

Purchase Order



Direct all inquires regarding this order to: (304) 696-3157

Marshall University
Office of Purchasing
One John Marshall Drive
Huntington WV, 25755-4100

Purchase Order #
MU21PAVING

TO:
Asphalt Contractors and Site Work Inc
20 Dickson Dam Road
Lavalette, WV 25535

FEIN: 02-0564151 PH: (304) 697-2510

Vendor Code:

Ship to:

Room #

THIS ORDER IS SUBJECT TO
THE GENERAL TERMS AND
CONDITIONS AS SET FORTH
HEREIN

WVFIMS Account #:

P.O. Date	FY	Buyer	Ship Via	F.O.B	Terms	Contract #
7/2/2021	22	TD			Net 30	MU21PAVING

CONTRACT ACCEPTANCE

On behalf of the Governing Board, MARSHALL UNIVERSITY
hereby accepts the quotation of Asphalt Contractors and Site Work
Inc.

signed by David M. Jackson

Title General Manager

on June 24, 2021

Approved as to form this N/A day of _____,
West Virginia Attorney General

By: N/A
Chief Counsel

Paving and Asphalt Services
Effective: 8/1/2021 - 7/31/2022
Optional renewals (4)

THIS ORDER IS EXEMPT FROM ALL SALES TAX
LIMIT EACH INVOICE TO A SINGLE PURCHASE ORDER NUMBER

Line No.	Fund	Org.	Account	Encumber Amount
1.	Various	Various	Various	Various
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

Kacey Grandolini 7/2/21

Authorized Signature

Date

Pricing Sheet			
Items	Item Description	Unit	UnitPrice
4.1 Site Preparation			
4.1.1	Earth removal from site	Cubic Yard	\$39.00
4.1.2	Earth fill and compaction from borrow site	Cubic Yard	\$43.00
4.1.3	Excavation of earth remaining on site	Cubic Yard	\$39.00
4.1.4	Fill and compaction of earth excavated from the site	Cubic Yard	\$39.00
4.1.5	Removal and disposal of asphalt pavement	Cubic Yard	\$39.00
4.1.6	Removal and disposal of concrete	Cubic Yard	\$48.00
4.1.7	Placement of topsoil	Ton	\$48.00
4.2 Site Development			
4.2.1	1-50 Tons Aggregate Base	Ton	\$45.00
4.2.2	51-100 Tons Aggregate Base	Ton	\$45.00
4.2.3	101-200 Tons Aggregate Base	Ton	\$45.00
4.2.4	201 Tons and higher Aggregate Base	Ton	\$42.50
4.3 Drainage			
4.3.1	24 inch x 24 inch concrete catch basin	Each Unit	\$1,080.00
4.3.2	4 inch SDR 35 Pipe	Length Foot	\$20.00
4.3.3	6 inch SDR 35 Pipe	Length Foot	\$20.00
4.3.4	8 inch SDR 35 Pipe	Length Foot	\$22.00
4.3.5	12 inch SDR 35 Pipe	Length Foot	\$29.00
4.4 Mobilization Cost			
4.4.1	Mobilization cost for (new paving or complete resurfacing or equipment trucked between sites only)	Each	\$900.00
4.5 Lay Down			
4.5.1	For new lot installation - an application of 2" Base II and 1.5" Wearing I	Ton	\$123.80
4.5.2	Resurfacing or patching of existing pavement	Ton	\$147.32
4.5.3	Pothole patching	Ton	\$263.00
4.6 Finishing			
4.6.1	Furnish and install a 6 inch asphalt curb	Linear Foot	\$39.00
4.6.2	Prepare surface, furnish and apply two coats of asphalt sealer and additives	Square Yard	\$1.68
4.6.3	1-10 blocks: Furnish and install (secured to surface) 6: long concrete bumper blocks	Each Block	\$89.00
4.6.4	11-25 blocks: Furnish and install (secured to surface) 6: long concrete bumper blocks	Each Block	\$90.00
4.6.5	26 or more blocks: Furnish and install (secured to surface) 6: long concrete bumper blocks	Each Block	\$90.00
4.6.6	Layout and stripe with two-coat application to traffic paint	Linear Foot	\$0.58
4.6.7	4 inch long traffic directional arrow	Each Arrow	\$15.00
4.6.8	Curb painting	Linear Foot	\$18.00
4.6.9	Diagonal lines	Linear Foot	\$0.90

Pricing Sheet			
Items	Item Description	Unit	UnitPrice
4.6.10	3' tall HC emblem	Each Emblem	\$22.80
4.6.11	Furnish and place barrier fabric material	Square Yard	\$0.75
4.6.12	Install manhole risers	Ea. Installation	\$250.00
4.6.13	Installation of parking lot signs with poles	Ea. Installation	\$300.00
4.6.14	Installation of designated handicapped parking signs with poles	Ea. Installation	\$300.00
4.6.15	12' H - numbers for the Stadium lot	Each Number	\$11.40

MU21PAVING
Marshall University Department of Public Safety
Repair, Replacement and/or Installation of
Asphalt Parking Lots, Sidewalks and Roadways

SPECIFICATIONS

1. **PURPOSE AND SCOPE:** The Marshall University Office of Purchasing is soliciting bids to establish an open-end Asphalt contract for use on preventive maintenance and repair projects and new parking areas, sidewalks and roadways under the jurisdiction of the University's Office of Public Safety.

Marshall University generally will acquire property, demolish existing structures, (if necessary), and create parking lots. The open-end contract will be used to complete all work on the campus not directly associated with major construction projects. Work in association with major construction may be included at the option of the University. Improvements to existing parking lots will be made, as needed, within the financial resources of the University.

A contract will become effective upon award and extends for one year; however, this contract may be renewed at the same price, terms and conditions of the original contract including any subsequent change orders upon the mutual written consent of the University and the Vendor(s), limited to four successive one-year periods.

2. **DEFINITIONS:** The terms listed below shall have the meanings assigned to them below. Additional definitions can be found in section 2 of the General Terms and Conditions.

2.1 **“Contract Item” or “Contract Items”** means the list of items identified in Section 4.

2.2 **“Pricing Pages/E-Catalog Spreadsheet”** means the schedule of prices attached hereto as Appendix A and used to evaluate the Solicitation responses.

2.3 **“Solicitation”** means the official notice of an opportunity to supply the State with goods or services.

2.4 **“WVDOH”** used throughout this Solicitation means the West Virginia Division of Highways.

2.5 **“MP” and/or “MCS&T”** used throughout this Solicitation means the Materials Procedures as administered by the WVDOH Materials Control, Soil and Testing Division who perform all procedures necessary with sampling, testing, reporting and inspection of products and materials to maintain a reliable quality assurance system.

Reference:

<http://www.transportation.wv.gov/highways/mcst/Pages/default.aspx>

MU21PAVING

Marshall University Department of Public Safety
Repair, Replacement and/or Installation of
Asphalt Parking Lots, Sidewalks and Roadways

- 2.6 “Asphalt”, “Hot Mix Asphalt” and “HMA”** means “Asphalt” and in any cited sections of the West Virginia Department of Transportation, Division of Highways Standard Specifications, Roads and Bridges, adopted latest Standard Specs edition, including any Supplementals,
- 2.7 “RAP”** means Reclaimed Asphalt Pavement.
- 2.8 “HPTO”** means High Performance Thin Overlay.
- 2.9 “SP”** means Special Provision.
- 2.10 “Contractor” or “Vendor”** means in any sections of the West Virginia Department of Transportation, Division of Highways Standard Specifications, Roads and Bridges, adopted latest Standard Specs edition, including any Supplementals, are interchangeable.
- 2.11 “Standard Specs”** used throughout this Solicitation means the West Virginia Department of Transportation, Division of Highways Standard Specifications, Roads and Bridges, adopted latest Standard Specs edition, including any Supplementals.
- 3. GENERAL REQUIREMENTS:** The successful vendor must coordinate with the Office of Public Safety prior to start of each project to verify required work, parking procedures and safeguards necessary to carry out the work. Prior to final completion of each job, the Office of Public Safety, or their designee, must be contacted for final approval. Undesirable work will be the responsibility of the vendor to correct at their cost.

The vendor will furnish all materials, equipment, transportation, and labor necessary to develop or improve parking lots per the specifications contained herein. All materials and workmanship is to be performed in accordance with West Virginia Department of Transportation, Division of Highways Standard Specifications 2017 Edition and 2019 Supplemental Specifications. In the event of any conflict between the contract documents and referenced Standard requirements, the more stringent, must be used. Prompt service, within ten (10) days of notice to proceed is expected, barring unsuitable weather. Vendor must be responsible for protecting the public from harm by erecting barriers as needed.

Weighing Material Delivered by Truck: Material delivered by truck must be weighed in accordance with section 401.9.3 of the West Virginia Department of Transportation, Division of Highways, Standard Specifications Roads and Bridges 2017 Edition.

Vendor invoices must be submitted with copies of weigh tickets for material delivered

MU21PAVING
Marshall University Department of Public Safety
Repair, Replacement and/or Installation of
Asphalt Parking Lots, Sidewalks and Roadways

during the invoicing period.

4. SPECIFICATIONS:

4.1 Site Preparation: Each site will be excavated to a depth of six inches below existing grade. It is the responsibility of the contractor to dispose of all excavated and unsuitable material in compliance with state and federal regulations. Cost must include the excavation of unsuitable soil, its replacement with satisfactory soil, and that replacement soil placed and compacted per project specifications. Cost must be submitted on a cubic yard basis and use items #1 and #2 for excavation and fill.

Item No. 4.1.1: Earth removal from site per cubic yard.

Item No. 4.1.2: Earth fill and compaction from borrow site per cubic yard.

Item No. 4.1.3: Excavation of earth remaining on site per cubic yard.

Item No. 4.1.4: Fill and compaction of earth excavated from the site per cubic yard.

Item No. 4.1.5: Removal and disposal of asphalt pavement per cubic yard.

Item No. 4.1.6: Removal and disposal of concrete per cubic yard.

Item No. 4.1.7: Placement of topsoil per ton

4.2 Site Development: Contractor must furnish, place and compact aggregate base. WVDOH Section 307, Item 307.1. Cost must be submitted on a per ton basis with breaking points as followed:

Item No. 4.2.1: 1-50 Tons

Item No. 4.2.2: 1-100 Tons

Item No. 4.2.3: 101-200 Tons

Item No. 4.2.4: 201 Tons and higher

4.3 Drainage: An on-site inspection of each area will be conducted with a Marshall University representative from the Public Safety Office. Each area will be reviewed prior to development and/or improvement. Any extraordinary work associated with

MU21PAVING
Marshall University Department of Public Safety
Repair, Replacement and/or Installation of
Asphalt Parking Lots, Sidewalks and Roadways

providing proper drainage for each individual project will be added to this agreement in a change order.

Items #4.1, #4.1.2, #4.1.3 and #4.1.4 from the previous page will be used for excavation and fill for placement, piping and finish of drainage at unit cost.

- Item No. 4.3.1:** Twenty-four (24) inch x twenty-four (24) inch concrete catch basin
- Item No. 4.3.2:** Four (4) inch SDR 35 Pipe - per linear foot
- Item No. 4.3.3:** Six (6) inch SDR 35 Pipe - per linear foot
- Item No. 4.3.4:** Eight (8) inch SDR 35 Pipe - per linear foot
- Item No. 4.3.5:** Twelve (12) inch SDR 35 Pipe - per length foot

4.4 Mobilization Cost: Cost to and from Marshall University should be included in the base cost. On occasion, sites that are not contiguous will need development or improvement. Re- mobilization cost will be paid only for new paving or complete resurfacing, not for patching, pothole, striping, etc. Moving equipment from one site to another will not be considered as mobilization unless that equipment must be trucked between sites.

- Item No. 4.4.1:** Mobilization - insert unit of measure into the price sheet.

4.5 Lay down: Furnish and place hot laid bituminous concrete, weather permitting. Base II-WVDOH Specifications Wearing I-WVDOH specifications. Cost to be submitted on a per ton basis as follows:

- Item No. 4.5.1:** For new lot installation - an application of 2" Base II and 1.5" Wearing I (compact thickness) on a prepared sub-base will be standard application (Price per Ton).
- Item No. 4.5.2:** For resurfacing or patching of existing pavement the following specifications are to be followed (Price per Ton):
- Remove all loose debris and vegetation from surface.
 - Cut tie-ins at edge of overlays to create a smooth transition between new pavement and old.
 - Milling required on all patch work with a defined edge.
 - Furnish and apply a tack coat. Type SS1H.
 - Furnish and place 1 1/2" Wearing I (compacted thickness).

MU21PAVING
 Marshall University Department of Public Safety
 Repair, Replacement and/or Installation of
 Asphalt Parking Lots, Sidewalks and Roadways

- Item No. 4.5.3:** For pothole patching the following specifications are to be followed (price per Ton):
- Remove all loose debris from area to be patched.
 - Furnish and apply a tack coat.
 - Furnish and place asphalt Wearing Coarse to required thickness to fill void.

Price per ton is to include all preparation work, labor and material for the above referenced specifications.

Maintenance of existing parking lots: Application of joint sealer or crack sealer to existing pavement to maintain pavement serviceability. The base should be sound. Cracks are only sealed or filled when greater than 3mm (0.1 inches) or up to 25 mm (1 inch). Due to the moving nature of working cracks a suitable crack sealant must be capable of:

- Remaining adhered to the walls of the crack.
- Elongating to the maximum opening of the crack and recovering to the original dimensions without rupture.
- Expanding and contracting over a range of service temperatures without rupture or delamination from the crack walls and resisting abrasion and damage caused by traffic.

4.6 FINISHING:

- Item No. 4.6.1:** Furnish and install a 6" asphalt curb. Cost to be submitted by the linear foot basis - price per Linear Foot.

- Item No. 4.6.2:** Prepare surface, furnish, and apply two coats of asphalt sealer and additives as per manufactures' recommendations. Cost to be submitted on a square yard basis - price per square yard.

Furnish and install (secured to surface) 6" long concrete bumper blocks. Cost to be supplied on a per block basis:

- Item No. 4.6.3:** Furnish and install 1-10 blocks.

- Item No. 4.6.4:** Furnish and install 11-25 blocks.

- Item No. 4.6.5:** Furnish and install 26 blocks or more.

- Item No. 4.6.6:** Layout per Marshall University's direction and stripe with two-coat application to traffic paint. Cost to be on a linear foot – (price per Linear Foot).

MU21PAVING
Marshall University Department of Public Safety
Repair, Replacement and/or Installation of
Asphalt Parking Lots, Sidewalks and Roadways

- Item No. 4.6.7:** Cost per 4" long traffic directional arrow – (Price per Arrow).
- Item No. 4.6.8:** Curb painting if needed – (Price per Linear Foot).
- Item No. 4.6.9:** Layout per Marshall University's direction diagonal lines for no parking - Price per Linear Foot.
- Item No. 4.6.10:** 3' tall HC emblem. HC emblems must conform to Americans with Disabilities Act specifications. (Price per Emblem).
- Item No. 4.6.11:** Furnish and place barrier fabric material as needed. (Price per square yard).
- Item No. 4.6.12:** Install manhole risers as needed. Price by each installation.
- Item No. 4.6.13:** Installation of parking lot signs with poles. (Price by each installation).
- Item No. 4.6.14:** Installation of designated handicapped parking signs with poles. (Price by each installation).
- Item No. 4.6.15:** Cost of numbers for the Stadium lot that must be 12 inches in height. (Price by each number).

- 5. BIDDERS RESPONSE:** All Bid items, including unit prices, must be filled in completely. The Unit Price (price per square and linear foot, etc.) must be filled in on the pricing sheet contained on Bid Table within Bonfire and will reflect the all-inclusive cost related to the work unto completion. Bids received that do not include all items bid will not be accepted.

Bidders must provide supplement information regarding their experience and qualifications: Resume of Key Personnel that will be central contact for Description of safety program quality control procedures, and safety experience; At least two client references and their contact information; Description of projects of a similar nature worked on in the past five years. A PDF for the information must be uploaded into Bonfire.

MU21PAVING

Marshall University Department of Public Safety
Repair, Replacement and/or Installation of
Asphalt Parking Lots, Sidewalks and Roadways**6. ADDITIONAL REQUIREMENTS**

- 6.6 Safety:** The vendor will provide all necessary barricades, suitable and sufficient lights, reflectors, and danger signals. The indicators must be visible during day or night. Where applicable the vendor will supply warning, closure, directorial and detour signs. Maintain access for police, fire and ambulance service. Do not unreasonably encumber site with materials, equipment, or vehicles.
- 6.7 Weather conditions:** No work will be performed during adverse weather conditions, or when temperatures are below or above manufacturer's recommendation for products for repairs, installations, or patches. Work may proceed in optimal weather conditions that will allow properly cure, develop, and sealing of asphalt.
- 6.8 Conduct Quality and Inspection of Work:** The Contractor agrees to carry out the work diligently and to provide efficient supervision and inspection thereof. Contractor warrants that the work is of good quality and workmanship; is in full conformity with any specifications, drawings, models or samples; exceeds or meets Owner standards; and is fit for the purpose intended by Owner. All services or materials not conforming to Owner's requirements, including unauthorized substitutions, will be considered defective and Contractor must promptly correct such defective services or replace such defective materials at Contractor's sole expense. No payment for or acceptance of materials or services by Owner will constitute a waiver of any of the foregoing, nor will anything herein contained be construed to exclude or limit any warranties implied by law.
- 6.9 Clean-up:** Contractor must remove and dispose of all materials and other debris from the work site and must dispose of such materials pursuant to all applicable federal, state, and local laws, regulations, and ordinances. Contractor must indemnify and hold harmless Owner for failure to comply with this Section.
- 6.10 Price Escalation/De-Escalation:** Adjustments to pricing after a contract has commenced may be reviewed by the Marshall University Office of Purchasing if the circumstances regarding the price increase meet all of the following criteria:
- Adjustment is due to a situation beyond the vendor's control.
 - The proposed increase in price does not produce a higher profit margin than on the original contract.
 - The impacted item(s) are identified and accompanied by sufficient and justifiable documentation.

MU21PAVING
Marshall University Department of Public Safety
Repair, Replacement and/or Installation of
Asphalt Parking Lots, Sidewalks and Roadways

The Office of Purchasing will be the sole judge as to the acceptability of sources. Acceptance of a request will be at the sole discretion of Chief Procurement Officer. Price increases will not be considered before the end of the first term of the contract. Approved price adjustments will remain unchanged for at least twelve (12) months thereafter unless due to extraordinary circumstances as documented by the Vendor and concurred with by the University. A written request for a price adjustment will be submitted a minimum of sixty (60) calendar days in advance of a proposed effective date. An approved price increase will become effective after the approval of the increase. Retroactive price increase adjustments will not be considered.

During the term of the contract, should the Vendor realize cost reductions, or enter into pricing agreements with other customers providing greater benefits or lower pricing, the Vendor must immediately request a change order to the contract to provide similar pricing to the University if the contract with other customers offers similar usage quantities, and similar conditions impacting pricing. The Vendor must immediately notify the University of any such contracts entered by the Vendor. Price decreases may be considered and implemented at any time upon mutual consent of the parties.

Approved price changes will be put into effect through a change order to the contract. Price changes will not be retroactive.

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 dominant 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.

2.1 "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.

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

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

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

2.5 "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.

2.6 "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.

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

2.8 "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.

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

December 2, 2019

Any language that seeks to automatically renew, modify, or extend the Contract beyond the initial term or automatically continue the Contract period form 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_____.
- 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.

BID BOND (Construction Only): Pursuant to the requirements contained in W. Va. Code § 5-22-1(c), All Vendors submitting a bid on a construction project shall furnish a valid bid bond in the amount of five percent (5%) of the total amount of the bid protecting the State of West Virginia. The bid bond must be submitted with the bid.

PERFORMANCE BOND: The apparent successful Vendor shall provide a performance bond in the amount of 100% of the contract. The performance bond must be received by the Marshall University Office of Purchasing Office prior to Contract award.

LABOR/MATERIAL PAYMENT BOND: The apparent successful Vendor shall provide a labor/material payment bond in the amount of 100% of the Contract value. The labor/material payment bond must be received by 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 received by the Marshall University Office of Purchasing Office 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:

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 of: \$1,000,000.00 per occurrence.

Automobile Liability Insurance in at least an amount of: \$1,000,000.00 per occurrence.

Professional/Malpractice/Errors and Omission Insurance in at least an amount of: _____ per occurrence and an aggregate of _____.

Commercial Crime and Third-Party Fidelity Insurance in an amount of: _____ per occurrence and an aggregate of _____.

Cyber Liability Insurance in an amount of: _____ per occurrence and an aggregate of _____. 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.

December 2, 2019

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

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:

December 2, 2019

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

December 2, 2019

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.

December 2, 2019

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

December 2, 2019

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 it 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

December 2, 2019

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

December 2, 2019

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.

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

ADDITIONAL TERMS AND CONDITIONS (Construction Contracts Only)

1. CONTRACTOR'S LICENSE: W. Va. Code § 21-11-2 requires that all persons desiring to perform contracting work in the State of West Virginia be licensed. The West Virginia Contractors Licensing Board is empowered to issue the contractor's license. Applications for a contractor's license may be made by contacting the West Virginia Division of Labor. W. Va. Code § 21-11-11 requires any prospective Vendor to include the contractor's license number on its bid. If an apparent low bidder fails to submit a license number in accordance with this section, the Marshall University Office of Purchasing will promptly request by telephone and electronic mail that the low bidder and the second low bidder provide the license number within one business day of the request. Failure of the bidder to provide the license number within one business day of receiving the request shall result in disqualification of the bid. Vendors should include a contractor's license number in the space provided below.

Contractor's Name: _____
 Contractor's License No.: WV-_____

The apparent successful Vendor must furnish a copy of its contractor's license prior to the issuance of a contract award document.

2. DRUG-FREE WORKPLACE AFFIDAVIT: W. Va. Code § 21-1D-5 provides that any solicitation for a public improvement contract requires each Vendor that submits a bid for the work to submit an affidavit that the Vendor has a written plan for a drug-free workplace policy. If the affidavit is not submitted with the bid submission, the Marshall University Office of Purchasing shall promptly request by telephone and electronic mail that the low bidder and second low bidder provide the affidavit within one business day of the request. Failure to submit the affidavit within one business day of receiving the request shall result in disqualification of the bid. To comply with this law, Vendor should complete the enclosed drug-free workplace affidavit and submit the same with its bid. Failure to submit the signed and notarized drugfree workplace affidavit or a similar affidavit that fully complies with the requirements of the applicable code, within one business day of being requested to do so shall result in disqualification of Vendor's bid. Pursuant to W. Va. Code § 21-1D-2(b) and (k), this provision does not apply to public improvement contracts the value of which is \$100,000 or less or temporary or emergency repairs.

2.1. DRUG-FREE WORKPLACE POLICY: Pursuant to W. Va. Code § 21-1D-4, Vendor and its subcontractors must implement and maintain a written drug-free workplace policy that complies with said article. The awarding public authority shall cancel this contract if: (1) Vendor fails to implement and maintain a written drug-free workplace policy described in the preceding paragraph, (2) Vendor fails to provide information regarding implementation of its drug-free workplace policy at the request of the public authority; or (3) Vendor provides to the public authority false information regarding the contractor's drug-free workplace policy.

Pursuant to W. Va. Code §21-1D-2(b) and (k), this provision does not apply to public improvement contracts the value of which is \$100,000 or less or temporary or emergency repairs.

December 2, 2019

3. DRUG FREE WORKPLACE REPORT: Pursuant to W. Va. Code § 21-1D-7b, no less than once per year, or upon completion of the project, every contractor shall provide a certified report to the public authority which let the contract. For contracts over \$25,000, the public authority shall be the Marshall University Office of Purchasing. For contracts of \$25,000 or less, the public authority shall be the Department issuing the contract. The report shall include:

- (1) Information to show that the education and training service to the requirements of W. Va. Code § 21-1D-5 was provided;
- (2) The name of the laboratory certified by the United States Department of Health and Human Services or its successor that performs the drug tests;
- (3) The average number of employees in connection with the construction on the public improvement;
- (4) Drug test results for the following categories including the number of positive tests and the number of negative tests: (A) Pre-employment and new hires; (B) Reasonable suspicion; (C) Post-accident; and (D) Random.

Vendor should utilize the attached Certified Drug Free Workplace Report Coversheet when submitting the report required hereunder. Pursuant to W. Va. Code §21-1D-2(b) and (k), this provision does not apply to public improvement contracts the value of which is \$100,000 or less or temporary or emergency repairs.

4. AIA DOCUMENTS: All construction contracts that will be completed in conjunction with architectural services procured under Chapter 5G of the West Virginia Code will be governed by the attached AIA documents, as amended by the Supplementary Conditions for the State of West Virginia, in addition to the terms and conditions contained herein.

4A. PROHIBITION AGAINST GENERAL CONDITIONS: Notwithstanding anything contained in the AIA Documents or the Supplementary Conditions, the State of West Virginia will not pay for general conditions, or winter conditions, or any other condition representing a delay in the contracts. The Vendor is expected to mitigate delay costs to the greatest extent possible and any costs associated with delays must be specifically and concretely identified. The state will not consider an average daily rate multiplied by the number of days extended to be an acceptable charge.

5. GREEN BUILDINGS MINIMUM ENERGY STANDARDS: In accordance with W. Va. Code § 22- 29-4, all new building construction projects of public agencies shall be designed and constructed complying with the ICC International Energy Conservation Code, adopted by the State Fire Commission, and the ANSI/ASHRAE/IESNA Standard 90.1-2007: Provided, That if any construction project has a commitment of federal funds to pay for a portion of such project, this provision shall only apply to the extent such standards are consistent with the federal standards.

December 2, 2019

6. LOCAL LABOR MARKET HIRING REQUIREMENT: Pursuant to W.Va. Code §21-1C-1 et seq., Employers shall hire at least seventy-five percent of employees for public improvement construction projects from the local labor market, to be rounded off, with at least two employees from outside the local labor market permissible for each employer per project.

Any employer unable to employ the minimum number of employees from the local labor market shall inform the nearest office of Workforce West Virginia of the number of qualified employees needed and provide a job description of the positions to be filled.

If, within three business days following the placing of a job order, Workforce West Virginia is unable to refer any qualified job applicants to the employer or refers less qualified job applicants than the number requested, then Workforce West Virginia shall issue a waiver to the employer stating the unavailability of applicant and shall permit the employer to fill any positions covered by the waiver from outside the local labor market. The waiver shall be in writing and shall be issued within the prescribed three days. A waiver certificate shall be sent to both the employer for its permanent project records and to the public authority.

Any employer who violates this requirement is subject to a civil penalty of \$250 per each employee less than the required threshold of seventy-five percent per day of violation after receipt of a notice of violation.

Any employer that continues to violate any provision of this article more than fourteen calendar days after receipt of a notice of violation is subject to a civil penalty of \$500 per each employee less than the required threshold of seventy-five percent per day of violation.

The following terms used in this section have the meaning shown below.

(1) The term “construction project” means any construction, reconstruction, improvement, enlargement, painting, decorating or repair of any public improvement let to contract in an amount equal to or greater than \$500,000. The term “construction project” does not include temporary or emergency repairs;

(2) The term “employee” means any person hired or permitted to perform hourly work for wages by a person, firm or corporation in the construction industry; The term “employee” does not include:(i) Bona fide employees of a public authority or individuals engaged in making temporary or emergency repairs;(ii) Bona fide independent contractors; or(iii) Salaried supervisory personnel necessary to assure efficient execution of the employee's work;

(3) The term “employer” means any person, firm or corporation employing one or more employees on any public improvement and includes all contractors and subcontractors;

(4) The term “local labor market” means every county in West Virginia and any county outside of West Virginia if any portion of that county is within fifty miles of the border of West Virginia;

December 2, 2019

(5) The term “public improvement” includes the construction of all buildings, roads, highways, bridges, streets, alleys, sewers, ditches, sewage disposal plants, waterworks, airports and all other structures that may be let to contract by a public authority, excluding improvements funded, in whole or in part, by federal funds.

7. DAVIS-BACON AND RELATED ACT WAGE RATES:

The work performed under this contract is federally funded in whole, or in part. Pursuant to _____, Vendors are required to pay applicable Davis-Bacon wage rates.

The work performed under this contract is not subject to Davis-Bacon wage rates.

8. SUBCONTRACTOR LIST SUBMISSION: In accordance with W. Va. Code § 5-22-1, the apparent low bidder on a contract valued at more than \$250,000.00 for the construction, alteration, decoration, painting or improvement of a new or existing building or structure shall submit a list of all subcontractors who will perform more than \$25,000.00 of work on the project including labor and materials. (This section does not apply to any other construction projects, such as highway, mine reclamation, water or sewer projects.) The subcontractor list shall be provided to the Marshall University Office of Purchasing within one business day of the opening of bids for review. If the apparent low bidder fails to submit the subcontractor list, the Marshall University Office of Purchasing shall promptly request by telephone and electronic mail that the low bidder and second low bidder provide the subcontractor list within one business day of the request. Failure to submit the subcontractor list within one business day of receiving the request shall result in disqualification of the bid.

If no subcontractors who will perform more than \$25,000.00 of work are to be used to complete the project, the apparent low bidder must make this clear on the subcontractor list, in the bid itself, or in response to the Marshall University Office of Purchasing’s request for the subcontractor list.

a. Required Information. The subcontractor list must contain the following information:

- i. Bidder's name
- ii. Name of each subcontractor performing more than \$25,000 of work on the project.
- iii. The license number of each subcontractor, as required by W. Va. Code § 21-11- 1 et. seq.
- iv. If applicable, a notation that no subcontractor will be used to perform more than \$25,000.00 of work. (This item iv. is not required if the vendor makes this clear in the bid itself or in documentation following the request for the subcontractor list.)

b. Subcontractor List Submission Form: The subcontractor list may be submitted in any form, including the attached form, as long as the required information noted above is included. If any information is missing from the bidder's subcontractor list submission, it may be obtained from other documents such as bids, emails, letters, etc. that accompany the subcontractor list submission.

c. Substitution of Subcontractor. Written approval must be obtained from the State Spending Unit before any subcontractor substitution is permitted. Substitutions are not permitted unless:

- i. The subcontractor listed in the original bid has filed for bankruptcy;
- ii. The subcontractor in the original bid has been debarred or suspended; or
- iii. The contractor certifies in writing that the subcontractor listed in the original bid fails, is unable, or refuses to perform his subcontract.

Subcontractor List Submission (Construction Contracts Only)

Bidder's Name: Asphalt Contractors and Site Work, Inc.

Check this box if no subcontractors will perform more than \$25,000.00 of work to complete the project.

Subcontractor Name	License Number if Required by W. Va. Code § 21-11-1 et. seq.
None	

Attach additional pages if necessary.

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.

Scott D. Followay
 (Name, Title)

Scott Followay - Asphalt Manager
 (Printed Name and Title)

20 Dickson Dam Rd Lavalette, WV 25535
 (Address)

304-360-7834
 (Phone Number) (Fax Number)

s.followay@asphaltsitework.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.

Asphalt Contractors and Site Work, Inc.
 (Company)

Teresa Day
 (Authorized Signature)

Teresa Day President
 (Printed Name and Title of Authorized Representative)

6/24/2021
 (Date)

304-697-2510
 (Phone Number) (Fax Number)

December 2, 2019

ADDENDUM ACKNOWLEDGEMENT FORM
SOLICITATION NO.: MU21PAVING
(If Applicable)

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:

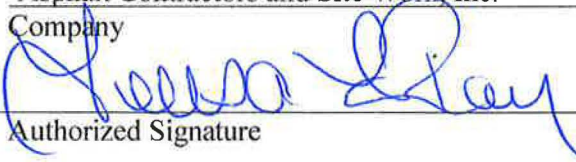
(Check the box next to each addendum received)

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

Asphalt Contractors and Site Work, Inc.

 Company



 Authorized Signature

6/24/2021

 Date

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

December 2, 2019

Appendix F: Forms

WV-73
Approved / April 30, 2020



State of West Virginia DRUG FREE WORKPLACE CONFORMANCE AFFIDAVIT West Virginia Code §21-1D-5

I, Teresa Ray, after being first duly sworn, depose and state as follows:

- 1. I am an employee of Asphalt Contractors of Site Work; and,
(Company Name)
- 2. I do hereby attest that Asphalt Contractors of Site Work
(Company Name)

maintains a written plan for a drug-free workplace policy and that such plan and policy are in compliance with **West Virginia Code §21-1D**.

The above statements are sworn to under the penalty of perjury.

Printed Name: Teresa Ray
 Signature: Teresa Ray
 Title: President
 Company Name: Asphalt Contractors of Site Work
 Date: 6/24/21

STATE OF WEST VIRGINIA,

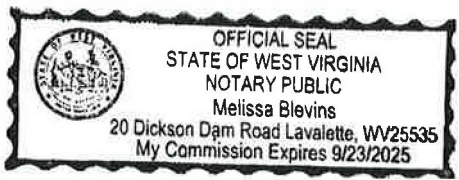
COUNTY OF Wayne, TO-WIT:

Taken, subscribed and sworn to before me this 24th day of June, 2021.

By Commission expires Sept 23rd 2025

(Seal)

Melissa Blevins
(Notary Public)



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: Contract Contractors of Site Work Inc.

Authorized Signature: [Signature] Date: _____

State of WV

County of Wayne, to-wit:

Taken, subscribed, and sworn to before me this 24th day of June, 2021

My Commission expires Sept 23rd, 2025

AFFIX SEAL HERE



NOTARY PUBLIC

[Signature]

CONTRACTOR LICENSE

Authorized by the
West Virginia Contractor Licensing Board

Number: WV034224

Classification:

- EXCAVATION
- CONCRETE
- ASPHALT
- DEMOLITION

ASPHALT CONTRACTORS & SITE WORK INC
DBA ASPHALT CONTRACTORS & SITE WORK INC
PO BOX 544
CATLETTSBURG, KY 41129

Date Issued

Expiration Date

JULY 18, 2020

JULY 18, 2021

Melissa Kline
Authorized Company Signature

[Signature]
Chair, West Virginia Contractor
Licensing Board

WEST VIRGINIA
CONTRACTOR
LICENSING
BOARD

This license, or a copy thereof, must be posted in a conspicuous place at every construction site where work is being performed. This license number must appear in all advertisements, on all bid submissions and on all fully executed and binding contracts. This license cannot be assigned or transferred by licensee. Issued under provisions of West Virginia Code, Chapter 21, Article 11.