



Purchase Order		 <p>Marshall University Office of Purchasing One John Marshall Drive Huntington WV, 25755-4100 Direct all inquiries regarding this order to: (304) 696-2821</p>			Purchase Order # MU18PLUMBING		
TO:		Vendor Code:		Ship to:		THIS ORDER IS SUBJECT TO THE GENERAL TERMS AND CONDITIONS AS PRESENTED ON PAGE TWO HEREOF AND AS SET FORTH HEREIN	
Phillip S. Johnson Co., Inc. PO Box 1196 Barboursville, WV 25504 FEIN: 52-2389866 PH: 304-302-2290		Room #		WVFIMS Account #:			
P.O. Date	FY	Buyer	Ship Via	F.O.B	Terms	Contract #	
8/23/17	18	AD				MU18PLUMBING	
<u>CONTRACT ACCEPTANCE</u> On behalf of the Governing Board, MARSHALL UNIVERSITY hereby accepts the quotation of <u>Phillip S. Johnson</u> <u>Plumbing Services for Joan C. Edwards Stadium.</u> signed by <u>Phillip S. Johnson</u> Title <u>Owner</u> on <u>822/2017</u> Approved as to form this _____ day of _____, 2017 Patrick Morrissey, Attorney General By: <u>N/A</u> Chief Counsel Effective August 1, 2017 to July 31, 2018 Four (4) optional one-year renewals. THIS ORDER IS EXEMPT FROM ALL SALES TAX LIMIT EACH INVOICE TO A SINGLE PURCHASE ORDER NUMBER							
Line No.	Fund	Org.	Account	Encumber Amount	Total:		
1.	Various	Various	70257	Open-End			
2.							
3.							
4.							
Mail Original Invoice and 1 Copy to: Marshall University Accounts Payable One John Marshall Drive Huntington, WV 25755-4500							
 Authorized Signature					<u>9-19-17</u> Date		

PURCHASING CONTINUATION SHEET

Vendor: PHILLIP S. JOHNSON CO. INC.

MU18PLUMBING pg. 2

I. Scope of Work:

The Contractor will perform plumbing work to include repair, maintenance, and new installation at various athletic facilities. The contractor may occasionally perform non-emergency work on weekends and outside normal business hours of 8:00 am to 5:00 pm, Monday through Friday. Contractor would be required to have personnel work home football games, which are held on weekends, weekdays during days, evenings and nights.

The University expects quality work that meets or exceeds minimum industry standards. Services will be requested through issuance of purchase orders. There is no guaranteed minimum amount of services to be ordered. No order exceeding \$5,000 will be issued without prior approval from the Department of Athletics or the University. The University reserves the right to supply any or all materials. Contractor will have sufficient parts on its equipment truck to make repairs at athletic contests. If contractor must go off site to get additional supplies, they must contact an athletic official to let them know. Contractor must give cell phones numbers of workers to Athletic Personnel when at stadium during games. Contractor's employees must have proper identification visible at athletic events.

Neither Contractor nor any personnel of Contractor will be considered employees or agents of Owner. Contractor assumes full responsibility for the actions of Contractor's personnel and is solely responsible for their supervision, daily direction and control, payment of salary (including withholding income taxes and social security), worker's compensation and disability benefits.

II. Services:

Winterize football stadium plumbing and other facilities - including blowing out lines (approximately 7 days after the last home football game of the season)

De-winterize football stadium plumbing and other facilities

Repair and/or replacement of frozen, broken, or leaking pipes

Repair and/or replacement of toilets (including gaskets or rings) and seats

Repair and/or replacement of urinals (including gaskets or rings)

Repair and/or replacement of hand washing basins

Repair and/or replacement of drinking fountains

Repair and/or replacement of Sloan valves

PURCHASING CONTINUATION SHEET

Vendor: PHILLIP S. JOHNSON CO. INC.

MU18PLUMBING pg. 3

Repair and/or replacement of mixing valves

Repair and/or replacement of water heaters and boilers

Repair and/or replacement of hose bibs and spigots

Repair and/or replacement of installation of backflow preventers

Clearing drains of debris

Ability of and having the equipment to run a camera in pipes to evaluate issues

Staffing, (two workers), available nights, weekends and holidays to work football games.

Provide normal services as established in the work request.

Provide emergency or urgently requested services within one (1) hour of request. Provide phone number to request emergency or urgently needed services after normal work hours:

Carry insurance levels and provide bonding if required

Label all new panels, wiring, and equipment installed.

Comply with University recycling and solid waste reduction policies

Clean-up job site at the end of each day and at work completion.

Obtain any needed permits for repair or installation work and provide a copy of the permit to University representative before work is started.

III. Scheduling

All work must be scheduled and approved by Scott Morehouse, Assistant Director of Athletics or his designee.

Notice to Proceed - Owner shall give start dates. The fully executed purchase order will be considered notice to proceed.

Changes on Scope - The Contractor shall not increase or decrease the scope of work without the prior written consent of the Owner. All such changes shall be documented by issuance of a Change Order.

IV. Contractor Use of Premises

General: Limit use of the premises to construction activities in areas indicated, allow for Owner occupancy and use by the public.

Confine operations to areas within Contract limits.

PURCHASING CONTINUATION SHEET

Vendor: PHILLIP S. JOHNSON CO. INC.

MU18PLUMBING pg. 4

Contractor must keep driveways and entrances serving the premises clean and available to the Owner and the Owner's employees at all times. Do not use these areas for parking or storage of materials. Schedule deliveries to minimize space and time requirements for storage of materials and equipment on site.

Cleanup: Contractor shall remove and dispose of all materials and other debris from the work site and shall dispose of such materials pursuant to all applicable federal, state, and local laws, regulations and ordinances. Contractor shall indemnify and hold harmless Owner for failure to comply with this Section.

Use of the Existing Building: Maintain the existing building in a weather tight condition throughout the construction period. Repair damage caused by construction operations. Take all precautions necessary to protect the building and its occupants during the construction period.

Temporary Facilities: The contractor shall have use of restrooms, water, and electricity at the Owner's expense provided abuse does not occur. The Contractor shall repair any damages to restrooms.

Partial Owner Occupancy: The Owner shall occupy the sites and existing buildings during the entire construction period. Cooperate with the Owner during construction operations to minimize conflicts and facilitate Owner usage. Perform the Work so as not to interfere with the Owner's operations.

ADA Compliance - Contractor shall ensure that all work performed meets or exceeds codes required by the Americans with Disabilities Act with regard to slope of ramps, longitudinal joints, etc.

Safety Measures and Protection of Job Site - Contractor shall provide all barricades, signage, fencing, watchmen, or other means of ensuring public safety surrounding his work site. It is the contractor's responsibility to similarly protect unfinished or uncured work from damage due to vandalism, weather, or other causes.

Safety Barricades - Provide Safety Barricades around all work areas where work is being performed.

Delivery and Storage - Packaged materials shall be delivered to site in original unopened containers. All materials shall be stored on pallets or platforms in dry areas and protected from damage until used.

PURCHASING CONTINUATION SHEET

Vendor: PHILLIP S. JOHNSON CO. INC.

MU18PLUMBING pg. 5

v. Pricing:

Hourly rates:

1. Normal Hours (8:00 a.m. to 5:00 p.m.) \$ 83.50 per hour

2. Overtime Rate \$108.25 per hour

Materials: Copies of material invoices are to be included with billing statements

3. Percent markup on materials 15%

Trip Charges:

Non-Emergency Call-Out: The University does not pay trip charges or travel time for non-emergency service work.

Emergency Call-Out: When the Contractor responds to an emergency call-out, the University or Department of Athletics will pay a minimum of two (2) hours of the assigned technician's applicable rate. If emergency repairs require more than eight (8) hours, the Contractor will be expected to assign personnel to minimize overtime charges.

VI. Cost Estimates and Billing

All job cost estimates must be prepared using prices established in the Pricing section.

Billing invoices for completed jobs must use the prices established in the Pricing section. It is not the intent of the contract to procure materials unless an emergency situation incurs the need to do so. In these circumstances the vendor must show mark- up on materials. Copies of material invoices must be included with the billing invoices.

The Purchase Order Number must be included on the billing invoices along with the site address.

Changes and additions must be approved by the University and a change order will be issued as authorization to change from the original work order.

Project Closeout and Payment

Payment - Owner shall pay Contractor for all labor, materials, supplies and services. Payment shall be made upon completion of the Services. Contractor

PURCHASING CONTINUATION SHEET

Vendor: PHILLIP S. JOHNSON CO. INC.

MU18PLUMBING pg. 6

shall be liable for payment of all applicable federal, state and local taxes including, but not limited to, Business & Occupation Tax and by accepting payment from Owner hereby attests that all such obligations have been satisfied. Owner, if requested, may require proof of such satisfaction prior to payment for services rendered pursuant to this Agreement.

Contractor shall indemnify and hold harmless Owner for failure to comply with this Section.

No Pre-Payment - due to the selective nature of work under the contract, the owner will not accept for processing any application for partial or progress payment against purchase orders issued for specific items of work or quoted or completed. All ordered work must be completed prior to submittal of documents.

Owner Approval and Pay Application - the vendor shall submit an original and four copies of an itemized invoice. The invoice must provide enough detail to properly audit it against the contract. Also, it must be dated and reflect the contractor's name and address, purchase order number, and dates of service or construction. Submit any previously approved change orders to the scope of the work.

Accompany the pay request with the following documents and submittals:

- Inspection Certificate - signed by owner accepting quality.
- Literature - For approval, submit copies of manufacturer's standard printed
- Literature for all products used on said project.

Protection - correct any damage by cleaning, repairing, replacing, or repainting, as acceptable to owner prior to final payment. (All items must be restored to original conditions prior to final payment).

Notarized Warranty - notarized contractor materials and workmanship warranty statement for completed work indicating the term as extending for two years from the date of owner final payment.

Arbitration - any reference made to arbitration or interest for payments due (except for any interest required by state law) contained in this contract or in any American Institute of Architects documents pertaining to this contract is hereby deleted.

PURCHASING CONTINUATION SHEET

Vendor: PHILLIP S. JOHNSON CO. INC.

MU18PLUMBING pg. 7

VII. General Terms and Conditions

Conduct - Contractor shall ensure that his forces conduct their work in a professional and workmanlike manner. The University expects work of the highest quality to be completed in a timely and courteous manner consistent with the nature of the structure. The University reserves the right to require removal of unacceptable personnel by the contractor from the work site for any reason.

Contractor Warranty - Contractor shall warrant his materials and workmanship to be free of defects under normal use for a period of one year.

Duties - The contractor shall provide all taxes, permits, fees, insurance, liability, compensation and all other items necessary to render the University free and harmless from all claims arising from services performed under this contract. Contract insurance, liability, and compensation shall be sufficient to cover contractor's employees and the public in general.

Insurance - All Contractors, subcontractors, or other persons performing construction services shall purchase and maintain for the duration of the work hereunder insurance coverage in such amounts as may be required by Owner, but in any event no less than \$500,000 in Commercial General Liability coverage, Excess \$1,000,000. The Certificate of Coverage shall be signed by an authorized agent, shall list the Owner as additional insured, and shall provide for at least thirty (30) days prior written notice of cancellation to the Owner.

Workman's Compensation - The contractor shall comply with all rules and regulations of the West Virginia Worker's Compensation Commission.

Quality and Inspection of Work - Owner reserves the right to visit the work site for inspection or other purposes at any time during the course of the work. The Contractor agrees to carry out the work diligently and to provide efficient supervision and inspection thereof. Contractor warrants that the work is of good quality and workmanship; is in full conformity with any specifications, drawings, models or samples; exceeds or meets Owner standards; and is fit for the purpose intended by Owner. All services or materials not conforming to Owner's requirements, including unauthorized substitutions, shall be considered defective and Contractor shall promptly correct such defective services or replace such defective materials at Contractor's sole expense. No payment for or acceptance of materials or services by Owner shall constitute a waiver of any of the foregoing, nor shall anything herein contained be construed to exclude or limit any warranties implied by law.

Submittals - Contractor will submit, upon request, information with manufacturer's product data for all products being used.

Contractor's License - Contractor affirms that all statements, attestations and information provided by Contractor are true and correct, including that the work covered by this

PURCHASING CONTINUATION SHEET

Vendor: PHILLIP S. JOHNSON CO. INC.

MU18PLUMBING pg. 8

Agreement is within its scope of license to conduct contracting services in the State of West Virginia; the Contract License Number is in good standing and in compliance with the laws of the State of West Virginia issued in the exact name of the contractor listed in the caption of this Agreement; the Contractor has not allowed any person or business to use its contractors license; and that the Contractor has no outstanding judgments or active complaints by any individual, entity, or the State of West Virginia or any agency thereof.

Subcontracting - The Contractor may subcontract such portions of the work as is customary in the carrying out of similar work, with the written approval of Owner. No subcontract shall relieve the Contractor of any of its obligations under this Agreement or impose any liability upon the Owner.

Hazardous Materials/Substances - Contractor shall identify material containing any hazardous substance by name, and all products/materials used pursuant to this Agreement shall be new and contain less than 1% asbestos.

Specifications Drawings and Other Documents - All specifications, drawings, and Other documents, if provided by the Owner, in connection with or arising out of this Agreement shall be used by the Contractor solely for the purpose of carrying out the work and for no other purpose and shall remain the property of or become the property of the Owner and be returned to the Owner upon request.

Compliance - The Contractor, subcontractor, and other persons performing work pursuant to this Agreement shall be in compliance with all federal, state, and local laws, rules, regulations, and ordinances including, but not limited to, contractor licensing, and workers compensation. Contractor shall indemnify and hold harmless Owner for failure to comply with this Section.

Health and Safety - Contractor acknowledges that it has a primary duty to prevent on the job accidents and to protect the health and safety of its employees, and that Owner bears no duty or legal responsibility to supervise Contractor's personnel.

Indemnification - Contractor agrees to hold harmless Owner, its Board of Governors, officers, agents and employees from, and to defend it against, any and all claims arising from the purchase, installation, and/or use of the equipment, articles and/or materials or services which are furnished by the Contractor under this Agreement.

Warranties - Contractor shall honor, and/or shall assign to Owner, any commercial guarantees and warranties offered by the manufacturer. Contractor warrants that all construction work will be free from defects not inherent in the quality required or permitted; and that the Work will conform to the requirements of this Agreement. Without restricting any other term of the Agreement or any condition, warranty, or provision implied or imposed by law, Contractor shall, if requested by the Owner within twelve months from date of delivery, repair or replace at its own expense any work or any material which becomes defective or fails to conform to the Agreement requirements.

PURCHASING CONTINUATION SHEET

Vendor: PHILLIP S. JOHNSON CO. INC.

MU18PLUMBING pg. 9

Liens or Claims - Contractor warrants the equipment and/or materials furnished under this Agreement are unencumbered and not subject to any lien or claim.

Waiver - The waiver of any breach of this Agreement by Owner shall not constitute a waiver of any subsequent breach, nor shall any payment for goods delivered, services or construction performed constitute such waiver.

Assignment - This Agreement, including the right to receive payment, is not transferable or otherwise assignable without the express prior written consent of Owner.

Time of Essence - Time shall be deemed to be of the essence of this Agreement.

Force Majeure - Contractor or Owner may delay delivery or acceptance occasioned by causes beyond Contractor's or Owner's reasonable control. If such delay exists beyond a period of five (5) working days, Owner, at its own option, shall have the right to: (a) terminate the Agreement, in whole or in part, (b) suspend the Agreement for the duration of the delaying cause, (c) resume performance under the Agreement once the delaying cause ceases, or (d) extend the effective dates up to the length of time the contingency endured, all, without liability to the Contractor.

Termination, Delays and Excused Performance - Owner may by written notice terminate this Agreement for convenience, in whole or in part, at any time. Owner shall pay Contractor for work completed, delivered and accepted prior to termination. Owner may terminate the Agreement, in whole or in part, due to Contractor's default; in such event, Contractor shall be liable for any damages incurred by Owner that are a consequence of such breach. If a delay is determined to have been caused by Owner, the time for performance and the price of the Agreement may be subject to adjustment.

Disputes - Any dispute concerning this Agreement shall be submitted by the Contractor to the West Virginia Court of Claims, and may be filed by Owner in any court having proper jurisdiction.

Applicable Law - The laws of the State of West Virginia and the Procedural Rules of the Marshall University Board of Governors shall govern this Agreement.

Non-Funding - All services performed or goods delivered under this Agreement are contingent upon funds being appropriated by the Legislature or otherwise being made available. In the event funds are not appropriated or otherwise available, this Agreement becomes void and of no effect after June 30.

Entirety - This Agreement constitutes the entire agreement and understanding of the parties with respect to its subject matter. No prior agreement or understanding will be effective.

PURCHASING CONTINUATION SHEET

Vendor: PHILLIP S. JOHNSON CO. INC.

MU18PLUMBING pg. 10

LIFE OF CONTRACT PAGE

LIFE OF CONTRACT: This contract becomes effective on 8/1/2017 and extends for a period of one (1) year or until such reasonable time thereafter as is necessary to obtain a new contract. Such "reasonable time" shall not exceed twelve (12) months upon expiration of one (1) year from the effective date of this contract by giving the Director of Purchasing thirty (30) days written notice.

RENEWAL: This contract may be renewed upon mutual written consent, submitted to the Director of Purchasing thirty (30) days prior to the date of expiration. Such renewal shall be in accordance with the terms and conditions of the original contract and shall be limited to four (4) successive one (1) year periods.

CANCELLATION: The Director of Purchasing reserves the right to cancel this contract immediately upon written notice to the vendor if the commodities or services supplied are of an inferior quality or do not conform to the specifications of the bid and contract herein.

OPEN MARKET CLAUSE: The Director of Purchasing may authorize a spending unit to purchase in the open market, without the filing of a requisition or cost estimate, items specified on this contract for immediate delivery in emergencies due to unforeseen causes (including but not limited to delays in transportation or an unanticipated increase in the volume of work).

TIME: Time consumed in delivery or performance is of the essence.

ORDERING PROCEDURE: Departments shall submit a requisition for commodities covered by this contract to the Purchasing office. Purchasing will then issue a purchase order to the vendor as authorization for shipment. If the vendor accepts credit cards, purchases may also be made using the P-card up to the established transaction limit for the department.

FUNDING PARAGRAPH: Service performed under this contract is to be continued in the succeeding fiscal year contingent upon funds being appropriated by the Legislature for this service. In the event funds are not appropriated for these services, this contract becomes of no effect and is null and void after June 30.

INTEREST: Should this contract include a provision for interest on late payments, the agency agrees to pay the maximum legal rate under West Virginia Law. All other references to interest charges are deleted.

CONTRACT PRICING: Unless otherwise allowed by the Director of Purchasing, price increases will be approved only at the beginning of each renewal period. All adjustments will be made in dollars, not per cent. Requests for price increases must be received in writing by the Director at least thirty (30) days in advance of the effective date. Vendors may add products throughout the term of this contract when it is in the best interest of the University.

The Director at Marshall University will determine which products will be added. Price decreases will be "passed through" to Marshall University.