



State of West Virginia  
 Department of Administration  
 Purchasing Division  
 2019 Washington Street East  
 Post Office Box 50130  
 Charleston, WV 25305-0130

# Request for Quotation

RFQ NUMBER
ISCK0060

PAGE
1

ADDRESS CORRESPONDENCE TO ATTENTION OF:
KRISTA FERRELL 304-558-2596

RFQ COPY  
 TYPE NAME/ADDRESS HERE

VENDOR

SHIP TO

DEPARTMENT OF ADMINISTRATION  
 IS&C - NETWORKING  
 BUILDING 6, ROOM B110  
 1900 KANAWHA BOULEVARD, EAST  
 CHARLESTON, WV  
 25305-0135 304-558-5914

DATE PRINTED	TERMS OF SALE	SHIP VIA	F.O.B.	FREIGHT TERMS
11/19/2009				

BID OPENING DATE: 12/17/2009 BID OPENING TIME 01:30PM

LINE	QUANTITY	UOP	CAT NO	ITEM NUMBER	UNIT PRICE	AMOUNT
0001	1	EA		920-45		
<p>MAINFRAME SERVER AND VIRTUAL TAPE STORAGE SOLUTION</p> <p>REQUEST FOR QUOTATION (RFQ)</p> <p>THE WEST VIRGINIA STATE PURCHASING DIVISION FOR THE AGENCY, THE WEST VIRGINIA OFFICE OF TECHNOLOGY'S DATA CENTER, IS SOLICITING BIDS TO PROVIDE THE AGENCY WITH A NEW MAINFRAME SERVER AND VIRTUAL TAPE SOLUTION THAT INCLUDES A TWO-WAY GRID WITH FULL REPLICATION AND ALSO, TO PROVIDE FINANCING SERVICES FOR THE SOLUTION PER THE ATTACHED SPECIFICATIONS.</p> <p>THE AGENCY MAY SPLIT THIS AWARD IF IT IS IN THE BEST INTEREST OF THE STATE OF WEST VIRGINIA.</p> <p>TECHNICAL QUESTIONS CONCERNING THIS SOLICITATION MUST BE SUBMITTED IN WRITING TO KRISTA FERRELL IN THE WEST VIRGINIA STATE PURCHASING DIVISION VIA MAIL AT THE ADDRESS SHOWN IN THE BODY OF THIS RFQ, VIA FAX AT 304-558-2596, OR VIA EMAIL AT KRISTA.S.FERRELL@WV.GOV. DEADLINE FOR ALL TECHNICAL QUESTIONS IS THURSDAY, DECEMBER 3, 2009 AT THE CLOSE OF BUSINESS. ALL TECHNICAL QUESTIONS RECEIVED, IF ANY WILL BE ANSWERED BY ADDENDUM AFTER THE DEADLINE HAS LAPSED.</p> <p>QUESTIONS CONCERNING THE PROCESS BY WHICH A VENDOR MAY SUBMIT A BID TO THE STATE OF WEST VIRGINIA ARE NOT CONSIDERED TO BE TECHNICAL QUESTIONS AND MAY BE</p>						

SEE REVERSE SIDE FOR TERMS AND CONDITIONS

SIGNATURE	TELEPHONE	DATE
TITLE	FEIN	ADDRESS CHANGES TO BE NOTED ABOVE

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**GENERAL TERMS & CONDITIONS  
REQUEST FOR QUOTATION (RFQ) AND REQUEST FOR PROPOSAL (RFP)**

1. Awards will be made in the best interest of the State of West Virginia.
2. The State may accept or reject in part, or in whole, any bid.
3. All quotations are governed by the *West Virginia Code* and the *Legislative Rules* of the Purchasing Division.
4. Prior to any award, the apparent successful vendor must be properly registered with the Purchasing Division and have paid the required \$125 fee.
5. All services performed or goods delivered under State Purchase Order/Contracts are to be continued for the term of the Purchase Order/Contracts, contingent upon funds being appropriated by the Legislature or otherwise being made available. In the event funds are not appropriated or otherwise available for these services or goods, this Purchase Order/Contract becomes void and of no effect after June 30.
6. Payment may only be made after the delivery and acceptance of goods or services.
7. Interest may be paid for late payment in accordance with the *West Virginia Code*.
8. Vendor preference will be granted upon written request in accordance with the *West Virginia Code*.
9. The State of West Virginia is exempt from federal and state taxes and will not pay or reimburse such taxes.
10. The Director of Purchasing may cancel any Purchase Order/Contract upon 30 days written notice to the seller.
11. The laws of the State of West Virginia and the *Legislative Rules* of the Purchasing Division shall govern all rights and duties under the Contract, including without limitation the validity of this Purchase Order/Contract.
12. Any reference to automatic renewal is hereby deleted. The Contract may be renewed only upon mutual written agreement of the parties.
13. **BANKRUPTCY:** In the event the vendor/contractor files for bankruptcy protection, the State may deem this contract null and void, and terminate such contract without further order.
14. **HIPAA BUSINESS ASSOCIATE ADDENDUM:** The West Virginia State Government HIPAA Business Associate Addendum (BAA), approved by the Attorney General, and available online at the Purchasing Division's web site (<http://www.state.wv.us/admin/purchase/vrc/hipaa.htm>) is hereby made part of the agreement. Provided that, the Agency meets the definition of a Cover Entity (45 CFR §160.103) and will be disclosing Protected Health Information (45 CFR §160.103) to the vendor.
15. **WEST VIRGINIA ALCOHOL & DRUG-FREE WORKPLACE ACT:** If this Contract constitutes a public improvement construction contract as set forth in Article 1D, Chapter 21 of the West Virginia Code ("The West Virginia Alcohol and Drug-Free Workplace Act"), then the following language shall hereby become part of this Contract: "The contractor and its subcontractors shall implement and maintain a written drug-free workplace policy in compliance with the West Virginia Alcohol and Drug-Free Workplace Act, as set forth in Article 1D, Chapter 21 of the West Virginia Code. The contractor and its subcontractors shall provide a sworn statement in writing, under the penalties of perjury, that they maintain a valid drug-free work place policy in compliance with the West Virginia and Drug-Free Workplace Act. It is understood and agreed that this Contract shall be cancelled by the awarding authority if the Contractor: 1) Fails to implement its drug-free workplace policy; 2) Fails to provide information regarding implementation of the contractor's drug-free workplace policy at the request of the public authority; or 3) Provides to the public authority false information regarding the contractor's drug-free workplace policy."

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**INSTRUCTIONS TO BIDDERS**

1. Use the quotation forms provided by the Purchasing Division.
2. **SPECIFICATIONS:** Items offered must be in compliance with the specifications. Any deviation from the specifications must be clearly indicated by the bidder. Alternates offered by the bidder as **EQUAL** to the specifications must be clearly defined. A bidder offering an alternate should attach complete specifications and literature to the bid. The Purchasing Division may waive minor deviations to specifications.
3. Complete all sections of the quotation form.
4. Unit prices shall prevail in case of discrepancy.
5. All quotations are considered F.O.B. destination unless alternate shipping terms are clearly identified in the quotation.
6. **BID SUBMISSION:** All quotations must be delivered by the bidder to the office listed below prior to the date and time of the bid opening. Failure of the bidder to deliver the quotations on time will result in bid disqualifications: Department of Administration, Purchasing Division, 2019 Washington Street East, P.O. Box 50130, Charleston, WV 25305-0130



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SUBMITTED AT ANY TIME PRIOR TO THE BID OPENING AND IN ANY FORMAT.  EXHIBIT 10  REQUISITION NO.: .....  ADDENDUM ACKNOWLEDGEMENT  I HEREBY ACKNOWLEDGE RECEIPT OF THE FOLLOWING CHECKED ADDENDUM(S) AND HAVE MADE THE NECESSARY REVISIONS TO MY PROPOSAL, PLANS AND/OR SPECIFICATION, ETC.  ADDENDUM NO.'S: NO. 1 ..... NO. 2 ..... NO. 3 ..... NO. 4 ..... NO. 5 .....  I UNDERSTAND THAT FAILURE TO CONFIRM THE RECEIPT OF THE ADDENDUM(S) MAY BE CAUSE FOR REJECTION OF BIDS.  VENDOR MUST CLEARLY UNDERSTAND THAT ANY VERBAL REPRESENTATION MADE OR ASSUMED TO BE MADE DURING ANY ORAL DISCUSSION HELD BETWEEN VENDOR'S REPRESENTATIVES AND ANY STATE PERSONNEL IS NOT BINDING. ONLY THE INFORMATION ISSUED IN WRITING AND ADDED TO THE SPECIFICATIONS BY AN OFFICIAL ADDENDUM IS BINDING.						

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BID OPENING DATE: 12/17/2009 BID OPENING TIME 01:30PM

LINE	QUANTITY	UOP	CAT. NO.	ITEM NUMBER	UNIT PRICE	AMOUNT
..... SIGNATURE ..... COMPANY ..... DATE						
NOTE: THIS ADDENDUM ACKNOWLEDGEMENT SHOULD BE SUBMITTED WITH THE BID.  REV. 09/21/2009  EQUIPMENT (MAINFRAME SERVER/VIRTUAL TAPE SERVERS):  THE MODEL/BRAND/SPECIFICATIONS NAMED HEREIN ESTABLISH THE ACCEPTABLE LEVEL OF QUALITY ONLY AND ARE NOT INTENDED TO REFLECT A PREFERENCE OR FAVOR ANY PARTICULAR BRAND OR VENDOR. VENDORS WHO ARE BIDDING ALTERNATES SHOULD SO STATE AND INCLUDE PERTINENT LITERATURE AND SPECIFICATIONS. FAILURE TO PROVIDE INFORMATION FOR ANY ALTERNATES MAY BE GROUNDS FOR REJECTION OF THE BID. THE STATE RESERVES THE RIGHT TO WAIVE MINOR IRREGULARITIES IN BIDS OR SPECIFICATIONS IN ACCORDANCE WITH SECTION 148-1-4 (F) OF THE WEST VIRGINIA LEGISLATIVE RULES AND REGULATIONS.  INSTALLATION AND DE-INSTALLATION:  FOR THIS CONTRACT SHALL BE PERFORMED WITHIN 60 DAYS OF THE RECEIPT OF THE PURCHASE ORDER. DEINSTALLATION OF THE EQUIPMENT SHALL BE PERFORMED WITHIN 30 DAYS AFTER THE NEW EQUIPMENT IS INSTALLED AND ACCEPTED BY THE AGENCY.						

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<p>WARRANTY AND MAINTENANCE WILL TAKE EFFECT UPON THE SUCCESSFUL INSTALLATION AND ACCEPTANCE OF THE SYSTEM BY THE AGENCY. WARRANTY AND MAINTENANCE DATES WILL BE ADDED TO THE CONTRACT BY FORMAL CHANGE ORDER UPON ACCEPTANCE.</p> <p>FINANCING:            (SEE ATTACHED STATE OF WEST VIRGINIA LEASE PURCHASE AGREEMENT.)</p> <p>BANKRUPTCY: IN THE EVENT THE VENDOR/CONTRACTOR FILES FOR BANKRUPTCY PROTECTION, THE STATE MAY DEEM THE CONTRACT NULL AND VOID, AND TERMINATE SUCH CONTRACT WITHOUT FURTHER ORDER.</p> <p>NOTICE</p> <p>A SIGNED BID MUST BE SUBMITTED TO:            DEPARTMENT OF ADMINISTRATION            PURCHASING DIVISION            BUILDING 15            2019 WASHINGTON STREET, EAST            CHARLESTON, WV 25305-0130</p> <p>THE BID SHOULD CONTAIN THIS INFORMATION ON THE FACE OF</p>						

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11/19/2009				

BID OPENING DATE: 12/17/2009 BID OPENING TIME 01:30PM

LINE	QUANTITY	UOP	CAT. NO.	ITEM NUMBER	UNIT PRICE	AMOUNT
THE ENVELOPE OR THE BID MAY NOT BE CONSIDERED: SEALED BID  BUYER: KRISTA FERRELL-FILE 21 RFQ. NO.: ISCK0060 BID OPENING DATE: 12/17/2009 BID OPENING TIME: 1:30 PM  PLEASE PROVIDE A FAX NUMBER IN CASE IT IS NECESSARY TO CONTACT YOU REGARDING YOUR BID: ----- CONTACT PERSON (PLEASE PRINT CLEARLY): -----  ***** THIS IS THE END OF RFQ ISCK0060 ***** TOTAL: _____						

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## I. SCOPE

The West Virginia State Purchasing Division for the Agency, The West Virginia Office of Technology's Data Center (herein identified as the customer), is soliciting bids to provide the agency with a new mainframe server, and a virtual tape solution that includes a two-way grid with full replication. Vendors may quote a new mainframe server, a virtual tape solution, or both. The agency may split the award if it is in the best interest of the State.

## II. CURRENT ENVIRONMENT

The customer currently owns and operates the following enterprise server and tape storage systems:

### Enterprise Server

Quantity	Machine/Product	Product Description
1	2086-A04 Ser. No. BE1FE	IBM enterprise server configured with 3 processors and 16 GB of memory. (Two processors are CP with 707 MIPS; one processor is an IFL with 366 MIPS.) Contains PR/SM feature and 3 LPARS:  <u>LPAR1 (z/OS production LPAR # 1)</u>  <u>LPAR2 (z/OS production LPAR # 2)</u>  <u>LPAR3 (VM LPAR with LINUX)</u>
2	OSA Express 1000 Base-T	Total of 4 ports.
1	OSA Express Gb E	Total of 2 ports
4	FICON E LX	Total of 8 ports
2	FICON E2 LX	Total of 4 ports
14	ESCON	Total of 28 ports

**Tape Storage Equipment**

2	9310	StorageTek library storage modules
2	9311	StorageTek library control units
1	4410	StorageTek library storage modules
1	4411	StorageTek library control units
12	3590-B1A	IBM Magstar tape drives
3	3590-A50	IBM Magstar control units
16	9490-M34	StorageTek Timberline tape drives

Note: The customer will retain four (4) of the 9490-M34 tape drives for legacy support purposes.



### III. EQUIPMENT SPECIFICATIONS

#### A. IBM System z10 Business Class Mainframe Server (or equal)

1. The vendor shall furnish the equipment listed on Appendix A, or equivalent equipment.
2. The equipment shall be new. Remanufactured or warranted-as-new equipment is unacceptable.
3. The vendor shall provide on-site engineering support. The support shall commence with installation and continue until all applications have been migrated from the old server to the new server.
4. At a minimum, the equipment must be capable of supporting the following software:

##### IBM Z/OS Operating System:

- 5694-A01 z/OS V1 Base
- 5694-A01 z/OS V1 C/C++ without Debug
- 5694-A01 z/OS V1 RMF
- 5694-A01 z/OS V1 DFSMS DSS+HSM
- 5694-A01 z/OS V1 DFSORT
- 5694-A01 z/OS V1 RMF
- 5694-A01 z/OS V1 SDSF
- 5694-A01 z/OS V1 Security Server
- 5655-G53 Enterprise COBOL
- 5655-M32 PSF V4 for Z/OS
- 5655-103 DITTO/ESA
- 5665-366 SDF II
- 5668-910 OS PL/I Compiler & Library V2
- 5625-DB2 DB2 UDB for Z/OS
- 5688-190 PPFA/370
- 5688-191 OGL/370
- 5655-M15 CICS TS for Z/OS V3
- 5698-S45 TSM Ext. Edition for Z/OS
- 5608-S70 Tivoli AF/Operator for Z/OS V3

##### IBM Z/VM Operating System:

- 5741-SNS Z/VM V5
- 874-005051-SILV Novell SuSE Linux Enterprise Server for IBM zSeries

**B. IBM Virtual Tape Servers / Tape Solution (or equal)**

1. The vendor shall furnish the equipment listed on Appendix B, or equivalent equipment.
2. The equipment shall be new. Remanufactured or warranted-as-new equipment is unacceptable.
3. The solution shall support full data replication between the primary virtual tape server at the customer's data center and the secondary tape server at a remote facility located no further than 100 miles from the data center.
4. The solution shall allow for creation of physical tapes at the remote location for disaster recovery purposes.
5. The solution shall allow for removal of physical tapes from the remote location for disaster recovery purposes.
6. The solution shall allow the customer to encrypt data that is on physical tape.
7. The customer currently has approximately 40 terabytes of tape data located on 3490 and 3590 tape media. The proposed system shall be capable of supporting that data.

**IV. INSTALLATION, DE-INSTALLATION, AND MAINTENANCE REQUIREMENTS**

1. The vendor shall install the mainframe server and the primary virtual tape server at the customer's central site:

Building 6, Room 110  
1900 Kanawha Blvd. E.  
Charleston, WV 25305

The vendor shall install the secondary virtual tape server at a secondary site, yet to be identified, which will be located no further than 100 miles from the central site.

2. The vendor and customer shall meet, at the customer's premises, within 15 days after issuance of purchase order, to discuss pre-installation activities as well as the actual installation, and to agree on an installation date.
3. The systems shall be operational within 60 days after they are installed. The virtual tape solution will not be considered fully operational until all data has been migrated and the offsite component is fully integrated with the central site component. Timeliness and the avoidance of downtime will be critical, as will vendor cooperation in the event of split contract-award. The customer will arbitrate any disagreements between vendors, and the vendors shall cooperate accordingly.

4. The vendor shall de-install the customer's existing equipment, identified in Section II, above, and remove it from the customer's site, within 30 days after the new equipment is installed and fully operational.

The mainframe server vendor shall de-install and remove the existing enterprise server. The tape library vendor shall de-install and remove the existing tape storage equipment. In case of consolidated contract-award, the single vendor shall de-install and remove BOTH the existing enterprise server and the existing tape storage equipment.

5. The vendor shall provide on-site hardware, firmware, and software engineering support, and customer training, at or about the time of system installation.
6. The systems shall be maintained by the manufacturer or by a representative(s) trained and authorized by the manufacturer.
7. The vendor shall **warrant and maintain** the systems for 36 months after installation. During this 36-month period, the vendor shall make any necessary repairs, replace any defective parts, perform preventative maintenance, install engineering changes and modifications, and otherwise maintain the systems at no cost to the customer.

## V. IMPLEMENTATION OF THE VIRTUAL TAPE SOLUTION

The services specified in the following subsections shall be performed at the customer's site and shall continue until all the services have been provided to the customer's satisfaction and the system is fully operational.

### 1. Assist with System Planning and Preparation

The vendor shall provide on-site consulting to discuss resource allocation management, storage administration and systems programming requirements. Topics may include the following:

1. DF/SMS allocation methodologies;
2. JCL requirements;
3. DF/SMS ACS utilization;
4. planning and implementation of library partitioning.

## 2. Provide Technical Consultation

The vendor shall review the following topics with the customer and give detailed instructions and guidance:

1. DF/SMS software support;
2. data migration considerations, including coexistence with other automation solutions;
3. interaction between the Virtual Tape Equipment and DF/SMS software support;
4. interaction between the Virtual Tape Equipment and the TMS tape management system.
5. interaction between the Virtual Tape Equipment and applicable OEM software;
6. logical partitioning;
7. preparation for TS7700;
8. interaction between Virtual Engine, the Library Manager and the host, including physical tapes, logical volumes ("LVOLs"), and inventories.
9. device table generations such as Unit Control Blocks ("UCB") and Eligible Device Table ("EDT");
10. generation of the Hardware Configuration Definition ("HCD").

## 3. Provide Operational Training and Education

The vendor shall provide sessions to cover the following:

1. system overview of Hosts and Virtual Engine in a grid configuration;
2. console messages meaning and operator actions;
3. operator intervention procedures;
4. abnormal situations and recovery;
5. interaction between the Virtual Tape environment and TMS
6. interaction between the Virtual Tape Equipment and other software products;
7. operator actions with DF/SMS;
  - a. system status displays
  - b. system commands
  - c. messages and meanings
8. system commands- system status displays- messages and meanings;
9. DF/SMS Definitions;
10. ISMF panels;
  - a. Parmlib member changes
  - b. Proclib member change
  - c. ACS routines
11. Parmlib member changes- Proclib member change-- ACS routines;
12. Tape management system User Exit processing.

## VI. MISCELLANEOUS TERMS AND CONDITIONS

1. The vendor shall arrange financing of the purchase price of the systems. The repayment term shall be four (4) years with an interest rate of zero (0) per cent. Other procurement options will not be considered. Payments will be made monthly, in arrears.
2. In the event that the State of West Virginia would decide to outsource mainframe operations, the financial arrangement must allow for either the buy-out of the financial arrangement without penalty or allow the selected outsourcer to assume the summary agreement at the same terms, and continue to make payments for the duration of the agreement.
3. The customer will not formally accept a system until it has operated without failure for 30 consecutive days.
4. The vendor will be considered prime contractor, and shall therefore be solely responsible for satisfying all mandatory requirements of this RFQ, including maintenance. The use of subcontractors will not relieve the vendor of its prime contractor responsibilities.

## VII. COSTS

1. The vendor shall identify the costs associated with the procurement and 36-month warranty of the systems, and shall fully describe the nature of any such costs in response to this RFQ.
2. The vendor shall identify the cost of shipping the equipment.
3. The vendor shall identify the cost of installing the equipment.
4. The vendor shall identify the costs of server migration engineering support and/or VTS implementation services.
5. The vendor shall identify the cost of de-installing, packing and removing the customer's current equipment, identified in Section II, above.
6. The vendor shall identify any other costs associated with the procurement and 36-month warranty of the systems, and shall fully describe the nature of any such costs in response to this RFQ.
7. The vendor shall quote the monthly cost of the 48 month payment plan.
8. The vendor shall complete the attached cost sheets and include them as part of the bid response.

### COST SHEET — MAINFRAME SERVER

VENDOR NAME \_\_\_\_\_

VENDOR ADDRESS \_\_\_\_\_

VENDOR CONTACT \_\_\_\_\_

VENDOR PHONE NO. \_\_\_\_\_

COST OF MAINFRAME SERVER (as identified on Appendix A  
(and including 36 month warranty) \_\_\_\_\_

COST OF INSTALLATION \_\_\_\_\_

COST OF SHIPPING \_\_\_\_\_

COST of DE-INSTALLATION AND REMOVAL OF 2086-A04 \_\_\_\_\_

COST OF SERVER MIGRATION ENGINEERING SUPPORT \_\_\_\_\_

ANY OTHER COSTS (see Section VII, item 6) \_\_\_\_\_

**GRAND TOTAL COST** \_\_\_\_\_

Payment Terms:

Year 1 \_\_\_\_\_ per month x 12 mos. = \_\_\_\_\_

Year 2 \_\_\_\_\_ per month x 12 mos. = \_\_\_\_\_

Year 3 \_\_\_\_\_ per month x 12 mos. = \_\_\_\_\_

Year 4 \_\_\_\_\_ per month x 12 mos. = \_\_\_\_\_

Total 48-month Payment Cost \_\_\_\_\_

### COST SHEET – VIRTUAL TAPE SERVERS / TAPE SOLUTION

VENDOR NAME \_\_\_\_\_

VENDOR ADDRESS \_\_\_\_\_

VENDOR CONTACT \_\_\_\_\_

VENDOR PHONE NO. \_\_\_\_\_

COST OF VIRTUAL TAPE SYSTEM (as identified on Appendix B  
(and including 36 month warranty) \_\_\_\_\_

COST OF INSTALLATION \_\_\_\_\_

COST OF SHIPPING \_\_\_\_\_

COST OF DE-INSTALLATION AND REMOVAL OF  
OLD TAPE EQUIPMENT (identified in Section II) \_\_\_\_\_

COST OF VTS IMPLEMENTATION (see Section V) \_\_\_\_\_

ANY OTHER COSTS (see Section VII, item 6) \_\_\_\_\_

**GRAND TOTAL COST** \_\_\_\_\_

Payment Terms:

Year 1 \_\_\_\_\_ per month x 12 mos. = \_\_\_\_\_

Year 2 \_\_\_\_\_ per month x 12 mos. = \_\_\_\_\_

Year 3 \_\_\_\_\_ per month x 12 mos. = \_\_\_\_\_

Year 4 \_\_\_\_\_ per month x 12 mos. = \_\_\_\_\_

Total 48-month Payment Cost \_\_\_\_\_

## APPENDIX A - REQUIRED MAINFRAME SERVER EQUIPMENT

Product	Description	Qty
2098-E10	IBM System z10 Business Class	1
89	SE-EN Switch (former HUB)	1
90	HMC	1
114	I/O Cage Full Card Airflow	3
157	CEC	1
162	HCA2-C Fanout	2
165	MBA Fanout Airflow	4
326	IFB-MP Daughter Card	4
327	STI-A8 Mother Card	2
870	Crypto Express2 1 ports	2
1123	Model E10	1
1642	2 GB Memory DIMM(4/feature)	4
2323	16 Port ESCON	2
2324	ESCON Channel Port	7
2406	24 GB Memory	1
3325	FICON Express8 10KM LX 4 ports	4
3366	OSA-Express2 1000BASE-T EN 2 ports	2
3371	OSA-Express3 10 GbE SR 2 ports	2
3373	OSA-Express3 GbE SX 2 ports	1
3759	Universal Lift Tool/Ladders	1
3863	CPACF Enablement	1
4000	I/O Drawer	2
4001	Frame Costing Feature	1
5120	2-Way Processor V02	1
6096	22 inch flat panel	1
6650	IFL	1
6677	CP-V	2
6950	V02 Capacity Marker	1
8987	14 ft 250v 3 PH Cord	1
8P2336	Migration Offering Machine	1
9969	z10 BC Site Tool Kit	1



APPENDIX B - REQUIRED VIRTUAL TAPE EQUIPMENT		
Machine / Feature	Description	Qty
3952-F05	Tape Frame	1
1903	Dual AC Power	1
1904	Redundant AC Power	1
2719	Console Upgrade	1
2730	TS3000 System Console	1
5626	Plant Install 3957-VEA	1
5636	Plant Install 3956-CS7	1
5646	Plant Install 3956-XS7	3
5759	Integrated Control Path	1
7322	TS7720 Frame	1
9954	NEMA L6-30 Power Cord	1
3956-CS7	TS7720 SATA Cache Controller	1
7113	16 TB SATA Storage	1
9352	Plant Install in F05	1
3956-XS7	TS7720 SATA Cache Module	3
7113	16 TB SATA Storage	3
9354	Plant Install in F05	3
3957-VEA	TS7720 Virtualization Engine Server	1
0201	9 Micron LC/LC 31 Meter	2
1033	1Gb Grid Dual Port Optical SW Connection	2
2715	Console Attachment	1
3442	FICON Long Wavelength Attachment	2
4015	Grid Enablement	1
5268	100 MB/sec Increment	2
9000	Mainframe Attachment	1
9268	100 MB/s Throughput - Plant	2
9350	Plant Install V06 in F05	1
3584-L23	TS3500 Tape Library	1
1515	3592 Fibre Drive Mounting Kit	6
1643	Intermediate Capacity on Demand	1
1644	Full Capacity On Demand	1
1692	Entry ALMS	1
1693	Intermediate ALMS	1
1694	Full ALMS	1
1950	Power Distribution Unit	1
2710	Remote Support Facility	1
2715	Console Attachment	1
4871	TS7700 BE SW Mounting Hardware	1

4872	TS7700 BE 4Gb Switch	1
9217	Attach to 3953 LM/TS7700	1
9680	Plant Install 3592 E05 in 3584	6
9700	No Host Cables From Plant	1
9954	Nema L6-30 Power Cords	1
3592-E05	IBM TS1120 Tape Drive	6
9000	zSeries ESCON/FICON Attach	6
9592	Encryption Capable - Plant	6
9677	Plant Install 3592 in 3584	6
3952-F05	Tape Frame	1
1903	Dual AC Power	1
1904	Redundant AC Power	1
2719	Console Upgrade	1
2730	TS3000 System Console	1
5628	Plant Install 3957-V06	1
5639	Plant Install 3956-CC7	1
5759	Integrated Control Path	1
7312	TS7700 Base Frame	1
9954	NEMA L6-30 Power Cord	1
3956-CC7	TS7740 Cache Controller	1
7121	3.4 TB Fibre Storage	1
9352	Plant Install in F05	1
3957-V06	TS7740 Virtualization Engine	1
0201	9 Micron LC/LC 31 Meter	2
1033	1Gb Grid Dual Port Optical SW Connection	2
2715	Console Attachment	1
3442	FICON Long Wavelength Attachment	2
4015	Grid Enablement	1
5240	Attach 3592 Tape Drives	1
5267	1 TB Cache Enablement	2
5268	100 MB/sec Increment	2
9000	Mainframe Attachment	1
9219	TS3500 Attach	1
9350	Plant Install V06 in F05	1
3599-014	IBM 3592 Tape Cartridge with Labeling and Initialization	1
4020	20 Pack Extended Data cartridges with Media Type JB	10
9003	Alpha prefix background - red	1
9022	Label background: Color/Vibrant	1
9032	Media identifier Letters 'JB'	1
9100	First character of Volser is 0	1
9205	Second character of Volser is 5	1
9300	Third character of Volser is 0	1
9400	Fourth character of Volser is 0	1

9500	Fifth character of Volser is 0	1
3599-017	IBM 3592 Tape Cartridge (Cleaning)	1
7005	5 Pack Cleaner cartridges with Media ID Labels	2

**STATE OF WEST VIRGINIA**  
**LEASE PURCHASE AGREEMENT**

THIS LEASE PURCHASE AGREEMENT, is made this \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_, by and between \_\_\_\_\_, a corporation duly organized and existing under the laws of the State of \_\_\_\_\_, (the "Lessor"), and the STATE OF WEST VIRGINIA, acting by and through the DEPARTMENT OF ADMINISTRATION, PURCHASING DIVISION (the "Purchasing Division"), on behalf of and for the use and benefit of the STATE OF WEST VIRGINIA, acting by and through the DEPARTMENT OF ADMINISTRATION, OFFICE OF TECHNOLOGY (the "Lessee").

The parties hereto do mutually covenant and agree as follows:

1. Lease: Pursuant to the provisions of Chapter 5A of the West Virginia Code, the Purchasing Division, on behalf of the Lessee, a body politic duly organized and existing under the laws of the State of West Virginia, agrees to enter into this State of West Virginia Lease Purchase Agreement ("Lease") with Lessor in order for Lessee to lease certain items of equipment; Lessee agrees to lease the items of equipment ("Equipment") specified in Exhibit "A", attached hereto and incorporated herein by this reference, from Lessor; and Lessor agrees to lease to Lessee the Equipment in accordance with the terms and conditions of this Lease. Upon execution, this Lease is binding on and enforceable against Lessor and Lessee in accordance with its terms.
2. Covenants of Lessor: Lessor, and any assignee of Lessor, shall allow Lessee to quietly have, hold, and enjoy the Equipment, without suit, trouble or hindrance from Lessor during the term of this Lease, except as expressly set forth in this Lease.
3. Covenants of Lessee: Lessee is authorized under the Constitution and laws of the State of West Virginia to enter into this Lease. No approval, consent, or withholding of objection is required from any governmental authority not a signatory to this Lease with respect to the performance or obligations of Lessee under this Lease. This Lease will not violate any judgment, law, or regulation applicable to Lessee or result in any breach of, or constitute a default under, or result in the creation of any lien or encumbrance upon the assets of the Lessee or on the Equipment pursuant to, any other instrument to which Lessee is a party.
4. Equipment Delivery and Acceptance: Lessee shall accept the Equipment when and if delivered and placed in good working order in accordance with the Purchase Order for such item of Equipment and hereby authorizes the Lessor to add to this Lease the serial number of each item of Equipment so delivered. Lessee shall have sixty (60) days from date of delivery to accept the Equipment and deliver an Equipment Acceptance Certificate, as shown in Exhibit "C", attached hereto and incorporated herein by this reference, or to have the Equipment returned. Notice of any Equipment defects shall be given to Lessor within thirty (30) days of delivery, unless not discovered at that time by reasonable efforts.  
  
Lessor agrees to pay the invoices for the accepted Equipment within seven (7) days of receipt of the Equipment Acceptance Certificate, but shall not be liable for the specific performance of the Lease or for damages, if for any reason, the supplier delays or fails to fill the order. Any delay in such delivery shall not affect the validity of this Lease.  
  
In the event any portion of the Equipment is not accepted or the cost of the Equipment is less than the funding under this Lease, then the amount of the funding remaining shall be applied as a partial prepayment.
5. Term: The term of this Lease shall commence on the date of execution of this Lease and shall terminate upon the first to occur:
  - (a) The payment of the purchase option price;
  - (b) the payment of all lease payments;
  - (c) an Event of Non-appropriation; or
  - (d) an Event of Default.
6. Event of Non-Appropriation: An Event of Non-appropriation shall be deemed to have occurred if:

- (a) Sufficient funds are not appropriated for lease payments in any fiscal year; and
- (b) a Lessee shall have at such time no funds duly authorized or otherwise available for the lease payments.

Upon the occurrence of an Event of Non-appropriation, this Lease shall terminate without penalty at the end of the then current fiscal year, and the lease and other payments shall be canceled. Lessee agrees to return the Equipment to Lessor, together with a release of Lessee's title and interest therein. It is the intention of the parties that any transfer of title to Lessor pursuant to this Section shall occur automatically without the necessity of any bill of sale, certificate of title, or other instrument of conveyance. Lessee agrees, nevertheless, to execute and deliver any such instruments as Lessor may reasonably request to evidence such transfer. Lessee agrees to provide written notice of an Event of Non-appropriation to Lessor as soon as Lessee determines that such an event exists.

7. Warranties/Guarantees: Lessee acknowledges that it has selected the Equipment financed under this Lease and that Lessor is not the manufacturer or dealer in the Equipment herein leased. As Lessor is not the manufacturer or dealer in the Equipment, Lessor makes, and has made, no representations or warranties whatsoever as to the existence or availability of warranties by the vendor of any item(s) of Equipment. Lessor hereby assigns to each Lessee for and during the term of this Lease all manufacturers' warranties or guarantees, expressed or implied, issued on or applicable to the Equipment acquired by that Lessee, if any.

LESSOR MAKES NO WARRANTY OR REPRESENTATION, EITHER EXPRESS OR IMPLIED, AS TO THE VALUE, DESIGN, CONDITION, MERCHANTABILITY OR FITNESS FOR PARTICULAR PURPOSE, OR FITNESS FOR USE OF THE EQUIPMENT, OR ANY OTHER WARRANTY WITH RESPECT THERETO. IN NO EVENT, SHALL LESSOR BE LIABLE FOR ANY INCIDENTAL, INDIRECT, SPECIAL, OR CONSEQUENTIAL DAMAGE IN CONNECTION WITH OR ARISING OUT OF THIS LEASE OR THE EXISTENCE, FURNISHING, FUNCTIONING OR LESSEES' USE OF ANY ITEM(S) OF EQUIPMENT PROVIDED IN THIS LEASE. HOWEVER, LESSOR AGREES TO BE LIABLE FOR ANY LOSS TO PERSONAL PROPERTY OR INJURY TO PERSONS CAUSED BY THE NEGLIGENCE OF LESSOR.

8. Lease Payments: Lessee agrees to pay to Lessor lease payments, comprised of the principal and interest, in the amounts set forth in the payment schedule attached hereto as Exhibit "B", and incorporated herein by this reference.

All payments shall be made in arrears for the preceding period, and shall be absolute and unconditional in all events, without abatement, diminution, deduction, set-off or defense, for any reason, including without limitation, any failure of the Equipment to be delivered or installed, any defects, malfunctions, breakdowns or infirmities in the Equipment or any accident, condemnation, or unforeseen circumstances, except as expressly provided in Section 6 of this Lease, provided with respect to any item of Equipment Lessor has provided the funds to finance such item of Equipment, and no payment with respect to such item of Equipment has been withheld from a vendor. Lessor shall provide invoices to Lessee in a timely manner. Interest for late payments shall be in accordance with West Virginia law.

The obligation of Lessee to pay lease payments hereunder is a current expense of that Lessee and not a debt in contravention of any applicable constitutional or statutory limitation or requirement, nor shall anything contained herein constitute a pledge of the general tax revenues, funds, or monies.

Lessee reasonably believes that sufficient funds can be obtained to make all lease payments during the term of this Lease and hereby covenants that it will use its best efforts to obtain, maintain, and properly request funds from which the lease payments may be made, including making provisions for such payments to the extent necessary in each budget submitted for the purpose of obtaining funding, using its best efforts to have such portion of the budget approved. Lessee intends to make lease payments for the full term of this Lease and represents that the Equipment will be used for one or more authorized governmental or proprietary functions essential to their proper, efficient, and economic operation.

9. Use and Maintenance: Lessee agrees to comply with all federal, state and local laws, ordinances, and regulations applicable to the possession, use, or maintenance of the Equipment.

Lessee will not use, operate, or maintain the Equipment improperly, carelessly, or in violation of any applicable law. Lessee will, at its expense, maintain, preserve, and keep the Equipment in good repair, working order, and condition.

Material alterations, modifications, additions, or attachments to the Equipment must have the written approval of the Lessor, which consent shall not be unreasonably withheld or delayed, and such action shall be performed at the sole expense of Lessee. All alterations, modifications, additions, or attachments shall not reduce the value or usefulness of the Equipment.

During the term of this Lease, Lessor and its officers, employees, or agents shall have the right at all reasonable times during business hours of Lessee to enter into and upon the property of Lessee for the purpose of inspecting the Equipment.

10. Insurance and Loss of Equipment: Lessee is self-insured through the West Virginia Board of Risk and Insurance Management and will protect the interests of the Lessor and Lessee against Equipment losses or damage. Lessee is also self-insured against liability related to the Equipment. In the event of any loss, damage, injury, or accident involving the Equipment, Lessee shall promptly provide Lessor with written notice thereof and make available to Lessor all information and documentation thereof.

If any Equipment or any portion thereof is destroyed, in whole or in part, or is damaged by fire or other casualty, or if title to, or the temporary use of, the Equipment or any part thereof is taken under the exercise of the power of eminent domain, Lessee and Lessor will cause the net proceeds of any insurance claim or condemnation award to be applied either to the prompt repair, restoration, modification, or replacement of the Equipment or, at Lessee's option, to the payment of the appropriate portion of the purchase option price.

Any balance of the net proceeds remaining after such work or purchase has been completed shall be paid to the Lessee. Net proceeds shall mean the amount remaining from the gross proceeds of any insurance claim or condemnation award after deducting all expenses incurred in the collection of such claims or award. If the net proceeds are insufficient to pay in full the cost of any repair, restoration, modification, or replacement, Lessee shall either (a) complete the work and pay any cost in excess of the amount of net proceeds, or (b) Lessee shall pay to Lessor the purchase option price. The amount of the net proceeds in excess of the then applicable purchase option price, if any, may be retained by Lessee.

In the event the purchase option payment for any item(s) of Equipment is paid in accordance with this Section, Lessor agrees to release any security interest on that item(s) of Equipment.

11. Title to Leased Equipment: During the term of this Lease, title to the Equipment shall vest in the Lessee, so long as Lessee shall not be in default, or this Lease shall not have been terminated as to such Equipment. To secure all obligations hereunder, Lessee hereby grants to Lessor a security interest in any and all right, title, and interest of Lessee in the Equipment. Lessee shall promptly discharge any mechanics', materialmen's, or other liens placed on the Equipment.

Lessor shall convey all of the Lessor's right and interest in and to the Equipment to Lessee upon payment of all the lease payments required in accordance with the payment schedule through the maximum lease term for such Equipment or the purchase option price set forth in the payment schedule, if the Lessee is not on such date in default as to any terms of this Lease.

12. Taxes and Other Charges: Lessee represents that it is exempt from federal, state, and local taxation, and as such, shall not be liable or responsible for the payment or reimbursement of any tax of any type incurred in connection with this Lease, nor will it file any tax returns or reports on behalf of Lessor or its assignees.

As title to the Equipment shall vest in the Lessee during the term of this Lease, Lessee represents that, to the best of its knowledge, no personal property taxes nor licensing or titling fees based upon the use, possession, or acquisition of the Equipment are due under the current laws of West Virginia. In the event the use, possession, or acquisition of the Equipment should become subject to taxation, Lessee agrees to provide reasonable assistance to Lessor in its endeavors to have such taxes waived or decreased.

It is the intention of the Lessor and Lessee that the interest portion of the lease payments made under this Lease be and remain exempt from federal income taxation. Lessee covenants that it will take any and all action reasonably necessary to maintain the exemption from federal income taxation of the interest portion of the lease payments, and

that it will not perform any act or enter into any agreement or use or permit the use of the Equipment or any portion thereof in a manner that shall have the effect of terminating or denying the exemption from federal income taxation of the interest portion of the lease payments, including, without limitation, leasing all or any portion of the Equipment or contracting with a third party for the use or operation of all or any portion of the Equipment if entering into such lease or contract would have such effect.

13. Assignment: This Lease, and the obligation of Lessee to make payments hereunder, may not be sold, assigned, or otherwise disposed of in whole or in part to one or more successors, grantors, holders, assignees or sub-assignees by Lessor, except upon the written consent of the State of West Virginia, acting by and through the Department of Administration and Lessee. Further, Lessor hereby covenants not to sell or offer to sell this Lease through, nor shall this Lease be sold through, (1) a certificate of participation program, whereby two or more interests are created in the Lease, the Equipment or the lease payments; or (2) other similar instruments, agreements and obligations through a pool, trust, limited partnership, or other entity, except with the express written consent of Lessee.

To request consent to assign Lessor's interest herein, in whole or in part, Lessor will cause a written request to assign to be sent to the Department of Administration and Lessee, requesting approval. Upon submission of the request, Lessor shall provide the Department of Administration and the Lessee with a duplicate original counterpart of the documents effectuating the assignment, or a written notice signed by both Lessor and the assignee confirming the assignment of Lessor's interest in the Equipment, the name and address of the assignee, and stating that assignee accepts the assignment under the terms and conditions of this Lease.

Upon receipt of a request to assign, the Department of Administration will notify Lessor in writing of its decision. In the event the Department of Administration approves the request to assign, the Department of Administration shall (i) acknowledge its approval in writing to Lessor, and (ii) record the assignment in its book entry system as that term is defined in the Internal Revenue Code of 1986, as amended. Upon assignment of Lessee's interest herein, Lessee will cause written notice of such assignment to be sent to Lessor disclosing the name and address of an assignee. No further action will be required by Lessor or by Lessee to evidence an assignment.

Lessee agrees to make all payments to the assignee designated in the assignment, notwithstanding any claim, defense, set-off or counterclaim whatsoever, whether arising from a breach of the purchase order for the Equipment or otherwise, that such Lessee may from time to time have against any provider of the Equipment. Lessee agrees to execute all documents, including notices of assignment, chattel mortgages or financing statements, which may be reasonably requested by Lessor or assignee to protect its interests in the Equipment and in this Lease.

During the term of this Lease, Department of Administration shall keep a complete and accurate register of all such assignments in the form necessary to comply with Section 149(a) of the Internal Revenue Code of 1986, as amended. The Department of Administration may require the person requesting any transfer to reimburse it for any tax or other governmental charge payable in connection therewith.

This Lease and the interest of the Lessee in the Equipment may not be sold, assigned or encumbered by the Lessee without the prior written consent of Lessor, except that Lessee shall have the right to transfer or lease the Equipment, in whole or in part, to other state agencies or the State of West Virginia for governmental use only. Any such transfer or lease of the Equipment shall not diminish Lessee's obligations to make payments under the Lease.

14. Indemnification: The laws and Constitution of West Virginia prohibit Lessee from protecting, holding harmless, or indemnifying Lessor from and against any liability, obligations, losses, claims, or damages whatsoever. Therefore, Lessee only agrees to be responsible for its own actions under this Lease.
15. Personal Property: The Equipment is and shall at all times during the lease term be and remain, personal property.
16. Option to Purchase: Lessee shall be entitled to purchase the Equipment as follows:
- (a) Upon payment of all lease and other payments required under this Lease; or
  - (b) upon written notice delivered to Lessor by Lessee at least thirty (30) days before the proposed date for payment, and upon the payment on such date of the purchase option price.

As used herein, purchase option price means the amount equal to the outstanding principal, as set forth in the payment schedule, plus any unpaid interest that has accrued on such principal to the date of payment of the purchase option price, provided that any other sum due under this Lease has or is being paid, payable at the option of Lessee for the purpose of purchasing the Equipment.

Lessee may, at Lessee's option, make partial prepayments of a portion of the purchase option price upon written notice delivered at least thirty (30) days in advance of the proposed date for payment and upon payment on such date of the partial prepayment, being an amount equal to a portion of the outstanding principal set forth in the payment schedule and any unpaid interest that has accrued on such portion of the outstanding principal to the date of payment of the partial prepayment. As provided herein, if any portion of the Equipment is not accepted or the cost of the Equipment is less than the funding under this Lease, then the amount of the funding remaining shall be applied as a partial prepayment.

A revised payment schedule reflecting all partial prepayments, consistent with the financing structure contemplated herein, to reflect such partial prepayment shall be attached to this Lease as a change order. Partial prepayments shall entitle Lessee to a release of any security interest on the item(s) of Equipment prepaid in full.

17. Event of Default: The following constitute an "Event of Default" under this Lease:

- (a) Failure by Lessee to pay any lease payment or other payment required to be paid within sixty (60) days of when due; or
- (b) failure by Lessee to maintain insurance on the Equipment in accordance with this Lease; or
- (c) failure by Lessee to observe and perform any other covenant, condition, or agreement on its part to be observed or performed for a period of thirty (30) days after written notice is given to the Lessee by Lessor, specifying such failure and requesting that it be remedied, provided that if the failure stated in such notice cannot be corrected within such thirty (30) day period, the Lessor will not unreasonably withhold its consent to an extension of such time if corrective action is instituted by Lessee within the applicable period and diligently pursued until the default is corrected; or
- (d) initiation by or against Lessee of a proceeding under any federal or state bankruptcy or insolvency laws.

An Event of Non-appropriation shall not be deemed an Event of Default.

18. Remedies on Default: Upon the occurrence of an Event of Default as specified in this Lease, Lessor shall provide written notification of default which Lessee must remedy within thirty (30) days from the date of notice of default, or Lessor shall have the right, at its option, without any further demand or notice, to pursue any one or more of the following remedial steps:

- (a) Terminate this agreement and retake possession of the Equipment and sell, lease, sublease, or make other disposition of the Equipment in a reasonable and commercial manner;
- (b) declare an amount equal to all payments due during the fiscal year in which the default occurred to be immediately due and payable, whereupon the same shall become immediately due and payable; or
- (c) proceed by appropriate court action to enforce performance by Lessee of the applicable covenants of this Lease or to recover for the breach thereof.

All of Lessee's right, title, and interest in any Equipment the possession of which is retaken by Lessor upon the occurrence of an Event of Default shall terminate immediately upon such repossession. Lessee agrees to return the Equipment to Lessor, together with a release of all Lessee's title and interest therein. It is the intent of the parties hereto that any transfer of title to Lessor shall occur automatically without the necessity of any bill of sale, certificate of title, or other instrument of conveyance. Lessee agrees, nevertheless, to execute and deliver any such instruments as Lessor may reasonably request to evidence such transfer.

No remedy herein conferred upon or reserved to Lessor is intended to be exclusive and every such remedy shall be cumulative and shall be in addition to every other remedy given under this Lease or now hereafter existing at law or in equity.



19. Force Majeure: If by reason of force majeure, Lessor or Lessee is unable, in whole or in part, to carry out its obligations under this Lease, Lessor or Lessee, as the case may be, shall not be deemed in default during the continuance of such inability. The term "force majeure" as used herein shall mean, without limitation, the following: Acts of God; strikes; lockouts or other industrial disturbances; acts of public enemies; orders or restraints of any kind of the government of the United States of America or the State of West Virginia or any of their departments, agencies or officials, or any civil or military authority; insurrections; riots; landslides; earthquakes; fires; storms; droughts; floods; or explosions.
20. Notices: All notices to be given under this Lease shall be made in writing and mailed to the other party at its address set forth in Exhibit "D", attached hereto and incorporated herein by this reference, or at such address as the party may provide in writing from time to time. Any such notice shall be deemed to have been received five (5) days subsequent to mailing.
21. Binding Effect: This Lease shall inure to the benefit of and shall be binding upon Lessor and Lessee and their respective successors and assigns.
22. Severability: In the event any provision of this Lease shall be held invalid, prohibited, or unenforceable by any court of competent jurisdiction, such holding shall not invalidate or render unenforceable any other provision hereof.
23. Amendments: All amendments, modifications, alterations, or changes to this Lease shall be in writing and signed by both parties.
24. Execution in Counterparts: This Lease may be executed in several counterparts. The parties hereto agree that multiple originals of this Lease have been executed.
25. Section Headings: All section headings contained herein are for convenience of reference only and are not intended to define or limit the scope of any provision of this Lease.
26. Governing Law: This Lease shall be governed by and construed in accordance with the laws of the State of West Virginia.
27. Delivery of Related Documents: Upon the request of one party, the other party will provide all documentation reasonably requested. In the event an Internal Revenue Service Form 8038-G or 8038-GC needs to be filed in connection with this transaction, Lessee will execute and file the form.
28. Entire Agreement; Waiver: This Lease, together with any request for quotation, Purchase Order(s) and other attachments hereto, and other documents or instruments executed by Lessor, Purchasing Division, and Lessee in connection herewith, constitute the entire agreement between or among the parties with respect to the Equipment. The waiver by one party of any breach of any term, covenant or condition hereto must be in writing and shall not operate as a waiver of any subsequent breach thereof.

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WITNESS THE FOLLOWING SIGNATURES:

\_\_\_\_\_

\_\_\_\_\_  
(LESSOR):

BY: \_\_\_\_\_

TITLE: \_\_\_\_\_

STATE OF WEST VIRGINIA,  
DEPARTMENT OF ADMINISTRATION,  
DIVISION OF PURCHASING,  
(PURCHASING DIVISION):

BY: \_\_\_\_\_  
David Tincher

TITLE: Director of Purchasing

STATE OF WEST VIRGINIA,  
DEPARTMENT OF ADMINISTRATION,  
OFFICE OF TECHNOLOGY,  
(LESSEE):

BY: \_\_\_\_\_  
Kyle Schafer

TITLE: Director of the Office of Technology

APPROVED AS TO FORM THIS  
\_\_\_\_\_ day of \_\_\_\_\_, 20 \_\_\_\_\_

Darrell V. McGraw, Jr.  
Attorney General

BY: \_\_\_\_\_  
Assistant Attorney General

EXHIBIT "A"

EQUIPMENT



EXHIBIT "B"  
PAYMENT SCHEDULE

PAYMENT DATE	PAYMENT	INTEREST	PRINCIPAL	PURCHASE OPTION PRICE & PRINCIPAL BALANCE
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EXHIBIT "C"

**ACCEPTANCE CERTIFICATE AND REQUEST FOR PAYMENT**

NUMBER \_\_\_\_\_

The Lessee, \_\_\_\_\_, hereby accepts the Equipment described below and requests the Lessor, \_\_\_\_\_, to pay to the person or corporation designated below as Payee, the sum set forth below in payment of the acquisition and installation costs of the Equipment in accordance with the Lease between Lessor and the Lessee, dated \_\_\_\_\_, 20\_\_\_. The amount shown below is due and payable under the invoice of the Payee with respect to the Equipment and has not formed the basis of any prior request for payment. This Certificate is based upon facts, circumstances, estimates, and expectations of Lessee as of the date on which the Lease was executed, and to the best of my knowledge and belief, as of this date, such facts, circumstances, and estimates are true and correct and such expectations are reasonable.

PAYEE:  
 AMOUNT: \$  
 DESCRIPTION OF EQUIPMENT: See Attached  
 DATED: \_\_\_\_\_

LESSEE:

BY: \_\_\_\_\_

NAME: \_\_\_\_\_

TITLE: \_\_\_\_\_

LESSOR:

BY: \_\_\_\_\_

NAME: \_\_\_\_\_

TITLE: \_\_\_\_\_

EXHIBIT "D"

PARTIES

LESSOR: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Contact Person: \_\_\_\_\_

Telephone No.: \_\_\_\_\_

Fax No.: \_\_\_\_\_

LESSEE: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Contact Person: \_\_\_\_\_

Telephone No.: \_\_\_\_\_

Fax No.: \_\_\_\_\_

**OPINION OF LESSEE'S COUNSEL**

Lessor: \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_

RE: State of West Virginia Lease Purchase Agreement  
 with \_\_\_\_\_

Ladies and Gentlemen:

As counsel for \_\_\_\_\_, Lessee, I have examined a duly executed original of the State of West Virginia Lease Purchase Agreement ("Lease") dated \_\_\_\_\_, by and between Lessee and \_\_\_\_\_, Lessor. Based upon the examination and upon such other examination as I have deemed appropriate, I am of the opinion that:

1. Lessee is a public body corporate and politic, legally existing under the laws of the State of West Virginia.
2. The Lease has been duly authorized, executed and delivered by Lessee and is a legal, valid and binding obligation of Lessee, enforceable in accordance with its terms.
3. To the best of my knowledge, no litigation is pending or threatened in any court or other tribunal, state or federal, in any way affecting the validity of the Lease.
4. The signature of the official of Lessee, as it appears on the Lease, is true and genuine. I know said official and know him/her to hold the position set forth below his/her name.
5. The Equipment leased pursuant to the Lease, and as shown on Exhibit "A", constitutes personal property and when subjected to use by Lessee will not be or become fixtures under applicable law.
6. West Virginia is a state within the meaning of Section 103 of the Internal Revenue Code of 1986, as amended, and the related regulations and rulings.

Very truly yours,

DAWN E. WARFIELD  
 DEPUTY ATTORNEY GENERAL

State of West Virginia  
**VENDOR PREFERENCE CERTIFICATE**

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

- 1. **Application is made for 2.5% resident vendor preference for the reason checked:**  
 Bidder is an individual resident vendor and has resided continuously in West Virginia for four (4) years immediately preceding the date of this certification; **or,**  
 Bidder is a partnership, association or corporation resident vendor and has maintained its headquarters or principal place of business continuously in West Virginia for four (4) years immediately preceding the date of this certification; **or** 80% of the ownership interest of Bidder is held by another individual, partnership, association or corporation resident vendor who has maintained its headquarters or principal place of business continuously in West Virginia for four (4) years immediately preceding the date of this certification; **or,**  
 Bidder is a nonresident vendor which has an affiliate or subsidiary which employs a minimum of one hundred state residents and which has maintained its headquarters or principal place of business within West Virginia continuously for the four (4) years immediately preceding the date of this certification; **or,**
- 2. **Application is made for 2.5% resident vendor preference for the reason checked:**  
 Bidder is a resident vendor who certifies that, during the life of the contract, on average at least 75% of the employees working on the project being bid are residents of West Virginia who have resided in the state continuously for the two years immediately preceding submission of this bid; **or,**
- 3. **Application is made for 2.5% resident vendor preference for the reason checked:**  
 Bidder is a nonresident vendor employing a minimum of one hundred state residents or is a nonresident vendor with an affiliate or subsidiary which maintains its headquarters or principal place of business within West Virginia employing a minimum of one hundred state residents who certifies that, during the life of the contract, on average at least 75% of the employees or Bidder's affiliate's or subsidiary's employees are residents of West Virginia who have resided in the state continuously for the two years immediately preceding submission of this bid; **or,**
- 4. **Application is made for 5% resident vendor preference for the reason checked:**  
 Bidder meets either the requirement of both subdivisions (1) and (2) or subdivision (1) and (3) as stated above; **or,**
- 5. **Application is made for 3.5% resident vendor preference who is a veteran for the reason checked:**  
 Bidder is an individual resident vendor who is a veteran of the United States armed forces, the reserves or the National Guard and has resided in West Virginia continuously for the four years immediately preceding the date on which the bid is submitted; **or,**
- 6. **Application is made for 3.5% resident vendor preference who is a veteran for the reason checked:**  
 Bidder is a resident vendor who is a veteran of the United States armed forces, the reserves or the National Guard, if, for purposes of producing or distributing the commodities or completing the project which is the subject of the vendor's bid and continuously over the entire term of the project, on average at least seventy-five percent of the vendor's employees are residents of West Virginia who have resided in the state continuously for the two immediately preceding years.

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

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

**Under penalty of law for false swearing (West Virginia Code, §61-5-3), Bidder hereby certifies that this certificate is true and accurate in all respects; and that if a contract is issued to Bidder and if anything contained within this certificate changes during the term of the contract, Bidder will notify the Purchasing Division in writing immediately.**

Bidder: \_\_\_\_\_ Signed: \_\_\_\_\_  
Date: \_\_\_\_\_ Title: \_\_\_\_\_

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



STATE OF WEST VIRGINIA  
Purchasing Division

**PURCHASING AFFIDAVIT**

**VENDOR OWING A DEBT TO THE STATE:**

*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 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 contract 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 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 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, 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: \_\_\_\_\_