

**CITY OF WILSONVILLE
COOPERATIVE PURCHASE
GOODS AND SERVICES CONTRACT**

This Cooperative Procurement Goods and Services Contract (“Contract”) for the TV Inspection Van Purchase Project (“Project”) is made and entered into on this ____ day of July, 2023 (“Effective Date”) by and between the **City of Wilsonville**, a municipal corporation of the State of Oregon (hereinafter referred to as the “City”), and **CUES, Inc.**, a Delaware corporation (hereinafter referred to as “Supplier”).

RECITALS

WHEREAS, the Oregon Revised Statutes authorize cooperative procurements in accordance with ORS 279A.200, et seq.; and

WHEREAS, the City wishes to purchase equipment that Supplier is capable of providing, under terms and conditions hereinafter described; and

WHEREAS, Supplier represents that Supplier is qualified to perform the services described herein on the basis of specialized experience and technical expertise; and

WHEREAS, Supplier is prepared to provide such services, as the City does hereinafter require.

NOW, THEREFORE, in consideration of these mutual promises and the terms and conditions set forth herein, the parties agree as follows:

AGREEMENT

Section 1. Contract Documents

This Contract includes and incorporates by reference all of the foregoing Recitals and all of the following additional “Contract Documents,” and any and all terms and conditions set forth in such Contract Documents: Invitation to Submit Competitive Bids, dated June 4, 2020; Bid/Proposal Specifications; Supplier’s Response to the Bid/Proposal; Purchasing Agreement #SC01-21 between Supplier and Houston-Galveston Area Council, dated December 21, 2020, and all attachments thereto (the “HGAC Contract”); and the provisions of Oregon Revised Statutes (ORS) 279C, as more particularly set forth in this Contract. Any conflict between this Contract and the HGAC Contract shall be resolved in favor of this Contract. This Contract, the attached exhibits, and the HGAC Contract shall be collectively referred to as the “Contract Documents.” All Contract Documents should be read in concert and Supplier is required to bring any perceived inconsistencies to the attention of the City before executing this Contract. In the event a provision of this Contract conflicts with standards or requirements contained in any of the foregoing Contract Documents, the provision that is more favorable to the City, as determined by the City, will apply.

Section 2. Goods Purchased

Supplier will supply the new equipment described in the Contract Documents, and as more particularly described on the Quotation attached hereto as **Exhibit A** and incorporated by reference herein (the “Equipment”).

Section 3. Equipment Price and Delivery

3.1 The purchase price of the Equipment is ONE HUNDRED TWENTY-FIVE THOUSAND FIVE HUNDRED NINE DOLLARS (\$125,509) (the “Equipment Price”), as shown on **Exhibit A**, and includes delivery to 28879 SW Boberg Road, Wilsonville, Oregon 97070 (“Delivery Location”). Sale shall occur upon the City’s inspection of the Equipment and acceptance by the City of delivery at the Delivery Location. The City will pay Supplier in full within 30 days of receipt and acceptance of delivery of the Equipment. Supplier will schedule a date and time for delivery. Delivery must occur on or before December 30, 2023.

3.2 The Equipment Price is all inclusive and includes, but is not limited to, all work-related costs, expenses, salaries or wages, plus fringe benefits and contributions, including payroll taxes, workers compensation insurance, liability insurance, profit, pension benefits, and all other contributions and benefits, technology and/or software charges, licensing, trademark, and/or copyright costs, office expenses, travel expenses, mileage, and all other indirect and overhead charges, including, but not limited to, the Oregon Corporate Activity Tax (CAT).

Section 4. Term

Unless earlier terminated in accordance herewith, the term of this Contract shall be from the Effective Date until December 30, 2023. Any extension option must be exercised by the City, in writing, prior to expiration of the Initial Term of this Contract or any subsequent Extension Term.

Section 5. Warranties.

Supplier hereby agrees that Supplier will timely and thoroughly perform all warranty work. Work will be performed at the City’s location unless the work cannot reasonably be performed on site. In that case, Supplier will be responsible for transporting the Equipment in need of warranty work from Wilsonville and back to Wilsonville. Supplier agrees to provide full warranty for labor and materials for all Equipment delivered to the City for a length of time not less than the manufacturer warranty for the specific Equipment. The full warranties are as follows: bumper to bumper vehicle warranty, three years/36,000 miles and Cues’ equipment warranty, 12 months. All warranties are from the date of delivery and acceptance by the City, and are in addition to, and not in lieu of, any other warranties provided by various manufacturers.

Section 6. Insurance

6.1. Insurance Requirements. Supplier must maintain insurance coverage acceptable to the City in full force and effect throughout the term of this Contract. Such insurance shall cover all risks arising directly or indirectly out of Supplier’s activities or Work hereunder. The amount of insurance carried is in no way a limitation on Supplier’s liability hereunder. The policy or policies maintained

by Supplier shall provide at least the following minimum limits and coverages at all times during performance of this Contract:

6.1.1. Commercial General Liability Insurance. Supplier shall obtain, at Supplier's expense, and keep in effect during the term of this Contract, comprehensive Commercial General Liability Insurance covering Bodily Injury and Property Damage, written on an "occurrence" form policy. This coverage shall include broad form Contractual Liability insurance for the indemnities provided under this Contract and shall be for the following minimum insurance coverage amounts: The coverage shall be in the amount of **\$2,000,000** for each occurrence and **\$3,000,000** general aggregate and shall include Products-Completed Operations Aggregate in the minimum amount of **\$2,000,000** per occurrence, Fire Damage (any one fire) in the minimum amount of **\$50,000**, and Medical Expense (any one person) in the minimum amount of **\$10,000**. All of the foregoing coverages must be carried and maintained at all times during this Contract.

6.1.2. Business Automobile Liability Insurance. If Supplier will be using a motor vehicle in the performance of the Work herein, Supplier shall provide the City a certificate indicating that Supplier has business automobile liability coverage for all owned, hired, and non-owned vehicles. The Combined Single Limit per occurrence shall not be less than **\$2,000,000**.

6.1.3. Workers Compensation Insurance. Supplier and all employers providing work, labor, or materials under this Contract that are subject employers under the Oregon Workers Compensation Law shall comply with ORS 656.017, which requires them to provide workers compensation coverage that satisfies Oregon law for all their subject workers under ORS 656.126. Out-of-state employers must provide Oregon workers compensation coverage for their workers who work at a single location within Oregon for more than thirty (30) days in a calendar year. Suppliers who perform work without the assistance or labor of any employee need not obtain such coverage. This shall include Employer's Liability Insurance with coverage limits of not less than **\$500,000** each accident.

6.1.4. Insurance Carrier Rating. Coverages provided by Supplier must be underwritten by an insurance company deemed acceptable by the City, with an AM Best Rating of A or better. The City reserves the right to reject all or any insurance carrier(s) with a financial rating that is unacceptable to the City.

6.1.5. Additional Insured and Termination Endorsements. The City will be named as an additional insured with respect to Supplier's liabilities hereunder in insurance coverages. Additional Insured coverage under Supplier's Commercial General Liability, Automobile Liability, Pollution Liability, and Excess Liability Policies, as applicable, will be provided by endorsement. Additional insured coverage shall be for both ongoing operations via ISO Form CG 2010 or its equivalent, and products and completed operations via ISO Form CG 2037 or its equivalent. Coverage shall be Primary and Non-Contributory. Waiver of Subrogation endorsement via ISO Form CG 2404 or its equivalent shall be provided. The following is included as additional insured: "The City of Wilsonville, its elected and appointed officials, officers, agents, employees, and volunteers." An endorsement shall also be provided requiring the insurance carrier to give the City at least thirty (30) days' written

notification of any termination or major modification of the insurance policies required hereunder.

6.1.6. Certificates of Insurance. As evidence of the insurance coverage required by this Contract, Supplier shall furnish a Certificate of Insurance to the City. This Contract shall not be effective until the required certificates and the Additional Insured Endorsements have been received and approved by the City. Supplier agrees that it will not terminate or change its coverage during the term of this Contract without giving the City at least thirty (30) days' prior advance notice and Supplier will obtain an endorsement from its insurance carrier, in favor of the City, requiring the carrier to notify the City of any termination or change in insurance coverage, as provided above.

6.2. Primary Coverage. The coverage provided by these policies shall be primary, and any other insurance carried by the City is excess. Supplier shall be responsible for any deductible amounts payable under all policies of insurance. If insurance policies are "Claims Made" policies, Supplier will be required to maintain such policies in full force and effect throughout any warranty period.

Section 7. Contract Modification; Change Orders

Any modification of the provisions of this Contract shall not be enforceable or binding unless reduced to writing and signed by both the City and Supplier.

Section 8. Notices

Any notice required or permitted under this Contract shall be in writing and shall be given when actually delivered in person or forty-eight (48) hours after having been deposited in the United States mail as certified or registered mail, addressed to the addresses set forth below, or to such other address as one party may indicate by written notice to the other party.

To City: City of Wilsonville
 Attn: Scott Simonton, Fleet Manager
 29799 SW Town Center Loop East
 Wilsonville, OR 97070

To Supplier: CUES, Inc.
 Attn: Gillian Wilson, Territory Manager
 3600 Rio Vista Avenue
 Orlando, FL 32805

Section 9. Miscellaneous Provisions

9.1. Legal Effect and Assignment. This Contract shall be binding upon and inure to the benefit of the parties hereto and their respective heirs, personal representatives, successors, and assigns. This Contract may be enforced by an action at law or in equity.

9.2. No Assignment. Supplier may not delegate the performance of any obligation to a third party unless mutually agreed, in writing.

9.3. Governing Law. This Contract shall be construed in accordance with and governed by the laws of the State of Oregon, regardless of any conflicts of laws. All contractual provisions required by ORS Chapters 279A, 279B, 279C, and related Oregon Administrative Rules to be included in public agreements are hereby incorporated by reference and shall become a part of this Contract as if fully set forth herein.

9.4. Jurisdiction. Jurisdiction and venue for any dispute will be in Clackamas County Circuit Court.

9.5. Time of the Essence. Time is expressly made of the essence in the performance of this Contract.

9.6. Entire Agreement. This Contract, all documents attached to this Contract, and all Contract Documents and laws and regulations incorporated by reference herein represent the entire agreement between the parties.

9.7. Counterparts. This Contract may be executed in one or more counterparts, each of which shall constitute an original Contract but all of which together shall constitute one and the same instrument.

9.8. Authority. Each party signing on behalf of Supplier and the City hereby warrants actual authority to bind their respective party.

The Supplier and the City hereby agree to all provisions of this Contract.

SUPPLIER:

CITY:

CUES INC.

CITY OF WILSONVILLE

By: _____

By: _____

Print Name: _____

Print Name: _____

As Its: _____

As Its: _____

EIN/Tax I.D. No. _____

APPROVED AS TO FORM:

Amanda Guile-Hinman, City Attorney
City of Wilsonville, Oregon

EXHIBIT A- QUOTATION

"The Standard of the Industry"



CUES

June 7th, 2023

Wilsonville, OR City of
Scott Simonton
30000 SW Town Center Loop East
Wilsonville, OR 97070

RE: Transit van for Cues equipment.

Dear Scott,

Here is the pricing information you requested for purchasing a new custom Cues Transit van. Please see attached component list for greater detail.

Transit

- Ford Transit gas cargo van
- Beacons – LED
- Evo 3 interior for K@ and dolly
- Bulkhead wall with window to view rear of van
- Door into control room
- Kemplite walls/ceiling
- Desk
- Lonplate flooring
- Multi-Outlet workstation
- 10 gallon wash-down system
- Workbench in equipment room with upper cabinet storage
- MEPS inverter system
- Engineering panel
- Delivery

Total **\$125,509**

Terms: NET30
Delivery: 90-120 days
FOB: Destination