorney fees, and all costs, fees or expenses of any kind whatsoever related in any way to the unsuccessful protest. By signing this document, Protestor waives the right to receive any money retained by City as set forth herein. If there are any funds remaining after City has recouped amounts as permitted herein, the remaining funds will be returned to Protestor. In the event Protestor is successful, the full amount of the certified check or bond will be returned to Protestor.

Upon receipt of a timely written protest, City shall provide notice of the protest to vendor selected as the successful bidder (hereinafter "Selected Vendor") and provide Selected Vendor with a copy of the written protest and any documents related thereto. **Selected Vendor will have two (2) business days to file a written response to the protest.** A hearing may be held within five (5) business days of the **date of receipt of the written response to the protest by Selected Vendor**; provided that, City may, in its sole discretion, set the date of the hearing beyond the five (5) day time period specified herein if deemed necessary or convenient to do so by City. If a hearing is held, both Protestor and Selected Vendor will have an opportunity to appear and present evidence and testimony in support of their positions. The hearing will be held before the City Manager or his designee. The department head of the department seeking the RFP and the City Attorney shall be in attendance.

A decision will be made by City within five (5) business days of the hearing. Upon a decision having been made, both Protestor and Selected Vendor will be notified in writing of City's decision.

In the event City's selection is reversed, City will reevaluate all proposals which were originally and timely submitted, in accordance with state and city laws and regulations. During the reevaluation, issues addressed during the protest proceedings may be considered.

Once a written protest is filed, no work will be performed by Selected Vendor until such time as City has rendered a final decision on the protest; provided that, if City, in its sole discretion, determines time is of the essence regarding receipt of the goods or completion of the services to be performed, City may permit Selected Vendor to proceed pursuant to its proposal and any Agreement with City, until/unless the protest is successful.

By submitting a proposal, each vendor agrees that the procedure outlined herein is the exclusive remedy available to challenge/protest the award of a contract to a successful bidder. The decision of the city manager is final and is not appealable. Each vendor further agrees that, in the event any qualified vendor fails to submit a written protest and certified check or bond within the time period specified, that vendor thereby forever waives its right to any further claim, action, or remedy, including, but not limited to, the right to bring an action before any administrative agency or any court of competent jurisdiction.

Vendor Signature: *

Shawna Evans

Date: *

08/21/2024

Required Document List

Name	Omission Terms	Submitted File
Cashier's Check, Certified Check, or Paper Bid Bond Please upload a copy of Bidder's Cashier's Check, Certified Check, or Paper Bid Bond. Original, wet-ink document must be received within [XX] days of bid opening.	I am verifying my bid bond electronically.	I am not enclosing this document because the omission terms have been met.
List of Stockholders Please upload a copy of Bidder's List of Stockholders.	I have no Stockholders or have provided my List of Stockholders in the fillable fields above.	I am not enclosing this document because the omission terms have been met.
Drug-Free Workplace Conformance Affidavit Please upload a signed and notarized copy of Bidder's Drug-Free Workplace Conformance Affidavit.		Affidavit.pdf
Additional Upload Space Upload additional documents.	I do not need to upload additional documents.	LeadsOnline SSA for Charleston WV PD.pdf
4 Required Documents		

CITY OF CHARLESTON PURCHASING AFFIDAVIT

VENDOR OWING A DEBT TO THE STATE OR POLITICAL SUBDIVISION:

West Virginia Code § 5A-3-10a provides that: No contract or renewal of any contract may be awarded by the state or any of its political subdivisions to any vendor or prospective vendor when the vendor or prospective vendor or a related party to the vendor or prospective vendor is a debtor and the debt owed is an amount greater than one thousand dollars (\$1,000) in the aggregate.

PUBLIC IMPROVEMENT CONTRACTS & DRUG-FREE WORKPLACE ACT:

If this is a solicitation for a public improvement construction contract, the vendor, by its signature below, affirms that it has a written plan for a drug-free workplace policy in compliance with Article 1D, Chapter 21 of the **West Virginia Code**. The vendor **must** make said affirmation with its bid submission. Further, public improvement construction contracts may not be awarded to a vendor who does not have a written plan for a drug-free workplace policy in compliance with Article 1D, Chapter 21 of the **West Virginia Code** and who has not submitted that plan to the appropriate contracting authority in a timely fashion. For a vendor who is a subcontractor, compliance with Section 5, Article 1D, Chapter 21 of the **West Virginia Code** may take place before their work on the public improvement is begun.

ANTITRUST:

In submitting a bid to any agency for the State of West Virginia, the bidder offers and agrees that if the bid is accepted, the bidder will convey, sell, assign or transfer to the state of West Virginia all rights, title and interest in and to all causes of action it may now or hereafter acquire under the antitrust laws of the United States and the State of West Virginia for a price fixing and/or unreasonable restraints of trade relating to the particular commodities or services purchased or acquired by the state of West Virginia. Such assignment shall be made and become effective at the time the purchasing agency tenders the initial payment to the bidder.

I certify that this bid is made without prior understanding, agreement or connection with any corporation, firm, limited liability company, partnership or person or entity submitting a bid for the same materials, supplies, equipment or services and is in all respects fair and without collusion or fraud. I further certify that I am authorized to sign the certification on behalf of the bidder or this bid.

LICENSING:

Vendors must be licensed and in good standing in accordance with any and all state and local laws and requirements by any state or local agency of West Virginia, including, but not limited to, the West Virginia Secretary of State's Office, the West Virginia Tax Department, the West Virginia Insurance Commission or any other state agencies or political subdivision. Furthermore, the vendor must provide all necessary releases to obtain information to enable the Director or spending unit to verify that the vendor is licensed and in good standing with the above entities.

CONFIDENTIALITY:

The vendor agrees that he or she will not disclose to anyone, directly or indirectly, any such personally identifiable information or other confidential information gained from the agency, unless the individual who is the subject of the information consents to the disclosure in writing or the disclosure is made pursuant to the agency's policies, procedures and rules. Vendor further agrees to comply with the Confidentiality Policies and Information Security Accountability Requirements, set forth in <http://www.state.wv.us/admin/purchase/privacy/noticeConfidentiality.pdf>.

Under penalty of law for false swearing (**West Virginia Code § 61-5-3**), it is hereby certified that the vendor affirms and acknowledges the information in this affidavit and is in compliance with the requirements as stated.

Vendor's Name: LeadsOnline Parent, LLC (dba LeadsOnline LLC)

Authorized Signature



Date: 8/21/2024



TERM QUOTE

Customer:

City of Charleston, WV
501 Virginia Street East
Charleston, West Virginia 25301

Quote#:

SQ-02012

Quote Date:

08/21/24

Agency ID:

5395-C1

Terms:

Quote Only

Unit:

Police Department

PO Number:

Qty	Scope of Services	Rate	Start Date	End Date	Amount
1	CellHawk Tier 3 Subscription (3 User, Unlimited)	\$5,299	09/01/24	08/31/25	\$5,299
1	CellHawk Tier 3 Subscription (3 User, Unlimited)	\$5,458	09/01/25	08/31/26	\$5,458
1	CellHawk Tier 3 Subscription (3 User, Unlimited)	\$5,622	09/01/26	08/31/27	\$5,622
1	CellHawk Tier 3 Subscription (3 User, Unlimited)	\$5,903	09/01/27	08/31/28	\$5,903
1	CellHawk Tier 3 Subscription (3 User, Unlimited)	\$6,198	09/01/28	08/31/29	\$6,198
Thank you for your interest in LeadsOnline! Please contact Jacob Self at jacobs@leadsonline.com to move forward with this quote. Questions? Contact us at (800) 311-2656 or support@leadsonline.com			Total Due: \$28,480.00		

REMIT BY CHECK:

LeadsOnline Parent, LLC
dba LeadsOnline LLC
6900 Dallas Pkwy Ste 825
Plano, TX 75024-4200

REMIT BY EFT/ACH:

JPMorgan Chase Bank
Type: Checking
Routing No: 111000614
Account No: 865536111

IMPORTANT INFO:

Download our W-9: www.leadsonline.com
New Vendor Forms: accounting@leadsonline.com
Federal Unique Entity ID: K4D3PL65RSJ8

LeadsOnline Terms & Conditions:

This order is subject to and governed by the terms and conditions of the attached Subscription Service Agreement and Order Form No. 5395-1283. LeadsOnline may include a purchase order number on Customer's invoice solely for Customer's internal payment and record keeping processes. Any terms within any purchase order provided to LeadsOnline in response to a quote, order form, invoice or otherwise will not modify or enlarge the obligations or liabilities of either party.

SUBSCRIPTION SERVICES AGREEMENT

This Subscription Services Agreement (**Agreement**) is between LeadsOnline LLC, a Delaware limited liability company (**LeadsOnline**), City of Charleston, West Virginia (**Customer**), and is effective as of the date of the last signature below. This Agreement contemplates one or more Order Forms for Services, which are governed by the terms of this Agreement.

1. SOFTWARE SERVICE

This Agreement and the applicable Order Form provide Customer access to and usage of an Internet-based software service, including, without limitation, its features, functions, and user interface, and underlying software, as specified on an Order Form and limited to the number of Eligible Users defined and listed on the Order Form (**Service**).

2. USE OF SERVICE

- a. **Customer Owned Data.** All data, information, images, and files uploaded or otherwise entered by Customer into the Service remains the property of Customer, as between LeadsOnline and Customer (**Customer Property**).
- b. **Responsibilities for Customer Property.** Customer represents and warrants to LeadsOnline that Customer has provided all required notices and has obtained all required licenses, permissions, and consents regarding Customer Property for use within the Service under this Agreement. Customer grants LeadsOnline the right to use the Customer Property solely for Purposes of performing under this Agreement (which includes, without limitation, the right for LeadsOnline to enhance its technology and offerings). LeadsOnline will purge any or all Customer Property upon Customer's written request. Customer may export its Customer Property as allowed by functionality within the Service.
- c. **General Responsibilities.** Customer must (i) ensure that access to Service and information produced by or derived from it is limited to the Purpose defined in the Order Form, (ii) maintain any data accessed, received or otherwise derived from Service according to all applicable statutes, laws and regulations for use and disclosure of non-public personal information, (iii) connect to Service only using devices and browsers with proper encryption, (iv) promptly notify LeadsOnline (within the Service or by email to support@leadsonline.com) when an Eligible User is no longer employed by Customer or is no longer authorized to access Service, (v) ensure that each Eligible User is acting within the bounds of their authority from Customer and within their legal rights to search, possess, enter, analyze and use, all information and data submitted to and received from the Service, (vi) refrain from any use, misuse or actions related to Service or Data that infringe, misappropriate, or otherwise violate any right of anyone, or that violate any applicable law, and ensure that any instructions or directives Customer gives to or regarding anyone do not conflict with applicable laws, and (vii) verify the accuracy, timeliness, context and relevance of information or communication from Service or personnel prior to taking action. Customer acknowledges that LeadsOnline does not enforce laws, does not provide legal advice, and does not claim to have authority or expertise in legal or law enforcement matters.
- d. **Governmental Agency Public Records Clause.** If Customer is a government agency and is required by law to permit the inspection and copying of public records, Customer acknowledges the Service contains information protected by exemptions to public disclosure laws in many states, and if Customer searches the Service in response to a request for Public Records, Customer is acting on its own accord. LeadsOnline does not grant Customer access to the Service for the Purpose of searching for or creating records to respond to a public records request when Customer did not have the record in its possession at the time of the request.
- e. **Customer Responsibilities.** Customer: (i) must keep its passwords secure and confidential and use industry-standard password management practices; (ii) is responsible for its access control policies and administration of access rights to its account within the Service, the acts and omissions of its users, and the legality and accuracy of any data submitted to the Service, may not share any access credentials; (iii) must use commercially reasonable efforts to prevent unauthorized access to its account, and notify LeadsOnline promptly of any such unauthorized access; and (iv) may use the Service only in accordance with the Service's technical documentation (including without limitation, video tutorials) and applicable law.
- f. **LeadsOnline Support.** LeadsOnline must provide Customer support for the Service under the terms of LeadsOnline's Customer Support Policy (**Support**), which is located at leadsonline.com/support.

3. WARRANTY DISCLAIMER

- a. **THE SERVICE IS PROVIDED 'AS IS' WITHOUT WARRANTY. LEADSONLINE DISCLAIMS ALL WARRANTIES, INCLUDING, WITHOUT LIMITATION, THE IMPLIED WARRANTIES OF MERCHANTABILITY, TITLE, AND FITNESS FOR A PARTICULAR**

PURPOSE. WHILE LEADSONLINE TAKES REASONABLE PHYSICAL, TECHNICAL, AND ADMINISTRATIVE MEASURES TO SECURE THE SERVICE, CUSTOMER UNDERSTANDS THAT THE SERVICE MAY NOT BE ERROR FREE, AND USE MAY BE INTERRUPTED.

- b. While Customer acknowledges that the Service may not be error-free and may not fully meet Customer's expectations, LeadsOnline does warrant that the Service is free from defects that will substantially affect performance, and that it has used commercially available tools designed to discern that no viruses or other security defects are present. LeadsOnline further warrants that the Service will function substantially in accordance with the Order Form. LeadsOnline will not intentionally cause or introduce any defect, virus, Trojan horse, spyware, malware, or other program code designed to erase, disable, or otherwise harm or interfere with Customer's equipment, data, or other programs.
- c. LeadsOnline cannot control the decisions and actions of Customer. LeadsOnline expressly disclaims and does not undertake or assume any duty, obligation or responsibility for any decisions, actions, reactions, responses, inaction by Customer or any other party as a result of or reliance on, in whole or in part, any use of the Service or information derived from it, or for any consequences or outcomes including death, injury, loss or damage to any property arising from or caused by any such actions decisions, reactions, responses, or inaction.

4. PAYMENT

- a. **Fees and Payment.** Customer must pay all fees as specified on the Order Form, but if not specified, then within 30 days of receipt of an invoice. The fees are exclusive of sales, use, withholding, VAT, and other similar taxes, and if required by law Customer is responsible for payment of such taxes.
- b. **Nonpayment.** LeadsOnline will provide electronic notice (within the Service) and notice to the email registered with LeadsOnline (Customer is responsible for maintaining an updated email address with LeadsOnline) of the non-payment of an open invoice. If the payment is not made within 7 days of the first notice, then LeadsOnline may suspend Service and Support until the amount is paid in full or terminate the Service upon 30 days' notice under Section 9(c).

5. MUTUAL CONFIDENTIALITY

- a. **Definition of Confidential Information.** Confidential Information means all non-public information disclosed by a party (**Discloser**) to the other party (**Recipient**), whether orally, visually, or in writing, that is designated as confidential or that reasonably should be understood to be confidential given the nature of the information and the circumstances of disclosure (**Confidential Information**). LeadsOnline's Confidential Information includes, without limitation, the Service. Customer's Confidential Information includes, without limitation, the Customer Property.
- b. **Protection of Confidential Information.** Recipient must use the same degree of care that it uses to protect the confidentiality of its own confidential information of like kind (but not less than reasonable care) to: (i) not use any Confidential Information of Discloser for any Purpose outside the scope of this Agreement; and (ii) limit access to Confidential Information of Discloser to those of its and its Affiliates' employees and contractors who need that access for Purposes consistent with this Agreement, and who have a legal obligation under law or policy regarding confidentiality or have signed confidentiality Agreements with Recipient containing protections not materially less protective of the Confidential Information than those in this Agreement.
- c. **Exclusions.** Confidential Information *excludes* information that: (i) is or becomes generally known to the public without breach of any obligation owed to Discloser; (ii) was known to the Recipient before its disclosure by the Discloser without breach of any obligation owed to the Discloser; (iii) is received from a third party without breach of any obligation owed to Discloser; or (iv) is independently developed by the Recipient without use of or access to the Confidential Information. The Recipient may disclose Confidential Information to the extent required by law or court order but will provide Discloser with advance notice to seek a protective order unless otherwise directed by the court.

6. INFORMATION SECURITY

- a. **Data Security Measures.** To protect Customer Property from unauthorized disclosure, alteration, or misuse, LeadsOnline shall:
 - i. Agree to the terms of the Federal Bureau of Investigation Criminal Justice Information Services (FBI CJIS) Security Addendum.
 - ii. Ensure that LeadsOnline personnel with unescorted access to unencrypted Customer Property and/or physically secure locations have a) completed CJIS Security Awareness Training and have passed the Level Four CJIS Security Test designed

for Information technology personnel (system administrators, security administrators, network administrator and b) submitted to and successfully passed state of residency and national fingerprint-based record checks.

- iii. Apply appropriate controls according to the AICPA Trust Services Criteria for Security so as to maintain a secure environment for all Customer Property.
- iv. Maintain proper encryption of data in transit using 256-Bit Transport Layer Security (TLS) and at rest using FIPS 140-2 standards.
- v. Maintain advanced firewall and intrusion protection, database partitioning, patch management, account management, identification and authentication, configuration management and third-party application and network penetration tests.
- vi. Log events relative to access and use of the Services; maintain and protect logs from disclosure, alteration, or misuse.
- vii. Respond to security incidents; In the event of a data breach (as defined by applicable law), of Customer Property, LeadsOnline will act to eliminate the breach, preserve forensic evidence, and notify Customer without undue delay. LeadsOnline shall have no obligation to notify consumers or regulatory authorities of a breach of Customer data that was not the result of a data security incident experienced by LeadsOnline.
- viii. Purge any Customer Property upon Customer's written request.

7. INSURANCE

- a. LeadsOnline shall maintain insurance policies for property, general liability, auto, workers compensation, errors and omissions/cyber liability insurance.

8. PROPERTY

- a. **Reservation of Rights.** LeadsOnline and its licensors are the sole owners of the Service, including all associated intellectual property rights, and they remain only with LeadsOnline. Customer may not remove or modify any proprietary marking or restrictive legends in the Service. LeadsOnline reserves all rights that are not expressly granted in this Agreement.
- b. **Restrictions.** Customer *may not*: (i) share, provide, sell, resell, rent, or lease the Service or use it in a service-provider capacity or allow access to the Service or its output by a third party; (ii) use the Service to store or transmit unsolicited marketing emails, libelous, or otherwise objectionable, unlawful, or tortious material, or to store or transmit infringing material in violation of third party rights; (iii) interfere with or disrupt the integrity or performance of the Service; (iv) attempt to gain unauthorized access to the Service or its related systems or networks or use any automated means to monitor, access or copy any data from the Service; (v) reverse engineer the Service; or (vi) access the Service to build a competitive service or product, or copy any feature, function, or graphic. LeadsOnline may suspend Service to Customer if LeadsOnline believes in good faith that Customer's use of the Service poses threat to the security, availability, or legality of the Service; in such event, LeadsOnline will work with Customer to address the issue and restore Service as quickly as possible.
- c. **Audit Information.** LeadsOnline logs events related to user registration, contacts, access, and use of the Services for legal, audit, security, and support Purposes (**Audit Information**). Audit Information is not Customer Property.

9. TERM & TERMINATION

- a. **Term.** This Agreement continues until the 30th day after all Order Forms have expired or earlier terminated as provided below.
- b. **Term of Order Forms.** The term of each Order Form is specified in the Order Form.
- c. **Mutual Termination for Material Breach.** If either party is in material breach of this Agreement, the other party may terminate this Agreement at the end of a written 30-day notice/cure period if the breach has not been cured.
- d. **Termination by Mutual Consent.** This Agreement and/or any Order Form may be terminated by the mutual consent of both parties.
- e. **Termination of an Order Form Due to Non-Appropriation of Funds.** Government Customers may terminate services in an Order Form by providing sixty (60) days' written notice to LeadsOnline prior to the next contract year if funding to make the next scheduled payment is not duly appropriated and authorized.

f. Return of Customer Property:

- Within 60 days after termination, upon written or electronic request LeadsOnline will make the Service available for Customer to export Customer Property as provided in **Section 2(a)**.
- After such 60-day period, LeadsOnline has no obligation to maintain the Customer Property and may destroy it.

10. LIABILITY LIMIT

- a. Indemnification for Third-Party Claims.** LeadsOnline will defend or settle any third-party claim against Customer to the extent that such claim alleges that the LeadsOnline technology used to provide the Service violates a copyright, patent, or trademark, if Customer: promptly notifies LeadsOnline of the claim in writing; cooperates with LeadsOnline in the defense; and allows LeadsOnline to solely control the defense or settlement of the claim. Costs. LeadsOnline will pay infringement claim defense costs it incurs in defending Customer, and LeadsOnline-negotiated settlement amounts, and court awarded damages. Process. If such a claim appears likely, then LeadsOnline may modify the Service, procure the necessary rights, or replace it with the functional equivalent. If LeadsOnline determines that none of these are reasonably available, then LeadsOnline may terminate the Service and refund any prepaid and unused fees. Exclusions. LeadsOnline has no obligation for any claim arising from: Customer's misuse of the Services, LeadsOnline's compliance with Customer's designs, specification, instructions, or technical information; a combination of the Service with other technology or aspects where the infringement would not occur but for the combination; Customer's directives, access or use of, or laws or policies applicable to Customer regarding the information and sources thereof accessible via the Services including Customer Property; or technology or aspects not provided by LeadsOnline. **THIS SECTION CONTAINS CUSTOMER'S EXCLUSIVE REMEDIES AND LEADSONLINE'S SOLE LIABILITY FOR INTELLECTUAL PROPERTY INFRINGEMENT CLAIMS.**
- b. EXCLUSION OF INDIRECT DAMAGES. TO THE MAXIMUM EXTENT ALLOWED BY LAW, LEADSONLINE IS NOT LIABLE FOR ANY INDIRECT, SPECIAL, INCIDENTAL, OR CONSEQUENTIAL DAMAGES ARISING OUT OF OR RELATED TO THIS AGREEMENT (INCLUDING, WITHOUT LIMITATION, COSTS OF DELAY; LOSS OF OR UNAUTHORIZED ACCESS TO DATA OR INFORMATION; AND LOST PROFITS, REVENUE, OR ANTICIPATED COST SAVINGS), EVEN IF IT KNOWS OF THE POSSIBILITY OR FORESEEABILITY OF SUCH DAMAGE OR LOSS.**
- c. TOTAL LIMIT ON LIABILITY. TO THE MAXIMUM EXTENT ALLOWED BY LAW, EXCEPT FOR LEADSONLINE'S INDEMNITY OBLIGATIONS, LEADSONLINE'S TOTAL LIABILITY ARISING OUT OF OR RELATED TO THIS AGREEMENT (WHETHER IN CONTRACT, TORT, OR OTHERWISE) DOES NOT EXCEED THE AMOUNT PAID BY CUSTOMER WITHIN THE 12-MONTH PERIOD PRIOR TO THE EVENT THAT GAVE RISE TO THE LIABILITY, EXCEPT THAT THE ABOVE LIMITATION DOES NOT APPLY TO CUSTOMER'S PAYMENT OBLIGATIONS FOR THE SERVICE.**

11. GOVERNING LAW & FORUM

- a. Government Customers.** This Agreement is governed by the laws of the State where Customer is located (without regard to conflicts of law principles) for any dispute between the parties or relating in any way to the subject matter of this Agreement. Any suit or legal proceeding must be exclusively brought in the federal or state courts for the County where Customer is located, and each party submits to this personal jurisdiction and venue. Nothing in this Agreement prevents either party from seeking injunctive relief in a court of competent jurisdiction.
- b. All other Customers.** For all other Customers, this agreement is governed by the laws of the State of Texas (without regard to conflicts of law principles) for any dispute between the parties or relating in any way to the subject matter of this agreement. Any suit or legal proceeding must be exclusively brought in the federal or state courts for Collin County, Texas and Customer submits to this personal jurisdiction and venue. Nothing in this agreement prevents either party from seeking injunctive relief in a court of competent jurisdiction. The prevailing party in any litigation is entitled to recover its attorneys' fees and costs from the other party.

12. OTHER TERMS

- a. Entire Agreement and Changes.** This Agreement and the Order Form constitute the entire Agreement between the parties and supersede any prior or contemporaneous negotiations or Agreements, whether oral or written, related to this subject matter. Customer is not relying on any representation concerning this subject matter, oral or written, not included in this Agreement. No representation, promise, or inducement not included in this Agreement is binding. No modification or waiver of any term of this Agreement is effective unless both parties sign an amendment to this Agreement.

- b. No Assignment.** Neither party may assign or transfer this Agreement to a third party, except that the Agreement and all Order Forms may be assigned without the consent of the other party as part of a merger or sale of all or substantially all a party's businesses, assets, not involving a competitor of the other party, or at any time to an Affiliate.
- c. Export Compliance.** The Service and Confidential Information may be subject to export laws and regulations of the United States and other jurisdictions. Each party represents that it is not named on any U.S. government denied-party list. Neither party will permit its personnel or representatives to access any Service in a U.S.-embargoed country or in violation of any applicable export law or regulation.
- d. Independent Contractors.** The parties are independent contractors with respect to each other, and neither party is an employee, or partner of the other party or the other party's Affiliates.
- e. Enforceability and Force Majeure.** If any term of this Agreement is invalid or unenforceable, the other terms remain in effect. Neither party is liable for its non-performance due to events beyond its reasonable control, including but not limited to natural weather events and disasters, labor disruptions, and disruptions in the supply of utilities.
- f. Money Damages Insufficient.** Any breach by a party of this Agreement or violation of the other party's intellectual property rights could cause irreparable injury or harm to the other party. The other party may seek a court order to stop any breach or avoid any future breach of this Agreement.
- g. No Additional Terms.** LeadsOnline rejects additional or conflicting terms of a Customer's form-purchasing document.
- h. Order of Precedence.** If there is an inconsistency between this Agreement and an Order Form, the Order Form prevails.
- i. Survival of Terms.** All provisions of this Agreement regarding payment, confidentiality, indemnification, limitations of liability, proprietary rights, and such other provisions that by fair implication require performance beyond the term of this Agreement shall survive expiration or termination of this Agreement until fully performed or otherwise are inapplicable.
- j. Feedback.** If Customer provides feedback or suggestions about the Service, then LeadsOnline (and those it allows to use its technology) may use such information without obligation to Customer.

13. SIGNATURES

Each representative identified below represents and warrants that it has the full power, right and authority to enter into this Agreement on behalf of its respective party.

LEADSONLINE LLC (LEADSONLINE)
Signature:
Printed Name: Alexander Finley
Title: CEO
Date:
Address: 6900 Dallas Parkway, Suite 825, Plano, TX 75024, United States

CITY OF CHARLESTON, WEST VIRGINIA (CUSTOMER)
Signature:
Printed Name:
Title:
Date:
Address: 501 Virginia Street East, Charleston, WV 25301, United States

LEADSONLINE CELLHAWK TIER 3 SUBSCRIPTION

ORDER FORM No. 5395-1283

CUSTOMER:

CITY OF CHARLESTON, WEST VIRGINIA

UNIT:

POLICE DEPARTMENT

1. SERVICE

LeadsOnline CellHawk Cell Phone Mapping & Analysis System for Law Enforcement Agency users (**Service**).

Customer represents that it is a law enforcement agency or governing body of a law enforcement agency, an entity duly authorized by municipal, state county or federal government to enforce laws or investigate crimes, and the Eligible Users are employed by Customer in the Unit listed at the top of this Order Form.

2. PURPOSE

Law Enforcement Use: Exclusively for the official law enforcement agency duties of Customer's Unit; information retrieved from the Service is for the exclusive use of Eligible Users with the exception of disclosure necessary to investigate and prosecute crimes within the jurisdiction of and investigated by Customer's Unit.

3. DEFINITIONS

Analysis Files are records electronically submitted by a Customer to the Service for automated analysis including but not limited to unstructured images, video, audio or text submitted, and data related to communications or movements of devices, vehicles and other entities, reference data for identifying locations including cell site lists, landmarks, and locations related to crimes). Analysis Files are typically generated by telecommunications network providers and systems, app providers, computers, extraction systems and are provided to Customer via a legal process or voluntarily by persons with the right to provide them. Analysis Files are Customer Property.

4. SERVICE RECIPIENT AND ELIGIBLE USERS

Capacity and Eligible Users: No more than 3 named individual employees of Customer in its Police Department, each with a unique login (**Eligible Users**).

- Eligible User logins may not be shared and individuals in a division who are not Eligible Users may not access the Service.
- During initial onboarding, Customer must provide LeadsOnline with the names and email addresses of Eligible Users (Customer may revise its Eligible Users Form a reasonable number of times each year).
- Access to Analysis Files is limited to Eligible Users for Services on this Order Form, but may be shared with eligible users of other order forms if directed by Customer.

Maximum number of rows allowed: Unlimited

5. TERM, SERVICE PERIODS AND SUBSCRIPTION FEES

Order Term: This Order Form will become effective as of the Effective Date and remain in effect through the Service Periods listed below (**Initial Term**) and any renewal Service Periods or until termination by LeadsOnline or Customer as described below. The Effective Date shall be defined as the date of the last signature below.

SERVICE PERIODS	DUE DATE	AMOUNT
September 1, 2024 through August 31, 2025	Due upon receipt	\$5,299
September 1, 2025 through August 31, 2026	Due on or before September 1, 2025	\$5,458
September 1, 2026 through August 31, 2027	Due on or before September 1, 2026	\$5,622
September 1, 2027 through August 31, 2028	Due on or before September 1, 2027	\$5,903
September 1, 2028 through August 31, 2029	Due on or before September 1, 2028	\$6,198

Renewals: Neither party is obligated to renew this Order Form. Prior to the expiration of the Initial Term or any renewal term, the parties may renew this Order Form for an additional one-year term by LeadsOnline's submission of a valid invoice to Customer for the renewal Service Period at then-current pricing and Customer's payment of such invoice within thirty (30) days of renewal.

6. FEATURES

SERVICE	CELLHAWK FEATURES
LeadsOnline CellHawk System	Upload Analysis Files to analyze communications or movements of devices, vehicles and other entities, reference data for identifying locations including cell site lists, landmarks, and locations related to crimes.
LeadsOnline Live Ping System	Create a Live Ping with any carrier and direct notifications from any carrier to route to your users and to LeadsOnline CellHawk for mapping, filtering, and analysis.
LeadsOnline Deconfliction System	Benefit from coordinated investigative efforts through pointers to the records of other Law Enforcement Agencies when users match on persons, property, devices, vehicles, and other entities.
LeadsOnline Toolbox	Use LeadsOnline's automated search warrant generation, automated phone lookups, repository of training materials, video tutorials, templates, resources, software, process guides, carrier and network specifications, contacts, subject matter assistance and other content relevant to criminal investigations.

7. TRAINING AND REMOTE TECHNICAL SUPPORT

- One-Hour Online New User CellHawk Basic Training class.
 - Additional courses available via LeadsOnline CellHawk Training Portal.
 - Other on-demand training webinars on digital evidence analysis are available in the LeadsOnline Toolbox.
- Technical Support program is described at leadsonline.com/support.

8. MISC.

This Order Form is attached to and incorporated into the Subscription Services Agreement between **Customer** and **LeadsOnline** dated _____ (**Agreement**). This Order Form is governed by the terms of the Agreement between the parties. All terms not defined in this Order Form have the meanings ascribed to such terms in the Agreement. This Order Form and the Agreement constitute the entire agreement between the parties, and supersede all prior or contemporaneous negotiations, agreements, and representations, whether oral or written, related to this subject matter. No modification or waiver of any term of this Order Form is

effective unless both parties sign an amendment to this Order Form. LeadsOnline may include a purchase order number on Customer's invoice solely for Customer's internal payment and record keeping processes, but any terms within any purchase order in response to a quote, order form or invoice will not modify or enlarge the obligations or liabilities of either party even if the parties sign it.

9. SIGNATURES

Each representative identified below represents and warrants that it has the full power, right and authority to enter into this Agreement on behalf of its respective party.

LEADSONLINE LLC (LEADSONLINE)
Signature:
Printed Name: Alexander Finley
Title: CEO
Date:
Address: 6900 Dallas Parkway, Suite 825, Plano, TX 75024, United States

CITY OF CHARLESTON, WEST VIRGINIA (CUSTOMER)
Signature:
Printed Name:
Title:
Date:
Address: 501 Virginia Street East, Charleston, WV 25301, United States

Resolution No. 24-018

Introduced in Council:

September 16, 2024

Adopted by Council:

Introduced by:

Joseph Jenkins

Referred to:

Finance

Resolution No. 24-018 – Authorizing the Mayor or City Manager to enter into a five-year contract with Carahsoft Technology Corp for web security gateway services, for the Information Systems Department at a total five-year price of \$215,836.98 pursuant to a competitive bid process.

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 five-year contract with Carahsoft Technology Corp for web security gateway services, for the Information Systems Department at a total of \$215,836.98 pursuant to a competitive bid process.

PRICE QUOTATION

CARAHSOFT TECHNOLOGY CORP

11493 SUNSET HILLS ROAD | SUITE 100 | RESTON, VIRGINIA 20190
PHONE (703) 871-8500 | FAX (703) 871-8505 | TOLL FREE (888) 66CARAH
WWW.CARAHSOFT.COM | SALES@CARAHSOFT.COM



TO: Larry Vernati
Network Administrator
City of Charleston
501 Virginia Street East
Charleston, WV 25301 USA

FROM: Stephen Haynes
Carahsoft Technology Corp.
11493 Sunset Hills Road
Suite 100
Reston, Virginia 20190

EMAIL: larry.vernati@cityofcharleston.org

EMAIL: Stephen.Haynes@carahsoft.com

PHONE: (304) 348-8048

PHONE: (571) 662-3792

TERMS: FTIN: 52-2189693
Shipping Point: FOB Destination
Remit To: Same as Above
Payment Terms: Net 30 (On Approved Credit)
Cage Code: 1P3C5
DUNS No: 088365767
UEI: DT8KJHZXVJH5
Credit Cards: VISA/MasterCard/AMEX
Sales Tax May Apply

QUOTE NO: 49697724
QUOTE DATE: 08/30/2024
QUOTE EXPIRES: 08/30/2024
RFQ NO:
SHIPPING: ESD
TOTAL PRICE: \$215,836.98
TOTAL QUOTE: \$215,836.98

LINE NO.	PART NO.	DESCRIPTION	LIST PRICE	QUOTE PRICE	QTY	EXTENDED PRICE
YEAR 1						
1	ZIA-BIZ-EDITION	ZIA Business Edition Zscaler, Inc - ZIA-BIZ-EDITION Start Date: 10/01/2024 End Date: 09/30/2025	\$89.88	\$55.74 OM	650	\$36,231.00
2	ZCES-SUP-PREM	Annual Premium Support Services (No Onsite Support Included) with 24/7 Support & 8/5 Shared TAM coverage (Local Time Zone). (US Citizen Required) in GovCloud Moderate. Subscription. (20% of List Price). The published \$0.01 price is not the Customer's fin Zscaler, Inc - ZCES-SUP-PREM Start Date: 10/01/2024 End Date: 09/30/2025	\$8,763.38	\$5,431.69 OM	1	\$5,431.69
3	ZCES-DEP-ESS	Deployment Services - Essential Zscaler, Inc - ZCES-DEP-ESS Start Date: 10/01/2024 End Date: 12/31/2024	\$7,800.00	\$7,800.00 OM	1	\$7,800.00
YEAR 1 SUBTOTAL:						\$49,462.69
YEAR 2						
4	ZIA-BIZ-EDITION	ZIA Business Edition Zscaler, Inc - ZIA-BIZ-EDITION Start Date: 10/01/2025 End Date: 09/30/2026	\$89.88	\$55.74 OM	650	\$36,231.00
5	ZCES-SUP-PREM	Annual Premium Support Services (No Onsite Support Included) with 24/7 Support & 8/5 Shared TAM coverage (Local Time Zone). (US Citizen Required) in GovCloud Moderate. Subscription. (20% of List Price). The published \$0.01 price is not the Customer's fin Zscaler, Inc - ZCES-SUP-PREM Start Date: 10/01/2025 End Date: 09/30/2026	\$8,763.38	\$5,431.69 OM	1	\$5,431.69
YEAR 2 SUBTOTAL:						\$41,662.69

CONFIDENTIAL

PAGE 1 of 3

QUOTE DATE: 08/30/2024

QUOTE NO: 49697724

PRICE QUOTATION

CARAHSOFT TECHNOLOGY CORP

11493 SUNSET HILLS ROAD | SUITE 100 | RESTON, VIRGINIA 20190
 PHONE (703) 871-8500 | FAX (703) 871-8505 | TOLL FREE (888) 66CARAH
 WWW.CARAHSOFT.COM | SALES@CARAHSOFT.COM



LINE NO.	PART NO.	DESCRIPTION	LIST PRICE	QUOTE PRICE	QTY	EXTENDED PRICE
YEAR 3						
6	ZIA-BIZ-EDITION	ZIA Business Edition Zscaler, Inc - ZIA-BIZ-EDITION Start Date: 10/01/2026 End Date: 09/30/2027	\$89.88	\$55.74 OM	650	\$36,231.00
7	ZCES-SUP-PREM	Annual Premium Support Services (No Onsite Support Included) with 24/7 Support & 8/5 Shared TAM coverage (Local Time Zone). (US Citizen Required) in GovCloud Moderate. Subscription. (20% of List Price). The published \$0.01 price is not the Customer's fin Zscaler, Inc - ZCES-SUP-PREM Start Date: 10/01/2026 End Date: 09/30/2027	\$8,763.38	\$5,431.69 OM	1	\$5,431.69
YEAR 3 SUBTOTAL:						\$41,662.69
YEAR 4						
8	ZIA-BIZ-EDITION	ZIA Business Edition Zscaler, Inc - ZIA-BIZ-EDITION Start Date: 10/01/2027 End Date: 09/30/2028	\$89.88	\$55.74 OM	650	\$36,231.00
9	ZCES-SUP-PREM	Annual Premium Support Services (No Onsite Support Included) with 24/7 Support & 8/5 Shared TAM coverage (Local Time Zone). (US Citizen Required) in GovCloud Moderate. Subscription. (20% of List Price). The published \$0.01 price is not the Customer's fin Zscaler, Inc - ZCES-SUP-PREM Start Date: 10/01/2027 End Date: 09/30/2028	\$8,763.38	\$5,431.69 OM	1	\$5,431.69
10	ZCR-UPY4	Uplift for Year 4 Zscaler, Inc - ZCR-UPY4 Start Date: 10/01/2027 End Date: 09/30/2028	\$1,957.22	\$0.00 OM	1	\$0.00
YEAR 4 SUBTOTAL:						\$41,662.69
YEAR 5						
11	ZIA-BIZ-EDITION	ZIA Business Edition Zscaler, Inc - ZIA-BIZ-EDITION Start Date: 10/01/2028 End Date: 09/28/2029	\$89.88	\$55.37 OM	650	\$35,990.50
12	ZCES-SUP-PREM	Annual Premium Support Services (No Onsite Support Included) with 24/7 Support & 8/5 Shared TAM coverage (Local Time Zone). (US Citizen Required) in GovCloud Moderate. Subscription. (20% of List Price). The published \$0.01 price is not the Customer's fin Zscaler, Inc - ZCES-SUP-PREM Start Date: 10/01/2028 End Date: 09/28/2029	\$8,763.38	\$5,395.72 OM	1	\$5,395.72
13	ZCR-UPY5	Uplift for Year 5 Zscaler, Inc - ZCR-UPY5 Start Date: 10/01/2028 End Date: 09/28/2029	\$2,055.08	\$0.00 OM	1	\$0.00
YEAR 5 SUBTOTAL:						\$41,386.22
SUBTOTAL:						\$215,836.98

PRICE QUOTATION

CARAHSOFT TECHNOLOGY CORP

11493 SUNSET HILLS ROAD | SUITE 100 | RESTON, VIRGINIA 20190
PHONE (703) 871-8500 | FAX (703) 871-8505 | TOLL FREE (888) 66CARAH
WWW.CARAHSOFT.COM | SALES@CARAHSOFT.COM

carahsoft.

TOTAL PRICE:	\$215,836.98
TOTAL QUOTE:	\$215,836.98

This is a 5 year non-cancellable term with an annual payment structure.
The customer agrees that all payments will be paid in a timely manner based on the payment schedule below.

Installment Payments: All payments are due NET 30 from their respective invoice date. Customer will pay Carahsoft the Total amount of this quote; in the following installments:

Payment 1: \$49,462.69 due NET 30 from the invoice date
Payment 2: \$41,662.69 will be invoiced 1 year from the original purchase date and due NET 30
Payment 3: \$41,662.69 will be invoiced 2 years from the original purchase date and due NET 30
Payment 4: \$41,662.69 will be invoiced 2 years from the original purchase date and due NET 30
Payment 5: \$41,386.22 will be invoiced 2 years from the original purchase date and due NET 30
The total amount and payments due herein are separate from, and in addition to, any payments due in connection with any other Carahsoft transaction.

Failure to pay any installment in a timely fashion will result in all remaining payments to become immediately due. Any fees paid will be non-refundable.

"Deployment services will be invoiced upfront. Any Deployment hours not used within Ninety (90) days of the Subscription start date will expire."

Excessive Monthly Traffic for ZIA: Customer's usage of the Products is limited by both the number of Seats ordered and total amount of traffic flowing through the Products each month. Each ZIA regular Customer User is allowed to have up to a monthly traffic of 6 GB per month per ZIA Seat and each ZIA Light Customer User is allowed to have up to a monthly traffic of 1 GB per month per ZIA Seat. If Customer exceeds its allowed GB of traffic by more than ten-percent (10%), Zscaler will notify Customer/Partner and Customer agrees to work with Partner/Zscaler in good faith to investigate the reason(s) for Customer's traffic increase (e.g. additional non-purchased Seats using the Products, non-Seat traffic using the Products, changes in Customer's network, etc.), and either (i) determine a bandwidth reduction plan; (ii) order additional Seats and/or Monthly Traffic which will be pro-rated and co-terminous with the then-current Subscription Term; or (iii) convert some or all Light Customer Users to regular Customer Users. If Customer does not comply with any of the foregoing three (3) options within ninety (90) days of being notified by Zscaler, then Customer/Partner agrees that Zscaler may invoice Customer/Partner for required additional Monthly Traffic starting from the date of notification. Customer / Partner is responsible for ordering the correct number of seats, servers/workloads, and/or GB of monthly traffic. On a quarterly basis during the Subscription Term, Zscaler and Customer will jointly review the quantity of seats, servers/workloads, and/or monthly traffic being used by Customer to access Zscaler Products, and if it is determined that Customer is using more seats, servers/workloads, and/or monthly traffic than it has ordered, Customer / Partner shall place an additional Order for such additionally required seats, servers/workloads, and/or monthly traffic. Any such Order to true-forward the seats, servers/workloads, and/or monthly traffic being used by Customer shall be pro-rated and coterminous with the then-current Subscription Term.

In addition to the EUSA, Zscaler's Deployment Services or Professional Services shall be governed by the terms at <https://www.zscaler.com/resources/legal/deployment-and-ps-terms.pdf>.

For U.S. Government Resellers, such Resellers agree to obtain End User Customer's acceptance of Zscaler's end user subscription agreement (EUSA) by either (1) obtaining End User Customer's signature on a hard copy of the EUSA; (2) ensuring the EUSA link at: <https://www.zscaler.com/legal/end-user-subscription-agreement-us-government-customers> is included in the End User Customer's final binding purchase order to Reseller; or (3) attaching the EUSA as an exhibit to Reseller's final binding contract/order with End User Customer for the Zscaler Products.

In addition to the EUSA, Zscaler's Deployment Services or Professional Services shall be governed by the terms at <https://www.zscaler.com/resources/legal/deployment-and-ps-terms.pdf>

If Resident Engineer services are purchased as part of this quote, those services are billed in full upfront.

All subscriptions purchased herein are non-cancellable

SFP (small form-factor pluggable) devices are NOT part of private service edges sku or offering and need to be ordered by Reseller

		Blackwood Associates	Carashoft	Inversion6
Item	Quantity	Price	Price	Price
BID AND PROPOSAL FORM (2 OF 3)				
Web Security Filter Gateway 1 - Year	1.00	\$60,000.00	\$58,769.13	\$58,776.67
Web Security Filter Gateway 3 - Year	3.00	\$180,000.00	\$134,047.03	\$176,330.01
Web Security Filter Gateway 5 - Year	5.00	\$300,000.00	\$215,836.00	
Local Vendor Preference		N/A	N/A	N/A

Resolution No. 24-019

Introduced in Council:

September 16, 2024

Adopted by Council:

Introduced by:

Joseph Jenkins

Referred to:

Finance

Resolution No. 24-019 – Authorizing the Mayor or City Manager to enter into a one-year, open ended contract with Stephens Auto for vehicle needs in various City departments, where the price for each vehicle will be locked in for one year pursuant to a competitive bid process and purchases can be made as needed at the prices set forth in the attached bid document.

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 one-year, open ended contract with Stephens Auto for vehicle needs in various City departments, where the price for each vehicle will be locked in for one year and purchases will made as needed pursuant to the contract.

Solicitation was successfully advertised

Status: Advertised | Bids: 0

Update Advertisement

Withdraw Advertisement

More

Attachment List

Downloadable attachments that you provide, for the bidder, as part of the solicitation.

Bid Bond

A bid bond form that provides surety verification.

Build Your Own

This is a custom 'Build Your Own' component.

Envelope

The information supplied in this component will be available to the owner/agency immediately after the bid deadline, but before the bid is opened.

Item List

A list of biddable items. You define the quantity, description and units

General Info

Click here to disable Q & A notifications for this solicitation.

Number

2024-33 Automobiles Contract

Allow zero unit prices and labor?

Yes

Deadline

08/06/2024 10:00 AM EDT

Allow negative unit prices and labor?

Yes

Auto Advertise

Allow Electronic Signatures?

Yes

Description

Summary:
The City of Charleston on behalf of its Fleet Department, is seeking bids for the purchase of Automobiles. This contract is designed to be open ended for automobile ordering for 1 (one) year. The following should be an outline of service components and installation requirements. The completed vehicles should be turn-key, including all vendor provided equipment and materials, and fully operable at delivery per the bid specification.

Allow vendors to ask questions?

Yes

Restricted?

No

Mark solicitation as an RFP?
No

Edit



Invited Vendors

Invite Shortlist

Invite Vendor

Business Name

Address

Phone

No Vendors found

Stephens Auto Center PO Box 278 Danville, WV 25053 304-369-2411

Q & A

Edit

Print

Deadline

07/30/2024 03:00 PM EDT

Remarks

No questions have been asked

ATTACHMENT LIST

Edit

More

Order Name Description

- 1 2024-33 Automobiles Spec.pdf (135 KB)
- 2 INFORMATION FOR BIDDERS-2024 -33 Automobiles Contract.pdf (170 KB)
- 3 Terms and Conditions.pdf (149 KB)
- 4 Purchasing Affidavit.pdf (272 KB)
- 5 Local Vendor Purchasing Affidavit - City of Charleston.pdf (137 KB) OPTIONAL
- 6 COC Purchasing Affidavit.pdf (60.2 KB)

6 Attachments

▣ ADDENDUM ACKNOWLEDGMENT

Click "+" to add addenda. If no addendum, type "N/A."

Addendum Number:*

Date of Acknowledgment:*

Edit

More

▣ EXCEPTIONS AND DEVIATIONS

Optional: Vendor is not required to complete.

Bidder shall fully describe every variance, exception and/or deviation. Please include with your bid form. Additional sheets may be used if required.

Enter exceptions and deviations below:*

Edit

More

▣ BID AND PROPOSAL FORM (1 OF 3)

I agree to supply the materials and perform the services as detailed in this solicitation, including accepting the terms and conditions associated with it.

required

I acknowledge that I have read the solicitation carefully and agree to its terms.*

Edit

More

BID AND PROPOSAL FORM (2 OF 3)

Edit More

Search for Item Code or Description

Reset Search

Order	Description	Quantity	Alternate	Optional	Fixed (Unit Price)	Unit Price
	• Alternates are not included in bid total.					
N/A	1 Jeep Cherokee (or Equal)-**must include vehicle specification sheet**	1.00	X	X	X	
N/A	2 Ford F150- Regular Cab (or Equal)-**must include vehicle specification sheet**	1.00	X	X	X	
	3 Ford F150- Crew Cab (or Equal)-**must include vehicle specification sheet**	1.00	X	X	X	\$42,130.00
	4 Ford F150- Extended Cab (or Equal)-**must include vehicle specification sheet**	1.00	X	X	X	\$39,505.00
N/A	5 Ford F250- Crew Cab (or Equal)-**must include vehicle specification sheet**	1.00	X	X	X	
	6 Ford Explorer- AWD (or Equal)-**must include vehicle specification sheet**	1.00	X	X	X	\$39,810.00
N/A	7 Ford Transit Passenger Van (or Equal)-**must include vehicle specification sheet**	1.00	X	X	X	
	8 Chevrolet Trax (or Equal)-**must include vehicle specification sheet**	1.00	X	X	X	\$26,217.00
	9 Vehicle Color Add-On (Bid White) All other colors vary in price range of \$295.00 to \$795.00		X	X	X	

9 Items

■ BID AND PROPOSAL FORM (3 OF 3)

Edit More

- ✓ Local Vendor Preference: -- By checking this box and signing below, I hereby certify and attest I have read the Local Vendor Preference statement found on the "Information for Bidders" document attached to this solicitation. *
- ✓ Business & Occupation Tax: -- By checking this box and signing below, I hereby certify and attest I have read the Business & Occupation Tax statement found on the "Information for Bidders" document attached to this solicitation. *
- ✓ Equal Employment Opportunities: -- I acknowledge and agree that, in the performance of any City contract, the vendor will not discriminate against any employee or applicant for employment because of race, color, religion, age, sex, sexual orientation, gender identity, disability, or national origin. *

Authorized Bidder's Signature: *M. W. Ballard* Title: *Fleet Manager*

Date: *7-31-24*

Company Name: *Stephens Auto Center*

Address: *PO Box 278 Danville, WV 25053*

Telephone Number: *304-369-2411* Fax Number: *304-369-2490*

Email Address: *mballard@stephensauto.com*

LIST OF STOCKHOLDERS

Edit More

Provide a list of all stockholders by name and address owning 5% or more of the bidder's current stock must be submitted with the bid. In the case of partnerships or sole proprietorships, those receiving a 5% or more share of the company's net profit must be listed.

If attaching PDF copy of List of Stockholders, type "Attached" in the fields below.

Click "+" to add Stockholders. If none, type "N/A."

Stockholder Name:*

Richard Stephens
Mike Ballard

Stockholder Address:*

Charleston, WV
Madison, WV

VENDOR PROTESTS

Edit More

In the event that any vendor desires to protest City's selection, such vendor (hereinafter "Protestor") shall submit its protest in writing, which must be received by City within seven (7) calendar days of after City Council approves of the award. Provided that the City Manager reserves the right to extend the time for submission of the protest if he determines it is reasonable under the circumstances.

The written protest must be submitted to the **City Manager's Office, Attention: Benjamin Mishoe 501 Virginia Street East, Room 101; Charleston, WV 25301**.

Only vendors who have submitted a timely and responsive proposal may protest City's selection. No protest may be filed if the RFP is withdrawn or if all proposals received in response to the RFP are rejected.

Protests shall include the following information:

1. The Protestor's name, address, telephone number, and fax number;
2. The solicitation number;
3. A detailed statement of the legal and/ or factual grounds for the protest;
4. Copies of all relevant and supporting documentation, if necessary; and
5. A statement as to the form of resolution or relief sought.

FAILURE TO SUBMIT THIS INFORMATION SHALL BE GROUNDS FOR REJECTION OF THE PROTEST.

The City Manager may refuse to review any protests when the matter involved is the subject of litigation before a court of competent jurisdiction; or if it has been decided by the City Manager in a previous protest.

At the time of submitting the written protest, Protestor shall submit a certified check in the amount of one thousand dollars (\$1,000.00) or bond equal to five percent (5%) of the price of the selected proposal, whichever is greater. In the event the proposal being protested is for contracted services, an estimated average of the contract value will be determined in order to calculate the five percent (5%) bond value. This bonding requirement is designed to protect against frivolous claims and unnecessary expenditures of public funds and to allow City to offset any and all costs, fees, expenses or damages of any kind whatsoever incurred by City as the result of an unsuccessful protest.

In the event the protest is unsuccessful, the certified check or bond will be used by City to recoup any and all costs, fees, expenses, or damages of any kind whatsoever incurred by City and related in any way to the unsuccessful protest. Costs, fees, expenses, and damages shall include, but shall not be limited to, increased costs of labor, materials or services resulting from any delay, professional fees, including, but not limited to, attorney fees, and all costs, fees or expenses of any kind whatsoever related in any way to the unsuccessful protest. By signing this document, Protestor waives the right to receive any money retained by City as set forth herein. If there are any funds remaining after City has recouped amounts as permitted herein, the remaining funds will be returned to Protestor. In the event Protestor is successful, the full amount of the certified check or bond will be returned to Protestor.

Upon receipt of a timely written protest, City shall provide notice of the protest to vendor selected as the successful bidder (hereinafter "Selected Vendor") and provide Selected Vendor with a copy of the written protest and any documents related thereto. **Selected Vendor will have two (2) business days to file a written response to the protest.** A hearing may be held within five (5) business days of the **date of receipt of the written response to the protest by Selected Vendor**, provided that, City may, in its sole discretion, set the date of the hearing beyond the five (5) day time period specified herein if deemed necessary or convenient to do so by City. If a hearing is held, both Protestor and Selected Vendor will have an opportunity to appear and present evidence and testimony in support of their positions. The hearing will be held before the City Manager or his designee. The department head of the department seeking the RFP and the City Attorney shall be in attendance.

A decision will be made by City within five (5) business days of the hearing. Upon a decision having been made, both Protestor and Selected Vendor will be notified in writing of City's decision.

In the event City's selection is reversed, City will reevaluate all proposals which were originally and timely submitted, in accordance with state and city laws and regulations. During the reevaluation, issues addressed during the protest proceedings may be considered.

Once a written protest is filed, no work will be performed by Selected Vendor until such time as City has rendered a final decision on the protest; provided that, if City, in its sole discretion, determines time is of the essence regarding receipt of the goods or completion of the services to be performed, City may permit Selected Vendor to proceed pursuant to its proposal and any Agreement with City, until/unless the protest is successful.

By submitting a proposal, each vendor agrees that the procedure outlined herein is the exclusive remedy available to challenge/protest the award of a contract to a successful bidder. The decision of the city manager is final and is not appealable. Each vendor further agrees that, in the event any qualified vendor fails to submit a written protest and certified check or bond within the time period specified, that vendor thereby forever waives its right to any further claim, action, or remedy, including, but not limited to, the right to bring an action before any administrative agency or any court of competent jurisdiction.

Vendor Signature:*

M. W. Ballard

Date:*

7-31-24

Required Document List

Edit More

Name

Description

Omission Terms

Cashier's Check, Certified Check, or Paper Bid Bond

Please upload a copy of Bidder's Cashier's Che...

I am verifying my bid bond electronically.

List of Stockholders

Please upload a copy of Bidder's List of Stockh...

I have no Stockholders or have provided my Lis...

Additional Upload Space

Upload additional documents.

I do not need to upload additional documents.

3 Required Documents

Intent

The City of Charleston, on behalf of all departments, is soliciting bids to establish an open-end contract for the purchase of motor vehicles for 2025, or the latest model. The following should be an outline of service components and installation requirements. The completed vehicles should include all vendor provided equipment and materials, and fully operable at delivery per the bid specification.

The details contained in the following specifications are not designed to exclude any manufacturer from bidding but are offered as a means of describing the needs of the City of Charleston. Where brand names are used, the words "or equal" are assumed to follow. All specifications are minimum requirements unless otherwise stated. Any deviations from the stated specifications must be described in detail. The merit of such deviations will be considered with regard to the City of Charleston's intended use.

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.

Standard Equipment Requirements:

1. All vehicles must have cloth interior.
2. All vehicles shall be gasoline powered
3. Transmission: Auto Transmission
4. License bracket: License plate mounts located on the front and rear bumpers.
 - I. Prior to delivery, all vehicles must be predrilled, with hardware installed, to meet specifications that require both front and rear license plates. II. Any vehicle delivered without such plate mounts will be rejected.
 - II. Any vehicle delivered without such plate mounts will be rejected.
5. Power Steering
6. Minimum AM/FM Radio, Hands free/Bluetooth compatible, installed
7. Power/ABS Brakes
8. Manufacturer's Standard Tint Glass
9. Exterior power, left and right mirrors

10. All-season tires
11. Manufacturer's standard spare tire with jack when available as standard equipment.
12. Installed rear window defogger for all vehicles except trucks and cargo vans
13. Front bucket seats for all vehicles except trucks.
14. Installed floor mats, except where vinyl floor covering is present. The following vehicle classes require slush, all weather mats: Trucks, Cargo Vans.
15. Installed front driver and passenger air bags
16. Installed power windows and locks on all doors except for Vans where power windows and locks on all doors are not available as an option from the manufacturer. Van vendors will provide power windows and locks where applicable.
17. Factory installed tilt wheel and cruise control
18. Factory installed keyless entry
19. Installed "fleetside" bed for trucks.
20. Factory Reverse backup camera.
21. Warranty: Manufacturer's warranty shall apply.

All parts, equipment, accessories, material, design and performance characteristics not specified herein, but which are necessary to provide a complete unit, must be furnished with each unit and required to conform to strength, quality of material, and quality of workmanship to those which are advertised and provided to the market in general by the unit industry.

All standard safety features, required by Federal and State law, shall be included.

Vehicles must have all equipment found on the manufacturer's base model plus other equipment requirements, packages, items, etc. needed to meet the specifications for each order vehicle class placed against the contract.

Pre-delivery Inspection Requirements:

Prior to delivery, all vehicles must be thoroughly inspected and serviced in compliance with the manufacturer's proscribed procedures which includes but is not limited to:

1. Complete vehicle lubrication.
2. Confirm oil level, fill crank case as needed, top off all fluids.
3. Adjust engine to proper operating condition.
4. Verify tire pressure and corrected as necessary.
5. Check front end alignment or four-wheel alignment if applicable, perform alignment if needed, and balance all tires.
6. Wash/Clean interior and exterior of vehicle. Remove all unnecessary tags, stickers (including window stickers), papers, tags etc.; Window stickers need to be removed and placed inside the vehicle.
7. Include a minimum of one owner's manual.
8. Upon delivery, the vehicles fuel tanks shall be full of fuel.
9. Include temporary license plate and registration.
10. Affix a valid West Virginia Inspection Sticker to the windshield. The vehicle must be inspected in the month delivered.
11. No dealer insignia or other advertising shall be affixed to the vehicle or appear on any accessory such as mud flaps, bumpers, deck lids, etc. Vehicles delivered with such advertising will be rejected.
12. Perform operational checks which will cover all controls, systems, and devices, doors, windows, accessories, and road testing of the completed vehicle. Vehicle shall be driven at various speeds; brakes tested for dependability, vehicle checked for rattles, squeaks and must be in compliance with pre-delivery inspection/servicing procedures and make adjustments as necessary.
13. **Operator's Manuals:** The manufacturer shall furnish with the vehicle at least one copy of all warranty information and handbooks for the vehicle and any special equipment furnished with, or as a part of, the vehicle. This information shall be in

hard copy form. The handbooks shall include as a minimum the vehicles operator's manual, vehicle maintenance handbook, and special equipment handbook.

14. All vehicle identification numbers (VIN) must be supplied to the Fleet Management Division by email, referencing the purchase order, release order, or other procurement acquisition, or leasing agreement number, the year, make, model, and color of each vehicle to the following email address: kevin.oxley@cityofcharleston.org. This information must be received within ten (10) working days prior to the delivery of each vehicle.

Mandatory Warranty Requirements:

The following are mandatory requirements as related to the warranty:

1. **Basic Comprehensive Warranty Coverage** - The vendor shall provide the vehicle manufacturer's basic whole vehicle warranty. The minimum length of warranty shall be 3 years/36,000 miles and shall cover the entire vehicle (bumper to bumper).
2. **Basic Corrosion and Powertrain Warranty Coverage** - the vendor shall provide the manufacturers' standard Basic Corrosion and Powertrain Warranty.
3. The warranty shall include furnishing, without cost to the agency, (FOB vendors' nearest dealer or branch to vehicle's location), of new parts and assemblies to replace any that failed or malfunctioned within the warranty period. The State may elect to have the corrective work performed at the vendor's location, branch, or dealership, or a manufacturer's factory authorized repair facility, or upon the vendor's approval, at a commercial or Government repair facility. The cost of labor involved in the replacement of the failed or malfunctioned part(s) or assemblies shall be borne by the vendor.
4. **Warranty Extensions** - If the vendor receives from any supplier, manufacturer, or subcontractor additional warranty coverage on the whole or any component of the vehicle, in the form of time and/or mileage including any pro rata arrangements, or the vendor generally extends to its commercial customers a greater or extended warranty coverage, the agency shall receive corresponding warranty benefits.

Life of Contract: This contract shall become effective upon award and extends for one year or until such time as the vendor notifies the City of Charleston that the model year build-out date has been reached, unless the vendor chooses to supply next model year vehicles at the price quoted, or until contracts are issued for the next model year.

“Unit Price” segment: The Unit Price is the base vehicle price including standard equipment requirements, vehicle requirements and any additional requirements for the given vehicle class.

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.

The City of Charleston is soliciting bids of the following models (or equal):

2025 Jeep Cherokee (or equal to)

2025 Ford Explorer AWD or 4x4 (or equal to)

2025 Ford F150 Crew Cab 4x4 (or equal to)

2025 Ford F150 Extended Cab 4x4 (or equal to)

2025 Ford F150 Regular Cab 4x4 (or equal to)

2025 Ford F250 Crew Cab 4x4 (or equal to)

2025 Ford Transit Full size Cargo Van (or equal to)

2025 Ford Transit Full size Cargo Van

2025 Chevrolet Trax (or equal to)

INFORMATION FOR BIDDERS

- **Local Vendor Preference**

A local vendor may qualify for a competitive advantage applied to its bid when certain conditions are met. Such as, the vendor has marked on its bid submission that it is requesting to be considered a local vendor for bid evaluation purposes; the vendor provides documentation evidencing that it has the right to conduct business in the State of West Virginia; and the vendor submits an affidavit confirming that it has paid all applicable business taxes to the city or has a non-delinquent payment plan with the city and has had an active and current business and occupation tax account with the city collector during the entire preceding one-year period.

Competitive advantages shall be applied in the following manner:

- (1) A competitive advantage of 4% shall be applied to the local vendor's bid when, prior to applying the competitive advantage, the apparent lowest responsible bidder submits a bid that is greater than \$25,000 but does not exceed \$125,000.
- (2) The competitive advantage of \$5,000 shall be applied to the local vendor's bid when, prior to applying the competitive advantage, the apparent lowest responsible bidder submits a bid that is greater than \$125,000.

- **Business & Occupation Tax**

The City of Charleston broadly imposes a Business & Occupation Privilege Tax for the act or privilege of engaging in business activities within the City of Charleston. Business & Occupation Tax is measured by the application of rates against gross receipts or gross income of the business. All business activities are classified, and the classifications are significant inasmuch as the tax liability varies based on the different rates established for the specific types of business activities.

Individuals or businesses who do not have a physical location or office located in the City of Charleston are also subject to Business & Occupation Tax if they: 1) lease tangible personal property to lessees in Charleston, or 2) perform construction or installation contracts in Charleston or 3) render services in Charleston. Additionally, anyone who sells and/or delivers goods or products in Charleston may also be subject to Business & Occupation Tax.

Business & Occupation Tax should be considered when preparing your bid. If you are uncertain as to your business activity or how your business should properly calculate the tax when preparing your bid, please contact us at botax@cityofcharleston.org.

NOTE: No contract or purchase of materials or equipment will be awarded to a company whose Business & Occupation Tax status is delinquent.

- **Paper Bidding**

Electronic bid submission is preferred, but the City will also accept paper bids.

Receipt and Opening of Bids

Sealed bids will be received by the City Manager until **Tuesday, August 06, 2024, 10:00 a.m.** The bid opening will be held immediately following in the City Manager's office.

Preparation of Bid

Each bid must be submitted in a sealed envelope with the following information marked on the outside: **name of bidder, address, project name, and bid opening date and time.**

Each model of automobile bid must include a manufacturers specification sheet.

For the bid to be considered timely, it must be received by the City Manager's Office located at 501 Virginia Street East, Room 101, Charleston, WV 25301, by the established deadline. Vendors may hand deliver or mail their submissions to the aforementioned address. All documents in bid packet must be signed, dated and notarized where applicable or the bid may be disqualified.

Questions regarding the submission of paper bids should be directed to Jamie Bowles, Purchasing Director, at Jamie.Bowles@cityofcharleston.org or by calling 304-348-8014.

**GENERAL TERMS AND CONDITIONS
FOR
SERVICE AGREEMENTS**

These General Terms and Conditions apply to Service Agreements entered into between the City and Vendor and dominate over any competing terms made a part of the Service Agreement.

1. **DISPUTE RESOLUTION, JURISDICTION AND VENUE** – Any references to arbitration contained in the Agreement are hereby deleted, as is any requirement to waive a jury trial. 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 and/or mediation. 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. Any language requiring or permitting disputes under the Agreement to be resolved in any other court is deleted. Vendor acknowledges and agrees that resolution agreements reached through consultation and negotiation, or any other form of dispute resolution, may be subject to approval by City's governing body during a public meeting.
2. **NO INDEMNITY** – Any clause requiring the City to indemnify, defend or hold harmless any party is hereby deleted in its entirety. Any language requiring the City to agree to, or be subject to, any form of equitable relief not authorized by the Constitution or laws of the State of West Virginia is deleted.
3. **GOVERNING LAW** – The Agreement shall be deemed to be executed in the City of Charleston, State of West Virginia, and shall be governed by the laws of the State of West Virginia. This provision replaces any references to any other State's governing law.
4. **TAXES** – Provisions in the Agreement requiring the City to pay taxes are deleted. As a political subdivision of the State, the City is exempt from Federal, State, and local taxes and will not pay taxes for Vendor or any other party, including individuals, nor will the City file any tax returns or reports on behalf of Vendor or any other party.
5. **PAYMENT** – Any references to prepayment are deleted. Payments for goods or services will be in arrears only upon receipt of a proper invoice, detailing the goods or services provided or receipt of the goods or services, whichever is later. Notwithstanding the foregoing, payments for software licenses, subscriptions, or maintenance may be paid monthly or annually in advance.
6. **INTEREST** – Any language imposing any interest or charges due to late payment are deleted.

7. **RECOUPMENT** – Any language in the Agreement waiving the City's right to set-off, counterclaim, recoupment, or other defense is hereby deleted.
8. **FISCAL YEAR FUNDING** – Services performed or goods provided under the Agreement may be continued in succeeding fiscal years for the term of the Agreement, contingent upon funds being appropriated by City Council or otherwise being available for the goods or services. In the event funds are not appropriated or otherwise available for the goods or services, the Agreement shall terminate without penalty on the next occurring June 30. After that date, the Agreement becomes of no effect and is null and void. However, the City agrees to use its best efforts to have the amounts contemplated under the Agreement included in its budget. Non-appropriation or non-funding shall not be considered an event of default.
9. **STATUTE OF LIMITATION** – Any clauses limiting the time in which the City may bring suit against Vendor or any lessor, individual, or other party are deleted.
10. **SIMILAR SERVICES** – Any provisions limiting the City's right to obtain similar services or equipment in the event of default or non-funding during the term of the Agreement are hereby deleted.
11. **ATTORNEY FEES AND OTHER COSTS** – The City shall not be responsible for payment of attorney's fees, costs of collection, or court costs of Vendor or of any lessor, individual or other party. Any different or conflicting provisions in the Agreement are invalid, null and void, and are deleted.
12. **ASSIGNMENT** – Notwithstanding any clause to the contrary, the City reserves the right to assign the Agreement to another City agency, board or commission upon thirty (30) days written notice to the Vendor. Vendor agrees not to assign the Agreement to any person or entity without the City's prior written consent, which will not be unreasonably delayed or denied.
13. **LIMITATION OF LIABILITY** – Any provision limiting the Vendor's liability for direct damages to person or property or limiting the Vendor's liability under a warranty to a certain dollar amount or to the amount of the Agreement is hereby deleted. In addition, any limitation of Vendor's liability is null and void to the extent that it precludes any action for injury to persons or for damages to personal property.
14. **RIGHT TO TERMINATE** – City shall have the right to terminate the Agreement upon thirty (30) days written notice to Vendor.
15. **TERMINATION CHARGES** – Any provision requiring the City to pay a fixed amount or liquidated damages upon termination or cancellation of the Agreement is hereby deleted. The City may only agree to reimburse Vendor for actual costs incurred or losses sustained

during the current fiscal year due to termination by the City prior to the end of any current agreement term.

16. **RENEWAL** – Any reference to automatic renewal, modification, or extension of the Agreement is hereby deleted. The Agreement may be renewed only upon authorized and mutual written agreement of the parties.
17. **INSURANCE** – Any provision requiring the City to insure equipment or property of any kind and name the Vendor as beneficiary or as an additional insured is hereby deleted.
18. **RIGHT TO NOTICE** – Any provision for repossession of equipment without notice is hereby deleted. However, the City does recognize a right of repossession upon default and with notice.
19. **NO WAIVER** – City does not waive and expressly preserves its right to due process and any and all immunities afforded the City under West Virginia State law. Any provision requiring the City to waive any rights, claims or defenses is hereby deleted.
20. **ACCELERATION** – Any reference to acceleration of payments in the event of default or non-funding is hereby deleted.
21. **DELIVERY** – All deliveries under the Agreement will be FOB destination unless the City expressly and knowingly agrees otherwise. Any contrary delivery terms are hereby deleted.
22. **CONFIDENTIAL INFORMATION** – Vendor acknowledges that City is a public entity and is subject to mandatory disclosure of certain information upon request under W.Va. Code § 29B-1-1 *et seq.* (the “Freedom of Information Act”) and W.Va. Code § 6-9A-1 *et seq.* (the “Open Governmental Proceedings Act”). Any provisions regarding confidential treatment or non-disclosure of the terms and conditions of the Agreement are hereby deleted. City contracts are public records under the Freedom of Information Act and public procurement laws. This Agreement and other public records may be disclosed without notice to the Vendor at the City’s sole discretion. Any provision regarding confidentiality or non-disclosure related to contract performance are only effective to the extent they are consistent with the Freedom of Information Act and incorporated into the Agreement through a separately approved and signed non-disclosure agreement.
23. **WARRANTIES** – Any reference to the waiver or exclusion of any specific or general warranties of merchantability or warranties of fitness or any other warranties are hereby deleted.
24. **PRICING ADJUSTMENTS** – To the extent the Agreement contains any provision allowing Vendor to escalate or otherwise increase prices or costs for services as set forth in the Agreement, no such provision shall be valid or enforceable. No prices or costs may be

increased by Vendor until and unless notice of proposed increase is provided to City by Vendor and agreed to in writing by City.

25. **THIRD-PARTY SOFTWARE** – If this Agreement contemplates or requires the use of third-party software, the vendor represents that none of the mandatory click-through, unsigned, or web-linked terms and conditions presented or required before using such third-party software conflict with any term of these General Terms and Conditions or that it has the authority to modify such third-party software's terms and conditions to be subordinate to these General Terms and Conditions. The Vendor shall indemnify and defend the City against all claims resulting from an assertion that such third-party terms and conditions are not in accord with, or subordinate to, these General Terms and Conditions.
26. **AMENDMENTS** – All amendments, modifications, alterations or changes to the Agreement shall be by mutual agreement, in writing, and signed by both parties. Any language to the contrary is deleted. No amendment, modification, alteration or change may be made to these General Terms and Conditions without the authorized and express written approval of the Mayor of the City of Charleston.
27. **LIABILITY OF INDIVIDUALS** – The Parties agree that the Agreement shall be not construed to extend any personal liability to individuals executing or administering the Agreement on behalf of City or Vendor. Notwithstanding, this provision shall not be construed to prevent Vendor or City from taking any and all legal action against any individual who commits fraud related to this Agreement.



CITY OF CHARLESTON, WEST VIRGINIA

LOCAL VENDOR AFFIDAVIT

Pursuant to § 2-480 of the Charleston City Code, a Local Vendor may qualify for a competitive advantage applied to its bid when certain conditions are met. One condition requires the vendor to submit this affidavit confirming that (1) the vendor has paid all applicable business taxes to the City or has a non-delinquent payment plan with the City, and (2) the vendor must state that it has had an active and current business & occupation tax account with the City Collector during the entire one-year period prior to the bid opening.

AFFIRMATION: By signing this form, the vendor's authorized signer affirms and acknowledges under the penalty of law for false swearing (W. Va. Code § 61-5-3) that (1) the vendor has paid all applicable business taxes to the City or has a non-delinquent payment plan with the City, and (2) the vendor has had an active and current business & occupation tax account with the City Collector during the entire one-year period prior to the scheduled bid opening for the procurement listed below.

WITNESS THE FOLLOWING SIGNATURE:

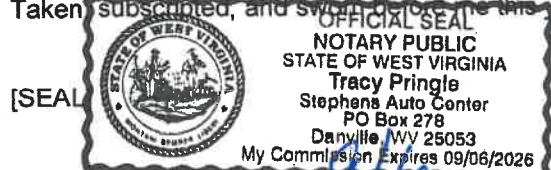
Vendor's Corporate Name: Stephens Auto Center

Authorized Signature: M. W. Ballard Date: 7-31-24
Michael W. Ballard Fleet Manager
(Printed Name and Title)

State of WV

County of Boone, to wit:

Taken, subscribed, and sworn before me this 31 day of July, 2024



Tracy Pringle
Notary Public

My Commission expires 9/6, 2026.

Name of Procurement: _____ Bid Opening Date: _____

CITY OF CHARLESTON PURCHASING AFFIDAVIT

VENDOR OWING A DEBT TO THE STATE OR POLITICAL SUBDIVISION:

West Virginia Code § 5A-3-10a provides that: No contract or renewal of any contract may be awarded by the state or any of its political subdivisions to any vendor or prospective vendor when the vendor or prospective vendor or a related party to the vendor or prospective vendor is a debtor and the debt owed is an amount greater than one thousand dollars (\$1,000) in the aggregate.

PUBLIC IMPROVEMENT CONTRACTS & DRUG-FREE WORKPLACE ACT:

If this is a solicitation for a public improvement construction contract, the vendor, by its signature below, affirms that it has a written plan for a drug-free workplace policy in compliance with Article 1D, Chapter 21 of the **West Virginia Code**. The vendor **must** make said affirmation with its bid submission. Further, public improvement construction contracts may not be awarded to a vendor who does not have a written plan for a drug-free workplace policy in compliance with Article 1D, Chapter 21 of the **West Virginia Code** and who has not submitted that plan to the appropriate contracting authority in a timely fashion. For a vendor who is a subcontractor, compliance with Section 5, Article 1D, Chapter 21 of the **West Virginia Code** may take place before their work on the public improvement is begun.

ANTITRUST:

In submitting a bid to any agency for the State of West Virginia, the bidder offers and agrees that if the bid is accepted, the bidder will convey, sell, assign or transfer to the state of West Virginia all rights, title and interest in and to all causes of action it may now or hereafter acquire under the antitrust laws of the United States and the State of West Virginia for a price fixing and/or unreasonable restraints of trade relating to the particular commodities or services purchased or acquired by the state of West Virginia. Such assignment shall be made and become effective at the time the purchasing agency tenders the initial payment to the bidder.

I certify that this bid is made without prior understanding, agreement or connection with any corporation, firm, limited liability company, partnership or person or entity submitting a bid for the same materials, supplies, equipment or services and is in all respects fair and without collusion or fraud. I further certify that I am authorized to sign the certification on behalf of the bidder or this bid.

LICENSING:

Vendors must be licensed and in good standing in accordance with any and all state and local laws and requirements by any state or local agency of West Virginia, including, but not limited to, the West Virginia Secretary of State's Office, the West Virginia Tax Department, the West Virginia Insurance Commission or any other state agencies or political subdivision. Furthermore, the vendor must provide all necessary releases to obtain information to enable the Director or spending unit to verify that the vendor is licensed and in good standing with the above entities.

CONFIDENTIALITY:

The vendor agrees that he or she will not disclose to anyone, directly or indirectly, any such personally identifiable information or other confidential information gained from the agency, unless the individual who is the subject of the information consents to the disclosure in writing or the disclosure is made pursuant to the agency's policies, procedures and rules. Vendor further agrees to comply with the Confidentiality Policies and Information Security Accountability Requirements, set forth in <http://www.state.wv.us/admin/purchase/privacy/noticeConfidentiality.pdf>.

Under penalty of law for false swearing (**West Virginia Code § 61-5-3**), it is hereby certified that the vendor affirms and acknowledges the information in this affidavit and is in compliance with the requirements as stated.

Vendor's Name: Stephens Auto Center

Authorized Signature: M.W. Ballard Date: 7-31-24

State of West Virginia VENDOR PREFERENCE CERTIFICATE

Certification and application is hereby made for Preference in accordance with **West Virginia Code**, §5A-3-37. (Does not apply to construction contracts). **West Virginia Code**, §5A-3-37, provides an opportunity for qualifying vendors to request (at the time of bid) preference for their residency status. Such preference is an evaluation method only and will be applied only to the cost bid in accordance with the **West Virginia Code**. This certificate for application is to be used to request such preference. The Purchasing Division will make the determination of the Vendor Preference, if applicable.

1. ☐ Application is made for 2.5% vendor preference for the reason checked:
☐ Bidder is an individual resident vendor and has resided continuously in West Virginia, or bidder is a partnership, association or corporation resident vendor and has maintained its headquarters or principal place of business continuously in West Virginia, for four (4) years immediately preceding the date of this certification; or,
☒ Bidder is a resident vendor partnership, association, or corporation with at least eighty percent of ownership interest of bidder held by another entity that meets the applicable four year residency requirement; or,
☐ Bidder is a nonresident vendor which has an affiliate or subsidiary which employs a minimum of one hundred state residents and which has maintained its headquarters or principal place of business within West Virginia continuously for the four (4) years immediately preceding the date of this certification; or,
2. ☒ Application is made for 2.5% vendor preference for the reason checked:
☒ Bidder is a resident vendor who certifies that, during the life of the contract, on average at least 75% of the employees working on the project being bid are residents of West Virginia who have resided in the state continuously for the two years immediately preceding submission of this bid; or,
3. ☐ Application is made for 2.5% vendor preference for the reason checked:
☐ Bidder is a nonresident vendor that employs a minimum of one hundred state residents, or a nonresident vendor which has an affiliate or subsidiary which maintains its headquarters or principal place of business within West Virginia and employs a minimum of one hundred state residents, and for purposes of producing or distributing the commodities or completing the project which is the subject of the bidder's bid and continuously over the entire term of the project, on average at least seventy-five percent of the bidder's employees or the bidder's affiliate's or subsidiary's employees are residents of West Virginia who have resided in the state continuously for the two immediately preceding years and the vendor's bid; or,
4. ☒ Application is made for 5% vendor preference for the reason checked:
☒ Bidder meets either the requirement of both subdivisions (1) and (2) or subdivision (1) and (3) as stated above; or,
5. ☐ Application is made for 3.5% vendor preference who is a veteran for the reason checked:
☐ Bidder is an individual resident vendor who is a veteran of the United States armed forces, the reserves or the National Guard and has resided in West Virginia continuously for the four years immediately preceding the date on which the bid is submitted; or,
6. ☐ Application is made for 3.5% vendor preference who is a veteran for the reason checked:
☐ Bidder is a resident vendor who is a veteran of the United States armed forces, the reserves or the National Guard, if, for purposes of producing or distributing the commodities or completing the project which is the subject of the vendor's bid and continuously over the entire term of the project, on average at least seventy-five percent of the vendor's employees are residents of West Virginia who have resided in the state continuously for the two immediately preceding years.
7. ☐ Application is made for preference as a non-resident small, women- and minority-owned business, in accordance with **West Virginia Code** §5A-3-59 and **West Virginia Code of State Rules**.
☐ Bidder has been or expects to be approved prior to contract award by the Purchasing Division as a certified small, women- and minority-owned business.
8. ☐ Application is made for reciprocal preference.
☐ Bidder is a West Virginia resident and is requesting reciprocal preference to the extent that it applies.

Bidder understands if the Secretary of Revenue determines that a Bidder receiving preference has failed to continue to meet the requirements for such preference, the Secretary may order the Director of Purchasing to: (a) rescind the contract or purchase order; or (b) assess a penalty against such Bidder in an amount not to exceed 5% of the bid amount and that such penalty will be paid to the contracting agency or deducted from any unpaid balance on the contract or purchase order.

By submission of this certificate, Bidder agrees to disclose any reasonably requested information to the Purchasing Division and authorizes the Department of Revenue to disclose to the Director of Purchasing appropriate information verifying that Bidder has paid the required business taxes, provided that such information does not contain the amounts of taxes paid nor any other information deemed by the Tax Commissioner to be confidential.

Bidder hereby certifies that this certificate is true and accurate in all respects; and that if a contract is issued to Bidder and if anything contained within this certificate changes during the term of the contract, Bidder will notify the Purchasing Division in writing immediately.

Bidder: Stephens Auto Center

Signed: M.W. Ballard

Date: 7-31-24

Title: Fleet Manager

*Check any combination of preference consideration(s) indicated above, which you are entitled to receive.



CERTIFICATE OF GARAGE INSURANCE

DATE (MM/DD/YYYY)
09/07/2023

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.

IMPORTANT: If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must have ADDITIONAL INSURED provisions or be endorsed. If SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

PRODUCER Reschini Agency, Inc. 922 Philadelphia Street P.O. Box 449 Indiana PA 15701		CONTACT NAME: Jeanette Marcus, CISR PHONE (A/C, No, Ext): (724)349-1300 FAX (A/C, No): (724)349-1446 E-MAIL ADDRESS: jmarcus@reschini.com	
INSURED Boone Motor Sales, Inc., DBA: Stephens Auto Center PO Box 278 107 Stephens Dr Danville WV 25053		INSURER(S) AFFORDING COVERAGE INSURER A: GuideOne National Insurance Company INSURER B: INSURER C: INSURER D: INSURER E: INSURER F:	
		NAIC # 14167	

COVERAGES PROD / CUSTOMER ID: 00004408 **CERTIFICATE #:** 23-24 Garage Liability **REVISION #:**

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INSR LTR	TYPE OF INSURANCE	ADOL SUBR INSD WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS
A	☒ GARAGE LIABILITY ☐ ANY AUTO OWNED AUTOS ONLY ☐ HIRED AUTOS ONLY NON-OWNED AUTOS USED IN GARAGE BUSINESS	Y	63P100154-02	08/08/2023	08/08/2024	AUTO ONLY (Ea accident) \$ 1,000,000 OTHER THAN AUTO ONLY EA ACCIDENT \$ 1,000,000 AGGREGATE \$ 3,000,000
	☐ GARAGE KEEPERS LIABILITY ☐ LEGAL LIABILITY ☐ DIRECT BASIS ☐ PRIMARY ☐ EXCESS					☒ COMP / OTC SPECIFIED PERILS LOC 7 \$ 500,000 ☒ COLLISION LOC 7 \$ 500,000
A	☒ COMMERCIAL GENERAL LIABILITY ☐ CLAIMS-MADE ☒ OCCUR GEN'L AGGREGATE LIMIT APPLIES PER: ☐ POLICY ☐ PROJECT ☐ LOC OTHER:		63P100154-02	08/08/2023	08/08/2024	EACH OCCURRENCE \$ DAMAGE TO RENTED PREMISES (Ea occurrence) \$ MED EXP (Any one person) \$ PERSONAL & ADV INJURY \$ GENERAL AGGREGATE \$ 1,000,000 PRODUCTS - COMP/OP AGG \$ Identity Recovery \$ 25,000
A	☒ UMBRELLA LIAB ☐ EXCESS LIAB DED ☒ RETENTION \$ 10,000		63U400146-02	08/08/2023	08/08/2024	EACH OCCURRENCE \$ 5,000,000 AGGREGATE \$ 10,000,000
	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH) If yes, describe under REMARKS below	Y/N N/A				PER STATUTE ☐ OTH-ER ☐ E.L. EACH ACCIDENT \$ E.L. DISEASE - EA EMPLOYEE \$ E.L. DISEASE - POLICY LIMIT \$
A	Auto Inventory Limit		63P100154-02	08/08/2023	08/08/2024	Blanket Coverage \$ 1,525,000 Deductible \$ 10,000

REMARKS (ACORD 101, Additional Remarks Schedule, may be attached if more space is required)

CERTIFICATE HOLDER

State of West Virginia 2019 Washington Street East Charleston WV 25305
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CANCELLATION

SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS.
AUTHORIZED REPRESENTATIVE

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MECHANICAL

- Electric Parking Brake (Includes Auto Hold)
- Engine – 1.5L EcoBoost® with Auto Start-Stop Technology
- Four-Wheel Disc Brakes with Anti-Lock Brake System (ABS)
- Transmission – 8-speed Automatic

EXTERIOR

- Active Grille Shutters
- Black – Molded-in-Color
 - Lower Bodyside Cladding
 - Rocker Panel
- Black Upper Window Molding with Black Beltline Molding
- Bumpers
 - Front, MIC
 - Rear, MIC – Black Upper/Silver Lower
- Configurable Daytime Running Lamps (DRL)
- Door Handles – Body-Color
- Easy Fuel® Capless Fuel Filler
- Exhaust Tips, Dual – Chrome
- Grille – Chrome Grille Strip
- Tire Inflator and Sealant Kit¹
- Liftgate – Manual
- Privacy Glass – Second Row Side and Liftgate
- Rear Spoiler – Body Color
- Roof-Mounted Antenna
- Tires
 - 225/65R17 102H All Season A/S BSW
- Wheels – 17" Shadow Silver-painted Aluminum
- Wipers
 - Windshield – Variable-Intermittent/Continuous
 - Rear Window – Fixed-Intermittent/Continuous

INTERIOR/COMFORT

- Center Floor Console with Armrest
- Cruise Control – Steering Wheel Mounted Controls
- Cupholders – (8)
- Driver's Side Footrest
- Dual-Zone Electronic Automatic Temperature Control (DEATC)
 - Refresh95 (Cabin Particulate Air Filter)
- Floor Mats – Carpeted Front and Rear
- Grab Handles – Front Passenger, Second Row – two (2), includes Coat Hooks
- Instrument Panel
 - 8" Screen
 - EcoMode
 - Ice Blue® Lighting
 - Message Center
 - Outside Temperature Display
 - Trip Computer
- Lighting
 - Front Map Lights
 - Illuminated Entry System with Courtesy Lamp Delay
 - Rear Cargo Area Light
 - Second Row Dome Light
- Map Pocket – Front-Passenger Seat Back
- Powerpoints – (2) Rear – Smart Charging USB Outlets
- Urethane Steering Wheel
- Seats
 - Unique Cloth Bucket
 - Five Passenger
 - 6-Way Manual Driver Seat (Fore/Aft, Up/Down and Manual Recline)
 - 4-Way Manual Front Passenger (Fore/Aft with Manual Recline)
 - Second Row 60/40 Split-Fold-Flat and Sliding

INTERIOR/COMFORT (continued)

- Rear Center Armrest (Fold-Down with Two (2) Cupholders)
- Rotary Gear Shift Dial
- Sliding Sun Visors with Vanity Mirrors (Driver and Front Passenger)
- USB Ports:
 - Smart Charging Multimedia USB Ports, First Row – (1) USB-A and (1) USB-C
- Steering Column – Manual Tilt/Telescoping
- Storage – Front Row: Center Console Armrest, Glove Box, Media Bins two (2); in front and in center of the Console, Overhead Console with Sunglasses Storage
- Windows, Power – Front One-Touch Down Feature (Driver only)

SAFETY/SECURITY

- AdvanceTrac® with RSC® (Roll Stability Control™)
- Airbags
 - Driver and Front Row Passenger Dual-Stage
 - Driver Knee
 - Front-Seat Mounted Side-Impact
 - Safety Canopy® System – Front and Second Row Safety Canopy® Side-Curtain with Rollover Sensor
- Center High-Mounted Stop Lamp (CHMSL)
- Curve Control
- Day/Night Rearview Mirror – Manually Adjustable
- Door Locks
 - Autolock/Autounlock
 - Child-Safety Rear
 - Power Lock/Unlock
- Electronic Traction Control
- Headlamps
 - Courtesy Delay
 - LED Reflector with Signature Lighting
 - Wiper-Activated
- Head Restraints
 - Two-Way Manually Adjustable Driver and Front-Passenger
 - Two-Way Manually Adjustable Second Row (Left and Right; Center Head Restraint is fixed position)
- LATCH (Lower Anchors and Tether Anchors for Children) on Rear Outboard Seat Positions
- Mirrors, Sideview – Power Glass, Manual-Fold and Black Molded-in-Color (MIC) Caps
- Personal Safety System²
- Rear-Window Defroster and Washer
- Safety Belts
 - Front and Second Row – Belt-Minder® (Safety Belt Reminder)
 - Front Row Height Adjustable
 - Second Row Outboard and Center Seat Shoulder
 - Three-Point Safety Belts on all (5) Seating Positions
- SecuriLock® Passive Anti-Theft System (PATS)
- SOS Post-Crash Alert System™
- Tire Pressure Monitoring System (TPMS)
- Torque Vectoring Control

FORD CO-PILOT360™ TECHNOLOGY

- Ford Co-Pilot360™ includes;
- Auto High Beam Headlamps
- BLIS® (Blind Spot Information System) with Rear Cross-Traffic Braking

² Personal Safety System™ for driver and front passenger includes dual-stage front airbags, safety belt pretensioners, safety belt energy-management retractors, safety belt usage sensors, driver's seat position sensor, crash severity sensor, restraint control module and Front-Passenger Sensing System.

¹ Not available with 2.5L I/C/T Atkinson Cycle I-4 Hybrid (997)

★ = New for this model year

2025 ESCAPE® ACTIVE STANDARD EQUIPMENT

PROPRIETARY

FORD CO-PILOT360™ TECHNOLOGY (continued)

- Lane-Keeping System (includes Lane-Keeping Assist, Lane-Keeping Alert and Driver Alert)
- Pre-Collision Assist with Automatic Emergency Braking (AEB), Pedestrian Detection, Forward Collision Warning and Dynamic Brake Support
- Rear View Camera
- Road Departure Warning
- Headlamps – Autolamp (Automatic On/Off)
- Post-Collision Braking

FUNCTIONAL

- Audio
 - AM/FM Stereo
 - Six (6) Speakers
 - Speed-Compensated Volume
 - Steering Wheel Mounted Controls
 - SiriusXM® with 360L (if equipped)
 - Super Categories / Live Sports Categories
 - "For You" Recommendations
 - SiriusXM Listener Profiles

Note: Includes a three (3)-month prepaid subscription. Service is not available in Alaska and Hawaii. Trial length and service availability may vary by model, model year or trim.

Details: SiriusXM audio and data services each require a subscription sold separately, or as a package, by Sirius XM Inc. Your SiriusXM service will automatically stop at the end of your trial unless you decide to subscribe. If you decide to continue service after your trial, the subscription plan you choose will automatically renew thereafter and you will be charged according to your chosen payment method at then-current rates. Fees and taxes apply. To cancel you must call SiriusXM at 1-866-635-2349. See SiriusXM Customer Agreement for complete terms at www.siriusxm.com. All fees and programming subject to change. Not all vehicles or devices are capable of receiving all services offered by SiriusXM. Current information and features may not be available in all locations, or on all receivers. Satellite and streaming lineups vary slightly.

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FUNCTIONAL (continued)

- Battery Saver
- Compass
- Electric Power-Assisted Steering (EPAS)
- FordPass Connect™
 - 4G LTE Wi-Fi® hotspot connects up to 10 devices³
 - Remotely start, lock and unlock vehicle⁴
 - Locate parked vehicle⁴
 - Check vehicle status⁴

Note: Ford Telematics and Data Services are telematics services available for fleet customers, providing access to manufacturer-grade vehicle data including but not limited to location, speed, idle time, remaining fuel, fuel energy, range, diagnostics, and maintenance alerts. FordPass Connect™ 4G Wi-Fi Modem, enables telematics services directly from Ford or through authorized third-party providers. Learn more at commercialsolutions.ford.com or email fcs1@ford.com or by calling 833-FCS-Ford. (833-327-3673).

- Front and Rear Stabilizer Bar
- Intelligent Oil-Life Monitor®
- Provisions for Roof Rack Mounting– Blanking Plugs
- Selectable Drive Modes
- SYNC® 4
 - 8" LCD Capacitive Touchscreen with Swipe Capability
 - Wireless Phone Connection
 - Cloud Connected
 - AppLink® w/ App Catalog
 - 911 Assist®
 - Wireless Apple CarPlay® and Android Auto™ Compatibility
 - Digital Owners Manual
- Transmission Oil Cooler
- Variable-Assist Rack-and-Pinion Steering
- Intelligent Access with Push-Button Start
- Keyless-Keypads – Passive Keys, Two (2)

³ Wi-Fi hotspot includes wireless data trail that begins upon AT&T activation and expires at the end of 3 months or when 3GB of data is used, whichever comes first, but cannot extend beyond the trial subscription period for remote features. To activate, go to www.att.com/ford.

⁴ FordPass Connect™ (optional on select vehicles), the FordPass App., and Complimentary Connected Services are required for remote features (see FordPass Terms for details). Connected Service and features depend on compatible AT&T network availability. Evolving technology/cellular networks/vehicle capability may limit functionality and prevent operation of connected features. Connected services excluded Wi-Fi hotspot.

The following features are standard on the 2025MY Explorer:

MECHANICAL

- Electric Parking Brake with Auto Hold
- Engine – 2.3L EcoBoost® I-4 with Auto Start-Stop Technology
- Four-Wheel Disc Brakes with Anti-Lock Brake System (ABS), Electric Brake Boost and ESC
- Standard-Duty Front and Rear Brake Calipers
- Transmission – 10-Speed Automatic

EXTERIOR

- 18.6 Gallon Tank
- Active Grille Shutters
- Black – Molded-in-Color
 - Liftgate Scuff
 - Wheel Lip Molding
- Body-Color
 - Bumpers, Front and Rear (Body-Color Upper, Black Lower)
 - Rear Spoiler
- Class III Trailer Tow Package
- Configurable Daytime Running Lamps (DRL) (Activates LED Low Beam Headlamps with Courtesy Delay)
- Door Handles – Body-Color
- Easy Fuel® Capless Fuel Filler
- Front Air Curtain
- Grille – Black Mesh Insert with Chrome Bars
- LED Taillamps with Amber Turn Signals
- Lower Bodyside Cladding – Black with Chrome Accent
- Power Liftgate
- Privacy Glass – Second Row, Third Row and Liftgate
- Rear Bumper Step Pad – Molded-In-Color Black
- Roof-Mounted Antenna
- Roof-Rack Side Rails – Black
- Tires
 - P255/65R18 All-Season (A/S) BSW
 - Mini Spare
- Wheels – 18" Sparkle Silver-Painted Aluminum
- Wipers
 - Windshield – Variable Intermittent/Continuous
 - Rear Window – Single-Speed Intermittent/Continuous

INTERIOR/COMFORT

- Beverage Holders (10) – Front Row, four (4), Second Row, four (4), Third Row, two (2)
- Center Floor Console – Front
 - Armrest
 - Storage Bin
- Climate Control
 - Tri-Zone Electronic Temperature Control
 - Cabin Particulate Air Filter
 - Rear Auxiliary Controls
- Door-Sill Scuff Plates, Front and Rear – Black Molded-in-Color (MIC), embossed with "EXPLORER"
- Driver and Front Passenger Seat Back Map Pockets
- Driver's Side Footrest
- Floor Mats – Black Carpet, Front and Second Rows
- Grab Handles – Front-Passenger; Second Row – two (2), includes Coat Hooks
- Illuminated Visor Vanity Mirrors (Driver and Front Passenger)
- Instrument Panel Cluster
 - 12.3" Color LCD Productivity Screen
 - Message Center
 - Outside Temperature Display
 - Trip Computer

INTERIOR/COMFORT (continued)

- Lighting
 - Front Overhead Console Mounted Map Lights
 - Illuminated Entry System
 - Rear Cargo Area Light
 - Second and Third Row Dome Lights
- Overhead Console with Sunglasses Storage
- Powerpoints (12V) – three (3)
 - Front row; one (1) in Media Hub, one (1) in center console
 - Second row; one (1) in rear section of center console
 - Rear Cargo Area; one (1)
- Rotary Gear Shift Dial
- Seats (Refer to the Color & Trim Availability section for additional information)
 - Unique Cloth
 - Front Captain's Chairs
 - 10-way Power Driver's
 - 4-way Power Passenger
 - First Row Heated Seats
 - Second Row 35/30/35 Bench with E-Z Entry¹ and Armrests
- Steering Column – Manual Tilt/Telescoping
- Steering Wheel with Mounted Features
 - 5-Way Controls
 - Audio Controls
 - Cruise Controls
- Windows, Power – Front and Rear. Front Row One-Touch-Up/Down Feature (door mounted controls).

¹ E-Z Entry is manually activated

SAFETY/SECURITY

- AdvanceTrac™ with RSC® (Roll Stability Control™)
- Airbags
 - First Row: Driver and Passenger Dual-Stage Front, Front-seat Side and Driver/Passenger Knee
 - All Rows: Safety Canopy® Side-Curtain with Rollover Sensor
- Center High-Mounted Stop Lamp (CHMSL)
- Curve Control
- Day/Night Rearview Mirror – Manually Adjustable
- Door Locks, Power
 - Auto lock/Auto unlock
 - Child-Safety Rear
- Head Restraints
 - Two-Way Manually Adjustable (Up/Down) – All Rows. Second Row Center Head Restraint is fixed position.
- Headlamps
 - LED Low and High Beams with Courtesy Delay
 - Wiper-Activated
- Hooks
 - Cargo Net – Four (4)
 - Load Floor Tie-Down – Four (4)
- Individual Tire Pressure Monitoring System (ITPMS)
- LATCH (Lower Anchors and Tether Anchors for Children) on Second and Third Row Outboard Seating Positions
- Mirrors, Sideview – Power and Heated Glass, Manual-Folding, Security Approach Lamps and Black Caps
- Perimeter Alarm
- Personal Safety System™²
- Rear-Window Defroster and Washer
- Safety Belts
 - Front Row – Belt-Minder® (Front Safety Belt Reminder)
 - Front Row – Adjustable Height
 - Second Row – Outboard and Center Seat Shoulder
 - Third Row – Outboard
- SecuriLock® Passive Anti-Theft System (PATS)
- SOS Post-Crash Alert System™

DRIVER ASSIST TECHNOLOGY

- Ford Co-Pilot360™ Assist+
 - Adaptive Cruise Control with:
 - Stop-and-Go
 - Lane Centering
 - Auto High-Beam Headlamps
 - BLIS® (Blind Spot Information System) with Cross-Traffic Alert, Exit Warning and Trailer Coverage★
 - Evasive Steering Assist
 - Intersection Assist 2.0★
 - Lane-Keeping System
 - Lane-Keeping Alert
 - Lane-Keeping Assist
 - Driver Alert
 - Pre-Collision Assist with Automatic Emergency Braking (AEB)
 - Pedestrian Detection
 - Forward Collision Warning
 - Dynamic Brake Support
 - Rear Cross Traffic Braking
 - Rear View Camera³
 - Reverse Parking Assist
 - Post-Collision Braking
- Headlamps – Autolamp (Automatic On/Off)

² Personal Safety System™ for driver and front passenger includes dual-stage front airbags, safety belt pretensioners, safety belt energy-management retractors, safety belt usage sensors, driver's seat position sensor, crash severity sensor, restraint control module and Front-Passenger Sensing System.

³ With Backup Assist Grid Lines

DRIVER ASSIST TECHNOLOGY (continued)

- Hill Start Assist
- Side-Wind Stabilization
- Trailer Sway Control

FUNCTIONAL

- 3.58 Non-Limited-Slip Rear Axle (RWD and 4WD)
- 4-Door Intelligent Access (Lock/Unlock) with Push-Button Start
- 5G LTE Modem and Hotspot
- Ford Power-Up Software Update Capability
- Audio
 - AM/FM Stereo
 - MP3 Capable
 - Six (6) Speakers
 - Speed-Compensated Volume
 - SiriusXM® with 360L

Note: Includes a three (3)-month prepaid subscription. Service is not available in Alaska and Hawaii

Note: All SiriusXM services require a subscription, sold separately by SiriusXM after the trial period. Your SiriusXM service will automatically stop at the end of your trial unless you decide to subscribe. If you decide to continue service, the subscription plan chosen will automatically renew and be charged according to your chosen payment method at the then-current rates. Fees and taxes apply. **See the SiriusXM Customer Agreement & Privacy Policy at** <http://www.siriusxm.com/> **for full terms and how to cancel, which includes online methods or calling 1-866-635-2349.** Available in the 48 contiguous United States, D.C., and Puerto Rico (with coverage limits and capable receiver). Visit <http://www.siriusxm.com/FAQS> for most current service area information. Availability of some services and features is subject to device capabilities and location restrictions. All fees, content and features are subject to change. SiriusXM, Pandora and all related logos are trademarks of Sirius XM Radio Inc. and its respective subsidiaries.

- Battery Saver
- Compass
- Electric Power-Assisted Steering (EPAS)
- FordPass Connect™
 - 5G LTE Wi-Fi Hotspot connects up to 10 devices⁴ (if equipped)
 - Remotely start, lock and unlock vehicle⁵
 - Schedule specific times to remotely start vehicle⁵
 - Locate parked vehicle⁵
 - Check vehicle status⁵

Note: Ford Telematics™ and Data Services Prep included for Fleet ONLY: FordPass Connect™ 4G Wi-Fi Modem provides data to support telematics and data services including but not limited to vehicle location, speed, idle time, fuel, vehicle diagnostics and maintenance alerts. Device enables telematics services through Ford or authorized providers. Activate at www.fleet.ford.com or call 833-FCS-Ford. (833-327-3673)

- Front and Rear Stabilizer Bars
- Independent Front and Rear Suspension
- Intelligent Oil-Life Monitor®

⁴ Wi-Fi hotspot includes wireless data trial that begins upon AT&T activation and expires at the end of 3 months or when 3GB of data is used, whichever comes first, but cannot extend beyond the trial subscription period for remote features. To activate, go to www.att.com/ford.

⁵ FordPass Connect (optional on select vehicles), the Ford Pass App., and Complimentary Connected Services are required for remote features (see FordPass Terms for details). Connected Service and features depend on compatible AT&T network availability. Evolving technology/cellular networks/vehicle capability may limit functionality and prevent operation of connected features. Connected services excludes Wi-Fi hotspot.

2025 EXPLORER ACTIVE★
STANDARD EQUIPMENT**FUNCTIONAL (continued)**

- Infotainment
 - 13.2" Color LCD Touchscreen in IP Center-Stack
 - Alexa Built-In
 - Google Built-In
 - Google Assistant
 - Google Maps
 - Google Play Store
 - Pinch-to-Zoom capability
 - 911 Assist®

FUNCTIONAL (continued)

- Apple CarPlay® and Android Auto™ Wireless Compatibility
- USB Ports, First Row – One (1) "A" and One (1) "C" in Media Bin and Two (2) "C" in Center Floor Console.
Second Row – Two (2) "C" and Third Row – Two (2) "C".
- Terrain Management System™ (Deep Snow/Sand Mode – 4WD Only)

4WD MODELS INCLUDE:

- Hill Descent Control
- Intelligent 4WD

Code	Description
MS2	"1500" Badge
ME4	"RAM" Door Badges
ME6	"RAM" Grille Badge - Black
JCB	120 MPH Primary Speedometer
JUJ	12V Auxiliary Power Outlet
W1C	18" Full Size Steel Spare Wheel
WBF	18X7.5 Steel Painted Wheels
DJG	215MM Front Axle
DRN	235MM REAR AXLE
NFW	26 Gallon Fuel Tank
TUM	275/65R18 BSW AS LRR Tire
DMC	3.21 Rear Axle Ratio
ERG	3.6L V6 24V VVT aTorque Engine Upg I
CDP	4 Way Front Headrests
CBE	40/20/40 Split Bench Seat
XBZ	48V Belt Starter Generator
RTQ	4G LTE Wi-Fi Hot Spot
MUS	4X4 Badge
NAS	50 State Emissions
RCG	6 Speakers
XFK	7 Pin Wiring Harness
BCN	730 Amp Maintenance Free Battery
DFT	8-Spd Auto 850RE Trans (Make)
RFL	8.4" Touchscreen Display
RD3	Accent Color Shark Fin Antenna
GAQ	Acoustic Front Door Glass
MXB	Active Front Air Dams
MDX	Active Grille Shutters
XNW	Active Lane Management System
NHZ	Adaptive Cruise Control w/Stop & Go
BGG	Advanced Brake Assist
CG3	Advanced Multistage Front Air Bags
HAA	Air Conditioning
BRT	Anti-Lock 4-Wheel Disc Brakes
RFP	Apple CarPlay
RSU	Audio Jack Input for Mobile Devices
LMS	Auto High Beam Headlamp Control
LMG	Automatic Headlamps
CTL	Base Door Trim Panel
A6A	Base Equipment Group
GT6	Black Base Power Mirrors
MMR	Black Day Light Opening Moldings
MNA	Black Door Handles

Code	Description
M17	Black Exterior Badging - Trucks
LE4	Black Exterior Mirrors
MB1	Black Front Bumper
MFA	Black Headlamp Bezels
MBN	Black Rear Bumper
LTG	Black Tail Lamp Bezels
XAN	Blind Spot and Cross Path Detection
RTE	Bluetooth Handsfree Phone and Audio
X8X	Brake & Knuckle Parts Module
BGE	Brake Assist
XJM	Capless Fuel Fill
LPE	Cargo and CHMSL Lamp
CKT	Cargo Tie Down Loops
CKE	Carpet Floor Covering
WMJ	Center Hub
CGU	Child Seat Anchor System-LATCH Ready
XFH	Class IV Receiver Hitch
JAK	Cluster 3.5" TFT Color Display
XCT	Coat Hooks
RTM	Connectivity - US/Canada
DS8	Conventional Differential Rear Axle
LES	Convex Wide-Angle Ext Mirror Insert
MWD	Dampened Tailgate
HGB	Dash Liner Insulation
LM1	Daytime Running Headlamps, Low Beam
GEG	Deep Tint Sunscreen Glass
BA8	Delete Alternator
X82	Door Parts Module
CLP	Door Sill Scuff Pads
X8J	Door Trim Panel Module
JVA	Driver Seat - Manual Adjust 4-Way
CSP	Driver/Passenger Assist Handles
JJB	Dual Note Electric Horns
DH9	Elec Shift-on-the-Fly P/Time T/Case
XC4	Electric Park Brake
SBL	Electric Power Steering
DH4	Electronic Range Select
BNS	Electronic Roll Mitigation
XXU	Electronic Shift
BNB	Electronic Stability Control
NHA	Engine Oil Cooler
NHJ	Exterior Mirrors w/Heating Element
MXA	Fixed Front Air Dams

Code	Description
LBB	Footwell Courtesy Lamp
X75	Front Bumper Module
X83	Front End Parts Module
X8W	Front Fascias Parts Module
SFB	Front Heavy Duty Shock Absorbers
CGD	Front Height Adjust Shoulder Belts
LAX	Front Passenger Seat Belt Alert
SHA	Front Stabilizer Bar
X89	Front Suspension Damper Parts Module
MEN	Front Wheel Spats
MHR	Front Wheel Well Liners
XGA	Front/Rear Climate Control Outlets
JWA	Frt Pass Seat - Manual Adjust 4-Way
TBS	Full Size Temporary Use Spare Tire
LSU	Full Speed Fwd Collision Warn Plus
X8M	Glass Module
RDG	Global Telematics Box Module (TBM)
TZA	Goodyear Brand Tires
RF5	Google Android Auto
JLP	GPS Antenna Input
X79	Grille Module
X8E	Grille Module II
MAE	Grille-Surr 1 Black Texture 1 Black
Z6B	GVW Rating - 6900#
*TX	HD Vinyl 40/20/40 Split Bench Seat
LHD	Headlamp Off Time Delay
X8H	Headlamp Parts Module
X8Y	Headliner Parts Module
BNG	Hill Start Assist
LAC	Illuminated Entry
LA6	Incandescent Taillamps
JY1	Instrument Cluster Theme 1 (Base)
X81	Instrument Panel Parts Module
RTF	Integrated Center Stack Radio
CEV	Key Fob - Satin Chrome
LNK	LED Hitch Lamp in Tailgate Handle
LM3	LED Low/High Reflector Headlamps
AJ1	Level 1 Safety Group
JKA	Locking Glove Box
XJU	Locking Tailgate
LFD	Manual Folding Exterior Mirrors
LBA	Map/Courtesy Lamp
RSF	Media Hub-2 USB, Full Funct, Aux

Code	Description
APA	Monotone Paint
JMD	N95+Bio HVAC Cabin Filter
XA8	Non Adjustable Pedals
XCA	Occupant Classification System
CUN	Overhead Console
LBT	Overhead Cupholder Lamp
XH4	ParkSense FR/RR Park Assist w/Stop
XAC	ParkView Rear Back-up Camera
GENE	Passenger Side Sun Visor w/Mirror
LST	Pedestrian Emergency Braking
XBS	Pickup Box
JKY	Power Accessory Delay
X87	Power Train Parts Module
GX4	Pushbutton Start
JP3	Pwr Front Windows, 1-Touch, Up & Down
MMWU	R. A. M Tailgate Nameplate
X8R	Rear Brake & Knuckle Parts Module
X71	Rear Bumper Module
LCH	Rear Dome Lamp
GJD	Rear Fixed Window
CFM	Rear Folding Seat
SGB	Rear Heavy Duty Shock Absorbers
LPB	Rear License Plate w/Lamp Bracket
XGR	Rear Seat Heat Ducts
JFB	Rear Seat Reminder Alert
SHF	Rear Stabilizer Bar
X91	Rear Suspension Damper Parts Module
GNA	Rear View Day/Night Mirror
MPP	Rear Wheel Spats
GXM	Remote Keyless Entry
XBM	Remote Start System
RSX	Remote USB Port
RS3	Remote USB Port - Charge Only
C1G	Rotary Shifter-Black
X8Z	Seat Parts Module
X78	Seat Parts Module II
GXX	Sentry Key Theft Deterrent System
JPH	Speed Sensitive Power Locks
XZM	Standard Ride Height
X8P	Steering Column Cover Parts Module
SCA	Steering Wheel
CJ2	Supp. Side Curtain Frt/Rt Air Bags
CJ1	Supplemental Frt Seat Side Air Bags

Code	Description
CGS	Supplemental Side Air Bags
XZ6	Supplier Part Tracking (J-1)
LAN	Tailgate Alar Warning Lamp
HF1	Tailgate Handle - MIC Black
SUD	Tilt/Telescope Steering Column
GAC	Tinted Glass Windows
X88	Tire & Wheel Parts Module
TBM	Tire Carrier Winch
LAW	Tire Fill Alert
XGM	Tire Pressure Monitoring Display
BNM	Traction Control
BNT	Trailer Sway Damping
UBE	Uconnect 5 w 8.4" Display (USA)
RF7	USB Host Flip
JHA	Var Intermittent Windshield Wipers
LAZ	Vehicle Information Center

Code	Description
MS2	"1500" Badge
ME4	"RAM" Door Badges
ME6	"RAM" Grille Badge - Black
JCB	120 MPH Primary Speedometer
JJJ	12V Auxiliary Power Outlet
W1C	18" Full Size Steel Spare Wheel
WBF	18X7.5 Steel Painted Wheels
DJG	215MM Front Axle
NF5	23 Gallon Fuel Tank
DRN	235MM REAR AXLE
TUM	275/65R18 BSW AS LRR Tire
DMC	3.21 Rear Axle Ratio
ERG	3.6L V6 24V VVT eTorque Engine Upg I
CDP	4 Way Front Headrests
CBE	40/20/40 Split Bench Seat
XBZ	48V Belt Starter Generator
RTQ	4G LTE Wi-Fi Hot Spot
MUS	4X4 Badge
NAS	50 State Emissions
RCG	6 Speakers
XFK	7 Pin Wiring Harness
BCN	730 Amp Maintenance Free Battery
DFT	8-Spd Auto 850RE Trans (Make)
RFL	8.4" Touchscreen Display
RD3	Accent Color Shark Fin Antenna
GAQ	Acoustic Front Door Glass
MXB	Active Front Air Dams
MDX	Active Grille Shutters
XNW	Active Lane Management System
NHZ	Adaptive Cruise Control w/Stop & Go
BGG	Advanced Brake Assist
CG3	Advanced Multistage Front Air Bags
HAA	Air Conditioning
BRT	Anti-Lock 4-Wheel Disc Brakes
RFP	Apple CarPlay
RSU	Audio Jack Input for Mobile Devices
LMS	Auto High Beam Headlamp Control
LMG	Automatic Headlamps
CTL	Base Door Trim Panel
A6A	Base Equipment Group
GT6	Black Base Power Mirrors
MMR	Black Day Light Opening Moldings
MNA	Black Door Handles

Standard Features - DT6L41-1500 TRADESMAN QUAD CAB 4X4 (140 in WB 6 ft 4 in Box)

Code	Description
M17	Black Exterior Badging - Trucks
LE4	Black Exterior Mirrors
MB1	Black Front Bumper
MFA	Black Headlamp Bezels
MBN	Black Rear Bumper
LTG	Black Tail Lamp Bezels
XAN	Blind Spot and Cross Path Detection
RTE	Bluetooth Handsfree Phone and Audio
X8X	Brake & Knuckle Parts Module
BGE	Brake Assist
XJM	Capless Fuel Fill
LPE	Cargo and CHMSL Lamp
CKT	Cargo Tie Down Loops
CKE	Carpet Floor Covering
WMJ	Center Hub
CGU	Child Seat Anchor System-LATCH Ready
XFH	Class IV Receiver Hitch
JAK	Cluster 3.5" TFT Color Display
XCT	Coat Hooks
RTM	Connectivity - US/Canada
DS8	Conventional Differential Rear Axle
LES	Convex Wide-Angle Ext Mirror Insert
MWD	Dampened Tailgate
HGB	Dash Liner Insulation
LM1	Daytime Running Headlamps, Low Beam
GEG	Deep Tint Sunscreen Glass
BA8	Delete Alternator
X82	Door Parts Module
CLP	Door Sill Scuff Pads
X8J	Door Trim Panel Module
JVA	Driver Seat - Manual Adjust 4-Way
CSP	Driver/Passenger Assist Handles
JJB	Dual Note Electric Horns
DH9	Elec Shift-on-the-Fly P/Time T/Case
XC4	Electric Park Brake
SBL	Electric Power Steering
DH4	Electronic Range Select
BNS	Electronic Roll Mitigation
XXU	Electronic Shift
BNB	Electronic Stability Control
NHA	Engine Oil Cooler
NHJ	Exterior Mirrors w/Heating Element
MXA	Fixed Front Air Dams

Code	Description
LBB	Footwell Courtesy Lamp
X75	Front Bumper Module
X83	Front End Parts Module
X8W	Front Fascias Parts Module
SFB	Front Heavy Duty Shock Absorbers
CGD	Front Height Adjust Shoulder Belts
LAX	Front Passenger Seat Belt Alert
SHA	Front Stabilizer Bar
X89	Front Suspension Damper Parts Module
MEN	Front Wheel Spats
MHR	Front Wheel Well Liners
XGA	Front/Rear Climate Control Outlets
JWA	Frt Pass Seat - Manual Adjust 4-Way
TBS	Full Size Temporary Use Spare Tire
LSU	Full Speed Fwd Collision Warn Plus
X8M	Glass Module
RDG	Global Telematics Box Module (TBM)
TZA	Goodyear Brand Tires
RF5	Google Android Auto
JLP	GPS Antenna Input
X79	Grille Module
X8E	Grille Module II
MAE	Grille-Surr 1 Black Texture 1 Black
Z8A	GVW Rating - 6800#
*TX	HD Vinyl 40/20/40 Split Bench Seat
LHD	Headlamp Off Time Delay
X8H	Headlamp Parts Module
X8Y	Headliner Parts Module
BNG	Hill Start Assist
LAC	Illuminated Entry
LA6	Incandescent Taillamps
JY1	Instrument Cluster Theme 1 (Base)
X81	Instrument Panel Parts Module
RTF	Integrated Center Stack Radio
CEV	Key Fob - Satin Chrome
LNK	LED Hitch Lamp in Tailgate Handle
LM3	LED Low/High Reflector Headlamps
AJ1	Level 1 Safety Group
JKA	Locking Glove Box
XJJ	Locking Tailgate
LFD	Manual Folding Exterior Mirrors
LBA	Map/Courtesy Lamp
RSF	Media Hub-2 USB, Full Funct, Aux

Code	Description
APA	Monotone Paint
JMD	N95+Bio HVAC Cabin Filter
XA8	Non Adjustable Pedals
XCA	Occupant Classification System
CUN	Overhead Console
LBT	Overhead Cupholder Lamp
XH4	ParkSense FR/RR Park Assist w/Stop
XAC	ParkView Rear Back-up Camera
GENE	Passenger Side Sun Visor w/Mirror
LST	Pedestrian Emergency Braking
XBS	Pickup Box
JKY	Power Accessory Delay
X87	Power Train Parts Module
GX4	Pushbutton Start
JP3	Pwr Front Windows, 1-Touch, Up & Down
MMWU	R_A_M Tailgate Nameplate
X8R	Rear Brake & Knuckle Parts Module
X71	Rear Bumper Module
LCH	Rear Dome Lamp
GJD	Rear Fixed Window
CFM	Rear Folding Seat
SGB	Rear Heavy Duty Shock Absorbers
LPB	Rear License Plate w/Lamp Bracket
XGR	Rear Seat Heat Ducts
JFB	Rear Seat Reminder Alert
SHF	Rear Stabilizer Bar
X91	Rear Suspension Damper Parts Module
GNA	Rear View Day/Night Mirror
MPP	Rear Wheel Spats
GXM	Remote Keyless Entry
XBM	Remote Start System
RSX	Remote USB Port
RS3	Remote USB Port - Charge Only
C1G	Rotary Shifter-Black
X8Z	Seat Parts Module
X78	Seat Parts Module II
GXX	Sentry Key Theft Deterrent System
JPH	Speed Sensitive Power Locks
XZM	Standard Ride Height
X8P	Steering Column Cover Parts Module
SCA	Steering Wheel
CJ2	Supp. Side Curtain Ft/Rr Air Bags
CJ1	Supplemental Ft Seat Side Air Bags

Code	Description
CGS	Supplemental Side Air Bags
XZ6	Supplier Part Tracking (J-1)
LAN	Tailgate Alar Warning Lamp
HF1	Tailgate Handle - MIC Black
SUD	Tilt/Telescope Steering Column
GAC	Tinted Glass Windows
X88	Tire & Wheel Parts Module
TBM	Tire Carrier Winch
LAW	Tire Fill Alert
XGM	Tire Pressure Monitoring Display
BNM	Traction Control
BNT	Trailer Sway Damping
UBE	Uconnect 5 w 8.4" Display (USA)
RF7	USB Host Flip
JHA	Var Intermittent Windshield Wipers
LAZ	Vehicle Information Center

Resolution No. 24-020

Introduced in Council:

Adopted by Council:

September 16, 2024

Introduced by:

Referred to:

Joseph Jenkins

Finance

Resolution No. 24-020 – Authorizing the Mayor or City Manager to enter into a contract for engineering services with Potesta and Associates, Inc. in the amount of \$85,800 related to the development and assessment of stabilization alternatives and cost/benefit analysis for the Blaine Boulevard project pursuant to competitive selection process.

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 for engineering services with Potesta and Associates, Inc. in the amount of \$85,800 related to the development and assessment of stabilization alternatives and cost/benefit analysis for the Blaine Boulevard project pursuant to competitive selection process.



VIA EMAIL ONLY

March 28, 2024

Mr. Jamie Bowles
Director of Purchasing
City of Charleston
501 Virginia Street, East
PO Box 2749
Charleston, West Virginia 25330

RE: Revised Proposal for Professional Engineering Services
Cost/Benefit Analysis
Blaine Boulevard Road Hazard Project
Charleston, West Virginia
Project No. 0101-23-0341

Dear Mr. Bowles:

Potesta & Associates, Inc. (POTESTA) has prepared this revised proposal providing a summary of the requested scope of services and estimated costs for engineering consultant services related to the development and assessment of a cost/benefit analysis of stabilization alternatives for the Blaine Boulevard Road Hazard Project, located within the corporate limits of Charleston, West Virginia (City). This proposal is being provided based on the Notice of Selection letter issued to POTESTA and prepared by your office dated January 25, 2024 with revisions based on a phone conversation between POTESTA and Mr. Chris Knox with the City.

PROJECT BACKGROUND

Blaine Boulevard is situated immediately adjacent and along the right descending bank of the Kanawha River within the corporate limits of the City and provides primary access to several residential structures which are located along the northern edge of the roadway. Several critical public infrastructure utilities also exist within the right-of-way below the paved roadway surface. The proposed project area extends along the roadway for approximately 1,010 feet. The Kanawha River has progressively eroded and undermined the streambank immediately below Blaine Boulevard causing several sections of the roadway to fail and settle. The City has been monitoring this situation for several years and has noted that the destabilizing conditions are continually worsening. More recently, an additional section of the riverbank slope failed adjacent to the previous western or downstream project limits resulting in a likely extension of the project limits in this direction.

Recently, the City began working with the United States Army Corps of Engineers (USACE) to identify bank stabilization or slope restoration alternatives for the project. The following alternatives resulted from these meetings and discussions:

- Installation of a stone buttress along the shoreline near the toe of the riverbank slope.
- Installation of an H-pile and lagging retaining wall.
- Relocation of critical infrastructure and residential structures adjacent to the site.

The City has requested that the services for this project are to include the study and development of an engineer's cost estimate for each of the considered alternatives along with the development of a cost/benefit analysis. The findings, recommendations, and alternative details resulting from this work will be shared by the City to various project stakeholders for input in order to make a final decision regarding the most appropriate path forward to repair and stabilize the riverbank, affected roadway sections, and impacted utility infrastructure. The engineering services and design costs, as well as initial partial funding to implement and construct the final selected alternative for this project, will be funded with monies from a FY23 HUD EDI grant.

SCOPE OF SERVICES

The following task narratives serve to present a detailed summary of POTESta's understanding of the project and the related scope of services required to meet the project requirements.

Task 1 – Determination of Existing Site Utility Locations

POTESTA will contact WV811 to locate and mark the existing buried utilities within the study area of Blaine Boulevard. The located utilities will then be surveyed by a POTESta survey crew as a part of Task 3. Locating the utilities along Blaine Boulevard is vital to the alternative assessment and future design of the embankment repair. The locations of these utilities, such as the sanitary sewer main, will be a factor in the decision and selection of a final repair alternative.

Task 2 – Site Reconnaissance Visits

POTESTA plans to complete two site visits to review the project area for tension cracks, pavement deflection, and other signs of soil movement. POTESta will complete the site visits with representatives from the City of Charleston's Engineering Department to review previously noted soil movement documented by the City. These areas will be marked in the field with flagging or spray paint and these locations will be surveyed by our survey crew. The overall project limits will be discussed and located during this initial site visit with City personnel. A second site visit meeting with City officials will be conducted following completion of Tasks 5 and 6 as presented in this proposal. This second meeting will focus on the recommendations, findings, and details of the alternatives feasibility assessment.

Task 3 – Preliminary Site Survey/Site Mapping Development

POTESTA will complete a site topographic survey of the existing roadway from the top of the riverbank along the southern edge of Blaine Boulevard to the north across the paved roadway to include 20 feet from the northern edge of the pavement into the residential properties. The POTESTA survey crew will clear and collect data along three cross sections perpendicular to the riverbank slope. These sections will be located, with input from the City, and will extend from the southern edge of the roadway, downslope to the edge of water along the Kanawha River. The riverbank slope will not be surveyed to prepare topographic mapping. This proposal does not include bathymetry surveys or soundings of the riverbed.

This survey task will be conducted following the completion of both Tasks 1 and 2 so that the marked utilities and additional information gathered following the initial site reconnaissance visit are documented. POTESTA's survey crew will remove sanitary and storm manhole covers within the study area to allow for the pipe invert elevations to be recorded.

The information collected during the site survey will be reduced to prepare site base mapping and cross sections which will be referenced during the development of final recommendations and cost estimates related to the alternatives evaluation. The base mapping drawing will indicate the location and invert elevations associated with the existing buried site utilities, road settlement areas, tension crack locations and other pertinent and relative information collected during the site survey.

Task 4 – Preliminary Subsurface Exploration

This task will involve the advancement of three subsurface test borings along Blaine Boulevard. These borings will be staked in the field 48 hours prior to mobilization of a drill rig and will be documented by ground survey. The estimated drilling costs presented in this proposal were prepared based on a total drilling footage of 180 feet of soil with each of the three proposed borings being advanced to refusal of the underlying bedrock surface. POTESTA has assumed for the purposes of preparing this proposal that the depth to bedrock will be approximately 60 feet. POTESTA has defined refusal as the failure to advance the split spoon sampler a distance of 6 inches when 50 blows are delivered by the drive hammer. Following sample refusal in each of the borings, the drill rig will be reconfigured for the collection of rock core samples. POTESTA has assumed that 15 feet of rock core will be collected in each of the three borings. Approximate groundwater levels will be measured in each of the borings immediately following completion of the drilling and prior to removal of the drilling tools.

POTESTA will subcontract the required drilling services to D. L. Martin Construction & Excavating Company of Scott Depot, West Virginia. The subsurface exploration will involve the observation of a drilling crew to check that each of the individual borings are advanced at the intended locations and the proper depth. The drilling crew will use a truck or track drill rig to advance each of the proposed borings. The POTESTA field engineer/technician will provide full-time observation during the collection of soil samples. The borings will be logged on-site during the advancement.

Field tests, such as pocket penetrometer readings and standard penetration tests, including visual observations of soil type and soil moisture conditions, will also be conducted. The results of these observations will be noted in the field during the work on POTESta's standard field boring log forms. These log forms will also include additional information, such as measured static water levels, depth to changes in strata, and the locations of soil samples collected during the drilling process.

Information gathered from these borings will be utilized to evaluate the subsurface conditions from a geotechnical perspective. Soil samples will be collected from various locations in the borings during tool advancement to provide visual descriptions of the soils encountered. The borings will be sampled continuously to a depth of 40 feet below the ground surface, and then sample collection will continue from this depth on 5-foot centers to refusal. Bag samples of drill cuttings may also be obtained based on the type of material(s) encountered. Additionally, if the blow counts from the standard penetration tests (N-values) are determined to be lower than 10, undisturbed Shelby tube samples may also be collected. Each of the borings will be backfilled with drill cuttings immediately following completion of the drilling and measurement of groundwater levels. The backfilled surface at each of the boring locations will be patched with asphalt.

POTESta will contact a utility locate company at least 48 hours prior to beginning the subsurface exploration. Should the planned borings require movement or relocation due to conflicts with existing buried or overhead utilities, the new locations will be identified in the field and indicated to the City.

The recovered soil and rock core samples will be returned to POTESta's office for further examination and potential laboratory testing. POTESta will retain the samples for a period of 90 days following completion of the subsurface exploration work unless the City provides written notice to retain the samples for a longer period. Following a review of the logs and recovered samples, representative samples will be selected for laboratory testing. Testing may vary depending on the material type(s) encountered; however, the tests are anticipated to include the following strength and characteristic tests: natural moisture content, Atterburg limits, soil density using unit weight from Shelby tube or Standard Proctor density from a bag sample, soil gradation, direct shear strength, and unconfined compression. It should be noted that additional tests may be recommended based on modified or changed field conditions.

Task 5 – Alternatives Feasibility Assessment

Utilizing the information collected in the previously completed tasks, POTESta will prepare conceptual restoration plans for four potential repair/stabilization alternatives. These four alternatives are listed below:

1. Stone riprap buttress to be installed along the toe of the slope along the edge of the river.

2. Steel H-pile and lagging (soldier beam) retaining wall.
3. Abandonment and relocation of critical infrastructure, including existing utilities and residential structures resulting in a reconstructed riverbank slope.
4. Stone riprap buttress along the toe of the slope along the river with a regraded slope above with a mid-slope bench transitioning to a slope retention structure (reinforced soil slope, articulated retaining wall, concrete cantilever wall, or soil nail slope).

Task 6 – Engineer’s Cost Estimate, Benefit Analysis, and Final Letter Report

Each of the aforementioned alternatives will be reviewed to prepare an estimated probable cost of design and construction. This will also involve the review of the constructability of each alternative looking at feasibility, site constraints, utility disruptions, extent of disturbance, etc. The findings from the engineering cost estimate and cost/benefit analysis will be presented in a final letter report outlining the associated costs with positives and negatives related to the embankment stabilization options.

COST AND SCHEDULE

POTESTA anticipates beginning the project with Tasks 1 through 4 within three weeks following receipt of a notice to proceed. POTESTA estimates that Tasks 1 through 4 will require five weeks to complete. Following completion of the surveying and subsurface exploration work, work on Tasks 5 and 6 will begin. It is anticipated that Tasks 5 and 6 will take an additional four weeks to complete. This estimated schedule will result in a total project duration of 3 months.

POTESTA’s estimated cost to complete the scope of services for this project follows:

Task Description	Cost
Task 1 – Determination of Existing Site Utility Locations	\$ 5,600
Task 2 – Site Reconnaissance Visits	\$ 8,700
Task 3 – Preliminary Site Survey/Site Mapping Development	\$ 9,000
Task 4 – Preliminary Subsurface Exploration	\$ 27,500
Task 5 – Alternatives Feasibility Assessment	\$ 19,500
Task 6 – Engineer’s Cost Estimate, Benefit Analysis, and Final Letter Report	\$ 15,500
Total Estimated Cost:	\$ 85,800

The estimated costs presented in this proposal for the associated scope of services are based upon the use of POTESTA’s standard billing invoice format (example attached). There is no cost for this invoice format. Staff efforts to generate other invoice formats will be charged to the project budget

Mr. Jamie Bowles
March 28, 2024
Page 6

at the billing rate of the individuals preparing such specialized invoices. The cost of such specialized invoices is in addition to the estimated project costs provided in this proposal and, therefore, constitutes a change in the scope of services presented herein. Please complete the invoice routing information below to include the name and address to whom the invoice should be sent and any individuals that should receive copies.

CLOSING

POTESTA's services are offered in accordance with the attached standard terms and conditions which are considered part of this proposal. Please indicate your acceptance of this proposal by signing in the box below and returning it to POTESTA to serve as our notice to proceed with the work as outlined. If you have any questions, or require additional information, please contact our office.

We look forward to providing the City with professional engineering services on this project.

Sincerely,

POTESTA & ASSOCIATES, INC.



Dana L. Burns, PE
Vice President



Chris A. Grose
Senior Engineering Associate

DLB:CAG/clr

Enclosures

ec: Mr. Chris Knox, City Engineer – City of Charleston

AUTHORIZATION (Signature Required to Proceed)

Signature

Date

Mr. Jamie Bowles
March 28, 2024
Page 7

POTESTA Invoice Routing Information (Client to Complete)	
Name:	Title:
Mailing Address:	
Telephone:	Email:
Copies to:	
☐ Check here if invoice addressee/address is same as proposal.	

Project No. 0101-23-0341

INVOICE**POTESTA & ASSOCIATES, INC. - Engineers and Environmental Consultants**

7012 MacCorkle Avenue, S. E., Charleston, West Virginia 25304 - (304) 342-1400; FEIN 31-1509066

XYZ
123 MAIN STREET
ANY TOWN, USA 22222-1111

Invoice number 39278
Date 5/15/2012

Project: 0102-11-0523
XYZ - SITE TANK

Client ID: AAAA-1

AFE# 2012-0118F

PROJECT DESCRIPTION: Preparation of landslide stabilization design drawings, bid documents, conducting Pre-Bid meeting, etc.

Invoice for services rendered April 8, 2012 thru May 5, 2012

Labor

<u>Employee Type</u>	<u>Hours</u>	<u>Rate</u>	<u>Amount</u>
Principal	3.75	195.00	731.25
Three-Man Survey Crew	32.00	150.00	4,800.00
Senior Engineer	1.00	135.00	135.00
	32.00	130.00	4,160.00
Staff Scientist	2.75	90.00	247.50
Professional Surveyor	18.00	85.00	1,530.00
Senior Cadd Designer	3.00	85.00	255.00
Engineer	164.00	75.00	12,300.00
Clerical Support	2.50	70.00	175.00
Scientist	1.50	45.00	67.50
Labor subtotal	260.50		24,401.25

Reimbursable

<u>Activity</u>	<u>Units</u>	<u>Unit of Measure</u>	<u>Rate</u>	<u>Amount</u>
Lodging	14.00	night	90.00	1,260.00
Per Diem Per Night	14.00	Night	35.00	490.00
Reimbursable subtotal				1,750.00

Page 1 of 2

Charleston, West Virginia • Morgantown, West Virginia • Winchester, Virginia
Please pay from this invoice. Interest charged at 1.5% per month on past due invoices.

INVOICE



POTESTA & ASSOCIATES, INC. - Engineers and Environmental Consultants

7012 MacCorkle Avenue, S. E., Charleston, West Virginia 25304 - (304) 342-1400; FEIN 31-1509066

XYZ
123 MAIN STREET
ANY TOWN, USA 22222-1111

Invoice number 39278
Date 5/15/2012

Project: 0102-11-0523
XYZ - SITE TANK

Client ID: AAAA-1

Subconsultant

<u>Activity / Vendor</u>	<u>Invoice number</u>	<u>Date</u>	<u>Amount</u>
Other Services			
ABC Subcontracting	12-232	4/16/2012	5,545.46
augering, rock coring			
Other Services subtotal			5,545.46
Subconsultant subtotal			5,545.46

Other

<u>Activity</u>	<u>Units</u>	<u>Unit of Measure</u>	<u>Rate</u>	<u>Amount</u>
Vehicles -Truck/Van/SUV w fuel	20.75	Day	175.00	3,631.25
008436				
Other subtotal				3,631.25

Equipment

<u>Activity</u>	<u>Units</u>	<u>Unit of Measure</u>	<u>Rate</u>	<u>Amount</u>
Nuclear Gauge day	6.00	Day	50.00	300.00
008484				
Equipment subtotal				300.00
Invoice total				35,627.96

Page 2 of 2

Charleston, West Virginia • Morgantown, West Virginia • Winchester, Virginia
Please pay from this invoice. Interest charged at 1.5% per month on past due invoices.

STANDARD TERMS AND CONDITIONS

1. Potesta & Associates, Inc., hereinafter referred to as POTESTA, is an Equal Opportunity Employer and is in compliance with the Drug-Free Workplace Act of 1988 and governmental requirements relating to Right-To-Know regulations. The engineering and consulting services of POTESTA will be performed on an hourly basis for all time rendered to the project, unless the project is quoted for a lump sum, including project scoping by professional, technical, and clerical personnel in accordance with the attached hourly rate schedule. All invoice charges are based on and are payable in U.S. dollars.
2. Services performed by POTESTA under this Agreement will be conducted in a manner consistent with that level of care and skill ordinarily exercised by members of the profession currently practicing in the same locality under similar conditions. No other representation, express or implied, and no warranty or guarantee is included or intended in this Agreement, or in any report, opinion, document or otherwise.
3. Unless stated otherwise, any cost estimate presented in the attached proposal is for budgetary purposes only and is not a fixed lump-sum price. The actual cost of POTESTA's engineering and consulting services and all expenses may be less than that estimated; accordingly, only the cost incurred will be invoiced. If at any time during the progress of the work it appears that the estimated cost will be exceeded, Client will be informed immediately. However, unless written notification is received to stop work, POTESTA will continue working on the project to completion and will invoice Client for all engineering and consulting services and expenses incurred.
4. These terms are subject to and incorporate the provisions of POTESTA's attached proposal. In the event of any conflict, the terms of the accompanying proposal shall govern.
5. Invoices will be submitted periodically as required (but not more frequently than every two (2) weeks) unless charges for such periods are minimal, in which event an invoice will be submitted when total charges exceed \$500.00, or when the work is completed, whichever occurs first. Invoices are due and payable within 30 days from the date of invoice. All delinquent charges are subject to a service charge of 1½ percent per month or a fraction thereof. Should Client fail to pay any invoice within 45 days of its date, POTESTA may, upon 3 days' written notice to Client, stop work and recover from Client payment for all work executed. ***Clients requiring specific invoice formats or accounting backup (copies of timesheets, copies of receipts or invoice support data, etc.) will be invoiced for those associated costs; these costs are not included in our proposal and will be invoiced in addition to the approved proposal costs.***
6. Client agrees to limit POTESTA's liability to Client and to all construction contractors and subcontractors on the project due to POTESTA's professional negligent acts, errors, or

Potesta & Associates, Inc.

Standard Terms and Conditions

Page 2

omissions, such that the **total aggregate liability of POTESta to all those named shall not exceed \$50,000 or POTESta's total fee** for all expenses and services rendered on this project, whichever is greater.

7. POTESta shall indemnify and hold harmless the Client, its officers, directors, shareholders and employees (collectively, "Client Indemnities"), from and against those liabilities, losses, damages, and costs (including reasonable attorney's fees where recoverable by law) that Client is legally obligated to pay as a result of third party claims, to the extent caused by the intentional or negligent act, error, or omission of POTESta or anyone for whom POTESta is legally responsible, subject to any limitations of liability contained in this Agreement.

Client shall indemnify and hold harmless POTESta, its officers, directors, shareholders and employees (collectively, "Client Indemnities"), from and against those liabilities, losses, damages, and costs (including reasonable attorney's fees where recoverable by law) that POTESta is legally obligated to pay as a result of third party claims, to the extent caused by the intentional or negligent act, error, or omission of the Client or anyone for whom the Client is legally responsible, subject to any limitations of liability contained in this Agreement.

8. Time required for POTESta personnel to travel between POTESta's office and the site (or other destination applicable to the project) is charged in accordance with the attached hourly rate schedule.
9. POTESta expenses shall be charged according to the attached Field Supply and Equipment Rate Sheet. External expenses, such as airfare, subcontracted services, etc., shall be charged at direct cost (including taxes) plus a twelve percent (12%) surcharge to the project. A per diem (daily food allowance) of \$44.00 per day will be charged for all personnel required by the work to remain away from their normal residence. For those working out of the office area, but not spending the night, an allowance for lunch (\$15.00 maximum) and, if arriving back after 7:30 p.m., for dinner (\$25.00 maximum) may be charged. Lodging will be charged at \$90.00/night, except in limited availability areas where it will be charged at direct cost plus a twelve percent (12%) surcharge.
10. Specialized equipment purchased with Client's approval specifically for the project will become Client's property upon completion of the work. The purchase price and maintenance cost of such equipment shall be charged to Client at cost plus twelve percent (12%).
11. Client acknowledges that POTESta's reports, boring logs, field data, field notes, laboratory test data, calculations, estimates, permit applications and other similar documents are instruments of professional service, not products. Although ownership of such documents normally is retained by POTESta, they nonetheless shall, in this instance,

become the property of Client upon Client's payment in full of all POTESTA invoices. Client recognizes that no such documents should be subject to unauthorized reuse; that is, reuse without written authorization of POTESTA to do so. Such authorization is essential because it requires POTESTA to evaluate the documents' applicability given new circumstances, not the least of which is passage of time. Accordingly, in return for POTESTA's relinquishment of ownership, Client agrees to waive any claim against POTESTA and defend, indemnify and hold POTESTA harmless from any claim or liability for injury or loss allegedly arising from unauthorized reuse of POTESTA's instruments of service. Client further agrees to compensate POTESTA for any time spent or expenses incurred by POTESTA in defense of any such claim, in accordance with POTESTA's prevailing fee schedule and expense reimbursement policy. Client agrees that POTESTA may retain one set of documents for their files and use.

12. Client recognizes that conclusions regarding the assessed condition(s) of the site do not necessarily represent a warranty that all portions of the site are of the same quality. Specific conditions may not be observable or readily interpreted from available documents, but may become evident at a later date. POTESTA will be responsible for data it collects, its interpretations and recommendations, but shall not be responsible for the interpretation by others of the information developed. The Client recognizes that subsurface conditions beneath the Project site may vary from those encountered in borings, surveys or explorations and the information and recommendations developed by POTESTA are based solely on the information available from such borings, surveys and explorations.
13. Client recognizes that unanticipated or changed conditions may be encountered during construction. Client agrees to retain POTESTA to observe construction, and POTESTA agrees to assign qualified persons to observe and report on the quality of work performed by contractors, et al. Client recognizes that construction observation is a technique employed to minimize the risk of problems arising during construction. Provision of construction observation by POTESTA is not insurance, nor does it constitute a warranty or guarantee of any type. In all cases, contractors, et al. shall retain responsibility for the quality of their work and for adhering to plans and specifications. Should Client for any reason not retain POTESTA to observe construction, or should Client unduly restrict POTESTA's assignment of personnel to observe construction, or should POTESTA for any reason not perform construction observation during the full period of construction, it shall be deemed that POTESTA shall not have had the ability to perform a complete service. Should POTESTA for any reason not have the ability to perform a complete service, Client waives any claim against POTESTA, and agrees to indemnify, defend and hold POTESTA harmless from any claim or liability for injury or loss arising from problems during construction that allegedly result from findings, conclusions, recommendations, plans or specifications developed by POTESTA. Client also agrees to compensate POTESTA for any time spent and expenses incurred by POTESTA in defense of any such claim, with such compensation to be based upon POTESTA's prevailing fee schedule and expense reimbursement policy.

Potesta & Associates, Inc.

Standard Terms and Conditions

Page 4

14. The responsibility of POTESta's field representative(s) is to make observations and conduct field tests. This work does not include supervision or direction of the work of the contractor, his employees, or agents. The contractor should be so advised. The contractor should also be advised that neither the presence of POTESta's field representative nor the observation and testing by POTESta shall excuse him in any way for defects discovered in his work. Any review and/or observation of the contractor's performance by POTESta does not include the contractor's safety measures on or near the construction site. The contractor will be solely and completely responsible for working conditions on the job site, including safety of all persons and property during performance of the work. This requirement will apply continuously and not be limited to normal working hours. Unless specifically stated in POTESta's proposal, construction review and/or observation is not included in the scope of services. As indicated in Item 13 above, POTESta should be allowed to perform construction observation services; a separate proposal will be prepared after construction documents are available.
15. Soil, rock, water and/or other samples obtained from the project site are the property of Client. POTESta will preserve such samples for no longer than ninety (90) calendar days after the issuance of any document that includes the data obtained from them, unless other arrangements are mutually agreed upon in writing. Further storage or transfer of samples will be made at Client's expense. Should any of these samples be contaminated by hazardous substances or suspected hazardous substances, it is Client's responsibility to select and arrange for lawful disposal procedures, that is, procedures which encompass removing the contaminated samples from POTESta's custody and transporting them to a disposal site. Client is advised that, in all cases, prudence and good judgment should be applied in selecting and arranging for lawful disposal procedures. Due to the risks to which POTESta is exposed, Client agrees to waive any claim against POTESta, and to defend, indemnify and hold POTESta harmless from any claim or liability for injury or loss arising from POTESta's containing, labeling, transporting, testing, storing or other handling of contaminated samples. Client also agrees to compensate POTESta for any time spent and expenses incurred by POTESta in defense of any such claim, with such compensation to be based upon POTESta's prevailing fee schedule and expense reimbursement policy.
16. Unless otherwise agreed, Client or Owner will furnish right-of-entry on the land and/or facilities for POTESta to make the planned borings and other explorations and perform necessary sampling. POTESta will take reasonable precautions to minimize damage to said land or facilities from use of POTESta's equipment and operations. If Client or Owner desires POTESta to restore the land or facilities to their former condition, this will be accomplished at the expense of the Client or Owner.
17. In the execution of Client's work, POTESta will take reasonable precautions to avoid damage or injury to subterranean structures or utilities. The Client and Owner agree to

Potesta & Associates, Inc.

Standard Terms and Conditions

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hold POTESta harmless for any damages to subterranean structures or utilities which are not called to POTESta's attention, or are not correctly shown on the plans furnished.

18. Client agrees to advise POTESta about the presence of any known hazardous substances or any known condition(s) existing in, on, or near the site presenting a potential danger to human health or the environment. If during performance of services, any unforeseen hazardous substances or other unforeseen conditions or occurrences, in, on, or near the site presenting a potential danger to human health or the environment are encountered which, in the judgment of POTESta, significantly affect or may affect the services or the recommended scope of services, POTESta will promptly notify Client thereof. Subsequent to that notification, Client and POTESta agree to pursue one of the following options:
 - a. If practicable, in the judgment of POTESta, the original scope of services will be completed in accordance with the procedures originally intended in POTESta's proposal for services.
 - b. The scope of services will be modified and the estimate of charges revised to include study of the previously unforeseen conditions or occurrences, such revision to be in writing and signed by the parties and incorporated therein.
 - c. The services for the work in POTESta's proposal will be terminated, effective on the date specified in writing by POTESta, and POTESta shall recover any extra charges associated with the previously unforeseen conditions or occurrences, as well as any charges up to such date for the originally proposed services.
19. Neither the Client nor POTESta may delegate, assign, sublet or transfer their duties or interest, as described in the Standard Terms and Conditions and accompanying proposal, without the written consent of the other party. Unless stated otherwise, POTESta's proposal is firm for 90 days.
20. In the event that a dispute should arise relating to the performance of the services to be provided under the Standard Terms and Conditions and the proposal, it is agreed that the dispute shall be mediated. Should mediation fail and litigation result, it is agreed that the prevailing party shall be entitled to recover all reasonable costs incurred in the defense of the claim, including staff time, court costs, attorney's fees, and other claim-related expenses.
21. The law of the State of West Virginia will govern the validity of this Agreement, its interpretation and performance, and remedies for contract breach or any other claims related to this Agreement. All legal proceedings shall be filed in Kanawha County, West Virginia.

Potesta & Associates, Inc.

Standard Terms and Conditions

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22. POTESta may submit to Client an opinion of the probable cost required to construct work. POTESta is not a construction cost estimator or construction contractor, nor should POTESta's rendering an opinion of probable construction costs be considered equivalent to the nature and extent of service a construction cost estimator or construction contractor would provide. POTESta's opinion will be based solely upon their own experience with construction. This requires POTESta to make a number of assumptions as to actual conditions that will be encountered on site; the specific decisions of other design professionals; the means and methods of construction the contractor will employ; the cost and extent of labor, equipment and materials the contractor will employ; contractor's techniques in determining prices and market conditions at the time, and other factors over which POTESta has no control. Given the assumptions which must be made, POTESta cannot guarantee the accuracy of their opinions of cost, and—in recognition of that fact—Client waives any claim against POTESta relative to the accuracy of POTESta's opinion of probable cost.
23. Client or POTESta may terminate this Agreement upon fourteen (14) days' written notice to the other for reasons included in the notice. In the event such termination becomes necessary, the party effecting termination shall so notify the other party in writing, and termination will become effective fourteen (14) calendar days after receipt of the termination notice. Irrespective of which party shall effect termination or the cause therefore, Client shall within thirty (30) calendar days of termination remunerate POTESta for services rendered and costs incurred, in accordance with POTESta's prevailing fee schedule and expense reimbursement policy. Services shall include those rendered up to the time of termination, as well as those associated with termination itself, such as demobilizing, modifying schedules, reassigning personnel, and so on. Costs shall include those incurred up to the time of termination, as well as those associated with termination and post-termination activities, such as demobilization, decontaminating and/or disposing of equipment, disposal and replacement of contaminated consumables, and so on.
24. Client shall not be liable to POTESta and POTESta shall not be liable to Client for any consequential damages incurred by either due to the fault of the other, regardless of the nature of this fault, or whether it was committed by the Client or POTESta, their employees, agents or subcontractors. Consequential damages include, but are not limited to, loss of use and loss of profit.
25. All obligations arising prior to the termination of this Agreement and all provisions of this Agreement allocating responsibility or liability between Client and POTESta shall survive the completion of the services hereunder and the termination of this Agreement.
26. POTESta shall indicate to Client the information needed for rendering of services hereunder, and Client shall provide to POTESta such information as is available to Client. Client recognizes that it is not possible for POTESta to assure the sufficiency of such

information, either because it is not possible to do so, or because of errors or omissions which may have occurred in assembling the information. Accordingly, Client waives any claim against POTEOTA, and agrees to defend, indemnify and hold POTEOTA harmless from any claim or liability for injury or loss allegedly arising from errors, omissions, or inaccuracies in documents or other information provided to POTEOTA by Client. Further, Client agrees to compensate POTEOTA for any time spent or expenses incurred by POTEOTA in defense of any such claim, with such compensation to be based upon POTEOTA's prevailing fee schedule and expense reimbursement policy.

27. This Agreement shall not create any rights or benefits to parties other than Client or POTEOTA. No third-party shall have the right to rely on POTEOTA's opinions rendered in connection with POTEOTA's services without POTEOTA's written consent and the third-party's agreement to be bound to the same terms and conditions as Client.
28. If, for any reason, any one or more of the provisions contained in this Agreement are held to be invalid, illegal or unenforceable in any respect, such invalidity, illegality or unenforceability shall not affect any other provision herein, and this Agreement shall be construed as if such invalid, illegal or unenforceable provision had not been contained herein.
29. For engagements that we accept for other than regular clients, our normal practice is to require a retainer or security deposit in advance of our performing any significant services. On occasion, such a deposit is required at a later time due to payment irregularities. The engagement letter will state whether an advance has been required before undertaking a particular representation.
30. POTEOTA will not have any obligation to issue a report or other document, or communicate our research, analyses, or conclusions, and will not have any obligation to appear for or provide written or oral testimony or evidence at trial, deposition or elsewhere, until Client's account is paid in full. POTEOTA will have no liability to the Client, or any other person, by reason of not issuing a report, appearing for, and/or providing testimony or other evidence because of the Client's failure to pay all amounts due POTEOTA, and the Client agrees to indemnify POTEOTA against any such liability.

31. CERTIFICATIONS

- 31.1 For purposes of this Agreement, "certification" means to state or declare a professional opinion based on the standard of performance set forth in Item 2 above.
- 31.2 POTEOTA shall not be required to execute certificates that would (i) result in POTEOTA having to certify, guarantee or warrant the existence of conditions whose existence POTEOTA cannot reasonably ascertain under the existing Services; (ii) require knowledge, services or responsibilities beyond the Services;

or (iii) require POTESta to make a certification that would exceed what may reasonably be expected from firms of similar experience and expertise providing services of a similar nature. In addition, Client agrees not to make resolution of any dispute with POTESta or payment of any amount due to POTESta in any way contingent upon POTESta executing such certificate.

- 31.3 A professional's certification in no way relieves other parties from meeting their respective requirements imposed by contract or other means, including commonly accepted industry standards and practices. If required as a part of its Services, POTESta will provide a written report stating whether, in POTESta's professional opinion and based on periodic site visits, the construction work complies generally with the Contract Documents.

POTESTA & ASSOCIATES, INC.

2024 RATE SCHEDULE

Principal	\$280 - \$300/hour
Chief Engineer/Scientist	\$220 - \$260/hour
Senior Engineer/Scientist.....	\$90 - \$220/hour
Staff Engineer/Scientist	\$100 - \$125/hour
Engineer/Scientist	\$60 - \$105/hour
Professional Surveyor	\$110 - \$150/hour
Senior Technician	\$65 - \$110/hour
Technician.....	\$45 - \$70/hour
Two-Man Survey Crew.....	\$140/hour
Three-Man Survey Crew.....	\$190/hour
Senior CADD Designer	\$105 - \$125/hour
CADD Designer.....	\$55 - \$110/hour
Clerical Support	\$55 - \$130/hour

(Any changes in hourly rates will be made on January 1 of each year.)

NOTE: Engineer/Scientist includes engineer, scientist, technical designers, engineering associates, planners, health and safety specialists, and information technologists.

POTESTA & ASSOCIATES, INC.

FIELD EQUIPMENT RENTAL RATE SHEET

Description	Rate		
	Per Unit	Day	Week ¹
1-Point Proctor Kit	N/A	\$20.00	\$75.00
12' Motorized Boat (includes fuel)	N/A	\$300.00	\$700.00
16' Motorized Boat (includes fuel)	N/A	\$500.00	\$2,000.00
22"x34" Internal Plots	\$0.75	N/A	N/A
24"x36" Ammonia Mylar	\$2.50	N/A	N/A
24"x36" Internal Plots	\$0.75	N/A	N/A
30"x42" Internal Plots	\$1.15	N/A	N/A
36"x48" Internal Plots	\$2.10	N/A	N/A
4-Gas Meter	N/A	\$85.00	\$275.00
Air Meter (Concrete)	N/A	\$25.00	N/A
Air Purifying Respirator with Cartridges	N/A	\$25.00	N/A
Air Velocity Meter	N/A	\$50.00	\$150.00
Asbestos Sampling Equipment	N/A	\$20.00	\$60.00
Automated Composite Sampler	N/A	\$95.00	\$350.00
Bladder Pump with Controller and Compressor	N/A	\$225.00	\$800.00
Bomb Water Sampler	N/A	\$25.00	\$75.00
Chlorine Meter	N/A	\$25.00	\$75.00
Company Vehicles - Car (includes fuel)	N/A	\$155.00	\$620.00
Company Vehicles - Truck/Van/SUV (includes fuel)	N/A	\$175.00	\$765.00
Company Vehicles - Truck/Van/SUV (includes fuel) with Trailer	N/A	\$205.00	\$1,025.00
Cone Penetrometer	N/A	\$75.00	N/A
CORMIX/CorHyd Software Utilization (per run)	\$300.00	N/A	N/A
Depth and Velocity Flow Meter	N/A	\$80.00	N/A
Electro Fishing Equipment	N/A	\$100.00	\$350.00
Field Data Interface Unit (for Data Loggers)	N/A	\$50.00	N/A
Fish Rearing (per Tank)	N/A	\$5.00	N/A
Flow Cell for Water Quality Meter	N/A	\$20.00	\$50.00
Generator	N/A	\$30.00	\$120.00
Hand Auger	N/A	\$10.00	\$30.00
Handheld GPS	N/A	\$30.00	N/A
Inclinometer	N/A	\$500.00	N/A
Interface Probe	N/A	\$55.00	\$120.00
Internal Color Copies	\$1.00	N/A	N/A
Kemmerer Water Sampler	N/A	\$25.00	\$75.00
Laser Range Finder	N/A	\$20.00	N/A
Level Loggers	N/A	\$50.00	\$200.00
Level Loggers (Reader)	N/A	\$50.00	N/A
Lodging	N/A	\$90.00	N/A
Low-Flow DC Purge Pump with Controller	N/A	\$75.00	\$300.00

Description	Rate		
	Per Unit	Day	Week ¹
Manual Direct-Push Sampler	N/A	\$50.00	\$200.00
Microscopic Evaluation Laboratory Supplies	\$5.00	N/A	N/A
Nets/Aquatic Samplers/Miscellaneous Equipment	N/A	\$50.00	\$150.00
Nuclear Gauge	N/A	\$60.00	\$200.00
Opacity Kit	N/A	\$10.00	N/A
Other	Cost + 12%	Cost + 12%	N/A
Other Boat Rental	Cost + 12%	Cost + 12%	Cost + 12%
Oversize Bluelines	\$2.40	N/A	N/A
Ponar Sampler	N/A	\$25.00	\$75.00
PH/Temperature/Conductivity Meter	N/A	\$75.00	\$250.00
pH/Temperature/Conductivity Meter/DO/ORP Meter	N/A	\$125.00	\$500.00
PID/FID	N/A	\$100.00	\$400.00
Pressure Gauges	N/A	N/A	\$50.00
Sludge Sampler	N/A	\$20.00	\$75.00
Small Row Boat	N/A	\$125.00	\$300.00
Speedy Moisture Gauge	N/A	\$25.00	N/A
Sub-Centimeter GPS Equipment	N/A	\$400.00	N/A
Sub-Meter GPS Unit	N/A	\$150.00	\$500.00
Surface Velocity Meter (SVR)	N/A	\$90.00	N/A
Temperature Loggers	N/A	\$10.00	\$35.00
Temperature Loggers (Reader)	N/A	\$50.00	N/A
Treatability Study Equipment	N/A	\$200.00	\$800.00
Turbidity Meter	N/A	\$25.00	\$75.00
UTV	N/A	\$50.00	\$375.00
Vehicle Mileage (if daily rates are not used)	IRS Rate + 12%	N/A	N/A
Water Level Indicator	N/A	\$35.00	\$75.00
Whale Pump System	N/A	\$35.00	\$100.00

(Any changes in rates will be made January 1 of each year.)

¹ Weekly rental rate implies calendar week.

POTESTA & ASSOCIATES, INC.
FIELD SUPPLY RATE SHEET

Description	Rate	
	Per Unit	Day
2" Free Product Absorbent Socks (2')	\$6.00	N/A
4" Free Product Absorbent Socks (2')	\$8.00	N/A
24"-36" Passive Diffusion Sampler Bladder and Deionized Water (Excludes Sampler Harness)	\$40.00	N/A
55-Gallon Steel Drum	\$75.00	N/A
Asbestos Sampling Supplies Forms, Field Notebooks, Nitrile Gloves, Plastic Bags, Etc.	N/A	\$20.00
Benthic Survey Supplies (Per Sample) Forms, Containers, Ethyl Alcohol, Nitrile Gloves, Flagging, Distilled Water, Decon Supplies, Marking Utensils, Plastic Bags	\$15.00	N/A
Bentonite (50 lb. Bag)	\$20.00	N/A
Bladder Pump Sampling Supplies (Badders, Grab Plates, Tubing) - Per Well	\$50.00	N/A
Concrete Testing Supplies	\$25.00	N/A
Discharge Sampling Supplies Forms, Field Notebooks, Nitrile Gloves, Ice, Distilled Water, Decon Supplies, Plastic Bags, Etc.	N/A	\$35.00
Disposable Bailers 3' (1.5" diameter)	\$9.00	N/A
Disposable Bailers 3' (0.75" diameter)	\$6.50	N/A
Disposable Bailers 7' (1.5" diameter)	\$12.50	N/A
Fish Survey Supplies (Per Site Per Day) Buckets, Waders, Bottles, Formalin, Ethyl Alcohol, Forms, Marking Utensils, Plastic Bags	\$35.00	N/A
Groundwater Sampling Supplies Forms, Field Notebooks, Nitrile Gloves, Ice, Distilled Water, Decon Supplies, Plastic Bags, Etc.	N/A	\$35.00
GW Filters	\$17.50	N/A
HGM Stream Assessment Supplies Tape, Clinometer, Densimeter, Diameter Tape, Flagging, Quadrat, Etc.	N/A	\$25.00
Other	Cost + 12%	N/A
Petroleum Soil Field Test Kit (Per Sample)	\$45.00	N/A
Soil Sampling Supplies Forms, Field Notebooks, Nitrile Gloves, Ice, Distilled Water, Decon Supplies, Plastic Bags, Etc.	N/A	\$35.00
Stream Sampling Supplies Forms, Field Notebooks, Nitrile Gloves, Ice, Distilled Water, Decon Supplies, Plastic Bags, Etc.	N/A	\$35.00
Stream Delineation Supplies Hip Chain, Clinometer, Flagging, Forms, Etc.	N/A	\$20.00
Survey Supplies Hubs, Stakes, Flagging, Iron Pins, Monuments, Marking Paint, Traffic Control	N/A	\$25.00
Wetland Delineation Supplies Flagging, Forms, Reference Materials, Plastic Bags, Etc.	N/A	\$20.00

(Any changes in rates will be made January 1 of each year.)

Resolution No. 24-021

Introduced in Council:

Adopted by Council:

September 16, 2024

Introduced by:

Referred to:

Joseph Jenkins

Finance

Resolution No. 24-021 – Authorizing the Mayor or City Manager to enter into a purchase sale agreement in substantially the same form as the attached exhibit to acquire property located at One Piedmont Road in Charleston, West Virginia at a purchase price of \$2,065,000.00, for the intended future use as the Charleston Police Department’s new headquarters.

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 purchase sale agreement in substantially the same form as the attached exhibit to acquire property located at One Piedmont Road in Charleston, West Virginia at a purchase price of \$2,065,000.00, for the intended future use as the Charleston Police Department’s new headquarters.

PURCHASE AND SALE AGREEMENT

THIS PURCHASE AND SALE AGREEMENT ("Agreement") is made this 17th day of September, 2024 ("Effective Date") by and between the City of Charleston, West Virginia, a West Virginia Municipal Corporation, (the "Purchaser") and TRUOP46, LLC, a Florida limited liability company (the "Seller"). The Purchaser, and the Seller, may be referred to herein individually as a "Party" and collectively as the "Parties".

WHEREAS, Seller is under contract for the purchase of the real estate located at One Piedmont Road, Charleston, West Virginia 25301, as more particularly described below (the "Property");

WHEREAS, upon becoming the record owner of the Property, the Seller wishes to sell the Property to Purchaser, and Purchaser wishes to purchase the Property from the Seller, subject to the terms and provisions set forth below.

WITNESSETH: the Seller shall sell, and Purchaser shall buy, all that certain tract or parcel of real estate situate, lying and being at One Piedmont Road, Charleston, West Virginia 25301, as depicted on the survey attached hereto as **Exhibit A**, together with any buildings, fixtures and improvements situate thereon and all appurtenances thereunto belonging, including all furniture, fixtures, and equipment therein (collectively referred to herein as the Property), all in accordance with the following terms and conditions:

1. Purchase and Sale. The Seller agrees to sell to Purchaser and Purchaser agrees to purchase from the Seller all of the ownership interest which is 100% of the Property, building and improvements free and clear of all claims, deeds of trust, mortgages, pledges, liens, security interests, conditional sales and other agreements, encumbrances, rights, acts, or charges of any nature (collectively the "Liens") except for covenants, conditions, restrictions, easements and other non-monetary Liens of record which do not and would not reasonably be expected to, individually or in the aggregate, materially impair the value, current use, occupancy or operation of the Property as reasonably determined by Purchaser (collectively the "Permitted Liens").

2. Purchase Price. The purchase price is Two Million Sixty-Five Thousand Dollars (\$2,065,000.00) (the "Purchase Price"), payable at closing as follows:

a. Contemporaneously with the execution and delivery of this Agreement, Purchaser shall pay Two Hundred Thousand Dollars and No Cents (\$200,000.00) (the "Escrow Deposit") to the Closing Attorney, to be held and disbursed in accordance with the terms of this Agreement; and

b. Upon the closing, settlement, and consummation of the transaction contemplated by this Agreement (the "Closing"), Purchaser shall pay the Seller the balance of the Purchase Price, less the Escrow Deposit, as noted on the closing statement (the "Closing Payment").

3. Closing and Contingencies. Purchaser's obligation to purchase the Property is expressly conditioned upon the satisfaction of the following items:

- a. the Purchaser receiving a title opinion from a West Virginia Licensed Attorney or a title insurance commitment from a West Virginia licensed Title Company indicating that title to the Property is "Marketable" in accordance with West Virginia law and is free and clear of any liens or encumbrances except for Permitted Liens as indicated in Paragraph 1 above,

- b. the Purchaser verifying the Property lines and verifying that there is no environmental contamination or other environmental issues relating to the Property or any other issues that may impair the Property's value;
- c. the Purchaser obtaining satisfactory results of its inspections conducted under Paragraph 6 herein.

The Purchaser will have until September 30, 2024 (the "Inspection Period") to perform due diligence and conduct any inspections required by the Purchaser. If any of the above conditions cannot be satisfied during the Inspection Period, Purchaser may elect to terminate this Agreement by written notice to Seller and the Escrow Deposit shall be promptly returned to Purchaser. Closing shall occur within fifteen (15) days after Seller obtains title to the Property (the "Closing Date") which is estimated to be October 15th, 2024. If the Seller does not acquire title to the Property prior to December 31, 2024 (the "Outside Acquisition Date"), either party may terminate this Agreement by written notice to the other party given after the Outside Acquisition Date; provided, however, if neither party shall provide notice of termination pursuant to this provision prior to the date that Seller actually acquires title to the Property or prior to the end of the end of the Inspection Period, whichever occurs later, the right to terminate this Agreement pursuant to this provision shall be null and void. Seller expressly agrees to provide Purchaser at least five days' notice of the anticipated closing date when Seller will actually acquire the property. If either party terminates this Agreement based on the Outside Acquisition Date provision, the Escrow Deposit shall be returned to Purchaser, with all accrued interest, and the Agreement shall become null and void. The Inspection Period, Closing Date, or Outside Acquisition Date may be adjusted upon the mutual written consent of the Parties.

At Closing, the Seller, shall convey good and marketable title to Purchaser by general warranty deed conveying the Property free and clear of all liens and encumbrances, except for the Permitted Liens.

- 4. Possession. The Seller shall deliver possession of the Property to Purchaser at Closing.
- 5. Closing Costs. All taxes on the Property owed through and including Tax Year 2024 shall be paid by the Seller. Purchaser is a tax-exempt Municipal Government and will owe no taxes on the Property. All fire service fees, municipal garbage fees and other fees for the Property, if any, shall be paid in full as of the date of Closing. The Seller shall be responsible for paying for deed preparation, conveyance fees, and taxes and fees imposed upon the transfer of title of the Property. Purchaser shall be responsible for paying recording fees. Each Party shall be responsible for its own respective attorneys' fees.
- 6. Inspection Period. During the Inspection Period, the Seller, shall permit Purchaser, their employees, contractors, or agents access to the Property for purposes of conducting all investigations and inspections as Purchaser deems necessary, including a survey related to the sufficiency of Seller's title to the Property, a phase one environmental assessment and structural/physical inspection of the condition of the buildings and improvements, all without causing damage to the Property. Upon execution of this Agreement, Purchaser agrees to promptly commence its investigations and inspections of the Property.
- 7. Title Review. During the Inspection Period, Purchaser may cause the title to the Property to be examined by its attorney prior to Closing. If such examination discloses any

defects to the title to the Property except for the Permitted Liens, Purchaser shall, during the Inspection Period, notify the Seller of such defects in writing. Upon notification, the Seller, shall attempt to cure the defects and the Inspection Period shall be extended while the Seller, attempts to cure the same; provided, the Inspection Period shall be extended by the Purchaser. If the defects cannot be cured by the Seller, during the Inspection Period, Purchaser has the option of terminating this Agreement.

8. Purchaser Default. If Purchaser (i) breaches any covenant, term, or condition of this Agreement, or (ii) fails to terminate this Agreement as provided for herein, or (iii) cannot or will not close by the date of Closing or any extension thereof as provided for herein, the Seller, shall be entitled to: (a) retain the Escrow Deposit plus any accrued interest thereon; and (b) terminate this Agreement.

9. Seller Default. If Purchaser is ready, willing, and able to close on the date of Closing or any extension thereof as provided for herein and the Seller breaches any covenant, term, or condition of this Agreement and the Closing does not occur as a result thereof, Purchaser shall be entitled to exercise any and all of the following remedies: (a) receive a full refund of the Escrow Deposit plus any accrued interest thereon; (b) terminate this Agreement, or (c) file an action for specific performance against Seller, and collect from Seller the Purchaser's reasonable attorneys' fees and costs related to such action.

10. Entire Agreement/Governing Law. This Agreement constitutes the entire agreement of the Parties hereto and cannot be amended or varied without the express written agreement of the Parties. This Agreement shall be governed and construed according to the laws of the State of West Virginia, without giving effect to any choice or conflict of law provision or rule (whether of the State of West Virginia or any other jurisdiction) that would cause the application of the laws of any jurisdiction other than the State of West Virginia. It is agreed that the exclusive venue and jurisdiction for any civil action concerning this Agreement shall be the Kanawha County Circuit Court.

11. Notices. Any notice, request, demand, instruction, or other document to be given or served hereunder, or under any document or instrument executed pursuant hereto, unless otherwise stated, shall be in writing and delivered by certified mail or by electronic mail, and the same shall be effective upon receipt. A Party may change its address for receipt of notices by service of a notice of such change in accordance with this section.

If to Seller: Jessica Lilly
Landmark Commercial Realty
435 N. 21st Street, Suite 302
Camp Hill, PA 17011
jlilly@landmarkcr.com

If to
Purchaser: Ben Mishoe
City of Charleston
501 Virginia Street East
Charleston, WV 25301
ben.mishoe@cityofcharleston.org

12. Risk of Loss/Eminent Domain. The Seller shall have all risk of loss for damage or destruction of the Property due to fire or other casualty until Closing. If, prior to Closing, the Property is taken by eminent domain, in whole or in part, or should such proceedings be initiated, prior to Closing, the Seller or Purchaser shall have the option of enforcing the obligations hereunder or canceling this Agreement. If the Seller or Purchaser elects to cancel this Agreement, Purchaser shall receive a full refund of the Escrow Deposit, subject to Purchaser's fulfillment of its obligations to: (a) return to the Seller all due diligence reports; and (b) correct and repair any and all damage to the Property caused by Purchaser's due diligence and inspections, and unless otherwise provided in this Agreement, each of the Parties shall be relieved of all further obligations or liabilities hereunder.

13. Partial Invalidity. The invalidity or enforceability of a particular provision of this Agreement shall not affect the other provisions hereof and this Agreement shall be construed in all respects as if such invalid or unenforceable provision was omitted.

14. Cooperation. The Parties shall do, execute, acknowledge, and deliver all such further acts, instruments, documents, and assurances, and take all such further action before or after Closing, as may be reasonably necessary to fully carry out this Agreement and to fully consummate and effect the transaction contemplated by this Agreement.

15. Time of the Essence/Extension of Certain Dates. Time is of the essence in this Agreement; however, if the final day of any time period specified herein falls upon a Saturday, Sunday or legal holiday under the laws of the State of West Virginia or the United States of America, then, in such event, such date or period of time shall be extended to the next succeeding day which is not a Saturday, Sunday or legal holiday under the laws of the State of West Virginia or the United States of America. All references herein to "days" herein mean calendar days unless otherwise indicated.

16. Binding Agreement. This Agreement is binding upon the Parties' successors, heirs, and assigns.

17. Execution in Counterparts. This Agreement may be executed in two or more counterparts, each of which shall be deemed an original, but all of which shall constitute one and the same instrument, and in making proof of this Agreement, it shall not be necessary to produce or account for more than one such counterpart.

18. No Assignment. Neither the Seller nor Purchaser may assign any of their respective rights, title and interest in or to this Agreement, without the prior written consent of the other Party.

19. Rule of Construction. The Parties hereto acknowledge that each Party and its counsel have reviewed and revised this Agreement and that the normal rule of construction to the effect that any ambiguities are to be resolved against the drafting Party shall not be employed in the interpretation of this Agreement or any amendments hereto.

20. Headings. The captions or headings used in this Agreement are for convenience of reference only and shall not be considered in interpreting this Agreement.

21. Interpretation. Words importing persons include firms, associations, partnerships (including limited partnerships), trusts, corporations, and other legal entities, including public bodies

as well as natural persons.

22. Brokers. Any real estate broker's, finder's, or other fees or commissions being due or payable to any other party with respect to this transaction shall be borne by the Seller or its agent as agreed upon between the respective Brokers for the Purchaser and the Seller.

IN WITNESS WHEREOF, the Parties have caused this Agreement to be duly executed as of the date first written above.

PURCHASER: The City of Charleston

By: Amy Shuler Goodwin
Its: Mayor
Date: _____

SELLER: TRUOP 46, LLC

By: Gregory Roth
Its: Manager
Date: 9/17/2024

Exhibit A – Survey of Property

Charleston Public Safety Center Study

Summary – Site Selection Process and Property Evaluation



Summary Notes

Programmatic Need:

The Charleston Police Department (CPD) space needs were analyzed by the design partnership of Silling Architects, a legacy Charleston-based design studio and Architects Design Group (ADG), a national thought-leader in public safety planning and design with successfully completed law enforcement projects across the country. Critical failures of the current space serving the CPD include:

- Current space is massively under-size relative to their operational needs and department staffing. Space allocations have failed to keep up with present requirements, and fall short of meeting immediate, mid, and long-range needs.
- Current space is dispersed across multiple locations, is poorly configured, and technologically antiquated.
- Current space would benefit from physical and electronic security enhancements typical of a modern, accredited law enforcement facility that meets the Code requirements for an Essential Facility.
- Current space does not promote community engagement, staff safety, and officer wellness.

Site Selection Process:

Working in conjunction with the team's real estate consultant, Brooks McCabe, Silling + ADG identified fourteen (14) possible sites located within an appropriate proximity to the downtown core to serve the needs of the CPD.

Of the fourteen possible sites, six (6) were considered most feasible relative to their land and/or building area, favorable site characteristics, and acquisition potential, and were further evaluated by the design team at a diagrammatic level.

Of the properties investigated, the former Truist Operations Facility & Data Center is by far the most advantageous development opportunity to meet the needs of the CPD.

Property Assessment & Findings:

Silling + ADG, along with the consulting engineer team including Civil, Structural, Mechanical, Electrical, Plumbing, and Fire Protection Engineers have assessed the existing conditions of the site and building over multiple days of investigation. Major building systems have been analyzed and documented.

Modern law enforcement headquarters are a unique and highly specialized project typology, and while any adaptive reuse of an existing facility will require strategic, focused modifications, the former Truist Operations Facility & Data Center is particularly attractive due to the following:

Site Considerations:

- The site location has the advantages of being in close proximity to the Central Business District and the hub of local government and courts operations, while being slightly removed from daily vehicular congestion and major downtown events.
- In addition to CBD proximity, the site has clear and simple access to both the east end and west side of Charleston.
- The site has immediate access to the Elk River while it is not located within the 100-year flood plain.
- The site has the potential for distinct public and private areas for vehicular and pedestrian access, with significant area available for storage of CPD patrol vehicles and rolling assets.
- The site has the potential for multiple ingress and egress points to ensure department access and responsiveness.

Building Considerations:

- At over 80,000 existing square feet, the building is of sufficient size to meet the immediate, mid, and long-range space needs of the CPD. Building renovations can be planned accordingly, identifying shell space for departments and/or municipal agencies most likely to grow or be co-located in the future.
- The existing building organization and layout includes significant open-plan areas lending to its flexibility and ease of reconfiguration. The building can easily be adapted to meet the specific programmatic needs of the department.
- The building's relationship to the site is specific and nuanced. It presents clear opportunities for public and private entries, as well as service and support connections for delivery and maintenance typical of a law enforcement facility.
- As a secure banking and data facility, the building envelope is appropriately "hardened" and will require modest physical security improvements.
- The electrical service and major power infrastructure of the facility can more than accommodate the needs of the CPD
- The building's HVAC systems have been very well maintained and are in good operating order, as evidenced through discussions and observation alongside current building maintenance personnel who continue to service the equipment. While the age of the HVAC backbone could suggest its timely upgrade, a deferred replacement plan for major equipment can serve immediate improvements while helping manage immediate renovation expenses.
- The building includes an automatic fire suppression system that can be easily reconfigured to align with new space planning solutions.
- The generally open and flexible interior spaces will allow for efficient redistribution of power, data, security, and technology systems throughout the building.

Development Cost Models:

Total project costs for new construction have increased dramatically in the post-Covid 19 era. As conveyed during the initial programming and spaces needs assessment phases of the pre-design services, total project development costs would exceed \$600 per square foot for a comparable new 65,000 square foot police headquarters. The adaptive reuse of the proposed facility provides for nearly a 40% reduction in project costs – while also delivering approximately 15,000 square feet of shell space to serve future municipal needs.

Conclusion:

As noted by ADG firm President, Ian Reeves, AIA, IALEP, the former Truist Operations Facility & Data Center represents one of the most attract adaptive reuse opportunities for a law enforcement headquarters our team has been charged to evaluate anywhere in the country. The property size, location, and characteristics offer compelling development advantages. The building is available by a willing seller, and its availability is not tied to building deficiencies. Both the quality of the building and the cost of its transformation relative to new construction position it to safely and effectively serve the CPD's immediate needs, while its proximity to the downtown core and its surplus square footage allow it to meet the needs of the community for decades to come.