

**Sauk Valley Community College
September 25, 2023**

Action Item 4.7

Topic: **Contract Approval – Brian W. Stewart & Associates**

College Health Metric: **Campus Environment – College facilities and grounds are clean and updated; the campus is safe, secure, and welcoming.**

Presented By: **Drs. David Hellmich and Jon Mandrell**

Presentation:

The College utilizes Brian W. Stewart & Associates as supplemental security coverage primarily on weekends and extended hours. The partnership provides the College with essential security services to ensure a safe and secure environment. The officers are licensed by the Illinois Department of Financial and Professional Regulation and are trained in accordance with standards established by the State of Illinois. Duties include conducting security tours and being watchful for any suspicious or criminal activity.

The term of the proposed contract shall commence on July 1, 2023, and shall expire on June 30, 2024 with automatic annual renewal terms commencing each subsequent July 1 unless the College or Brian W. Stewart & Associates provides 30 days written notice of termination of contract. The maximum annual contract amount for the term ending June 30, 2024 will be \$44,000.

The College's security team has indicated Brian W. Stewart & Associates as the only supplier capable of supplying this service. Brian W. Stewart & Associates owns and maintains the TrackTik program that is used by all security officers (including the ones employed by the college) to keep track of their rounds throughout the building and grounds. This program logs checkpoints throughout the college to ensure security officers are completing rounds as needed as well as providing, for example, notifications for unsecured doors, and maintenance issues such as leaks, pilot lights, and freezer temperatures. Notifications are received by both the Security and Facilities Personnel. This is a unique system that is provided to the College without charge and one that our officers are well familiar with. Goods or services that are economically procurable from only one source are exempt from competitive bidding under the Public Community College Act (110 ILCS 805/3-27.1) and Board Policy 305.01.

This contract will be paid from restricted liability, protection, and settlement tax levy funds as part of the College's risk management plan.

Recommendation:

The administration recommends the Board approve the contract with Brian W. Stewart & Associates of Freeport, IL billed at a rate of \$28.98 per hour for regularly scheduled hours and \$43.47 per hour as a holiday rate up to \$44,000 annually for fiscal year 2024 to be paid by restricted liability, protection and settlement tax levy funds.

CONTRACT

ARTICLE 1. IDENTIFICATION OF PARTIES

The parties to this contract are:

(a) Sauk Valley Community College District No. 506 (the "College") and (b) **Brian W. Stewart & Associates, Inc., Tax ID 36-3672447** a **Limited Liability Company** with its principal office at 50 W. Douglas Street, Suite 1200, Freeport, IL 61032-4142 (the "Vendor").

ARTICLE 2. SCOPE OF SERVICES

- 2.1 Services.** Vendor will perform the following "Services" and will furnish to the College the following "Work Product." The Vendor will obtain at the Vendor's expense all necessary licenses and permissions necessary for the Vendor's performance. The Vendor shall not subcontract any portion of the Services.
- Stewart Security will provide one (1), Uniformed/Unarmed Security Officer billed at a rate of \$28.98 per man hour for regularly scheduled hours.
 - Regularly scheduled hours will be 2:30 p.m. every Saturday, until 10:30 p.m. every Sunday, for a total of 32 hours weekly.
 - All hours requested in addition to the regularly scheduled hours, and all hours on the holidays listed below, will be billed at a rate of \$43.47 per man hour.
 - Security officers will be licensed by the Illinois Department of Financial and Professional Regulation and will be trained in accordance with standards established by the State of Illinois. Any additional specialized training required by SVCC will be billed for actual training costs (registration fees), and for training hours using the bill rate for regularly scheduled hours.
 - Security officers will perform security tours and other associated security officer duties as established by mutual agreement of the parties.
 - Security officers will be watchful for any suspicious or criminal activity and will notify appropriate personnel and/or police, as necessary.
 - Security officers will remain alert and attentive throughout their shift.
 - Additional conditions may be established by mutual agreement.
 - The security officer(s) assigned will be employees of Stewart Security.
 - Stewart Security will also compensate its security officer(s) assigned to your organization at time and one-half the regular wages for working hours in excess of forty (40) hours per week and the holidays listed below:

New Year's Day (applies on January 1)
Martin Luther King, Jr. Day (applies on the third Monday in January)
Lincoln's Birthday (applies on Monday or Friday closest to February 12)
Washington's Birthday (applies on the third Monday in February)
Memorial Day (applies on the last Monday in May)
Juneteenth (applies on June 19)
Independence Day (applies on July 4)
Labor Day (applies on the first Monday in September)
Columbus Day (applies on the second Monday of October)
General Election Day (applies every other year)
Veteran's Day (applies on November 11)
Thanksgiving - 2 days (applies on the fourth Thursday and Friday in November)
Christmas Day (applies on December 25)

- Billing would be done on a bi-weekly basis and payment for services is due upon receipt. The contractor has the option to assess a one and one-half percent (1.5%) late charge for payment not received after thirty (30) days. Billing is a total cost to you and includes:
 - General Liability Insurance Payroll Costs
 - Worker's Compensation Insurance Supervision
 - Social Security Taxes Other Employee Benefits
 - Federal and State Taxes Uniforms & Equipment
 - Federal and State Unemployment Taxes Basic Security Training

2.2 Warranty. The Vendor Warrants that the Services will be performed in a timely, competent, workmanlike and professional manner and the Services and Work Product will conform to the contract specifications, documentation, and requirements and to applicable industry standards for quality.

ARTICLE 3. TERM AND TERMINATION

- 3.1 Term.** This contract shall not be binding until it is signed by both parties. The Effective Date of the contract shall be the last signature date appearing below. The term of this contract shall commence on July 1, 2023, or (ii) the Effective Date, whichever is later. This contract shall expire on June 30, 2024. This contract is renewable.
- 3.2 Renewal Term.** This contract will renew each year on July 1 for a 12 month term unless either party provides 30 calendar days' prior written notice to terminate the contract.
- 3.3 Termination for Cause.** A party that defaults in performance or commits a material breach of this contract ("defaulting party") shall have 10 days to cure the default or breach after receiving notice from the other party. The non-defaulting party may terminate this contract without further notice and pursue other available legal remedies if the defaulting party fails to cure the breach within the prescribed period, or within such other period of time that is agreed by the parties in writing.

- 3.4 Termination for Convenience.** The College may terminate this contract for convenience and without any cause by providing at least 30 calendar days' prior written notice to the Vendor.
- 3.5 Termination for Non-Appropriation.** This contract is subject to termination by the College if (i) the General Assembly fails to make an appropriation to make payments under the contract, or (ii) appropriated funds used to make payment under this contract are not timely provided to the College by the State or there is a State rescission of funding to the College, or (iii) sufficient funds are not available from any other funding source for this contract such as grant funds. Upon termination, the College's obligation will be only to pay for Services already performed or Work Product delivered to the College's satisfaction and will be without penalty or further payment being required.
- 3.6 Effect of Termination.** In the event of early termination for any cause, the Vendor shall stop performance in accordance with the notice of termination and shall submit to the College a final bill for Services performed to the date of termination. The College is not obligated to pay the Vendor for Services until the Vendor provides all Work Product that is in progress or completed as of the date of termination. The Vendor must comply with the College's instructions to either destroy or return to the College all information previously furnished to the Vendor.

ARTICLE 4. COMPENSATION

- 4.1 Rate of Pay.** Total fees and expenses under the Contract shall not exceed the College's prior written approval and the amount of its purchase order or change order covering such payments. The College shall pay the Vendor compensation according to the terms stated under Article 2: Scope of Services.
- 4.2 Billing and Payment.** In order to be paid, the Vendor shall send invoices to: (via email) invoices@svcc.edu, (via mail) Sauk Valley Community College, Attn: Accounts Payable, Dixon, Illinois 61021, or (via fax) 815.288.2038, and submit invoices in accordance with any instructions provided by the College, including any instructions set forth on College's purchase order. Each invoice must contain the vendor name and remittance address, approved PO#, order date, shipping date, payment terms, unique invoice #, itemized list of items, corresponding cost by UOM, total cost in U.S. dollars and any freight/shipping charges to be considered a proper invoice. The College shall make payment to the Vendor within thirty (30) days of approval of proper invoice that includes the information necessary for processing the payment as specified by the College. Payment for all or part of the services, products or deliverables shall not constitute acceptance. Interest on late payment(s) shall be paid in accordance with the Local Government Prompt Payment Act (50 ILCS 505/). If applicable, any actual travel costs and expenses (i.e., without mark-up), must be pre-approved in writing by the College. The Vendor shall provide the College with appropriate and complete documentation (e.g., receipts, invoices marked "Paid in Full") upon the College's request in connection with any expense reimbursement sought by the Vendor in connection with this Contract. The College has the right to audit all invoices presented.
- 4.3 Withholdings.** The College may withhold or may void any invoice in order to protect the College from loss due to the Vendor's: (a) unsatisfactory performance; (b) damage to College property; or (c) incomplete, inaccurate, or unauthorized billing. The College may withhold final payment until the Vendor has performed all Services to the College's reasonable satisfaction in accordance with the specifications and requirements for the Work Product.

ARTICLE 5. NOTICES

To be enforceable, all notices must be in writing and delivered to the party's Representative named below. Notices are effective upon receipt and the sender has the burden of proving receipt. A party may change its representative at any time by written notice to the other party.

Notices to the College shall be sent to:

Kent Sorenson

173 IL ROUTE 2, Dixon, IL 61021

815.835.6253

Kent.a.sorenson@svcc.edu

Notices to Vendor shall be sent to:

Brian W. Stewart & Associates, Inc.

50 W. Douglas Street, Suite 1200, Freeport, IL 61032

815-235-3807

chuck.carter@bwstewart.com

ARTICLE 6. INSURANCE

The Vendor shall maintain for the duration of this contract a policy or policies of insurance with coverage and limits adequate to satisfy all liabilities relating to its performance of work, including but not limited to any liability the Vendor may incur resulting from indemnification obligations pursuant to Article 7 and under applicable law. The insurance shall be commensurate with usual and customary industry practices for similarly situated businesses. The Vendor shall comply with applicable laws governing workers' compensation and mandatory insurance for vehicles. The College reserves the right to request a certificate of insurance at any time.

ARTICLE 7. INDEMNIFICATION

The Vendor shall indemnify the College, its officers, employees, trustees, students, and agents against all demands, claims, damages, liabilities, expenses and reasonable attorney fees and costs arising out of the performance of this contract by the Vendor, its employees, and agents. This indemnification obligation shall survive the termination or expiration of the contract and any order made under it.

ARTICLE 8. CONFIDENTIALITY

- 8.1 General.** The Vendor treat all information relating to this contract as confidential ("College Information"). Unless required by law or preauthorized by the College in writing, the Vendor shall not disclose College information to third parties or use College Information for any purpose other than for performing this contract.
- 8.2 FERPA.** Family Educational Rights and Privacy Act, 20 U.S.C. §1232g (FERPA). Unless authorized by law or by written permission of the student, the Vendor shall not disclose to any third party information concerning College students. The Vendor shall protect all records containing student information in

accordance with FERPA and College policy. In addition to other remedies, the College may terminate this contract immediately upon information that the Vendor may have violate tis provision.

- 8.3. PIPA.** Illinois Personal Information Protection Act, 815 Ill. Comp. Stat. 530 (PIPA). If applicable, the Vendor will cooperate in good faith with the College to maintain security and integrity of personal information in compliance with PIPA.

ARTICLE 9. RIGHTS IN WORK PRODUCT

- 9.1. Title to Work Product.** The Vendor assigns to the College all rights, title, and interest, including copyright, in all delivered Work Product first produced under this contract (including all notes, designs, drawings, memoranda, reports, computer programs/input and output, and other technical data). Title to all Work Product vests in the College upon delivery by the Vendor. The College shall have the exclusive right to use Work Product for any purpose, including but not limited to the reproduction, distribution, sale, licensing, and sublicensing and development of derivative works, without further obligation to the Vendor. The Vendor represents that Work Product is original and does not infringe on third party rights. The Vendor will not place any restrictive markings upon Work Product.
- 9.2. Pre-Existing Rights.** The College shall not claim any interest in the Vendor's materials, products, inventions or know-how existing prior to formation of this contract. The Vendor grants to the College a royalty-free, nonexclusive, irrevocable, worldwide license to make, use, sell, and to reproduce, distribute, prepare derivative works and perform, as the case may be, any pre-existing materials, products, inventions or know-how that are included by the Vendor in the Work Product provided to the College under this contract.
- 9.3. Third Party Property.** The Vendor shall not incorporate into the Work Product any third party property without the College's prior written authorization. If the College permits the Vendor's use of third party property in the Work Product, the Vendor must obtain for the College a license at no cost to the College that will enable the College to use the Work Product without restriction. The Vendor shall defend and indemnify the College against all third party claims for infringements related to the Work Product unless otherwise expressly agreed by the College in writing.

ARTICLE 10. RECORDS AND AUDIT

- 10.1. Records Retention and Audits.** The Vendor shall maintain books and records that relate to performance of this contract and that support amounts charged. The retention requirement shall be three years from the date of final payment or for such longer period of time as is necessary to complete ongoing or announced audits or to comply with any applicable federal requirements.
- 10.2. Right of Inspection.** The College may reasonably inspect the Vendor's premises, facilities, equipment, and investigate the business reputation and other qualifications of the Vendor throughout the term of this contract.
- 10.3. Litigation Hold Order Compliance.** The Vendor shall, and shall cause the Vendor's employees to, fully comply with any litigation hold order issued by the College in anticipation of third party litigation

relating to this contract. The Vendor shall promptly retrieve, recover, preserve, and retain and, subject to legal privileges, deliver any information and documents, in any format, covered by a litigation hold order.

ARTICLE 11. GENERAL TERMS

- 11.1 Ambiguities.** Any rule of construction that would resolve ambiguities against the drafting party shall not apply in interpreting this contract.
- 11.2 Amendments.** No modification of this contract shall be effective unless made by a written amendment by the College or the Vendor, signed by each party's authorized signatory.
- 11.3 Assignment.** Neither party may assign its obligations under this contract.
- 11.4 Authorized Signatories.** The individuals signing this contract on a party's behalf represent that they have the requisite authority and intent to bind that party to this contract.
- 11.5 Choice of Law.** This contract shall be interpreted by application of Illinois law without regard to its conflicts provisions.
- 11.6 Compliance with Laws.** The Vendor shall perform all obligations under this contract in compliance with all applicable laws governing the performance. Breach of this provision constitutes a material breach of this contract.
- 11.7 Counterparts/Facsimile Signatures.** This contract may be signed in counterparts. Facsimile signatures constitute original signatures for all purposes.
- 11.8 Excluded Parties.** The Vendor certifies that neither the Vendor nor any of the Vendor's directors, officers, employees, or agents who may provide services pursuant to this contract (individually an "Agent") is presently debarred, suspended, proposed for debarment, declared ineligible or otherwise excluded from transactions with the U.S. Government or by any federal government agency. Vendor shall provide the College immediate written notice if the Vendor learns that this certification was erroneous when made or if Vendor or any Agent hereafter becomes debarred, suspended, proposed for debarment, declared ineligible or otherwise excluded from transactions with the U.S. Government or by any Federal agency. The Vendor further certifies that neither the Vendor nor any Agent is presently subject to an investigation or proceeding to exclude either as a provider under Medicare or Medicaid or under any other federal or state health care program or under any third party insurance program, nor is currently excluded or debarred from submitting claims to Medicare or Medicaid or to any other federal or state health care program or to any third party insurer. The College may terminate this contract immediately without any penalty to the College if either of these certifications was erroneous when made or becomes no longer valid during the term of this contract.
- 11.9 Force Majeure.** A party is excused from performing its obligations under this contract when conditions beyond its control and unforeseen by the parties make its performance commercially impractical, illegal, or impossible. Conditions of excuse include, but are not limited to: natural disasters, strikes, fires, war, terrorism and threats of terrorism, government actions, and acts or omissions of third parties. So long as

the conditions continue, the party whose performance is affected shall keep the other party fully informed about the conditions and the prospects of their ending.

- 11.10. Headings.** Headings in this contract are intended only to assist with readability and are not substantive.
- 11.11. Independent Contractor.** The parties are independent contractors with respect to each other. Nothing in this contract is intended to create any association, partnership, joint venture, or agency relationship between them. The Vendor shall not hire College employees to perform this contract without obtaining the College's prior written approval.
- 11.12. Integration.** This contract, together with any amendment, and incorporated references, constitutes the parties' entire agreement regarding the subject matter.
- 11.14. Severability.** If any provision of this contract is held by a court of competent jurisdiction to be unenforceable, the provision shall be severed from this contract so long as severance does not affect the enforceability or essential purpose of the remainder of the contract.
- 11.16. Use of Name.** The Vendor shall not use College's name or protected marks for any commercial purpose.
- 11.17. Waiver.** The failure of either party to enforce any provision of this contract shall not waive the party's right to later enforce the provision or the contract.

SAUK VALLEY COMMUNITY COLLEGE

DISTRICT NO. 506

By: _____

By: _____

Printed: Kent Sorenson

Printed: _____

Title: Vice President of Business Services (CFO)

Title: _____

Date: _____

Date: _____

Sole/Single Source Justification

For Federal grant funded purchases exceeding the simplified acquisition threshold (currently \$250,000), contact the Business Office as additional information will be needed

Supplier:	Stewart & Associates, Inc.
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TYPE OF PROCUREMENT: (Select one)

Sole Source: <input checked="" type="checkbox"/>	Only one supplier is capable of supplying the required commodity or service, College engages one supplier based on below written justification.
Single Source: <input type="checkbox"/>	Although two or more suppliers can provide the required commodity or service, College selects one supplier over another based on below written justification.

JUSTIFICATION: (Select one)

<input type="checkbox"/>	<p>Only known supplier. (<u>List the suppliers who were contacted below and the specific reasons why each was not a viable source</u>).</p> <ul style="list-style-type: none"> •
<input type="checkbox"/>	<p>Only known qualified supplier. (<u>List the qualifications that each source or items meet. If another supplier offers a similar item, provide the item identification, supplier information and comparable pricing</u>).</p> <ul style="list-style-type: none"> •
<input type="checkbox"/>	<p>Supplier is proprietary or unique. (<u>The selected supplier is the only provider of this item or service. List the reasons why no substitute item can be used and if no similar item is available</u>).</p> <ul style="list-style-type: none"> •
<input checked="" type="checkbox"/>	<p>Continuation of an ongoing service or addition to a critical system already procured from that supplier. (<u>List the reasons why it would not be cost effective and/or schedule effective and/or technical risk mitigation prudent to procure with another supplier for this procurement</u>).</p> <ul style="list-style-type: none"> • Stewart & Associates has been providing security services for the past several years • In doing so, their security officers are familiar with the building and the duties assigned • Stewart & Associates owns and maintains the TrackTik program that is used by all security officers (including the ones employed by the college) to keep track of their rounds throughout the building and grounds. This program logs checkpoints throughout the college to ensure security officers are completing rounds as needed as well as providing notifications for unsecured doors, maintenance issues such as leaks, pilot lights, freezer temperatures, etc. Notifications are received by both the Security and Facilities directors. • This is a unique system that is provided to the College without charge, and one that our officers are well familiar with.
<input type="checkbox"/>	<p>(RF Only) Written pre-approval from the awarding agency. (<u>Award document must be included, with an indication as to where written approval can be found in the document</u>).</p> <ul style="list-style-type: none"> •

DESCRIPTION & REASONABLENESS OF PRICE: (Provide written explanation, technical reasoning and/or evidence of the claim)

Stewart & Associates charges the college an hourly rate for the time that their officers are working only, not for the use of, maintenance, or updates to the TrackTik system.

I certify that statements checked, and information provided above, are complete and correct to the best of my knowledge. I understand that the processing of this single/sole source justification precludes the use of full and open competition.

DEPARTMENT SIGNATORY

SIGN: Rebecca Flynn DATE: 08/29/23

PRINTED NAME: Rebecca Flynn

SINGLE/SOLE SOURCE JUSTIFICATION GUIDELINES

Staff are responsible for providing and certifying as accurate and complete necessary data to support their recommendation for other than full and open competition. The justification must demonstrate that only one company can perform. The following are examples of explanations for an Sole/Single Source Justifications (SSJ):

- a) The supplies/services to be acquired are unique.
- b) Time is of the essence and only one known source can meet the college's needs within the required timeframe; administrative delays do not justify urgency for SSJ.
- c) Data is unavailable for competitive procurement.
- d) It is necessary that the item being acquired be compatible and interchangeable with existing equipment.

**** IMPORTANT ****

- The two most often cited reasons for SSJ are uniqueness and timeframe. These are often confused and inappropriately interchanged. If a supplier is unique and if their uniqueness is adequately substantiated, a discussion of timeframe is inappropriate. If the basis for the SSJ is timeframe, a discussion of uniqueness should not be made or alluded to.
- Statements that a supplier has the best capability or offers the lowest price are not bases for an SSJ. Such determinations can only be made through full and open competitive processes.
- Rationale that the recommended source is the most highly qualified to perform but does not establish why other sources cannot perform is not acceptable.
- Incumbency does not justify an SSJ.
- Administrative delay or lack of adequate advanced planning resulting in urgency does not justify an SSJ.

Reasonableness of Price

A few ways that this can be documented are listed below:

- The vendor's published price list and documented discount
- Invoices or cost sheets from prior state contracts
- Comparisons to other vendors' prices for similar products/services (RFQ)
- Comparison to similar purchases from verified sources
- Price or cost analysis
- Historical cost or price comparison