



Request for City Council Committee Action From the Department of

Date April 8, 2002
To Council Member Joe Biernat, Chair Public Safety & Regulatory Services
Referral to Ways & Means/Budget Committee

Subject Choice Point Public Records

Recommendation

Authorize the proper City Officials to enter into a contract with Choice Point Public Records for Auto Track services for up to \$20,000 with the understanding that the standard agreement is not being used.

Prepared or Submitted by: Lt. Scott Gerlicher MPD Admin. Services Division
Approved by: Chief Robert K. Olson
Presenters in Committee Lt. Dana Smyser Minneapolis Police Forgery Fraud Unit

Financial Impact (Check those that apply)

No financial impact - or - Action is within current department budget.
(If checked, go directly to Background/Supporting Information)

- Action requires an appropriation increase to the Capital Budget
 Action requires an appropriation increase to the Operating Budget
 Action provides increased revenue for appropriation increase
 Action requires use of contingency or reserves
 Other financial impact (Explain):

Request provided to the Budget Office when provided to the Committee Coordinator

Background/Supporting Information Attached:

Choice Point currently provides an Auto Track Service to the MPD on a per use basis. The proposed contract would provide unlimited use of this service and allow more access at a lower cost.

Auto Track is a service which provides investigators with information from numerous national databases allowing investigators to locate and identify suspects in crimes, known associates, associated addresses/phone numbers and vehicles. This service has proven to be very useful in white-collar organized crime cases.

Agreement between the City of Minneapolis and Choice Point Business and Government Services Inc. to provide AutoTrack Services.

City Contract No. _____

City Department **Police**

Contractor Social Security Number
Or
Contractor Federal Identification Number **58-1798708**

I. OPENING PARAGRAPH

THIS AGREEMENT is made between the City of Minneapolis, Minnesota, a home rule charter city, referred to as the City and **Choice Point Business and Government Services Inc.**, referred to as the Contractor, for **AutoTrack** services.

II. SCOPE OF AGREEMENT

Contractor agrees to perform the following services for the City:

CPBG agrees to provide Minneapolis Police Department with unlimited access to AutoTrack.

Special Conditions: The Minneapolis Police Department will not use AutoTrack for employment background checks under this contract. Also, The flat rate would not apply to copies of "Premium Reports" which now consist of (1) National and Florida criminal records and motor vehicle reports (MVR's), (2) Experian Business Reports, (3) InfoUSA Reports, and (4) Link It Analytical Reports. The Premium Report Options will be turned off to prevent access from the menu. If Premium Reports are required, the Minneapolis Police Department will request them from CPBG and they will be billed in addition to the flat rate price. Please see Exhibit A for additional conditions.

III. COMPENSATION

Contractor shall be compensated at a flat rate based on the actual usage during the first three months of use. The first three months will be paid at a rate of \$500 per month.

The total compensation under this Agreement shall not exceed \$20,000. Contractor shall submit itemized invoices for services rendered.

IV. EXPENSE REIMBURSEMENT

Reimbursable expenses shall be paid upon submission of itemized invoice to the person signing this Agreement. The City agrees to pay for reimbursable expenses, if reasonably and necessarily incurred. The parties agree that in no event shall the total amount for reimbursable expenses exceed **\$0.00**. This sum is not included in the compensation set out in Paragraph III, Compensation.

V. EFFECTIVE DATE AND TERMINATION DATE

This Agreement shall be in full force and effect from **February 1st, 2002** through December 31, 2002 unless otherwise extended by the department head signing this agreement or terminated earlier under Paragraph XIV, Cancellation, Default and Remedies.

VI. SUBSTITUTIONS AND ASSIGNMENTS

Services by the Contractor will be performed by the following person(s):

ChoicePoint Business and Government Services Inc., its affiliates and subsidiaries

Upon approval by the City, the Contractor may substitute other persons to perform the services. If substitution is permitted by the City, the Contractor shall furnish information to the person signing this Agreement to allow proper review of the qualifications of the substituted person. No assignment of this Agreement shall be permitted without the written amendment signed by the City and the Contractor.

VII. CONTRACT ADMINISTRATION

All provisions of this Agreement shall be coordinated and administered by the person identified in Paragraph XV.

VIII. INDEPENDENT CONTRACTOR

The Contractor and its employees shall not be an employee of the City. It is agreed that the Contractor and its employees will act as an independent contractor and acquire no rights to tenure, workers' compensation benefits, unemployment compensation benefits, medical and hospital benefits, sick and vacation leave, severance pay, pension benefits or other rights or benefits offered to employees of the City, its departments or agencies. The parties agree that the Contractor and its employees will not act as the agent, representative or employee of the City.

IX. CONTRACTOR'S INSURANCE

Insurance

Insurance secured by the Contractor shall be issued by insurance companies acceptable to the City and admitted in Minnesota. The insurance specified may be in a policy or policies of

insurance, primary or excess. Such insurance shall be in force on the date of execution of the contract and shall remain continuously in force for the duration of the contract. The Contractor and its sub-contractors shall secure and maintain the following insurance:

- a) Workers Compensation insurance that meets the statutory obligations with Coverage B- Employers Liability limits of at least \$100,000 each accident, \$500,000 disease - policy limit and \$100,000 disease each employee.
- b) Commercial General Liability insurance with limits of at least \$500,000 general aggregate, \$500,000 products - completed operations \$500,000 personal and advertising injury, \$500,000 each occurrence \$50,000 fire damage and \$5,000 medical expense any one person. The policy shall be on an "occurrence" basis, shall include contractual liability coverage and the City shall be named an additional insured.
- c) Commercial Automobile Liability insurance covering all owned, non-owned and hired automobiles with limits of at least \$500,000 per accident.

Acceptance of the insurance by the City shall not relieve, limit or decrease the liability of the Contractor. Any policy deductibles or retention shall be the responsibility of the contractor. The Contractor shall control any special or unusual hazards and be responsible for any damages that result from those hazards. The City does not represent that the insurance requirements are sufficient to protect the Contractor's interest or provide adequate coverage. Evidence of coverage is to be provided on a City-approved Insurance Certificate. A thirty- (30) date written notice is required if the policy is canceled, not renewed or materially changed. The Contractor shall require any of its subcontractors, if sub-contracting is allowable under this contact, to comply with these provisions.

X. DATA PRACTICES

The Contractor agrees to comply with the Minnesota Government Data Practices Act and all other applicable state and federal laws relating to data privacy or confidentiality. The Contractor will immediately report to the City any requests from third parties for information relating to this Agreement. The City agrees to promptly respond to inquiries from the Contractor concerning data requests. The Contractor agrees to hold the City, its officers, and employees harmless from any claims resulting from the Contractor's unlawful disclosure or use of data protected under state and federal laws.

XI. COMPLIANCE WITH THE LAW

Contractor agrees to abide by the requirements and regulations of The Americans with Disabilities Act of 1990 (ADA), the Minnesota Human Rights Act (Minn. Stat. C.363), the Minneapolis Civil Rights Ordinance (Ch. 19), and Title VII of the Civil Rights Act of 1964. These laws deal with discrimination based on race, gender, disability, religion and with sexual harassment. In the event of questions from Contractor concerning these requirements, the City agrees to promptly supply all necessary clarifications. Violation of any of the above laws can lead to termination of this Agreement.

XII. AUDITS

The contractor agrees that the City, the State Auditor or any of their duly authorized representatives, at any time during normal business hours and as often as they may reasonably deem necessary shall have access to and the right to examine, audit, excerpt and transcribe any books, documents, papers, and records that are relevant and involve transactions relating to this Agreement, upon reasonable notice to contractor.

XIII. APPLICABLE LAW

The law of the State of Minnesota shall govern all interpretations of this Agreement, and the appropriate venue and jurisdiction for any litigation which may arise under this Agreement will be in and under those courts located within the County of Hennepin, State of Minnesota, regardless of the place of business, residence or incorporation of the Contractor.

XIV. CANCELLATION, DEFAULT AND REMEDIES

Either party to this Agreement may cancel this Agreement upon thirty (30) days written notice, except that if the Contractor fails to fulfill its obligations under this Agreement in a proper and timely manner, or otherwise violates the terms of this Agreement, the City has the right to terminate this Agreement, if the Contractor has not cured the default after receiving seven (7) days written notice of the default.

XV. NOTICES

Any notice or demand, authorized or required under this Agreement shall be in writing and shall be sent by certified mail to the other party as follows:

To the Contractor:

ChoicePoint Inc
General Counsel
1000 Alderman Drive
Alpharetta, GA 30005

To the City:

**Robert K. Olson, Department Head
Chief of Police
Minneapolis Police Department**

**Scott R. Gerlicher, Contract Manager
Minneapolis Police Department
612-673-2878**

Exhibit A

1. **RESTRICTED RIGHTS TECHNICAL DATA.** If the Subscriber is an agency or department of the United States Government, any software, documentation or other information supplied by CPBG pursuant to this Agreement is provided as “restricted rights technical data” (as defined by FAR Section 52.227-14). The use, reproduction or disclosure by Subscriber is governed by this Agreement. The use, reproduction or disclosure by any other government department or agency is governed by the Restricted Rights Notice set forth at FAR Section 52.227-14. If applicable, the Minnesota Data Privacy Act would control in the event of a conflict of language.
2. **PERFORMANCE.** CPBG will use reasonable efforts to deliver Services requested by Subscriber and to access, update, augment and maintain its compilation of information gathered from selected public records and other sources used in the provision of Services hereunder. Subscriber accepts all information “AS IS.”
3. **SUBSCRIBER USE LIMITATIONS.** Subscriber acknowledges that CPBG and/or Third Parties retain all right, title and interest under applicable contractual, copyright and related laws in the databases and materials contained therein used to provide Services hereunder, and Subscriber shall use such materials consistent with such right, title and interest and notify CPBG of any threatened or actual infringement thereof. Subscriber shall notify CPBG immediately of any changes to the information on Subscriber's application for Services. Subscriber shall at no time represent that it is the authorized agent or representative of CPBG.
4. **SUBSCRIBER USE LIMITATIONS – END USER.** Subscriber acknowledges that this Agreement grants Subscriber a limited license in exchange for payment of the fees and charges set forth herein, and Subscriber shall not reproduce, retransmit, republish or otherwise transfer for commercial purpose any information that Subscriber receives from Services, except to employees whose duties reasonably relate to the legitimate business purposes for which the information is requested. Subscriber warrants that it is the end user of the information. Subscriber agrees to limit use and dissemination of information from Services solely to use(s) set forth under Business Use(s) on the reverse hereof. Uses outside of the normal course of business include without limitation: accessing or using information on public figures, including names in the news, media personalities, politicians, etc., unless used for the completion of a business transaction. Resellers or information brokers are NOT permitted to access Services under this Agreement. If you are a Reseller or an information broker, you must register with CPBG and execute a Reseller Agreement prior to accessing the Services.
5. **SUBSCRIBER USE LIMITATIONS – FAIR CREDIT REPORTING ACT.** Subscriber agrees not to use any CPBG data, which is the subject of this Agreement, for consumer credit purposes, consumer insurance underwriting, employment purposes, tenant screening purposes, or for any other purpose(s) covered by the federal Fair Credit Reporting Act (15 U.S.C. Sec. 1681 et seq.) or similar state statute.

6. SUBSCRIBER USE LIMITATIONS – DRIVER’S PRIVACY PROTECTION ACT. Subscriber agrees to use any CPBG data, which is the subject of this Agreement, in strict conformance with the Federal Drivers Privacy Protection Act (18 U.S.C. Section 2721 et seq.) and similar state statutes.
7. SUBSCRIBER USE LIMITATIONS – GRAMM-LEACH-BLILEY ACT. Subscriber agrees to use any CPBG data, which is the subject of this Agreement, in strict conformance with the Gramm-Leach-Bliley Act (U.S.C. Title 15, Chapter 94, Section 6801 et seq.) and similar state statutes.
8. MISUSE OF SERVICES OR INFORMATION. Subscriber agrees to take appropriate measures so as to protect against the misuse of CPBG’s Services. Subscriber agrees that CPBG may, if it is concerned about Subscriber’s use, temporarily suspend Subscriber’s access for up to ten (10) business days pending an investigation of use. Subscriber agrees to cooperate fully with any and all investigation. If misuse is confirmed through investigation, CPBG may immediately terminate this Agreement.
9. MVR INFORMATION. If Subscriber is permitted to purchase motor vehicle records (“MVRs”) from CPBG, Subscriber agrees to the following:
 - a) Subscriber shall not use any CPBG provided MVR, or portions of information contained therein to create or update a file to the end that Subscriber develops its own source of driving history information.
 - b) As requested by CPBG, Subscriber shall complete any state forms that CPBG is legally or contractually bound to obtain from Subscriber before serving Subscriber with state MVRs.
 - c) With regard to CPBG provided MVRs originating from the states of Wyoming and West Virginia, Subscriber shall not disseminate or publish personal information contained in such MVRs via the Internet.
 - d) If Subscriber orders an MVR from the states of Georgia, Illinois, Montana or Washington for claims investigation purposes, Subscriber shall obtain the written authorization of the subject consumer before ordering such MVR.
 - e) If Subscriber orders an MVR from the state of Alaska for any purpose, Subscriber shall obtain the written authorization of the consumer before ordering such MVR.
 - f) If Subscriber orders any driver records originating from the State of South Carolina, Subscriber acknowledges that the person identified in the driver records received from South Carolina are third party beneficiaries to CPBG’s Information Release Agreement with the South Carolina Department of Public Safety, Division of Motor Vehicles.
10. NEGATION OF LIABILITY/WARRANTY. NEITHER CPBG NOR THIRD PARTIES SHALL BE LIABLE TO SUBSCRIBER OR TO ANY PERSON CLAIMING THROUGH SUBSCRIBER OR TO WHOM SUBSCRIBER MAY HAVE PROVIDED SERVICE-RELATED DATA FOR ANY LOSS OR INJURY ARISING OUT OF OR CAUSED IN WHOLE OR IN PART BY CPBG’S OR THIRD PARTIES’ NEGLIGENT ACTS OR OMISSIONS IN PROCURING, COMPILING, COLLECTING, INTERPRETING, REPORTING, COMMUNICATING, OR

DELIVERING SERVICES OR IN OTHERWISE PERFORMING THIS AGREEMENT. SUBSCRIBER ACKNOWLEDGES THAT EVERY BUSINESS DECISION INVOLVES ASSUMPTION OF A RISK, AND THAT NEITHER CPBG NOR ANY THIRD PARTY UNDERWRITES THAT RISK IN ANY MANNER WHATSOEVER. IF, NOTWITHSTANDING THE FOREGOING, LIABILITY CAN BE IMPOSED ON CPBG OR A THIRD PARTY, THEN SUBSCRIBER AGREES THAT CPBG'S AND/OR THIRD PARTIES' AGGREGATE LIABILITY FOR ANY AND ALL LOSSES OR INJURIES ARISING OUT OF ANY ACT OR OMISSION OF CPBG AND/OR THIRD PARTIES IN CONNECTION WITH ANYTHING TO BE DONE OR FURNISHED UNDER THIS AGREEMENT, REGARDLESS OF THE CAUSE OF THE LOSS OR INJURY (INCLUDING NEGLIGENCE) AND REGARDLESS OF THE NATURE OF THE LEGAL OR EQUITABLE RIGHT CLAIMED TO HAVE BEEN VIOLATED, SHALL NEVER EXCEED THE COST OF THE SERVICE OR SERVICES TO WHICH A GIVEN CLAIM RELATES AND WHICH WAS CHARGED TO SUBSCRIBER, AND SUBSCRIBER COVENANTS AND PROMISES THAT IT WILL NOT SUE CPBG AND/OR THIRD PARTIES FOR AN AMOUNT GREATER THAN SUCH SUM EVEN IF CPBG AND/OR THIRD PARTIES WERE ADVISED OF THE POSSIBILITY OF SUCH DAMAGES AND THAT IT WILL NOT SEEK PUNITIVE DAMAGES IN ANY SUIT AGAINST CPBG AND/OR THIRD PARTIES, ALL IN CONSIDERATION OF THE RECEIPT BY SUBSCRIBER OF SERVICES AT THE RATES CHARGED BY CPBG HEREUNDER, WHICH ARE FAR LOWER THAN WOULD BE AVAILABLE TO SUBSCRIBER ABSENT THE WAIVERS AND DISCLAIMERS CONTAINED HEREIN. CPBG AND THIRD PARTIES DO NOT MAKE AND HEREBY DISCLAIM ANY WARRANTY, EXPRESS OR IMPLIED. CPBG AND/OR THIRD PARTIES DO NOT GUARANTEE OR WARRANT THE CORRECTNESS, COMPLETENESS, CURRENTNESS, MERCHANTABILITY, OR FITNESS FOR A PARTICULAR PURPOSE OF THE SERVICES OR THE COMPONENTS THEREOF. IN NO EVENT SHALL CPBG OR THIRD PARTIES BE LIABLE FOR ANY DIRECT, INCIDENTAL OR CONSEQUENTIAL DAMAGES, HOWEVER ARISING, INCURRED BY SUBSCRIBER FROM RECEIPT OR USE OF INFORMATION DELIVERED HEREUNDER, OR THE UNAVAILABILITY THEREOF.

11. **AUDIT.** Subscriber understands and agrees that in order to ensure compliance with applicable law and CPBG policies, CPBG will conduct periodic reviews of Subscriber activity and may, on a random basis, contact Subscriber to provide documentation of executed searches. CPBG shall also investigate all legitimate reports of abuse or misuse of the Services by our Subscribers or others. Subscriber agrees to cooperate fully with any and all investigations. Violations discovered in any review by CPBG will be subject to immediate action including, but not limited to, immediate termination of this Agreement, the account, legal action, and/or referral to federal or state regulatory agencies.
12. **CHANGES IN USE OR ACCESS.** CPBG may, at any time, impose restrictions and/or prohibitions on the Subscriber's use of the Services or certain data. Subscriber understands that such restrictions or changes in access may be the result of a modification in CPBG policy, a modification of Third Party agreements, a modification in industry standards, or a change in law or regulation. Upon written

notification by CPBG of such restrictions, Subscriber agrees to comply with such restrictions.

13. **PRIVACY PRINCIPLES.** With respect to personal information regarding individual consumers and businesses, the parties agree as follows: CPPR has adopted the "ChoicePoint Privacy Principles" ("Privacy Principles") and that neither Subscriber nor CPPR will commit or permit its directors, officers, employees or agents to commit any action which causes Subscriber or CPPR to be in violation of the Privacy Principles. A copy of the Privacy Principles is located on ChoicePoint's web-site at <http://www.choicepointinc.net/commitment>. If a conflict exists between these Privacy Principles and the Minnesota Data Privacy Act, the terms of the Privacy Act will control.
14. **AGREEMENT ENTIRETY.** In the event of a conflict between this Exhibit B and other terms and conditions found in this Agreement, the terms of this Exhibit B shall control.

Community Impact	None
Neighborhood Notification	
City Goals	
Comprehensive Plan	
Zoning Code	
Other	