

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

Edit

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

Number

2024-06 Asbestos Testing

Deadline

02/29/2024 10:00 AM EST

Auto Advertise

Description

The City of Charleston is seeking bids for. 2024- Asbestos testing 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?

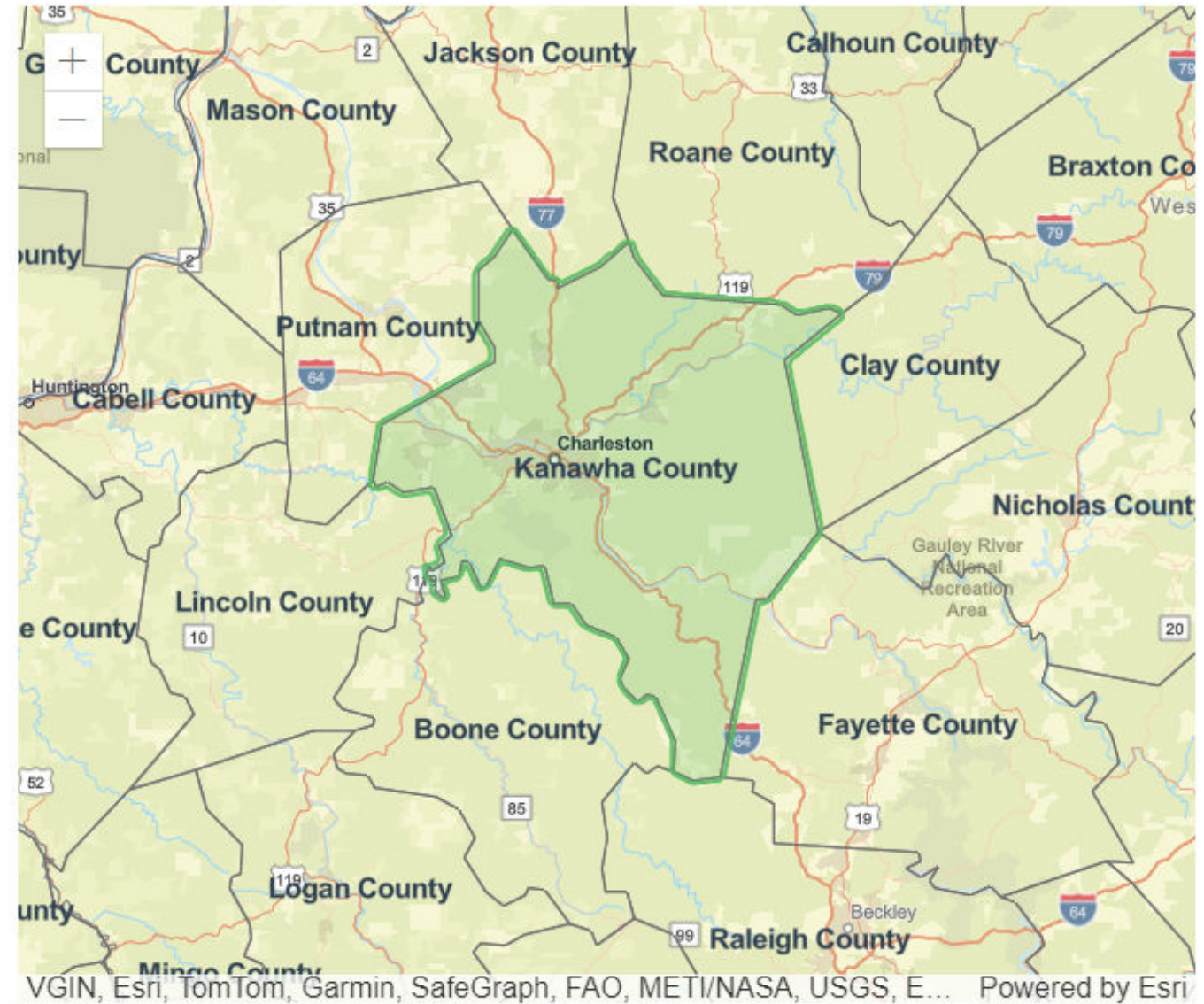
No

▾ Locations (1)

Edit

1 Locations Listed

1 - Kanawha, West Virginia



▾ Invited Vendors

Invite Shortlist

Invite Vendor

Business Name

Address

Phone

No Vendors found

## 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
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1	<a href="#">2024-06 Asbestos Testing.pdf</a> (81.3 KB)	
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2	<a href="#">INFORMATION FOR BIDDERS-Demolition.pdf</a> (170 KB)	
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3	<a href="#">Terms and Conditions.pdf</a> (149 KB)	
---	---	--

4	<a href="#">GENERAL CONDITIONS- For Construction Projects.pdf</a> (112 KB)	
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5	<a href="#">COC Purchasing Affidavit.pdf</a> (60.2 KB)	
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6	<a href="#">Drug-Free_Workplace_Affidavit.pdf</a> (78.1 KB)	
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7	<a href="#">Local Vendor Purchasing Affidavit - City of Charleston.pdf</a> (137 KB)	 OPTIONAL
---	---	--

8	<a href="#">State License Form.docx</a> (87.3 KB)	
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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](#)

Search for Item Code or Description



[Reset Search](#)

Order	Description	Unit	Alternate	Optional	Fixed (Unit Cost)	Unit Cost	Item Total
<p><b>!</b> Alternates are not included in bid total.</p>							
1	Structure	Per Structure	×	×	×		
2	Bulk Sample	Per Sample	×	×	×		
3	Pre Sample (PLM)	Per Sample	×	×	×		
4	Gravimetric Reduction Sample	Each	×	×	×		

4 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:\***

**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.\*

## 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 Prefereneec (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 Asbestos Structures Inspection and Testing 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.

The contract for the asbestos structures inspection and testing services shall be for a period of one (1) year from the date of contract execution, with the City having an option to renew the contract under the same terms and conditions, contained herein, and at the prices quoted in the submitted proposal for two (2) additional consecutive years.

## Mandatory Specifications

The successful vendor will be obligated under contract to fulfill the following tasks:

1. Physically inspect each structure and take samples of suspected asbestos-containing surfacing material pursuant to the protocol prescribed in the EPA guidance document, ***Asbestos in Building Simplified Sampling Scheme for Friable Surfacing Materials***, EPA 560/6-85-030a, October 1985; and of suspected asbestos-containing thermal system insulation pursuant to the protocol in 40 CFR 763.86:
  - 1.1. The number of samples taken for each suspected asbestos-containing material and the method of sampling shall be determined pursuant to the protocol described in 40 CFR 763.86, or a similar protocol approved by the City of Charleston Building Commissioner. The size of the samples must be adequate to allow splitting of each sample for the purpose of possible confirmation by a third-party laboratory, preparation for gravimetric or further analysis by reduction prepared PLM point counting.
  - 1.2. Samples must be taken both of friable and non-friable suspected asbestos-containing materials pursuant to the above-cited sampling protocol. In addition, in compliance with the recently revised OSHA 29 CFR 1926 Subpart 2, all building materials are considered "presumed asbestos containing materials" if installed in a structure before 1980. This would include, but not be limited to, the following material types:
    - 1.2.1. Surfacing materials
      - Fireproofing
      - Spray-applied plaster (walls and ceilings)
      - Trowel-applied plaster (walls and ceilings)

Hard plaster (walls and ceilings)

1.2.2. Thermal systems insulation

Pipe insulation

Duct insulation

HVAC system insulation

Water heater and boiler insulation

Tees, joints and valves

1.2.3. Miscellaneous

Floor tile

Transite siding (exterior)

Roofing shingles, flashing

Ceiling and wall tiles and panels

Transite panels

Caulk

All multi-layered materials must be sampled

- 1.3. Inspectors shall conform to NESHAP reporting requirements to determine if materials found to contain asbestos are classified friable or Category I or II non-friable asbestos-containing materials. In addition, the inspector will advise as to whether the Category I or II non-friable can become friable during demolition activities.
- 1.4. The vendor must provide a written diagram or floor plan with square footage showing the location in each structure from which each sample has been taken.
- 1.5. Analyze or have analyzed the samples to determine if the samples contain asbestos; the laboratory that conducts the analysis should be accredited pursuant to the guidelines prescribed in 40 CFR 763.87 (2a).
- 1.6. Analysis shall be performed using the method specified in Appendix A, Subpart F, 40 CFR Part 763, Section 1, Polarized Light Microscopy.
- 1.7. If asbestos content is less than ten percent (10%) asbestos as determined by a method other than point counting by polarized light microscopy (PLM), the City will have the option of verifying the asbestos content by point counting using PLM; preparation may be required using gravimetric reduction techniques.
- 1.8. Analysis reports shall include:
- 1.8.1. Type of asbestos
- 1.8.2. Asbestos content by percentage
- 1.8.3. With respect to all asbestos-containing materials identified, describe: Type of material, location(s) of the material by reference to floor plans, quantity

of the material (determined by physical measurement unless physical measurement is not feasible), supplemented, where possible, by references to the as-built or design drawings of the structures.

- 1.9. Respondents must prepare their bid based on a typical structure which shall be described for purposes of the request for proposal as a six (6) room house, 3000 square feet, twenty (20) bulk asbestos samples taken and analyzed.
- 1.10. The asbestos structures inspection services being requested by the City are to be conducted in accordance with all applicable requirements of the West Virginia Legislature Rule 64CSR63, the Asbestos Abatement Licensing Rule.
- 1.11. The inspection report shall contain a "Certification Statement" to be signed by the Licensed Asbestos Structures Inspector who conducted the inspection, attesting to the fact that both the structures inspection and the inspection report was conducted or prepared, as the case may be, in accordance with the requirements of Section 7 of the Asbestos Abatement Licensing Rule. The single exception being that a minimum of three (3) samples will be taken from the suspect asbestos containing material constituting each inspector defined as "homogeneous area."

With respect to the analysis of the samples of suspect asbestos containing material collected from each "homogeneous area," the asbestos inspector shall instruct the analytical laboratory selected to conduct the sample preparation and analysis process to:

- a. Discontinue the analysis of the remaining samples from the "homogeneous area" once it has been established that an individual sample contains asbestos in a concentration greater than one percent (1%).
  - b. Conduct a "point count" on the residual material representing the sample identified as containing asbestos at a concentration greater than one percent (1%) but less than or equal to five percent (5%).
  - c. **The Agreement for Asbestos Building Inspections and Testing services shall be for a one year period from the date of execution of the Agreement and the City shall have the exclusive, irrevocable option to renew the Agreement under the same terms and conditions of the Agreement, and at the prices quoted in response to the Request for Proposals by the successful bidder, for two (2) consecutive years. Asbestos inspections are to be provided within ten (10) days from receipt of the request by the City to perform the inspection(s).**
- 1.12. The Asbestos Structures Inspector shall provide the City of Charleston with one (1) original asbestos inspection report and two (2) copies.

- 1.13. In the event that the West Virginia Department of Environmental Protection's Division of Air Quality, or the West Virginia Department of Health and Human Resources' Bureau for Public Health, or the City of Charleston, after reviewing the asbestos inspection report or determines through a site visit that the report is deficient, the Asbestos Structures Inspector will, at no additional cost to the City, correct the deficiency to the satisfaction of the regulatory agency having found and defined the deficiency.
2. The Agreement for Asbestos Structures Inspections and Testing services shall be for a one-year period from the date of execution of the Agreement and the City shall have the exclusive, irrevocable option to renew the Agreement under the same terms and conditions of the Agreement, and at the prices quoted in the response to the RFP by the successful bidder, for two (2) consecutive years.
3. Asbestos inspections are to be provided within ten (10) days from receipt of request by the City to perform the inspection(s).

**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 a same day response for asbestos inspection & testing services.

4. Vendors submitting a proposal **must** provide a **List of Stockholders**, complete the attached **Proposal Form**, the **Affirmation** page, and provide a **Statement of Qualifications**.

## 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 Bowles, 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?** \_\_\_\_\_