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### 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

[Edit](#)

! [Click here](#) to **disable** Q & A notifications for this solicitation.

### Number

2024-05 Demolition for Charleston Building Commission

### Deadline

02/29/2024 10:00 AM EST

### Auto Advertise

### Description

The City of Charleston is seeking bids for.  
2024 demolition of structures services.

### Pre-bid Meeting:

A mandatory pre-bid conference for the purpose of discussing and clarifying the project drawings and specifications will be held at Charleston City Building Commission office at 915 Quarrier Street, Charleston WV 25301 at 10:00 a.m., Thursday, February 15, 2024.

### Allow zero unit prices and labor?

Yes

### Allow negative unit prices and labor?

Yes

### Allow Electronic Signatures?

Yes

### Allow vendors to ask questions?

Yes

### Restricted?

No

### Mark solicitation as an RFP?

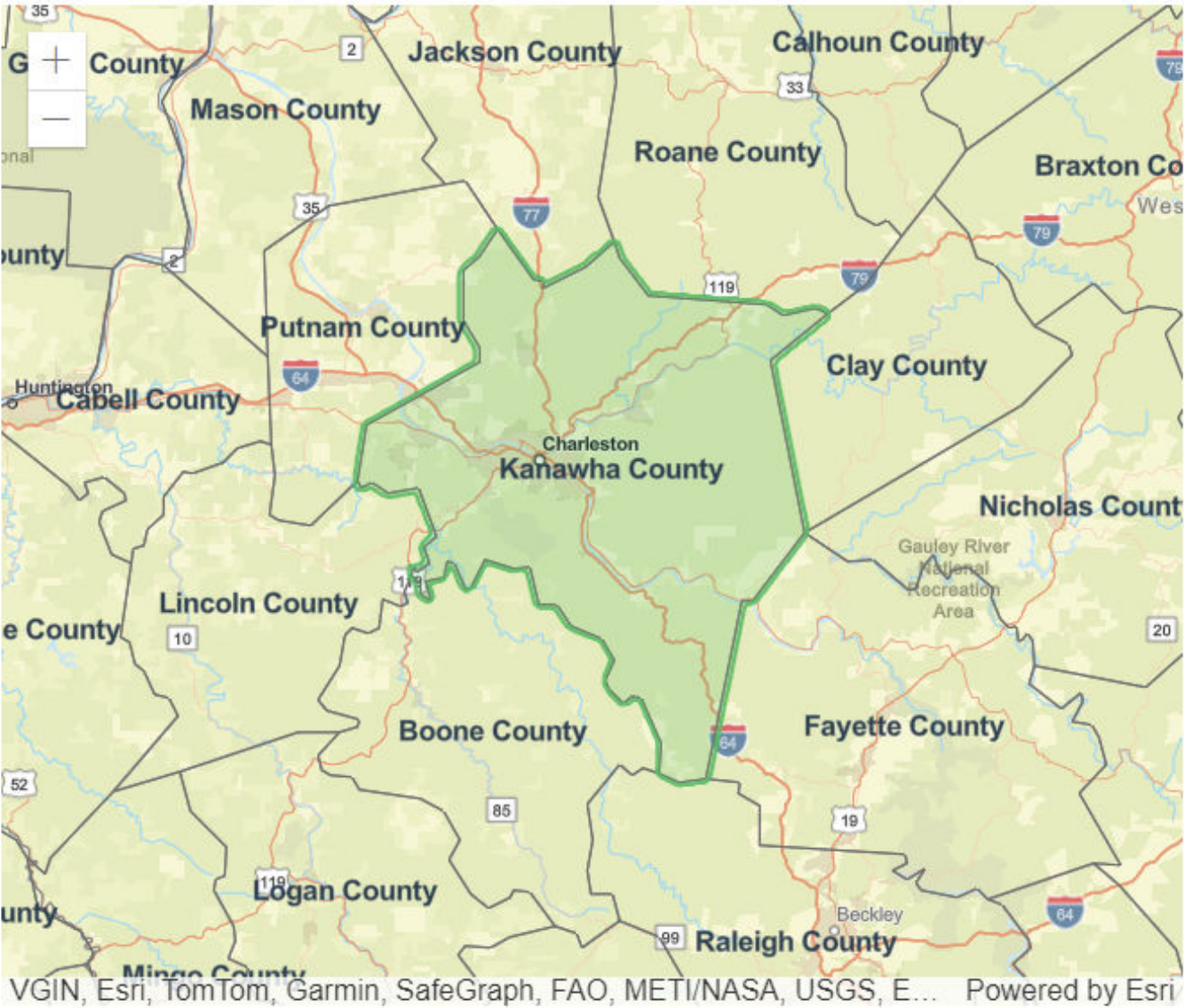
No

Locations (1)

Edit

1 Locations Listed

1 - Kanawha, West Virginia



Invited Vendors

Invite Shortlist

Invite Vendor

Business Name

Address

Phone

No Vendors found

## Q & A

[Edit](#)[Print](#)

### Deadline


02/16/2024 03:00 PM EST

### Remarks

 No questions have been asked.

## ATTACHMENT LIST

[Edit](#)[More](#)

Order	Name	Description
1	<a href="#">2024-05 Demolition.pdf</a> (94.8 KB)	
2	<a href="#">INFORMATION FOR BIDDERS-Demolition.pdf</a> (170 KB)	
3	<a href="#">Terms and Conditions.pdf</a> (149 KB)	
4	<a href="#">GENERAL CONDITIONS- For Construction Projects.pdf</a> (112 KB)	
5	<a href="#">COC Purchasing Affidavit.pdf</a> (60.2 KB)	
6	<a href="#">Drug-Free_Workplace_Affidavit.pdf</a> (78.1 KB)	
7	<a href="#">Local Vendor Purchasing Affidavit - City of Charleston.pdf</a> (137 KB)	 OPTIONAL
8	<a href="#">State License Form.pdf</a> (55.2 KB)	

8 Attachments



## ADDENDUM ACKNOWLEDGMENT

[Edit](#)[More](#)

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

**Addendum Number:\***

**Date of Acknowledgment:\***

## EXCEPTIONS AND DEVIATIONS

[Edit](#)[More](#)

**!** 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:\***

## BID AND PROPOSAL FORM (1 OF 3)

[Edit](#)[More](#)

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.\*

## ▣ BID AND PROPOSAL FORM (2 OF 3)

[Edit](#)[More](#)[Reset Search](#)

Order	Description	Unit	Alternate	Optional	Fixed (Unit Cost)	Unit Cost	Item Total
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! Alternates are not included in bid total.

1	Demolition Services at Non-Prevailing Wage Rates (Exempt) per the attached specifications	SF	×	×	×		
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1 Item

## ▣ 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:\***

**Title:\***

**Printed/Typed Bidder's Name:\***

**Date:\***

**Company Name:\***

**Address:\***

**Telephone Number:\***

**Fax Number:**

**Email Address:\***

## ▣ MANDATORY PRE-BID MEETING

[Edit](#)[More](#)

☐ A mandatory pre-bid conference for the purpose of discussing and clarifying the project drawings and specifications will be held at Charleston City Building Commission office at 915 Quarrier Street, Charleston WV 25301 at 10:00 a.m., Thursday, February 15, 2024. (Bidder acknowledges the pre-bid meeting requirement.)\*



## ▣ 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:\***

**Stockholder Address:\***

## ▣ 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; 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:\*

Date:\*



## ▢ Required Document List

[Edit](#)[More](#)

Name	Description	Omission Terms
List of Stockholders	→ Please upload a copy of Bidder's List of Stockh...	→ I have no Stockholders or have provided my Lis...
Drug-Free Workplace Conformance Affidavit	→ Please upload a signed and notarized copy of B...	
City Purchasing Affidavit	→ Please upload a signed and notarized copy of B...	
Local Vendor Preference	→ (Optional)	
4 Required Documents		

## ▢ Local Vendor Preferenec (Optional)

[Edit](#)[More](#)

! Optional: Vendor is not required to complete.

**Please upload a completed Local Vendor Preference Affidavit if you believe your firm meets the applicable standards.**

## **INTENT**

These specifications are intended to describe Demolition Services for the City of Charleston Building Commission. 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.

## **Mandatory Specifications**

The work outlined in this specification shall consist of complete removal of such structures and appurtenances as are specifically designated to be cleared. It shall include disconnecting all utilities and salvaging and disposing of the resulting materials in the manner and subject to conditions and regulations hereinafter prescribed. The structures in question will be identified at a later date by the City on an as needed basis. Before beginning any work, the City shall confirm to the Contractor the demolition and removal at each location.

### **Scope of Work**

The work to be completed hereunder includes the furnishing of all supervision, labor, materials, machinery, tools, supplies, plant equipment, obtaining of proper permits, services and appurtenances including utilities and transportation necessary for the complete and satisfactory demolition of structures in the City.

1. The Contractor shall take all necessary precautions to protect City property (streets, utilities, etc.) from damage by the Contractor's equipment. Contractor shall remove and segregate all hazardous materials identified by the City or by the Environmental Protection Agency (EPA). The Contractor, in accordance with WPA guidelines, shall remove refrigerators, air conditioners and other hazardous materials.
2. Payment of worker's compensation, overtime and any other required coverage are the exclusive responsibility of the Contractor as required by Local, State and/or Federal Law or Regulations, where applicable.
3. All structures shall be cleared and removed from the project area and all of the same shall be transported to and legally disposed of by the Contractor at an approved and properly licensed sanitary landfill. Copies of the tipping fees or demolition landfill license shall be supplied to the City of Charleston Building Commission. The Contractor shall pay landfill fees. Contractor is responsible for ensuring that debris does not fall from or blow off transporting vehicles en route to the sanitary landfill.
4. The Contractor shall leave the demolition and project site clean and free of all and any trash and debris to the satisfaction of the Building Commissioner or his designated representative.
5. The Contractor shall keep the project area and public right of way reasonably clear at all times and upon completion of the work, the Contractor shall remove all equipment and materials brought onto the project area by the Contractor and used in the performance of this contract and shall leave the entire project area in a totally cleared, neat and leveled condition appropriate to the site. Burning of trash and debris on the site is not permitted and no material removed from this project area under the contract shall be burned, buried on the



project site or deposited or placed at any place other than an approved and properly licensed landfill.

The following major items of work are included herein:

**Utilities:** The Contractor shall coordinate with all utilities to locate all service connections. It shall be required that the Contractor call Miss Utility of West Virginia, Inc. at (800) 345-4848 to do so. The Contractor shall disconnect, or have disconnected, all utilities as required. The Contractor shall excavate and properly plug and flag all underground tap locations at a point close to the property line, but not so close as to damage City streets, and then properly close excavations after removing all underground or aboveground pipe or wire. Sewer tap shall be inspected by sanitary board before covering/backfill.

**Demolition:** The Contractor shall raze, demolish, clear, remove and dispose of all structures, structures and foundations including basements on the project in an efficient and workmanlike manner and all in strict accordance with all of the contract documents. All demolition debris and waste shall be removed from the site and placed in an appropriate, approved location at the expense of the Contractor.

**Impervious Surfaces:** All impervious surfaces shall be removed and disposed of in an appropriate, approved location. These surfaces include, but are not limited to, asphalt or concrete driveways, walkways, porches, basketball courts and patios. Costs associated with this item shall be included in the various unit bid prices.

**Miscellaneous Debris:** Miscellaneous debris surrounding the structures, such as fallen trees, junk and litter, and any other items on the site shall be disposed of as provided herein. Any tree stumps shall be cut to ground level. Cost of this work is to be included in the various unit bid prices.

**Leveling and Seeding:** The Contractor shall fill in all low areas, crawl spaces, etc. to a minimum of six inches (6") above existing surrounding grade to allow for settlement. The Contractor shall provide locally approved fill material. Leveling and seeding is incidental to the various contract items and no separate payment shall be made. Areas shall be seeded and mulched as follows:

- Approved grass seed, i.e. rye, fescue, etc., at one hundred (100) pounds per acre
- Lime at two (2) tons per acre
- Fertilizer at five hundred (500) pounds per acre
- Mulch at two (2) tons per acre

**Disposal of Materials:** Materials resulting from the demolition and clearance operation are to be disposed of only at properly licensed and approved sanitary landfills. The Contractor is to exercise care so as not to deposit debris on the sidewalks and streets. Any ferrous materials should not be placed in the disposal sites. The Contractor can salvage such ferrous metals. Salvageable materials resulting from the demolition and clearance operations shall become the property of the Contractor.

**Damage of City Property:** The Contractor shall exercise due care so as not to damage the sidewalks and streets. The Contractor, at no additional expense to the City, shall correct any damage to City property caused by the Contractor's demolition work.

## **Indemnification and Care of Work**

1. The Contractor shall be responsible for all damages to persons or property that may arise as a result of the Contractor's acts, omissions or negligence in connection with the performance, proper care and protection of all work performed until its completion and final acceptance by the City as provided hereinafter.
2. Contractor hereby agrees to indemnify and hold and save the City harmless from any and all liability, losses and claims for damages including attorneys' fees resulting from any claims or causes of action for personal injury or property damage that may arise during and by reason of the negligent acts or omissions of the Contractor, its agents, employees and/or subcontractors during performance of the contract and hereby agrees to indemnify the City of Charleston, State and Federal Governments against any claims arising from such work.

## **Contract Price**

The City shall pay the Contractor for full and complete performance of the contract. The contract price shall be payable and paid in installments according to individual prices on the bid sheet after both of the following have occurred:

1. The Contractor shall have completed all work on an individual property required under this contract, and
2. The City shall have issued a Certificate of Acceptance, in the form of an approved inspection ticket duly signed by the Building Commissioner or his authorized agent, certifying that all work on an individual property required under the contract has been fully and satisfactorily completed and is accepted by the City.

## **Time for Commencement and Completion of Work**

The Contractor shall observe the following schedule for commencement and completion of work:

1. The Contractor shall commence performance under each project within ten (10) calendar days following notice to proceed from the Building Commissioner or his designated agent. In no event shall the Contractor be prevented from commencing work under the contract for more than three (3) calendar days after the date of the contract unless a later date for commencement be mutually agreed upon in writing by the parties.
2. The Contractor shall complete each project in a timely manner or at the discretion of the Building Commissioner or his designated representative.

## **Emergency Response**

Notwithstanding the general terms for completion of services contained herein, Contractor understands and agrees that there may be some emergency or exigent circumstances which require an immediate response for demolition services. Contractor shall have equipment and staff available within a thirty (30) mile radius of Charleston, West Virginia, and the ability to respond within one hour to emergency demolition requests including, but not limited to, demolition during working fires.

## **Extension of Time**

The Contractor may be granted an extension of the time stipulated in the contract under the following conditions:

1. If the work of the Contractor is delayed on account of conditions that could not have been foreseen or are beyond the control of the Contractor and are not the result of the Contractor's fault or negligence.



2. The Contractor shall notify the City promptly of any occurrence or conditions that, in the Contractor's opinion, entitles the Contractor to an extension of time. Such notice shall be submitted in writing in ample time to permit full investigation of the Contractor's claim. Failure to provide such notice shall constitute a waiver by Contractor of any claim for additional time. Except as might otherwise be provided under "Termination of Contract and Liquidated Damages" below, the decision of the City on whether or not the Contractor shall be granted an extension of time, and the amount thereof, shall be final.
3. Notwithstanding any other provision of the contract to the contrary, if the City deems the same to be in the best interests of the City, for any cause or reason whatsoever, then the City may grant the Contractor such extensions of time for completion of work required under the contract as the City shall determine necessary and in the best interest of the City.

### **Inspection of Work and Correcting of Defects**

1. All work under the contract shall be subject to inspection, surveillance and testing by the City at all reasonable times, both on the project area herein described and elsewhere. All such inspections shall be performed in such a manner as will not unduly delay the work.
2. Contractor warrants that the services and work to be rendered and completed in the time allowed.
3. At any time during the performance of the contract or within ninety (90) days after the issuance of the Certificate of Acceptance by the City of the work to be completed hereunder, the City may require the Contractor to remedy, by whatever means necessary, any failure by the Contractor to comply with the Contractor's obligations under this contract and, except as provided in this subsection, the Contractor shall have no obligation or liability to correct or otherwise remedy any work which is claimed to be defective in workmanship or otherwise not in conformity with the requirements of the contract.

### **Disputes and Arbitration**

Any controversy or claim arising out of, or relating to, the contract or breach thereof, which cannot be resolved by mutual agreement, shall be settled by arbitration. Arbitration shall be completed by a panel of three (3) arbitrators; one (1) each shall be appointed by the City and by the Contractor with the third to be appointed by the two (2) arbitrators so appointed by the parties hereto.

### **Termination of Contract and Liquidated Damages**

1. If the Contractor refuses or fails to prosecute this work in a workmanlike manner, to the satisfaction of the City or contrary to the terms of the agreement, or fails to work with such diligence as will insure its completion within the time specified in the contract, including extensions, if any be granted, then the City by written notice to the Contractor may terminate the Contractor's right to proceed with the work. On such termination, the City may take over the work and prosecute the same to completion, by contract or otherwise, and the Contractor shall be liable to the City of any additional cost incurred by the City in the completion of the work and, in addition, the Contractor shall also be liable for liquidated damages for any delay in the completion of the work as is outlined in the following paragraph.

2. If the work is not completed within the time stipulated in the contract, including authorized extensions of time, then the Contractor shall pay to the City, as agreed, liquidated damages for each calendar day of unauthorized delay in completion of the work the sum of one hundred dollars (\$100.00) per day and the Contractor shall be liable to the City therefore.

#### **Compliance with Laws**

1. The Contractor shall complete such action as is required to become fully informed of all State and National Laws and Municipal Ordinances and Regulations in any manner affecting those engaged or employed in the work, or the materials used in the work, or in any way affecting the conduct of the work and the Contractor shall at all times observe and comply with and shall cause all the Contractor's agents and employees to observe and comply with, all such existing and future laws, ordinances, regulations orders and degrees and the Contractor shall further protect and indemnify the City of Charleston and its officers and agents from any claim or liability arising from or based on the violation of any such law, ordinance, regulation order or decree, whether by the Contractor or the Contractor's employees.
2. All notices required or authorized to be given to the City by the Contractor pursuant to the contract shall be delivered by the Contractor to the City Manager, City of Charleston, 501 Virginia Street East, Room 101, Charleston, WV 25301.

#### **Consent Required for Subcontracting**

The Contractor shall not subcontract or otherwise authorize any of the work required to be completed under the contract to be done or completed by subcontract or by persons other than the Contractor and the Contractor's representatives and employees unless the City shall first consent in writing to the same.

#### **Insurance Requirements**

Contractor shall provide worker's compensation for all of the Contractor's employees. Contractor shall also provide vehicle liability coverage for all vehicles and equipment of Contractor in the total liability limits of one million dollars (\$1,000,000.00) and general liability coverage in the amount of one million dollars (\$1,000,000.00). Contractor shall provide the City with certificates for the foregoing insurance coverage.



## **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](mailto: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 **Thursday, February 29, 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.**

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 Bowels, Purchasing Director, at [Jamie.Bowles@cityofcharleston.org](mailto: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.



## GENERAL CONDITIONS

- **Equipment Delivery Information if needed.**
- Only new equipment will be accepted. No factory refurbished, display or used equipment is allowed. All manuals, warranties and agreements must arrive at the time the equipment is delivered.
- **Only one bid will be accepted from each vendor.**
- Equipment will not be accepted by the City if all specifications and any other requirements have not been met. Return of the equipment, if necessary, will be at the expense of the bidder.
- Any deviations from the bid specifications must be included on a separate sheet and attached to the bid form.
- Enclose with this bid proposal all manufacturer brochures, all warranty agreements on equipment proposed, a list of the company's stockholders, the city's Purchasing Affidavit and any other documents as required by the City and described in this document. Firms must acknowledge the City's protest process, attached herein, by submitting a signed copy with their bid proposal. **Firms may not be considered, at the City's discretion, if any of the listed enclosures are not included with the bid submission.**
- Per City Code, facsimile, telephonic or oral bids will not be accepted.
- Debarred vendors may not submit bids or be awarded contracts.
- The City of Charleston is exempt from state and local taxes.
- The City Council or the City Manager reserves the right to reject any and all bids.
- Contract and Contract Documents

The Contract includes the invitation for bids, proposal, contract form, contract bond, specifications, special provisions, plans, notice to proceed, any change orders and other supplemental agreements that are required to complete the construction of the work in an acceptable manner.

The quantities listed in the contract documents are estimates. The City will pay for quantities actually in place. The City reserves the right to vary the quantities up to 50 % with no change in unit price, except for optional items that may or may not be completed as part of this project.

- Materials, Services, and Facilities

The Contractor shall provide and pay for all materials, labor, tools, equipment, and all other services and supplies to complete the project in the specified time except as noted in the Contract Documents.

- Surveys, Permits, and Regulations

Survey information is provided for informational purposes only. The Contractor shall verify existing information and obtain additional information, as necessary. The Contractor shall establish horizontal and vertical control as necessary for proper layout of the work. The Contractor shall obtain a building permit from the City of Charleston Building Commission. There will be no fee for the City's building permit. All other permits will be the Contractor's responsibility.

- Contractor's Obligations and Retainage

The Contractor agrees to indemnify, defend and hold the City harmless against any property damage or personal injury claim as a result of any activity resulting from this project. The Contractor shall carry general liability insurance in amounts equal to or in excess of \$1,000,000 per occurrence/claim and shall name the City as an additional insured on its liability policy.

The Contractor shall remove all debris and leave the site in a clean and orderly condition following the completion of the work. The City will hold a 10% retainage pending final acceptance of the job.

The Contractor shall guarantee that his work is free from defects for one (1) year after acceptance of the project by the City.

- Weather Conditions

In the event of temporary suspension of work due to inclement weather, or whenever the Engineer shall direct, the Contractor shall, and then cause his subcontractors to carefully protect their work and materials against damage or injury. If, in the opinion of the Engineer, any work or materials have been damaged or injured by reason of failure on the part of the Contractor or his Subcontractors to protect their work, such materials shall be removed and replaced at the expense of the Contractor.

- Responsibility of Avoiding Structures

The Contractor shall assume full responsibility for the protection of all property in the vicinity of the project. The Contractor shall notify the Engineer if their work encroaches on structures in the area of the project. The Contractor shall replace or repair anything damaged as a result of the Contractor's work at no additional cost to the City. The Contractor shall be responsible for notifying all utility companies prior to any construction and shall also be responsible for having any utility lines, valves, meters, manholes, etc. relocated or adjusted that may interfere with the completion of this project. The cost and scheduling of utility relocations shall be included in the base bid and shall be performed at no additional cost to the City.

- Traffic Control

A minimum of one lane of traffic is to be maintained on all streets whenever possible. The Contractor shall provide adequate cones, signs, and if necessary flag persons with appropriate clothing and equipment to control traffic during all phases of the operation. It

shall be the responsibility of the Contractor to notify the City Traffic Department, the City Engineer and the local residents of traffic and parking disruptions prior to beginning work.

Costs for all traffic control is incidental to the project.

- Cleanup

It shall be the responsibility of the contractor to keep the construction area clean from trash and debris at all times. The final cleanup shall be reviewed by the City Engineer prior to final payment.

- Superintendence by Contractor

The Contractor shall provide a superintendent or foreman who shall have full authority to act for the Contractor.

- Changes in Work

No changes in the work will be allowed without prior approval of the City. Changes will be accounted for by unit bid prices, an agreed lump sum, or the actual cost of labor, materials, rental costs, and other applicable costs.

- Time of Completion

The project shall be substantially complete within 6 months after the Notice to Proceed is issued.

- Payment and Performance Bonds

At the time of the execution of this contract, the successful bidder shall execute and deliver to the City Payment and Performance Bonds payable to the City of Charleston, both in the amount of **one hundred percent (100%)** of the contract price. As an alternate, the successful bidder may furnish cash bonds or U.S. Government Bonds in the amount of **one hundred percent (100%)** of the contract price for each of the Payment and Performance Bonds. Firms may also elect to provide the City with an irrevocable standby Letter of Credit in the amount of **two hundred percent (200%)** of the contract price, with the City as beneficiary, issued by a reputable lending institution with terms satisfactory to the City and its legal counsel in lieu of performance and payment bonds.

- Licenses

Bidders must be licensed contractors by the State of West Virginia.



## 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: \_\_\_\_\_

Authorized Signature: \_\_\_\_\_ Date: \_\_\_\_\_



**State of West Virginia**  
**DRUG FREE WORKPLACE CONFORMANCE AFFIDAVIT**  
**West Virginia Code §21-1D-5**

I, \_\_\_\_\_, after being first duly sworn, depose and state as follows:

1. I am an employee of \_\_\_\_\_; and,  
(Company Name)
2. I do hereby attest that \_\_\_\_\_  
(Company Name)

maintains a written plan for a drug-free workplace policy and that such plan and policy are in compliance with **West Virginia Code** §21-1D.

The above statements are sworn to under the penalty of perjury.

Printed Name: \_\_\_\_\_

Signature: \_\_\_\_\_

Title: \_\_\_\_\_

Company Name: \_\_\_\_\_

Date: \_\_\_\_\_

STATE OF WEST VIRGINIA,

COUNTY OF \_\_\_\_\_, TO-WIT:

Taken, subscribed and sworn to before me this \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_.

By Commission expires \_\_\_\_\_

(Seal)

\_\_\_\_\_  
(Notary Public)



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: \_\_\_\_\_

Authorized Signature: \_\_\_\_\_ Date: \_\_\_\_\_

\_\_\_\_\_  
(Printed Name and Title)

State of \_\_\_\_\_

County of \_\_\_\_\_, to wit:

Taken, subscribed, and sworn before me this \_\_\_\_\_ day of \_\_\_\_\_, 20 \_\_\_\_\_.

[SEAL]

\_\_\_\_\_  
Notary Public

My Commission expires \_\_\_\_\_, 20 \_\_\_\_\_.

\*\*\*\*\*

Name of Procurement: \_\_\_\_\_ Bid Opening Date: \_\_\_\_\_



**Required Licenses**

Bidders must be licensed contractors by the State of West Virginia and registered to do business in the City of Charleston.

**COMPANY NAME:**

\_\_\_\_\_

**ADDRESS:**

\_\_\_\_\_

**TELEPHONE:** \_\_\_\_\_

**WV STATE CONTRACTOR'S LICENSE #** \_\_\_\_\_

**EMAIL ADDRESS:**

\_\_\_\_\_

**Is your business registered with the Charleston City Collector?**

\_\_\_\_\_ **Yes** \_\_\_\_\_ **No**

**If yes, what is your vendor registration number?** \_\_\_\_\_