


<b>Purchase Order</b>	 <b>M</b> <small>MARSHALL UNIVERSITY</small>	Marshall University Office of Purchasing One John Marshall Drive Huntington WV, 25755-4100 Direct all inquires regarding this order to: (304) 304-696-8853	<b>Purchase Order #</b> MU18CREMATION
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<b>TO:</b>  Hall Funeral Home DBA Ohio River Valley Crematory P.O. Box 391 Proctorville, Ohio 45669  FEIN: 31-1552242      PH: 740-886-6164	Vendor Code:	Ship to:  Room #	THIS ORDER IS SUBJECT TO THE GENERAL TERMS AND CONDITIONS AS SET FORTH HEREIN  WVFIMS Account #:
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P.O. Date	FY	Buyer	Ship Via	F.O.B	Terms	Contract #
1/30/18	2018	BS			Net 30	MU18CREMATION

		<p><u>CONTRACT ACCEPTANCE</u></p> <p>On behalf of the Governing Board, MARSHALL UNIVERSITY hereby accepts the quotation of <u>Hall Funeral Home</u></p> <p><u>DBA: Ohio River Valley Cremation</u></p> <p>signed by <u>Ernest B. Hall III</u></p> <p>Title <u>President</u></p> <p>on <u>January 25, 2018</u></p> <p style="text-align: center;">Approved as to form this ____ day of _____, _____                  West Virginia Attorney General</p> <p style="text-align: center;">By: <u>N/A</u>                  Chief Counsel</p> <p>Cremation Services                  Effective Period: March 1, 2018 to February 28, 2019                  Optional Renewals: (4) four</p> <p style="text-align: center;">THIS ORDER IS EXEMPT FROM ALL SALES TAX                  LIMIT EACH INVOICE TO A SINGLE PURCHASE ORDER NUMBER</p>		
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Line No.	Fund	Org.	Account	Encumber Amount		
1.	VARIOUS	VARIOUS	70258	OPEN END		
2.						
3.						
4.						

Total: OPEN END

Mail Original Invoice and 1 Copy to:  
 Marshall University Accounts Payable  
 One John Marshall Drive Huntington,  
 WV 25755-4500

  
 Authorized Signature 3-7-18  
 Date

**1. SCOPE OF WORK**

The vendor will provide cremation supplies and services to Joan C. Edward School of Medicine located at 1542 Spring Valley Drive, Huntington, WV 25704.

**1.1 Services**

- A. Crematory shall pick up cadavers and/or various anatomical parts for cremation from Joan C. Edward School of Medicine located at 1542 Spring Valley Drive, Huntington, WV 25704. Crematory shall deliver cremated remains back to the same address following cremation.
- B. Joan C. Edward School of Medicine will supply cardboard containers and all necessary paperwork
- C. The Crematory shall supply transit type for the cremated remains. These urns shall be of a non-rusting style, ie: Plastic Temporary Container.
- D. Annual Estimated Usage: 65-70 cadavers.

**1.2 Other**

Members of the Human Gift Registry reserve the right to inspect and approve/disapprove the crematory facilities.

**1.3 Pricing**

- A. Units per cadaver up to 400 lbs \$200.00
- B. Unit price per cadaver over 400 lbs \$300.00
- C. Unit Price per cremation container \$20.00

**1.4 Maximum weight per cadaver 550 lbs.**

## LIFE OF CONTRACT PAGE

**LIFE OF CONTRACT:** This contract becomes effective on March 1, 2018 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.

MU-96

**AGREEMENT ADDENDUM**

Rev. 1/18


In the event of conflict between this addendum and the agreement, this addendum shall control:

1. **DISPUTES** – Any references in the agreement to arbitration or to the jurisdiction of any court are hereby deleted. Any disputes brought by Vendor arising out of the agreement and any counter-claims or cross-claims by Marshall University (“Marshall”) shall be presented to the West Virginia Legislative Claims Commission. Any disputes brought by Marshall University (“Marshall”) arising out of the agreement shall be presented in the Circuit Court of Cabell County, West Virginia, or other appropriate Court having jurisdiction over the matter.
2. **HOLD HARMLESS** – Any provision requiring Marshall to indemnify or hold harmless any party is hereby deleted in its entirety.
3. **GOVERNING LAW** – The agreement shall be governed by the laws of the State of West Virginia. This provision replaces any references to any other State’s governing law.
4. **TAXES** – Provisions in the agreement requiring Marshall to pay taxes are deleted. As a State entity, Marshall is exempt from Federal, State, and local taxes and will not pay taxes for any Vendor including individuals, nor will Marshall file any tax returns or reports on behalf of Vendor.
5. **PAYMENT** – Any reference to prepayment are deleted. Payment will be in arrears.
6. **INTEREST** – Any provision for interest or charges on late payments is deleted. Marshall has no statutory authority to pay interest or late fees.
7. **NO WAIVER** – Any language in the agreement requiring Marshall to waive any rights, claims or defenses is hereby deleted.
8. **FISCAL YEAR FUNDING** – Service performed under the agreement may be continued in succeeding fiscal years for the term of the agreement, contingent upon funds being appropriated by the Legislature or otherwise being available for this service. In the event funds are not appropriated or otherwise available for this service, the agreement shall terminate without penalty on June 30. After that date, the agreement becomes of no effect and is null and void. However, Marshall agrees to use its best efforts to have the amounts contemplated under the agreement included in its budget. Non-appropriation or non-funding shall not be considered an event of default.
9. **STATUTE OF LIMITATIONS** – Any clauses limiting the time in which Marshall may bring suit against the Vendor, lessor, individual, or any other party are deleted.
10. **SIMILAR SERVICES** – Any provisions limiting Marshall’s right to obtain similar services or equipment in the event of default or non-funding during the term of the agreement are hereby deleted.
11. **FEES OR COSTS** – Marshall recognizes an obligation to pay attorney’s fees or costs only when assessed by a court of competent jurisdiction. Any other provision is invalid and considered null and void.
12. **ASSIGNMENT** – Notwithstanding any clause to the contrary, Marshall reserves the right to assign the agreement to another State of West Virginia Agency, board or commission upon thirty (30) days written notice to the Vendor and Vendor shall obtain the written consent of the Marshall prior to assigning the agreement.
13. **LIMITATION OF LIABILITY** – Marshall, as a State entity, cannot agree to assume the potential liability of a Vendor. Accordingly, any provision limiting the Vendor’s liability for direct damages to a certain dollar amount or to the amount of the agreement is hereby deleted. Limitations on special, incidental or consequential damages are acceptable. In addition, any limitation is null and void to the extent that it precludes any action for injury to persons or for damages to personal property.
14. **RIGHT TO TERMINATE** – Marshall shall have the right to terminate the agreement upon thirty (30) days written notice to Vendor. Marshall agrees to pay Vendor for services rendered or goods received prior to the effective date of termination.
15. **TERMINATION CHARGES** – Any provision requiring Marshall to pay a fixed amount or liquidated damages upon termination of the agreement is hereby deleted. Marshall may only agree to reimburse a Vendor for actual costs incurred or losses sustained during the current fiscal year due to wrongful termination by Marshall prior to the end of any current agreement term.
16. **RENEWAL** – Any references to automatic renewal is hereby deleted. The agreement may be renewed only upon mutual written agreement of the parties.
17. **INSURANCE** – Any provision requiring Marshall to purchase insurance for Vendor’s property is deleted. The State of West Virginia is insured through the Board of Risk and Insurance Management, and will provide a certificate of property insurance upon request.
18. **RIGHT TO NOTICE** – Any provision for repossession of equipment without notice is hereby deleted. However, Marshall does recognize a right of repossession with notice.
19. **ACCELERATION** – Any reference to acceleration of payments in the event of default or non-funding is hereby deleted.
20. **CONFIDENTIALITY** – Any provision regarding confidentiality of the terms and conditions of the agreement is hereby deleted. State contracts are public records under the West Virginia Freedom of Information Act.
21. **AMENDMENTS** – All amendments, modifications, alterations or changes to the agreement shall be in writing and signed by both parties.
22. **DELIVERY** – All deliveries under the agreement will be FOB destination unless otherwise stated in the State’s original solicitation. Any contrary delivery terms are hereby deleted.
23. **PUBLICITY** – Vendor shall not, in any way or in any form, publicize or advertise the fact that Vendor is supplying goods or services to Marshall without the express written consent of Marshall.

- 24. **UNIVERSITY MARKS** – Vendor shall not, in any way or in any form use Marshall's trademarks or other intellectual property without prior written consent of Marshall.
- 25. **INTELLECTUAL PROPERTY** – Marshall will own all rights, title and interest in any and all intellectual property rights created in the performance or otherwise arising out of the agreement, and Vendor will execute any assignments of other documents necessary for Marshall to perfect such rights, provided that, for research collaboration pursuant to subcontracts under sponsored research agreements, intellectual property rights will be governed by the terms of the grant or contract to Marshall to the extent such intellectual property terms to apply to subcontractors
- 26. **FERPA** Vendor agrees to abide by the Family Education Rights and Privacy Act of 1974 ("FERPA") To the extent that Vendor receives personally identifiable information from education records as defined in (FERPA). Vendor agrees to abide by the limitations on re-disclosure set forth in which states that the officers, employees and agents of a party that receives education record information from Marshall may use the information, but only for the purposes for which the disclosure was made.


ACCEPTED BY:  
**MARSHALL UNIVERSITY**

OFFICE OF PURCHASING

Signed:   
Title: DIRECTOR  
Date: 3-8-18

**VENDOR**

Company Name: Ohio River Valley Crematory

Signed:   
Title: President  
Date: 3-1-18

STATE OF WEST VIRGINIA  
Purchasing Division

**PURCHASING AFFIDAVIT**

**CONSTRUCTION CONTRACTS:** Under W. Va. Code § 5-22-1(i), the contracting public entity shall not award a construction contract to any bidder that is known to be in default on any monetary obligation owed to the state or a political subdivision of the state, including, but not limited to, obligations related to payroll taxes, property taxes, sales and use taxes, fire service fees, or other fines or fees.

**ALL CONTRACTS:** Under W. Va. Code §5A-3-10a, 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: (1) the debt owed is an amount greater than one thousand dollars in the aggregate; or (2) the debtor is in employer default.

**EXCEPTION:** The prohibition listed above does not apply where a vendor has contested any tax administered pursuant to chapter eleven of the W. Va. Code, workers' compensation premium, permit fee or environmental fee or assessment and the matter has not become final or where the vendor has entered into a payment plan or agreement and the vendor is not in default of any of the provisions of such plan or agreement.

**DEFINITIONS:**

"Debt" means any assessment, premium, penalty, fine, tax or other amount of money owed to the state or any of its political subdivisions because of a judgment, fine, permit violation, license assessment, defaulted workers' compensation premium, penalty or other assessment presently delinquent or due and required to be paid to the state or any of its political subdivisions, including any interest or additional penalties accrued thereon.

"Employer default" means having an outstanding balance or liability to the old fund or to the uninsured employers' fund or being in policy default, as defined in W. Va. Code § 23-2c-2, failure to maintain mandatory workers' compensation coverage, or failure to fully meet its obligations as a workers' compensation self-insured employer. An employer is not in employer default if it has entered into a repayment agreement with the Insurance Commissioner and remains in compliance with the obligations under the repayment agreement.

"Related party" means a party, whether an individual, corporation, partnership, association, limited liability company or any other form or business association or other entity whatsoever, related to any vendor by blood, marriage, ownership or contract through which the party has a relationship of ownership or other interest with the vendor so that the party will actually or by effect receive or control a portion of the benefit, profit or other consideration from performance of a vendor contract with the party receiving an amount that meets or exceeds five percent of the total contract amount.

**AFFIRMATION:** By signing this form, the vendor's authorized signer affirms and acknowledges under penalty of law for false swearing (W. Va. Code §61-5-3) that: (1) for construction contracts, the vendor is not in default on any monetary obligation owed to the state or a political subdivision of the state, and (2) for all other contracts, that neither vendor nor any related party owe a debt as defined above and that neither vendor nor any related party are in employer default as defined above, unless the debt or employer default is permitted under the exception above.

**WITNESS THE FOLLOWING SIGNATURE:**

Vendor's Name: Ohio River Valley Crematory

Authorized Signature: Ernest B. Hurd, III Date: 3/11/2018

State of Ohio

County of Lawrence, to-wit:

Taken, subscribed, and sworn to before me this 1 day of March, 2018.

My Commission expires 1/31/2019, 2019.



**AFFIX SEAL HERE**

**NOTARY PUBLIC** Ernest B. Hurd, III