


Purchase Change Request			 Marshall University Office of Purchasing One John Marshall Drive Huntington, WV 25755-4100		Order # MU20ATM	
FY 22	Buyer AWN	Date 8/18/2021	Account Various	P.O. Date 08/31/2020	Contract MU20ATM	
Document <input type="checkbox"/> Requisition (Cancellation only) <input type="checkbox"/> Regular Purchase Order <input type="checkbox"/> Contract Purchase Order <input type="checkbox"/> Open End Contract Purchase <input checked="" type="checkbox"/> Agreement			Document Action <div style="display: flex; justify-content: space-between;"> <div> <input type="checkbox"/> Cancellation <input type="checkbox"/> Increase/Decrease <input type="checkbox"/> Unused Balance <input type="checkbox"/> Freight <input checked="" type="checkbox"/> Renewal <input type="checkbox"/> Extension Error </div> <div> <input type="checkbox"/> Error in Total Amount <input type="checkbox"/> Change of Account <input type="checkbox"/> Change of Vendor Name/Address <input type="checkbox"/> Other </div> </div>			
Vendor Name, Address, Phone #, etc. UNITED BANK 517 9TH STREET HUNTINGTON WV 25701			Vendor Code		BOG Unit Name & Address Marshall University Office of Purchasing One John Marshall Drive Huntington, WV 25755-4100	
Ph# 304-781-2379		Fax	FEIN# 55-0641179			
Item#	Quantity	Description of Change			Unit Price	Extended Price
		<p style="text-align: center;">Change Order # 1</p> <p>To renew the contract according to all terms, conditions, prices, and specifications contained in the original contract including all authorized change orders.</p> <p style="text-align: center;">ATM Services</p> <p>Effective: September 1, 2021 through August 31, 2022 Renewal: One (1) of Nine (9) Remaining Renewals: Eight (8)</p>				
Reason for Change: Renewal					Previous Total	\$ Open End
					Increase	\$
					Decrease	\$
					New Total	\$ Open End

Approved:

Authorized Signature

Date

N/A
 Attorney General if required

Date



Student Center Operations

July 29, 2021

United Bank
517 9th Street
Huntington, WV 25701

Re: Contract Renewal MU20ATM

To Whom It May Concern:

The above referenced contract will expire on August 31, 2021. There is a provision for another renewal upon written mutual agreement of the parties.

Please annotate on the bottom of this letter, with your signature and date, if you agree to renew **MU20ATM** contract effective September 1, 2021 through August 31, 2022 under the same terms and conditions. Enclosed is a Purchase Affidavit which requires signature and notarization as well.

Please return the letter and the enclosed purchasing affidavit signed in the original to the noted below.

Marshall University – Student Center Operating
Suite 2W5 – Memorial Student Center
One John Marshall Drive
Huntington, WV 25755-4100

If you have any questions, please feel free to call me at 304-696-2528

Sincerely,

William "Tootie" Carter, Business Manager, Student Center Operating

I agree to renew the current contract # (contract number) for an additional one (1) year period under the same terms and conditions.

☒ Yes ☐ No

☐ Yes, subject to the following changes indicated below or in the attached letter.

Signature

Date

Printed Name

Title

Comments:

WE ARE... MARSHALL.

Memorial Student Center, 2W6 • One John Marshall Drive • Huntington, West Virginia 25755-5460 • Tel 304/696-6472
A State University of West Virginia • An Affirmative Action/Equal Opportunity Employer

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: United Bank

Authorized Signature: [Signature] Date: 8-9-21

State of West Virginia

County of Cabell, to-wit:

Taken, subscribed, and sworn to before me this 9th day of August, 2021.

My Commission expires Sept 26, 2022, 2022.

AFFIX SEAL HERE

NOTARY PUBLIC

Theresa Chapman

Purchasing Affidavit (Revised 01/19/2018)



United Bank to provide Installation, Operation and Maintenance of one (1) ATM located at the Memorial Student Center Plaza.

United Bank shall install, operate and maintain ATM so patrons may access cash in various buildings throughout the main Huntington WV campus.

Project Specifications

United Bank must be willing and able to share the customer bank communication terminal with any other bank that meets reasonable standards with regards to sharing said customer bank communication terminal regardless of that other bank's affiliation with another interchange system.

The ATM services shall complement the University as to its community customer base as well as to its service in the areas of expansion on campus with the design of the building layouts. The ATM services, United Bank and its equipment and products will enhance the facilities.

The University requires that United Bank have the ability, experience, and resources to efficiently and effectively operate and upgrade the current ATM services.

United Bank will devise marketing strategies to encourage the use of the ATM machines and ATM products. United Bank will ensure the use of appropriate signage, personnel, and any other means of marketing communication between the vendor and the University in order to inform the University community of its services as well as to enhance the future growth and customer service for the University community. The University must be advised of all such actions.

The vendor will notify the University in advance as to any special notices and other general publications for distribution.

Any advertisements or logos for use must meet with the prior written approval of the University. No handouts, brochures, advertisements, or flyers will be placed on campus without prior approval from the University. For any advertisements other than those that are initiated by the University, a separate mutually agreed upon contract, or amendment to the ATM services contract, is required to include parameters and compensation to the University for such advertisement(s).

United Bank must grant the University the limited right to use the vendor's logo or service marks to promote the vendor's service (i.e., University's website, designated University Representative, and the University's publications and/or events). The University must approve the use of University logos by the vendor.

The University will provide all normal utilities within the area served. Every attempt will be made to maintain an uninterrupted source of power. However, Marshall assumes no responsibility for damages due to failure.

The University is not responsible for theft or vandalism to the machines but will cooperate to investigate acts reported to the Marshall Police (696-4357).

Upon approval by the University, the vendor may be given the opportunity to participate with recognized University organizations as to the selling and/or donation of items for fund raising events, applicable athletic tournaments, large conferences, and/or University events. The University must clear all additional promotions or marketing plans.

Locations and Hours

United Bank shall place an ATM(s) in the building listed below. Building location and current hours are listed.

Location	Type of Machine	Number of Machines	Hours of Services
Memorial Student Center Plaza (Outside)	Full Service*	1	24 hours

*Full-Service ATM's are identified as machines that provide the following services:

- Cash withdraws;
- Ability to accept non-envelope deposits by scanning cash or checks;
- A camera and /or surveillance system; and
- Wall-mounted ATM.

The University will assist in the installation of any ATM's to the point of providing adequate space and electrical service; all other installation will be the responsibility of the vendor. The vendor must work with the University's Information Technology to coordinate installation of data lines and telephone connection and pay any applicable fees. ATM's placed will need to occupy the existing space where current machines are located. There will be no relocation of ATM's in existing buildings unless directed by the university.

The university may add additional ATM locations under this purchase order award if the vendor agrees that the visitor count and/or employee count could support an ATM in that location including locations off the main Huntington campus. Any vendor awarded a purchase order in relation to this RFP will have an opportunity to submit a bid to provide services and the award will be based solely on the amount of rental paid by the vendor to the University

Marshall University

MU20ATM – Automated Teller Machine (ATM) Services

United Bank to provide Installation, Operation and Maintenance of one (1) ATM located at the Memorial Student Center Plaza.

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Marshall University

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UNITED BANK – TECHNICAL RESPONSE**

4.2.1. Goals and Objectives – The project goals and objectives are listed below.

4.2.1.1. Goal/Objective 1: Bidder's Corporate Experience

Vendor should provide a summary listing their previous projects similar to this RFP in size, scope and complexity.

United Bank Response: United Bank provides ATM services to other institutions of higher learning, including West Virginia University and West Liberty University, and several other "non-bank" locations, including hospitals, casinos, municipal buildings, and independent businesses.

4.2.1.2. Goal/Objective 2: Summary of Vendor's Background

Vendor should provide a description of their background and experience with ATM banking similar to the University or other business entities and how they would put that experience to use when providing services to Marshall University.

United Bank Response: For some time United Bank has provided ATM services to Marshall University.

4.2.1.3. Goal/Objective 3: Management Approach and Project Timelines

Vendor should provide a detailed description of their proposed approach to the management of the project. Also, the vendor should clearly define its proposed plan of operations and benefits to the University. Additionally, vendor should detail in the vendor's response proposed timelines and other factors pertaining to the RFP requirements.

United Bank Response: United Bank would continue to operate its existing device in the Memorial Student Center. The Bank would commit to replacing the existing device with a new, full-function (deposit-accepting) device within 90 days of notification of award of business.


4.2.1.4. Goal/Objective 4: References and Lost Accounts

Commercially Sensitive Content redacted by Marshall University to prevent disclosure of reference information.

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4.2.1.4.1 Vendor must provide a current list of at least three (3) active contracted accounts of comparable size as well as dollar volume in gross sales and transactions for each year in which the vendor has similar ATM services, including applicable references.

United Bank Response: Past three (3) years below:

2019		2018		2017	
Transactions	Dollars	Transactions	Dollars	Transactions	Dollars
					

4.2.1.4.2 Each reference provided must include the name, address, fax number, e- mail address and telephone numbers of the main contact person at these accounts, information as to the contract and its duration, as well as the number of ATM services machines at the location and the total annual sales volume for the reference.

United Bank Response:



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4.2.1.4.3 Vendor must provide a current list of Lost Accounts

United Bank Response: Previous ATM-related accounts include the WV Turnpike/Division of Highways, Wheeling-Highlands Cabela's, Wheeling Jesuit University, and Tri-State Airport.

4.2.2. Mandatory Project Requirements

The following mandatory requirements relate to the goals and objectives and must be met by the Vendor as a part of its submitted proposal. Vendor should describe how it will comply with the mandatory requirements and include any areas where its proposed solution exceeds the mandatory requirement. Failure to comply with mandatory requirements will lead to disqualification, but the approach/methodology that the vendor uses to comply, and areas where the mandatory requirements are exceeded, will be included in technical scores where appropriate. The mandatory project requirements are listed below.

4.2.2.1. Mandatory Requirement 1: Financial Capability

Vendor must provide data to confirm their firm has the financial capability to perform.

4.3.2.1.1 Vendor must submit a copy of one (1) audited comparative financial statement of the vendor's company that have been prepared in accordance with general accepted accounting principles (GAAP). At a minimum, this information must include comparative income statement and balance sheet information for the three (3) most recent years for which audited financial statements have been completed.

United Bank Response: See attached annual report.

4.2.2.2 Mandatory Requirement 2: Network Compatibility

Vendors must describe the extent to which their ATMs are compatible with the ATM networks currently operating within the university campus. Proposers must provide ATMs with the latest in IT network connectivity technology.

United Bank Response: United Bank is already an on-campus provider of ATM services for United Bank cardholders and cardholders of all other financial institutions whose cards display any of the following network logos: Visa, MasterCard, American Express, Discover, Plus, Cirrus, NYCE, or Qwest. United Bank provides the following transaction set for all cardholders: Withdrawal, Transfer, Balance Inquiry; United

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Bank provides the following additional transaction set for United Bank cardholders-only: Cash Deposit, Check Deposit, PIN Change, Mini-Statement, Mobile Cash Withdrawal.

4.2.2.3. Mandatory Requirement 3: Business and Transition Plans

Vendor must submit a detailed one (1) year business plan of operation for ATM services. The emphasis and details enclosed in the plan should efficiently and effectively provide an in-depth analysis and description of the proposed services.

Vendor must submit a plan to allow for a smooth transition from the current vendor to the new vendor, if the current vendor is not selected, to insure uninterrupted service to the University community. The vendor should separately describe its Business Plans for the ATM services in detail.

United Bank Response: United Bank is proposing to replace the existing United Bank through-the-wall ATM located in the Memorial Student Center with a new, deposit-accepting ATM. Approximate expected downtime for device transition is two (2) days for any construction necessary to accommodate the new device footprint, device installation, setup, and go-live. A "site survey" will be conducted prior to installation to pre-determine the necessary work required. We will make every reasonable accommodation to minimize disruption at the location during this time. Also, at a time prior to 10/31/20, United Bank will decommission and deinstall the existing ATMs located at Drinko Library, Twin Towers East, and Harris Hall.

4.2.2.4. Mandatory Requirement 4: Monthly Transactions Reporting

The Vendor is required to report to the University on a monthly basis the transaction volume, including both proprietary transactions and foreign transactions, for each ATM.

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Vendor must provide a monthly report to the University of transaction counts for each ATM location that they have been awarded. The reports should be sent to:

Director of Business Operations
Memorial Student Center
Suite 2W5

United Bank Response: United Bank Electronic Banking is able to provide the required monthly reporting.

4.2.2.5. Mandatory Requirement 5: Transaction Fee Schedule

Vendor must describe their proposed fee schedule for ATM Usage. The fee schedule for ATM usage must be considered by the University as reasonable based on industry criteria.

Proposer must certify in its proposal that individuals or other entities having a bank account with the Proposer financial institution will not be charged a transaction fee for a transaction initiated from the Proposer's ATMs on University's campus.

Individuals or other entities not having a bank account with the successful Proposer(s) institution may be charged a transaction fee

United Bank Response: Non-United Bank cardholders will be charged \$3.50 per withdrawal at this ATM, while transfers and inquiries are free. United Bank will not charge United Bank cardholders for any transactions at this ATM.

4.2.2.6. Mandatory Requirement 6: Installation and Maintenance

The vendor will work with the University facilities personnel to install secured outlets that cannot be unplugged from the wall at the locations of the ATM services machine. These outlets may provide additional security for the machines electrical and telephone lines and may prevent unintended interruptions in service.

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To ensure the continuity of services to the University community and to verify the authenticity of any major service maintenance or machine change, the University requests that the vendor's service agent must contact Director of Business Operations for approval of signage, design and plans of the anticipated and necessary changes in equipment for any ATM space.

The vendor is responsible for any costs to ensure accessibility to the disabled or to anyone who needs such assistance in the area as required by the Americans with Disabilities Act and any other applicable federal and state laws.

All ATM services facilities must have clearly posted and written instructions for the operation of the equipment and a telephone answering system to report service calls, with routine maintenance and repair services.

Renovation, maintenance, repair, installation and all associated costs for the installation or removal of ATM services will be the responsibility of the vendor.

The vendor will be held liable for any maintenance or repair to the University or its infrastructure, due to any negligence on behalf of the vendor or its representatives.

The University will provide, at vendor's cost, services for pulling the cable line. Depending on analog line or a special circuit (frame relay, ISDN, DSL, etc.) installation, the vendor will be charged monthly.

The following are to be provided (at vendor's expense) to the University:

Vendor's written recommendations and requests for University approval for any ATM services signage and/or anticipated equipment changes.

Estimated costs and plans, (including any necessary drawings and color boards, etc.).

This information must be included in the packet of initial, approved, and final packets of information given to the University prior to and after the completion of the initial project.

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The vendor will keep its service area secured with only authorized personnel maintaining the ATM services machines.

Upon commencement of the Agreement, the working copy of the Operational Plans for Safety, Maintenance, Repair, and Emergency Personnel; to include names, addresses, fax numbers, pager numbers, e-mails and telephone numbers of key personnel, should be initially supplied the University Representative(s) and routinely updated during the term of the Agreement. Key personnel must include a listing of administration, accounting and maintenance contacts, with the compatible required machine code numbers to allow University personnel to promptly identify and report service issues.

The vendor must address how routine preventative maintenance will be accomplished, with a minimum commitment to visit all machines regardless of service calls.

The vendor must have in place the procedures as to operational malfunctions which concern any inoperative equipment, time factors for re-establishing service, and handling of inconvenienced customers. The vendor will immediately notify the University of any such occurrences. Should equipment continue to malfunction or repeatedly break down, the University must be informed if there is a plan to replace the equipment; thus, if the vendor's records indicate that any equipment should be withdrawn from campus, the manager or supervisor must contact and obtain permission from the University as to the unit(s) to be removed or changed with all replacement equipment as new with the brand and model consistent with the other equipment used in the facility.

The vendor will advise the University as to any preventative maintenance or related issues pertaining to responsibilities regarding the operation of the ATM services system. If the vendor, for instance, requires access to the telephone/communications connections area to service or restore capability to the ATM services machines, the vendor must advise the University of to whom and when access is requested in order to arrange such access.

The vendor must provide a written policy outlining procedure for handling emergency maintenance and repair services. This must also include the names, phone numbers, and pager/beeper numbers of the responsible personnel to be contacted in the event of an emergency during non-operating hours.

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During any maintenance of the ATM service machines, the general area must be cleaned. If the service technician leaves the facility without the ATM services machines working with full functionality, the technician must place an "Out of Order" sign on the machine and notify University personnel as to the situation and timeline in order to advise the University community of any inoperative machines.

The vendor and his employees must maintain clean and safety certified equipment

United Bank Response: United Bank accepts the requirements as described.

4.2.2.7. Mandatory Requirement 7: Operation Requirements, General Services and Machine Specifications

The vendor will be required to provide all equipment needed for the day-to-day operations of the ATM services. If the vendor is given access to or use of any University owned items or equipment, the vendor must not relocate, destroy, or alter University property, and must have prior written permission by the University to process the surplus of any University owned property.

All ATM services machines on campus must be of adequate size and capacity for the intended use. The equipment should be of modular design and be the same height and color to give uniformity of appearance, except otherwise mutually agreed upon in writing by the University and the vendor.

The design specifications must meet all federal, state, county, city and University regulations and laws applicable to the signage, design and safety standards of these agencies.

In that the University desires to maintain state-of-the-art ATM services equipment, the University will request that all ATM services machines installed at the commencement of this Agreement, or replacement equipment, be state-of-the-art unless otherwise agreed upon by the University.

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All ATM services machines installed will be brought to the University fully assembled with any approved signage (i.e., Braille, discounts, machine numbers, etc.) and ready for electrical connections.

Vendor's ATM equipment must meet all applicable legal requirements for accessibility by the disabled, including without limitation, the Americans with Disabilities Act.

United Bank Response: United Bank accepts the requirements as described.

4.2.2.8. Mandatory Requirement 8: Communication Requirements

The vendor will maintain a channel of communication to discuss any changes in activity, applicable marketing plan(s), and any routine analysis or recommendations.

There will be direct communication between the vendor to the University community in advance of any changes or rescheduling of operating hours or services which impact the University.

The vendor may have the opportunity to provide information to be posted to the Student Center website to inform the University community of its services. This information will be published in accordance with the policies and procedures of the University.

The University will inform the vendor as to any pertinent information, such as University policies concerning inclement weather, procedures for delivery of services, etc.

Advertisements or logos for use must meet with written approval of the University. Advertisements, services (i.e., sale of postage stamps) or logos posted or for use as an additional service of the ATM services must meet with the written approval of the University. For any other advertisements or services than those which are initiated by the University will require a separate written agreement with a negotiated commission rate. All licensing and trademark item promotions are subject to approval through the University.

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The vendor will inform the University as to the removal of vendor's property in order to insure customer service options and notification.

The vendor must provide and routinely update the University as to changes in ownership, business operations, construction or renovation plans, and/or as to any pertinent changes or occurrences with the vendor.

The vendor will advise the University as to property damage and/or theft or any safety hazard and will contact the designated University Representative who will contact the appropriate departments, such as Marshall University Office of Public Safety.

United Bank Response: United Bank accepts the requirements as described.

4.2.2.9. Mandatory Requirement 9: ATM Security

University will permit the Vendor to install telecommunication lines to connect Vendor's alarm system to its ATMs located on University's Campus.

United Bank Response: United Bank accepts the requirements as described.

4.2.2.10. Mandatory Requirement 10: User Access to ATMs

University retains the exclusive right to determine both the hours and days that customer access to ATM sites will be permitted. Access to an ATM will be available to customers during the normal business days and hours of the building in which the ATM is located, or (ii) in the case of an ATM accessible without entering the interior of a building, during all days and hours that the pertinent portion of Campus is open for public use. University approval must be obtained for the exact location of each ATM and any modifications to the areas surrounding each ATM.

United Bank Response: United Bank accepts the requirements as described.

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4.3. Qualifications and Experience:

Vendor should provide information and documentation regarding its qualifications and experience in providing services or solving problems like those requested in this RFP. Information and documentation should include, but is not limited to, copies of any staff certifications or degrees applicable to this project, proposed staffing plans, descriptions of past projects completed (descriptions should include the location of the project, project manager name and contact information, type of project, and what the project goals and objectives were and how they were met.), references for prior projects, and any other information that vendor deems relevant to the items identified as desirable or mandatory below.

United Bank Response:

4.3.1. Qualification and Experience Information:

Vendor should describe in its proposal how it meets the desirable qualification and experience requirements listed below.

4.3.1.1. Mandatory Requirement 1 - Proposed Management Structure, Operations and Services

4.3.1.1.1 Provide a complete listing of positions, including full-time and part-time positions, and an organizational chart including each position for the staffing to be maintained in the operating of the ATM services.

United Bank Response: See attached United Bank ATM Organization Chart

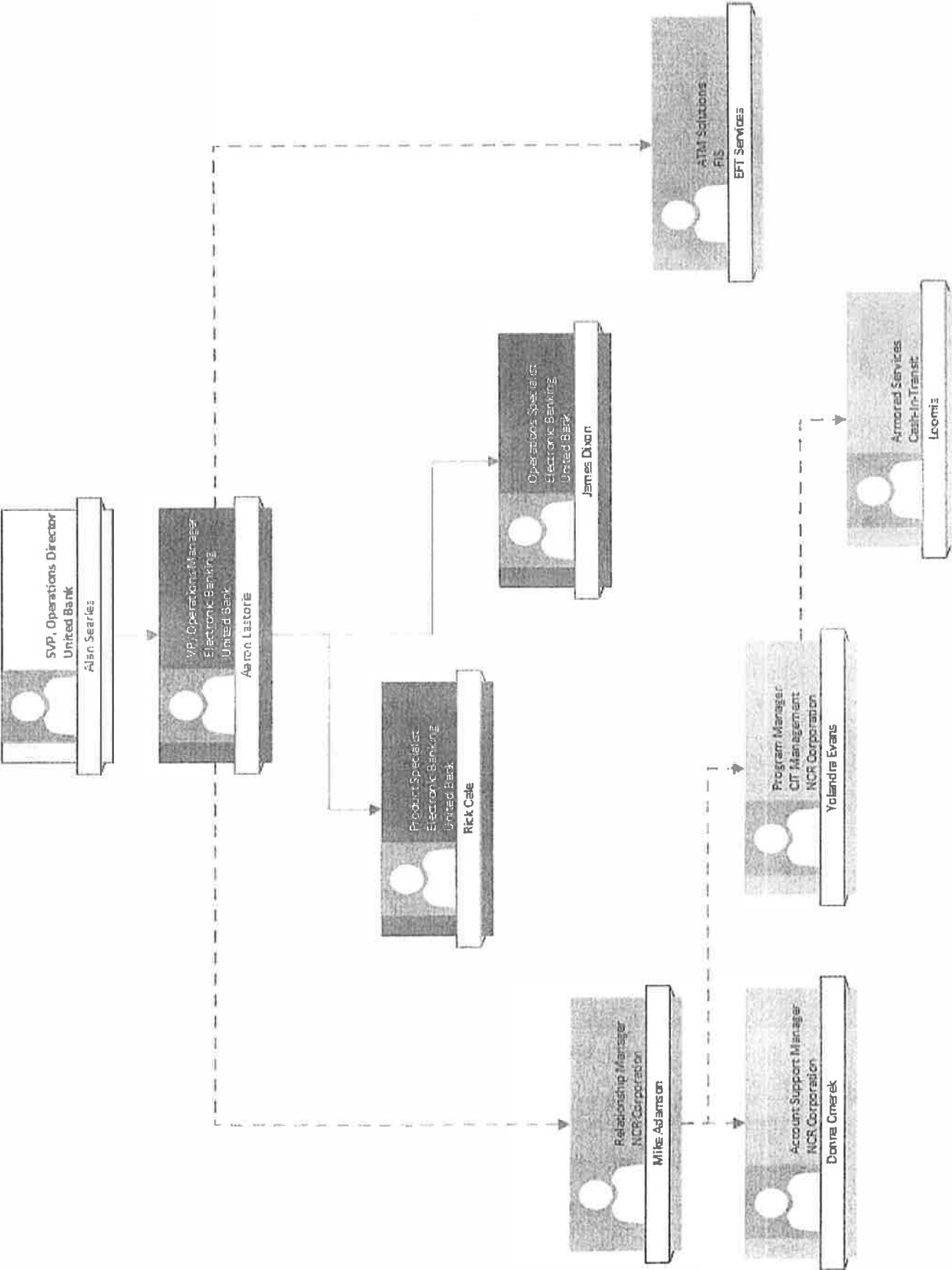
4.3.1.1.2 Describe the criteria for general hiring including screening, criminal background checks, or any other means of verification or employee information, or explain other means of ensuring the integrity and suitability of the vendor's employees.

United Bank Response: All pre-screened applicants must pass credit, background, reference checks and employment verification.

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4.3.1.1.3 Describe training and development of both full-time and part-time personnel (i.e., students or temporary/contracted personnel) regarding the vendor's mission and goals as to customer service, equipment, rush periods, policies and procedures, or any other deemed general training for in-person and telephone responses.

United Bank Response: All employees receive education and reinforcement on the company mission, values, and customer service expectations through ongoing company communications and required annual training. Employees are also required to review company policy and procedure changes on an annual basis.



MARSHALL UNIVERSITY

GENERAL TERMS AND CONDITIONS

1. CONTRACTUAL AGREEMENT: Issuance of an Award Document constitutes acceptance of this contract (the Contract) made by and between Marshall University (University or Marshall) and the Vendor. Vendor's signature to the Contract signifies Vendor's agreement to be bound by and accept the terms and conditions contained in the Contract. Therefore, the parties agree that the following contractual terms and conditions are dominate over any competing terms made a part of the Contract. **IN THE EVENT OF ANY CONFLICT BETWEEN VENDOR'S FORM(S) AND THESE GENERAL TERMS AND CONDITIONS, THESE GENERAL TERMS AND CONDITIONS SHALL CONTROL**

2. DEFINITIONS: As used in this Solicitation/Contract, the following terms shall have the meanings attributed to them below. Additional definitions may be found in the specifications, if applicable, included with the Solicitation/Contract.

21 "Award Document" means the document that identifies the Vendor as the Contract holder when signed by the Vendor and Marshall University's Office of Purchasing and, when necessary, approved as to form by the Attorney General.

22 "Bid" or "Proposal" means the Vendor's verbal bid or written bid provided in response to a solicitation by the University.

23 "Board" means the Governing Board of Marshall University.

24 "Buyer" means an individual designated by a Chief Procurement Officer to perform designated purchasing and acquisition functions as authorized by the Chief Procurement Officer.

25 "Chief Procurement Officer" means the individual designated by the President of Marshall University to manage, oversee and direct the purchasing and acquisition of supplies, equipment, services, and printing for the University.

26 "Contract" means the binding agreement that is entered between the University and the Vendor to provide requested goods and/or services requested in the Solicitation.

27 "Governing Board" means the Marshall University Board of Governors as provided for in the West Virginia state code.

28 "Higher Education Institution" means an institution as defined by Sections 401(f), (g) and (h) of the federal Higher Education Facilities Act of 1963, as amended.

29 "Office of Purchasing" means the section within Marshall University headed by the Chief Procurement Officer and its personnel.

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210 "Purchasing Card" or "P-Card" means The State of West Virginia's Purchasing Card program, administered under contract by a banking institution, processes payment for goods and services through state designated credit cards.

211 "Responsible Bidder" and "Responsible Vendor" mean a person and/or vendor who have the capability in all respects to perform contract requirements, and the integrity and reliability which will assure good faith performance.

212 "Responsive Bidder" and "Responsive Vendor" mean a person and/or a vendor who has submitted a bid which conforms in all material respects to the invitation to bid.

213 "Solicitation" means the notice of an opportunity to supply the University with goods and services.

214 "State" means the State of West Virginia and/or any of its agencies, commissions, boards, departments or divisions as context requires.

215 "University" means Marshall University or Marshall.

216 "Vendor" or "Vendors" means any entity providing either a verbal or written bid in response to the solicitation, the entity that has been selected as the lowest responsible bidder, or the entity that has been awarded the Contract as context requires.

217 "Will", "Shall" and "Must" identifies a mandatory item or requirement that concludes the duty, obligation or requirement imposed is mandatory, as opposed to being directory or permissive.

3. CONTRACT TERM; RENEWAL; EXTENSION: The term of the Contract shall be determined in accordance with the category that has been identified as applicable to the Contract below:

☒ **Term Contract**

Initial Contract Term: The Contract becomes effective on _____ up on award _____ and extends for a period of one (1) year(s).

Renewal Term: The Contract may be renewed upon the mutual written consent of the University and the Vendor. Any request for renewal should be submitted to the University thirty (30) days prior to the expiration date of the initial contract term or appropriate renewal term. A Contract renewal shall be in accordance with the terms and conditions of the original contract. Renewal of the Contract is limited to nine (9) years successive one (1) year periods or multiple renewal periods of less than one year, provided that the multiple renewal periods do not exceed 108 months in total. Automatic renewal of the Contract is prohibited.

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Any language that seeks to automatically renew, modify, or extend the Contract beyond the initial term or automatically continue the Contract period from term to term is deleted. The Contract may be renewed or continued only upon mutual written agreement of the Parties.

☐ **Alternate Renewal Term** – This contract may be renewed for _____ successive _____ year periods or shorter periods provided that they do not exceed the total number of months contained in all available renewals. Automatic renewal of this Contract is prohibited. Renewals must be approved by the Vendor and Agency.

☐ **Fixed Period Contract:** The Contract becomes effective upon Vendor's receipt of the notice to proceed and must be completed within _____ days.

☐ **Fixed Period Contract with Renewals:** The Contract becomes effective upon Vendor's receipt of the notice to proceed and part of the Contract must be completed within _____ days. Upon completion, the Vendor agrees that maintenance, monitoring, or warranty services will be provided for _____ successive one-year periods or multiple periods of less than one year provided that the multiple renewal periods do not exceed _____ months in total.

☐ **One-Time Purchase:** The term of the Contract shall run from the issuance of the Award Document until all the goods contracted for have been delivered, but in no event, will the Contract extend for more than one fiscal year.

☐ **Other:** See attached.

4. NOTICE TO PROCEED: Vendor shall begin performance of the Contract immediately upon receiving notice to proceed unless otherwise instructed by the University. Unless otherwise specified, the fully executed Award Document will be considered notice to proceed.

5. QUANTITIES: The quantities required under the Contract shall be determined in accordance with the category that has been identified as applicable to the Contract below.

☐ **Open End Contract:** Quantities stated in the solicitation are approximations only, based on estimates supplied by the University. It is understood and agreed that the Contract shall cover the quantities ordered for delivery during the term of the Contract, whether more or less than the quantities shown.

☒ **Service:** The scope of the service to be provided will be more clearly defined in the specifications included herewith.

☐ **Combined Service and Goods:** The scope of the service and deliverable goods to be provided will be more clearly defined in the specifications included herewith.

- ☐ **One-Time Purchase:** The Contract is for the purchase of a set quantity of goods that are identified in the specifications included herewith. Once those items have been delivered, no additional goods may be procured under the Contract without an appropriate change order approved by the Vendor, University, and/or when necessary, the Attorney General's office.

6. EMERGENCY PURCHASES: The Chief Procurement Officer may suspend the use of a university wide mandatory contract (the University's Office of Purchasing has created standard specifications that are establish University wide contracts for commonly used commodities and services that are needed on a repetitive basis), or the competitive bidding process to allow a Department to purchase goods or services in the open market if for immediate or expedited delivery in an emergency.

Emergencies shall include, but are not limited to, delays in transportation or an unanticipated increase in the volume of work, provided that a required University emergency purchase with another vendor does not cause a breach of contract.

7. REQUIRED DOCUMENTS: All the items checked below must be provided to the University by the Vendor as specified below.

- ☐ **PERFORMANCE BOND:** The Vendor shall provide a performance bond in the amount of _____ . The performance bond must be received by the University prior to Contract award. On construction contracts, the performance bond must be 100% of the Contract value.

- ☐ **LABOR/MATERIAL PAYMENT BOND:** The Vendor shall provide a labor/material payment bond in the amount of 100% of the Contract value. The labor/material payment bond must be delivered to the Marshall University Office of Purchasing Office prior to Contract award.

- ☐ **MAINTENANCE BOND:** The successful Vendor shall provide a two (2) year maintenance bond covering the roofing system. The maintenance bond must be issued and delivered to the University prior to Contract award.

- ☐ **LICENSE(S) / CERTIFICATIONS / PERMITS:** In addition to anything required under the Section entitled Licensing, of the General Terms and Conditions, the Vendor shall furnish proof of the following licenses, certifications, and/or permits prior to Contract award, in a form acceptable to the University.

INSERT ADDITIONAL CONDITIONS BELOW:

- ☒ Compliance with the WV Division of Financial Institutions Bank ATM Installation and Operation Guidelines

The apparent successful Vendor shall also furnish proof of any additional licenses or certifications prior to Contract award regardless whether that requirement is listed above.

8. INSURANCE: The Vendor shall furnish proof of the insurance identified by a checkmark below prior to Contract award. Subsequent to contract award, and prior to the insurance expiration date, Vendor shall provide the University with proof that the insurance mandated herein has been continued. Vendor must also provide with immediate notice of any changes in its insurance policies mandated herein, including but not limited to, policy cancelation, policy reduction, or change in insurers. The insurance coverages identified below must be maintained throughout the life of the contract. The Vendor shall also furnish proof of any additional insurance requirements prior to the Contract award regardless of whether that insurance requirement is listed in this section.

Any provisions requiring the University to maintain any type of insurance for either of its or the Vendors benefit is deleted.

Vendor must maintain:

☐ **Commercial General Liability Insurance** in at least an amount sufficient in accordance with industry standards.

☐ **Automobile Liability Insurance** in at least an amount sufficient in accordance with industry standards.

☒ **Professional/Malpractice/Errors and Omission Insurance** in at least an amount sufficient in accordance with industry standards.

☐ **Commercial Crime and Third-Party Fidelity Insurance** in an amount of:

_____ per occurrence and an aggregate of _____.

☒ **Cyber Liability Insurance** in an amount at least sufficient in accordance with industry standards. Coverage shall be sufficiently broad to respond to the duties and obligations as is undertaken by Vendor in performance of the Contract and shall include, but not limited to, claims involving infringement of intellectual property, including but not limited to infringement of copyright, trademark, trade dress, invasion of privacy violations, information theft, damage to or destruction of electronic information, release of private information, alteration of electronic information, extortion and network security. The policy shall provide coverage for breach response costs as well as regulatory fines and penalties as well as credit monitoring expenses with limits sufficient to respond to these obligations.

☐ **Builders Risk Insurance** in an amount equal to 100% of the amount of the Contract.
_____ per occurrence and an aggregate of _____.

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9. WORKERS' COMPENSATION INSURANCE: The apparent successful Vendor shall comply with laws relating to workers compensation, shall maintain workers' compensation insurance when required, and shall furnish proof of workers' compensation insurance upon request.

10. LIQUIDATED DAMAGES: This clause shall in no way be considered exclusive and shall not limit the University's right to pursue any other available remedy. Vendor shall pay liquidated damages in the amount specified below or as described in the specifications:

☐ _____ for _____

Liquidated Damages Contained in the Specifications

11. ACCEPTANCE: Vendor's signature on the certification and signature page, constitutes an offer to the University that cannot be unilaterally withdrawn, signifies that the product or service proposed by Vendor meets the mandatory requirements for that product or service, unless otherwise indicated, and signifies acceptance of the terms and conditions unless otherwise indicated.

12. STATUTE OF LIMITATIONS - Any clauses limiting the time in which the State may bring suit against the Vendor or any other third party are deleted.

13. PRICING/BEST PRICE GUARANTEE: The pricing set forth herein is firm for the life of the Contract, unless specified elsewhere within this Solicitation by the University. A Vendor's inclusion of price adjustment provisions in its bid, without an express authorization in the Solicitation to do so, may result in bid disqualification. Notwithstanding the foregoing, Vendor must extend any publicly advertised sale price to the University and invoice at the lower of the contract price or the publicly advertised sale price.

14. PAYMENT IN ARREARS: Payments for goods/services will be made in arrears only upon receipt of a proper invoice, detailing the goods/services provided or receipt of the goods/services, whichever is later. Notwithstanding the foregoing, payments for software licenses, subscriptions, or maintenance may be paid annually in advance.

15. PAYMENT METHODS: The Vendor must accept payment by electronic funds transfer or P-Card for payment of all orders under this Contract unless the box below is checked.

Vendor is not required to accept the State of West Virginia's P-Card or by electronic funds transfer as payment for all goods and services for the reason(s) stated below:

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16. ADDITIONAL FEES: Vendor is not permitted to charge additional fees or assess additional charges that were not either expressly included in the unit price or lump sum bid amount that Vendor is required by the solicitation to provide. Requesting such fees or charges be paid after the contract has been awarded may result in cancellation of the contract. Any references contained in the Contract, Vendor's bid, or in any American Institute of Architects documents obligating the University to pay to compensate Vendor, in whole or in part, for lost profit, pay a termination fee, pay liquidated damages if the Contract is terminated early, seeking to accelerate payments in the event of Contract termination, default, or non-funding, costs of collection, court costs, or attorney's fees, unless ordered by a court of competent jurisdiction is hereby deleted. Any language imposing and interest or charges due to late payment is deleted.

17. FEES OR COSTS: Any language obligating the State to pay costs of collection, court costs, or attorney's fees, unless ordered by a court of competent jurisdiction is deleted.

18. RISK SHIFTING: Any provision requiring the State to bear the costs of all or a majority of business/legal risks associated with this Contract, to indemnify the Vendor, or hold the Vendor or a third party harmless for any act or omission is hereby deleted.

19. LIMITING LIABILITY: Any language limiting the Vendor's liability for direct damages is deleted.

20. TAXES: The Vendor shall pay any applicable sales, use, personal property or other taxes arising out of the Contract and the transactions contemplated hereby. The University is exempt from federal and state taxes and will not pay or reimburse such taxes. The University will, upon request, provide a tax-exempt certificate to confirm its tax-exempt status.

21. FISCAL YEAR FUNDING: The Contract shall continue for the term stated herein, contingent upon funds being appropriated by the WV Legislature or otherwise being made available for this Contract. In the event funds are not appropriated or otherwise available, the Contract becomes of no effect and is null and void after June 30 of the current fiscal year. If that occurs, the University may notify the Vendor that an alternative source of funding has been obtained and thereby avoid the automatic termination. Non-appropriation or non-funding shall not be considered an event of default.

22. CANCELLATION/RIGHT TO TERMINATE: The University reserves the right to cancel/terminate the Contract immediately upon written notice to the Vendor if the materials or workmanship supplied do not conform to the specifications contained in the Contract. The University may also cancel any purchase or Contract upon thirty (30) days written notice to the Vendor. In the event of early cancellation, the University agrees to pay the Vendor only for all undisputed services rendered or goods received before the termination's effective date. All provisions are delete that seek to require the State to (1) compensate Vendor, in whole or in part, for loss profit, (2) pay a termination fee, or (3) pay liquidated damages if the Contract is terminated early.

In the event that a vendor fails to honor any contractual term or condition, the Chief Procurement Officer may cancel the contract and re-award the contract to the next lowest responsible and responsive bidder in accordance with the Marshall University Board of Governors Policy No. FA-9 Purchasing Policy, section 7.4.1

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Any language seeking to accelerate payments in the event of Contract termination, default or non-funding is hereby deleted.

23. RIGHT OF FIRST REFUSAL Any language seeking to give the Vendor a Right of First Refusal is hereby deleted.

24. DISPUTES – Any language binding the University to any arbitration or to the decision of any arbitration board, commission, panel or other entity is deleted; as is any requirement to waive a jury trial.

Any language requiring or permitting disputes under this Contract to be resolved in the courts of any state other than the State of West Virginia is deleted. All legal actions for damages brought by Vendor against the University shall be brought in the West Virginia Legislative Claims Commission. Other causes of action must be brought in the West Virginia Court authorized by statute to exercise jurisdiction over it.

Any language requiring the State to agree to, or be subject to, any form of equitable relief not authorized by the Constitution or laws of State of West Virginia is deleted.

25. TIME: Time is of the essence with regard to all matters of time and performance in the Contract.

26. DELIVERY -All deliveries under the Contract will be FOB destination unless the State expressly and knowingly agrees otherwise. Any contrary delivery terms are hereby deleted.

27. APPLICABLE LAW: The Contract is governed by and interpreted under West Virginia law without giving effect to its choice of law principles. Any information provided in specification manuals, or any other source, verbal or written, which contradicts or violates the West Virginia Constitution, W. Va. Code or Marshall University Board of Governors Policy No. FA-9 Purchasing Policy is void and of no effect. Any language requiring the application of the law of any state other than the State of West Virginia in interpreting or enforcing the Contract is deleted. The Contract shall be governed by the laws of the State of West Virginia

28. COMPLIANCE WITH GOVERNING LAWS: Vendor shall comply with all applicable federal, state, and local laws, regulations and ordinances. By submitting a bid, Vendor acknowledges that it has reviewed, understands, and will comply with all applicable laws, regulations, and ordinances. Vendor shall notify all subcontractors providing commodities or services related to this Contract that, as subcontractors, they too are required to comply with all applicable laws, regulations, and ordinances.

29. ARBITRATION: Any references made to arbitration contained in the Contract, Vendor's bid, or in any American Institute of Architects documents pertaining to the Contract are hereby deleted, void, and of no effect.

30. MODIFICATIONS: Notwithstanding anything contained in the Contract to the contrary, no modification of the Contract shall be binding without mutual written consent of the University, and the Vendor.

31. AMENDMENTS - The parties agree that all amendments, modifications, alterations or changes to the Contract shall be by mutual agreement, in writing, and signed by both parties. Any language to the contrary is deleted.

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32. NO WAIVER: The failure of either party to insist upon a strict performance of any of the terms or provision of the Contract, or to exercise any option, right, or remedy herein contained, shall not be construed as a waiver or a relinquishment for the future of such term, provision, option, right, or remedy, but the same shall continue in full force and effect. Any waiver must be expressly stated in writing and signed by the waiving party.

Any provisions requiring the University to waive any rights, claims or defenses is hereby deleted.

33. SUBSEQUENT FORMS: The terms and conditions contained in the Contract shall supersede any and all subsequent terms and conditions which may appear on any form documents submitted by Vendor to the University such as price lists, order forms, invoices, sales agreements, or maintenance agreements, and includes internet websites or other electronic documents. Acceptance or use of Vendor's forms does not constitute acceptance of the terms and conditions contained thereon.

34. ASSIGNMENT: Neither the Contract nor any monies due, or to become due hereunder, may be assigned by the Vendor without the express written consent of the University and any other government or office that may be required to approve such assignments.

The Vendor agrees not to assign the Contract to any person or entity without the State's prior written consent, which will not be unreasonably delayed or denied. The State reserves the right to assign this Contract to another State agency, board or commission upon thirty (30) days written notice to the Vendor. These restrictions do not apply to the payments made by the State. Any assignment will not become effective and binding upon the State until the State is notified of the assignment, and the State and Vendor execute a change order to the Contract.

35. WARRANTY: The Vendor expressly warrants that the goods and/or services covered by the Contract will: (a) conform to the specifications, drawings, samples, or other description furnished or specified by the University; (b) be merchantable and fit for the purpose intended; and (c) be free from defect in material and workmanship.

36. UNIVERSITY EMPLOYEES: University employees are not permitted to utilize the Contract for personal use and the Vendor is prohibited from permitting or facilitating the same.

37. PRIVACY, SECURITY, AND CONFIDENTIALITY: The Vendor agrees that it will not disclose to anyone, directly or indirectly, any such personally identifiable information or other confidential information gained from the University, unless the individual who is the subject of the information consents to the disclosure in writing or the disclosure is made pursuant to the University's policies, procedures, and rules.

Proposals are NOT to be marked as confidential or proprietary Any Provisions regarding confidential treatment or non-disclosure of the terms and conditions of the Contract are hereby deleted. State contracts are public records under the West Virginia Freedom of Information Act ("FOIA") (W.Va. Code §29B-1-1, et. seq.) and public procurement laws. This Contract and other public records may be disclosed without notice to the vendor at the University's sole discretion. The University shall not be liable in any way for disclosure of any such records

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Any provisions regarding confidentiality of or non-disclosure related to contract performance are only effective to the extent they are consistent with FOIA and incorporated into the Contract through a separately approved and signed non-disclosure agreement.

38. YOUR SUBMISSION IS A PUBLIC DOCUMENT: Vendor's entire response to the Solicitation and the resulting Contract are public documents. As public documents, they will be disclosed to the public following the bid/proposal opening or award of the contract, as required by the competitive bidding laws of W. Va. Code §18B-5-4 and the Freedom of Information Act in W.Va. Code Chapter 29B.

**DO NOT SUBMIT MATERIAL YOU CONSIDER TO BE CONFIDENTIAL,
CONTAINING A TRADE SECRET(S), OR IS OTHERWISE NOT SUBJECT TO
PUBLIC DISCLOSURE.**

Submission of any bid, proposal, or other document to the Marshall University Office of Purchasing constitutes your explicit consent to the subsequent public disclosure of the bid, proposal, or document.

39. LICENSING: Vendor must be licensed and in good standing in accordance with any and all state and local laws and requirements by any state or local University 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 University or political subdivision. Upon request, the Vendor must provide all necessary releases to obtain information to enable the University to verify that the Vendor is licensed and in good standing with the above entities.

40. ANTITRUST: In submitting a bid to, signing a contract with, or accepting an Award Document from Marshall University, the Vendor agrees to convey, sell, assign, or transfer to the University 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 Marshall University. Such assignment shall be made and become effective at the time the University tenders the initial payment to Vendor.

41. THIRD-PARTY SOFTWARE: If this Contract contemplates or requires the use of third-party software, the vendor represents that none of the mandatory click-through, unsigned, or web-linked terms and conditions presented or required before using such third-party software conflict with any term of this Addendum or that is has the authority to modify such third-party software's terms and conditions to be subordinate to this Addendum. The Vendor shall indemnify and defend the State against all claims resulting from an assertion that such third-party terms and conditions are not in accord with, or subordinate to, this Addendum.

42. RIGHT TO REPOSSESSION NOTICE: Any provision for repossession of equipment without notice is hereby deleted. However, the State does recognize a right of repossession with notice.

43. VENDOR CERTIFICATIONS: By signing its bid or entering into the Contract, Vendor certifies (1) that its bid or offer was made without prior understanding, agreement, or connection with any corporation, firm, limited liability company, partnership, person or entity submitting a bid or offer for the same material, supplies, equipment or services; (2) that its bid or offer is in all respects fair and without collusion or fraud; (3) that the Contract is accepted or entered into without any prior understanding, agreement, or connection to any other entity

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that could be considered a violation of law; and (4) that it has reviewed the Contract in its entirety; understands the requirements, terms and conditions, and other information contained herein. Vendor's signature on its bid or offer also affirms that neither it nor its representatives have any interest, nor shall acquire any interest, direct or indirect, which would compromise the performance of its services hereunder. Any such interests shall be promptly presented in detail to the University. The individual signing this bid or offer on behalf of Vendor certifies that he or she is authorized by the Vendor to execute this bid or offer or any documents related thereto on Vendor's behalf; that he or she is authorized to bind the Vendor in a contractual relationship; and that, to the best of his or her knowledge, the Vendor has properly registered with the all State agencies as required.

44. VENDOR RELATIONSHIP: The relationship of the Vendor to the University shall be that of an independent contractor and no principal-agent relationship or employer-employee relationship is contemplated or created by the Contract. The Vendor as an independent contractor is solely liable for the acts and omissions of its employees and agents. Vendor shall be responsible for selecting, supervising, and compensating any and all individuals employed pursuant to the terms of this Solicitation and resulting contract. Neither the Vendor, nor any employees or subcontractors of the Vendor, shall be deemed to be employees of the University for any purpose whatsoever. Vendor shall be exclusively responsible for payment of employees and contractors for all wages and salaries, taxes, withholding payments, penalties, fees, fringe benefits, professional liability insurance premiums, contributions to insurance and pension, or other deferred compensation plans, including but not limited to, Workers' Compensation and Social Security obligations, licensing fees, etc. and the filing of all necessary documents, forms, and returns pertinent to all of the foregoing. Vendor shall hold harmless the State, and shall provide the State and University with a defense against any and all claims including, but not limited to, the foregoing payments, withholdings, contributions, taxes, Social Security taxes, and employer income tax returns.

45. INDEMNIFICATION: The Vendor agrees to indemnify, defend, and hold harmless the State and the University, their officers, and employees from and against: (1) Any claims or losses for services rendered by any subcontractor, person, or firm performing or supplying services, materials, or supplies in connection with the performance of the Contract; (2) Any claims or losses resulting to any person or entity injured or damaged by the Vendor, its officers, employees, or subcontractors by the publication, translation, reproduction, delivery, performance, use, or disposition of any data used under the Contract in a manner not authorized by the Contract, or by Federal or State statutes or regulations; and (3) Any failure of the Vendor, its officers, employees, or subcontractors to observe State and Federal laws including, but not limited to, labor and wage, and hour laws.

46. PURCHASING AFFIDAVIT: In accordance with West Virginia Code §18B-5-5 and §5A-3-18 the University is prohibited from awarding a contract to any bidder that owes a debt to the State or a political subdivision of the State, Vendors are required to sign, notarize, and submit the Purchasing Affidavit to the Marshall University Office of Purchasing affirming under oath that it is not in default on any monetary obligation owed to the state or a political subdivision of the state.

47. WEST VIRGINIA DRUG-FREE WORKPLACE CONFORMANCE AFFIDAVIT West Virginia Alcohol and Drug-Free Workplace Act requires public improvement contractors to have and implement a drug-free workplace policy that requires drug and alcohol testing. This act is applicable to any construction, reconstruction, improvement, enlargement, painting, decorating or repair of any public improvement let to contract for which the value of contract is over \$100,000. No public authority may award a public improvement contract which is to be let to bid to a contractor unless the terms of the contract require the

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contractor and its subcontractors to implement and maintain a written drug-free workplace policy and the contractor and its subcontractors provide a sworn statement in writing, under the penalties of perjury, that they maintain a valid drug-free workplace policy.

48. DISCLOSURE OF INTERESTED PARTIES A state agency may not enter into a contract, or a series of related contracts, that has/have an actual or estimated value of \$1,000,000 or more until the business entity submits to the contracting state agency a Disclosure of Interested Parties to the applicable contract.

49. CONFLICT OF INTEREST: Vendor, its officers, members, or employees shall not presently have or acquire an interest, direct or indirect, which would conflict with or compromise the performance of its obligations hereunder. Vendor shall periodically inquire of its officers, members and employees to ensure that a conflict of interest does not arise. Any conflict of interest discovered shall be promptly presented in detail to the University.

50. MARSHALL UNIVERSITY'S INFORMATION TECHNOLOGY SERVICES AND SUPPORT DEPARTMENT (IT) FEES: If a vendor requires services through the Marshall University's IT Department, they must reimburse the University at the IT Rate Schedule which is located at: <https://www.marshall.edu/it/rates/>.

51. PUBLICITY: Vendor shall not, in any way or in any form, publicize or advertise the fact that Vendor is supplying goods or services to the University without the express written consent of the Marshall University Communications Department. Requests should be sent to ucomm@marshall.edu.

52. UNIVERSITY MARKS: Vendor shall not, in any way or in any form use the University's trademarks or other intellectual property without the express written consent of the Marshall University Communications Department. Requests should be sent to ucomm@marshall.edu.

53. INTELLECTUAL PROPERTY: The University 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 the University 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 the University to the extent such intellectual property terms to apply to subcontractors.

54. 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.

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55. REPORTS: Vendor shall provide the University with the following reports identified by a checked box below:

- ☐ Such reports as the University may request. Requested reports may include, but are not limited to, quantities purchased, agencies utilizing the contract, total contract expenditures by University, etc.
- ☐ Quarterly reports detailing the total quantity of purchases in units and dollars, along with a listing of purchases by University.

56. PREFERENCE FOR THE USE OF DOMESTIC STEEL PRODUCTS IN STATE CONTRACT PROJECTS: Pursuant to W.Va. Code §5A-3-56, (a)(1) Except when authorized pursuant to the provisions of subsection (b) of this section, no contractor may use or supply steel products for a state contract project other than those steel products made in the United States. A contractor who uses steel products in violation of this section may be subject to civil penalties pursuant to W.Va. Code §5A-3-56. As used in this section (2):

(A) "State contract project" means any erection or construction of, or any addition to, alteration of or other improvement to any building or structure, including, but not limited to, roads or highways, or the installation of any heating or cooling or ventilating plants or other equipment, or the supply of any materials for such projects, pursuant to a contract with the State of West Virginia for which bids were solicited on or after the effective date of this section on or after June 6, 2001.

(B) "Steel products" means products rolled, formed, shaped, drawn, extruded, forged, cast, fabricated or otherwise similarly processed, or processed by a combination of two or more of such operations, from steel made by the open hearth, basic oxygen, electric furnace, bessemer or other steel making process.

(b) Notwithstanding any provision of subsection (a) of this section to the contrary, the Director of the West Virginia Department of Administration, Purchasing Division ("Director of the Purchasing Division") may, in writing, authorize the use of foreign steel products if:

(1) The cost for each contract item used does not exceed one tenth of one percent of the total contract cost or \$2,500, whichever is greater. For the purposes of this section, the cost is the value of the steel product as delivered to the project; or

(2) The Director of the Purchasing Division determines that specified steel materials are not produced in the United States in sufficient quantity or otherwise are not reasonably available to meet contract requirements.

57. PREFERENCE FOR DOMESTIC ALUMINUM, GLASS AND STEEL PRODUCTS:

In Accordance with W. Va. Code § 5-19-1 et seq.,

(a) Every state spending unit, as defined in chapter five-a, shall require that every contract or subcontract for the construction, reconstruction, alteration, repair, improvement or maintenance of public works or for the purchase of any item of machinery or equipment to be used at sites of public works contain a provision that, if any aluminum, glass or steel products are to be supplied in the performance of the contract, or subcontract, only domestic aluminum, glass or steel products shall be supplied unless the spending officer, as defined in chapter five-a, determines, in writing, after the receipt of offers or bids, that the cost of domestic aluminum, glass or steel products is unreasonable or inconsistent with the public interest or that domestic aluminum, glass or steel products are not produced in sufficient quantities to meet the contract requirements: Provided,

December 2, 2019

That this article applies to any public works contract awarded in an amount more than \$50,000, and with regard to steel only, this article applies to any public works contract awarded in an amount more than \$50,000 or requiring more than ten thousand pounds of steel products.

The cost of domestic aluminum, glass, or steel products may be unreasonable if the cost is more than twenty percent (20%) of the bid or offered price for foreign made aluminum, glass, or steel products. If the domestic aluminum, glass or steel products to be supplied or produced in a “substantial labor surplus area”, as defined by the United States Department of Labor, the cost of domestic aluminum, glass, or steel products may be unreasonable if the cost is more than thirty percent (30%) of the bid or offered price for foreign made aluminum, glass, or steel products.

This preference shall be applied to an item of machinery or equipment, as indicated above, when the item is a single unit of equipment or machinery manufactured primarily of aluminum, glass or steel, is part of a public works contract and has the sole purpose or of being a permanent part of a single public works project. This provision does not apply to equipment or machinery purchased by a spending unit for use by that spending unit and not as part of a single public works project.

All bids and offers including domestic aluminum, glass or steel products that exceed bid or offer prices including foreign aluminum, glass or steel products after application of the preferences provided in this provision may be reduced to a price equal to or lower than the lowest bid or offer price for foreign aluminum, glass or steel products plus the applicable preference. If the reduced bid or offer prices are made in writing and supersede the prior bid or offer prices, all bids or offers, including the reduced bid or offer prices, will be reevaluated in accordance with this rule.

December 2, 2019

DESIGNATED CONTACT: Vendor appoints the individual identified in this Section as the Contract Administrator and the initial point of contact for matters relating to the Contract.

Andrew Dawson, Market President

(Name, Title)

Andrew Dawson, Market President

(Printed Name and Title)

517 9th Street, Huntington, WV 25701

(Address)

307-781-2379

(Phone Number)

(Fax Number)

Andrew.Dawson@bankwithunited.com

(Email Address)

CERTIFICATION AND SIGNATURE: By signing below, or submitting documentation through BONFIRE, I certify that I have reviewed this Solicitation in its entirety; that I understand the requirements, terms and conditions, and other information contained herein; that this bid, offer or proposal constitutes an offer to Marshall University that cannot be unilaterally withdrawn; that the product or service proposed meets the mandatory requirements contained in the Solicitation for that product or service, unless otherwise stated herein; that the Vendor accepts the terms and conditions contained in the Solicitation, unless otherwise stated herein; that I am submitting this bid, offer or proposal for review and consideration; that I am authorized by the Vendor to execute and submit this bid, offer, or proposal, or any documents related thereto on Vendor's behalf; that I am authorized to bind the Vendor in a contractual relationship; and that to the best of my knowledge, the Vendor will properly register with the WV Purchasing Division and Marshall University.

United Bank

(Company)

(Authorized Signature)

Andrew Dawson, Market President

(Printed Name and Title of Authorized Representative)

7/20/2020


(Date)

304-781-2379

(Phone Number)

(Fax Number)

December 2, 2019

Request for Proposal		 Marshall University Office of Purchasing One John Marshall Drive Huntington, WV 25755-4100 Direct all inquiries regarding this order to: (304) 696-2599		Proposal #	
				MU20ATM Addendum No. 05	
Vendor		Phone:		For Information Contact:	
				Angela White Negley 304-696-2599 Negley4@marshall.edu and purchasing@marshall.edu	
FEIN/SSN:					
Sealed requests for proposals furnishing services described below will be received by the Institution. TO RECEIVE CONSIDERATION FOR AWARD, UNLESS OTHERWISE NOTED, THE PROPOSAL WILL BE SUBMITTED IN BONFIRE ON OR BEFORE THE DATE AND TIME SHOWN FOR THE PROPOSAL OPENING. The Institution reserves the right to accept or reject proposals separately or as a whole, to reject any or all proposals, to waive informalities or irregularities and to contract as the best interests of the Institution may require. PROPOSALS ARE SUBJECT TO THE GENERAL TERMS AND CONDITIONS AS SET FORTH HEREIN.					
DATE 7/6/20		MANDATORY PRE-BID MEETING N/A		DEPARTMENT REQUISITION NO. MU20ATM	
				Proposals Open: 7/20/20 at 3:00p.m., LPT. Broadcast via Zoom at the following link: https://marshall.zoom.us/j/91895201590	
				BIDDER MUST ENTER DELIVERY DATE FOR EACH ITEM BID	
Item #	Quantity	Description			Unit Price
		<u>ADDENDUM No. 05</u> Project Name: MU20ATM Automated Teller Machines Contract The purpose of Addendum No. 05 is to move the virtual bid opening date to Monday, July 20, 2020, at 3:00 p.m., LPT.			
					Total

To the Purchasing Department,

In compliance with the above, the undersigned offers and agrees, if this offer is accepted within _____ calendar days (30 calendar days unless a different period is inserted by the purchaser) from the bid open date, specified above, to furnish any or all items upon which prices are offered, at the price set opposite each item, delivered at the designated point(s), within the time specified.

Bidder guarantees shipment from _____

within _____ days

FOB _____ After receipt of order at address shown

Terms _____

Bidder's name Vendor United BankSigned By [Signature]Typed Name Andrew DawsonTitle Market PresidentStreet Address 517 9th St.City/State/Zip Huntington WV 25701Date 7-20-20 Phone 304-791-2379Fein 55-0641179

SOLICITATION NUMBER: MU20ATM
Automated Teller Machines Contract

Addendum Number: No. 05

The purpose of this addendum is to modify the solicitation identified as ("Solicitation") to reflect the change(s) identified and described below.

Applicable Addendum Category:

- ☒ Modify bid opening date and time
- ☐ Modify specifications of product or service being sought
- ☐ Attachment of vendor questions and responses
- ☐ Attachment of pre-bid sign-in sheet
- ☐ Correction of error
- ☐ Other

Description of Modification to Solicitation:

Addendum issued to publish and distribute the attached documentation to the vendor community.

1. To move the bid opening date to Monday, July 20, 2020, at 1:00 p.m., LPT. A virtual bid opening will be held via Zoom and instructions are included in this addendum

NO OTHER CHANGES.

Additional Documentation: Documentation related to this Addendum (if any) has been included herewith and is specifically incorporated herein by reference.

Terms and Conditions:

1. All provisions of the Solicitation and other addenda not modified herein shall remain in full force and effect.
2. Vendor should acknowledge receipt of all addenda issued for this Solicitation by completing an Addendum Acknowledgment, a copy of which is included herewith. Failure to acknowledge addenda may result in bid disqualification. The addendum acknowledgement should be submitted with the bid to expedite document processing.

Attachment A

ADDENDUM ACKNOWLEDGEMENT**FORM SOLICITATION NO.:** Addendum No. 05**MU20ATM Automated Teller Machines Contract**

Instructions: Please acknowledge receipt of all addenda issued with this solicitation by completing this addendum acknowledgment form. Check the box next to each addendum received and sign below. Failure to acknowledge addenda may result in bid disqualification.

Acknowledgment: I hereby acknowledge receipt of the following addenda and have made the necessary revisions to my proposal, plans and/or specifications, etc.

Addendum Numbers Received:

(Check the box next to each addendum received)

- | | |
|--|--|
| <input checked="" type="checkbox"/> Addendum No. 1 | <input type="checkbox"/> Addendum No. 6 |
| <input checked="" type="checkbox"/> Addendum No. 2 | <input type="checkbox"/> Addendum No. 7 |
| <input checked="" type="checkbox"/> Addendum No. 3 | <input type="checkbox"/> Addendum No. 8 |
| <input checked="" type="checkbox"/> Addendum No. 4 | <input type="checkbox"/> Addendum No. 9 |
| <input checked="" type="checkbox"/> Addendum No. 5 | <input type="checkbox"/> Addendum No. 10 |

I understand that failure to confirm the receipt of addenda may be cause for rejection of this bid. I further understand that any verbal representation made or assumed to be made during any oral discussion held between Vendor's representatives and any University personnel is not binding. Only the information issued in writing and added to the specifications by an official addendum is binding.

United Bank
Company

[Signature]
Authorized Signature

7-20-2020
Date

NOTE: This addendum acknowledgment should be submitted with the bid to expedite document processing.

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: United Bank

Authorized Signature: [Signature] Date: 8-28-2020

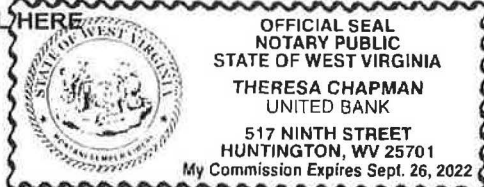
State of West Virginia

County of Cabell, to-wit:

Taken, subscribed, and sworn to before me this 28 day of August, 2020.

My Commission expires Sept 26, 2022, 20 .

AFFIX SEAL HERE



NOTARY PUBLIC

Theresa Chapman

Purchasing Affidavit (Revised 01/19/2018)