

Purchase Order



Marshall University
Office of Purchasing
One John Marshall Drive
Huntington WV, 25755-4100
Direct all inquiries regarding this order to: (304)

Purchase Order #
MU22METROETHER

TO: Vendor Code: 061449041
Frontier Communications
401 Merritt 7
Norwalk, CT 06851
FEIN: 06-1449041 PH: 304-410-5659

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 #
09/13/21	FY22	MW				

CONTRACT ACCEPTANCE

On behalf of the Governing Board, MARSHALL UNIVERSITY hereby accepts the quotation of Frontier Communications

signed by Jeffery Kay
Title Director Enterprise Sales
on 08/27/2021

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

By: N/A
Chief Counsel

Layer2 Unmanaged Metropolitan Area Network (MAN)
Effective 12/12/2021 - 12/11/2022
with four (4) optional one-year renewals

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

Line No.	Fund	Org.	Account	Encumber Amount
1.				
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

Michelle Whealy 9/13/21
Authorized Signature Date

Cost Evaluation Summary

Marshall University Locations							
Site #	Requested Service	Existing Site Name	Site Address	Unit of Measure	Verizon Cost	Segra Cost	Frontier Cost
1	3 Gbps	Drinko Library	1 John Marshall Drive, Huntington, WV 25755	Monthly	\$ 5,225.07	\$ 3,050.00	\$ 1,667.00
2	1 Gbps	South Charleston Campus	100 Angus E. Peyton Drive, South Charleston, WV 25303	Monthly	\$ 1,773.69	\$ 1,030.00	\$ 910.00
3	100 Mbps	Mid-Ohio Valley Center	1 John Marshall Way, Pt. Pleasant, WV 25550	Monthly	\$ 1,372.21	\$ 1,030.00	\$ 552.00
4	10 Mbps	RCBI	2400 E. Benedum Industrial Drive, Bridgeport, WV 26330	Monthly	\$ 518.50	\$ 525.00	\$ 313.00
5	10 Mbps	Larry Joe Harless Commu	202 Larry Joe Harless Dr, Gilbert, WV 25621	Monthly	\$ 656.70	\$ 525.00	\$ 237.00
6	1 Gbps	Coon Education Building	1540 Spring Valley Dr, Huntington, WV 25704	Monthly	\$ 1,984.11	\$ 1,030.00	\$ 910.00
7	1 Gbps	Yeager Airport	600 Eagle Mountain Road, Charleston, WV 25311	Monthly	\$ 1,773.69	\$ 1,030.00	\$ 910.00
8	1 Gbps	Tri-State Airport	1449 Airport Rd, Bldg. #17, Huntington, WV 25704	Monthly	\$ 2,368.90	\$ 1,030.00	\$ 1,016.00
			Total Bid Summary	Monthly	\$ 15,672.87	\$ 9,250.00	\$ 6,515.00

Appendix D: Upgrade Cost Sheet

Marshall University Locations						
Site #	Requested Service	Upgraded Service	Existing Site Name	Site Address	Unit of Measure	Cost
1	3 Gbps	3 Gbps	Drinko Library	1 John Marshall Drive, Huntington, WV 25755	Monthly	\$1,667
2	1 Gbps	1 Gbps	South Charleston Campus	100 Angus E. Peyton Drive, South Charleston, WV 25303	Monthly	\$910
3	100 Mbps	1 Gbps	Mid-Ohio Valley Center	1 John Marshall Way, Pt. Pleasant, WV 25550	Monthly	\$552
4	10 Mbps	100 Mbps	RCBI	2400 E. Benedum Industrial Drive, Bridgeport, WV 26330	Monthly	\$313
5	10 Mbps	100 Mbps	Larry Joe Harless Commu	202 Larry Joe Harless Dr, Gilbert, WV 25621	Monthly	\$237
6	1 Gbps	1 Gbps	Coon Education Building	1540 Spring Valley Dr, Huntington, WV 25704	Monthly	\$910
7	1 Gbps	1 Gbps	Yeager Airport	600 Eagle Mountain Road, Charleston, WV 25311	Monthly	\$910
8	1 Gbps	1 Gbps	Tri-State Airport	1449 Airport Rd, Bldg. #17, Huntington, WV 25704	Monthly	\$1,016

Appendix C: Cost Sheet

Marshall University Locations					
Site #	Requested Service	Existing Site Name	Site Address	Unit of Measure	Cost
1	3 Gbps	Drinko Library	1 John Marshall Drive, Huntington, WV 25755	Monthly	\$1,667
2	1 Gbps	South Charleston Campu	100 Angus E. Peyton Drive, South Charleston, WV 25303	Monthly	\$910
3	100 Mbps	Mid-Ohio Valley Center	1 John Marshall Way, Pt. Pleasant, WV 25550	Monthly	\$552
4	10 Mbps	RCBI	2400 E. Benedum Industrial Drive, Bridgeport, WV 26330	Monthly	\$313
5	10 Mbps	Larry Joe Harless Commu	202 Larry Joe Harless Dr, Gilbert, WV 25621	Monthly	\$237
6	1 Gbps	Coon Education Building	1540 Spring Valley Dr, Huntington, WV 25704	Monthly	\$910
7	1 Gbps	Yeager Airport	600 Eagle Mountain Road, Charleston, WV 25311	Monthly	\$910
8	1 Gbps	Tri-State Airport	1449 Airport Rd, Bldg. #17, Huntington, WV 25704	Monthly	\$1,016

Clarifications and Exceptions

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.
 - 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.

Clarifications and Exceptions

- 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.
- 2.10 **"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.
- 2.11 **"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.
- 2.12 **"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.
- 2.13 **"Solicitation"** means the notice of an opportunity to supply the University with goods and services.
- 2.14 **"State"** means the State of West Virginia and/or any of its agencies, commissions, boards, departments or divisions as context requires.
- 2.15 **"University"** means Marshall University or Marshall.
- 2.16 **"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.
- 2.17 **"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 _____
_____ and extends for a period of _____ year(s).

Clarifications and Exceptions

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 _____ successive one (1) year periods or multiple renewal periods of less than one year, provided that the multiple renewal periods do not exceed _____ months in total. Automatic renewal of the Contract is prohibited. 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.

Clarifications and Exceptions

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 § 5-221(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.

Clarifications and Exceptions

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 within seven (7) days after the renewal of the required insurance, Vendor shall provide the University with proof that the insurance mandated herein has been continued. Vendor or its insurance carriers shall provide thirty (30) days' prior written notice of cancellation of any the insurance policies mandated herein. 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 requested in writing prior to the Contract award.

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: _____ per occurrence and an aggregate of _____

Clarifications and Exceptions

Automobile Liability Insurance in at least an amount of:
_____ per occurrence and an aggregate of _____.

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

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

Cyber Liability Insurance in an amount of: _____ per claim 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 (subject to the terms and conditions of the policy) and shall include, but not limited to, claims involving infringement of intellectual property; 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.

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

The required limits for any of the required insurance coverages can be satisfied through a combination of primary liability and umbrella/excess liability policies.

- 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



Frontier expects the parties will negotiate mutually agreeable and reasonable terms commensurate with the Services being performed.

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:

-
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-

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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. Nonappropriation 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 Any language seeking to

Clarifications and Exceptions

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.

Clarifications and Exceptions

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.
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.

Frontier read and reviewed provision and provides the following explanation and clarification: Notwithstanding the foregoing, Frontier may assign this Agreement to any successor to the business of Frontier by merger, consolidation or sale of assets or to any corporation controlling, controlled by or under common control with Frontier.

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

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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.

All Equipment purchased by Customer is warranted pursuant to the applicable manufacturer's standard warranty provisions, as outlined in the documentation packaged with the Equipment. The Equipment warranty, if any, is provided per the applicable manufacturer documentation and/or policies.

This warranty does not apply to any failure caused by misuse or abuse, vandalism, accident, environmental conditions, or any other cause outside Frontier's control. Frontier does not guarantee, warrant, or imply (a) any liability for equipment or materials that are supplied by Customer or a third party or are covered by a manufacturer's warranty, or (b) the availability of replacement parts.

THE FOREGOING WARRANTY IS IN LIEU OF ALL OTHER WARRANTIES, EXPRESS OR IMPLIED, AND FRONTIER DISCLAIMS ALL OTHER WARRANTIES WITH RESPECT TO FRONTIER'S NETWORK, SERVICES OR EQUIPMENT PROVIDED PURSANT TO THESE TERMS INCLUDING, WITHOUT LIMITATION, ANY WARRANTY OF NON-INFRINGEMENT, MERCHANTABILITY OR FITNESS FOR ANY PARTICULAR PURPOSE OR FUNCTION. FRONTIER DOES NOT WARRANT THAT THE SERVICES OR EQUIPMENT OR ACCESS OR OPERATION OF THE SERVICES OR EQUIPMENT WILL MEET CUSTOMER'S NEEDS, OR WILL BE UNINTERRUPTED, ERROR-FREE, OR SECURE.

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.

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 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

Clarifications and Exceptions

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.

Frontier shall not have any liability for any claims, loss, damage, cost or expense (including reasonable attorneys' fees) to the extent arising out or relating to any claim, action or proceeding brought by any third party based upon: (i) Customer's breach of this Agreement; (ii) Customer's negligence or willful misconduct in the performance of its obligations under this Agreement; (iii) use of the Equipment or Services by third parties, including employees, contractors or agents; (iv) any infringement or misappropriation of any patent, copyright, trademark, trade secret or other proprietary right arising from Customer's or any other person's use of the Equipment or Services or content transmitted to or from the Customer's location using the Equipment or Service (v) any bodily injury (including illness or death) or property damage caused by the Customer or associated with the Equipment or Service; or (vi) Customer's failure to maintain an adequate and safe environment free from any liens, or permitting unauthorized repairs.

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 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

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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.

Frontier takes exception: Each party retains its rights to property provided or used in the execution of Services, and no rights, by license or otherwise shall vest to the other party.

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

Clarifications and Exceptions

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, 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.

Supporting Documentation

- Frontier Services Agreement (FSA)
- Ethernet Local Area Network (E-LAN) Schedule

Request for Proposal	 <p>Marshall University Office of Purchasing One John Marshall Drive Huntington, WV 25755-4100 Direct all inquiries regarding this order to: (304) 696-2727</p>	Proposal # MU22METROETHER		
Vendor:		For information contact: Buyer: Michelle Wheeler michelle.wheeler@marshall.edu and purchasing@marshall.edu Phone: (304) 696-2727		
FEIN/SSN:	Phone	Fax:		
Sealed requests to bid for furnishing the supplies, equipment or services described below will be received by the Institution. TO RECEIVE CONSIDERATION FOR AWARD, UNLESS OTHERWISE NOTED, THE BID WILL BE SUBMITTED ON THIS FORM IN ORIGINAL AND (1) COPY AND (3) COPIES, SIGNED IN FULL IN INK, AND RECEIVED IN THE OFFICE OF PURCHASING TO HAVE A DATE/STAMP AFFIXED, ON OR BEFORE THE DATE AND TIME SHOWN FOR THE BID OPENING. When applicable, prices will be based on units specified; and Bidders will enter the delivery date or time for each item contained herein. The Institution reserves the right to accept or reject bids on each item separately or as a whole, to reject any or all bids, to waive informalities or irregularities and to contract as the best interests of the Institution may require. BIDS ARE SUBJECT TO THE GENERAL TERMS AND CONDITIONS AS SET FORTH HEREIN.				
DATE 07/23/2021	Questions regarding Request for Proposal to be received no later than August 3, 2021 by 3:00 P.M.	DEPARTMENT REQUISITION NO. MU22METROETHER	BID OPENS: August 13, 2021 3:00 PM	BIDDER MUST ENTER DELIVERY DATE FOR EACH ITEM BID
Item #	Quantity	Description	Unit Price	Extended Price
REQUEST FOR PROPOSAL Marshall University, on behalf of the Board of Governors, invites Sealed Proposals from qualified Vendors to provide a Layer2 unmanaged Metropolitan Area Network (MAN) of various speeds from 10Mbps up to 10Gbps. Sealed Proposals shall be accepted until 3:00PM on August 13, 2021 in Room #125, Old Main Building, Office of Purchasing, Marshall University, One John Marshall Drive, Huntington, West Virginia 25755. One (1) original and three (3) copies of the proposal must be submitted in a marked envelope and a Fee Proposal must be in a separate envelope marked "Fee Proposal", which will be opened at a later date. If any information is confidential in your proposal, mark as such. At that time, they will be opened, read aloud, and recorded. Bids can also be submitted via the Bonfire portal; https://marshall.bonfirehub.com/login				
Total				

To the Office of Purchasing,

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 opening 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's guarantees shipment from _____ within _____ days

FOB _____ After receipt of order at address shown
 Terms _____

Bidder's name Vendor) _____

Title _____

Signed By _____

Typed Name _____

Street Address _____

City/State/Zip _____

Date: _____ Phone _____

Fein: _____

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SECTION 1: GENERAL INFORMATION

- 1.1. Introduction:** The Marshall University Office of Purchasing (hereinafter referred to as the “Office of Purchasing”) is issuing this solicitation as a request for proposal (“RFP”), as authorized by Marshall University Board of Governors Policy No. FA-9 Purchasing Policy, for the Department of Information Technology (hereinafter referred to as the “Department”) to provide a Layer2 unmanaged Metropolitan Area Network (MAN) of various speeds from 10Mbps up to 10Gbps.

The RFP is a procurement method in which vendors submit proposals in response to the request for proposal published by the Office of Purchasing. It requires an award to the highest scoring vendor, rather than the lowest cost vendor, based upon a technical evaluation of the vendor’s technical proposal and a cost evaluation. This is referred to as a best value procurement. Through their proposals, vendors offer a solution to the objectives, problem, or need specified in the RFP, and define how they intend to meet (or exceed) the RFP requirements.

1.2. RFP Schedule of Events:

RFP Released to Public.....	July 23, 2021
Mandatory Prebid.....	July 29, 2021
Vendor’s Written Questions Submission Deadline.....	August 3, 2021
Addendum Issued.....	August 6, 2021
Technical Bid Opening Date.....	August 13, 2021
Technical Evaluation Begins.....	TBD
Cost Bid Opening.....	TBD
Cost Evaluation Begins.....	TBD
Oral Presentation (<i>Department Option</i>).....	TBD
Contract Award Made.....	TBD

SECTION 2: INSTRUCTIONS TO VENDORS SUBMITTING BIDS

Instructions begin on next page.

1. REVIEW DOCUMENTS THOROUGHLY: Please read these instructions and all documents attached in their entirety. These instructions provide critical information about requirements that if overlooked, could lead to disqualification of a Vendor's bid. All bids must be submitted in accordance with the provisions contained in these instructions and the Solicitation. Failure to do so may result in disqualification of a Vendor's bid.

2. MANDATORY TERMS: The Solicitation may contain mandatory provisions identified by the use of the words "must," "will," and "shall" which identify a mandatory item or requirement. Failure to comply with a mandatory term in the Solicitation will result in bid disqualification.

3. PREBID MEETING: The item identified below shall apply to this Solicitation.

- A pre-bid meeting will not be held prior to bid opening.
- A **NON-MANDATORY** pre-bid meeting will be held at the following place and time:

A **MANDATORY** pre-bid meeting will be held at the following place and time:

July 29th, 2021 10 a.m. LPT

The Office of Purchasing , Old Main Room #125

One John Marshall Drive, Huntington, WV 25705

All Vendors submitting a written bid must attend the mandatory pre-bid meeting. Failure to attend the mandatory pre-bid meeting shall result in disqualification of the Vendor's bid. No person attending the pre-bid meeting may represent more than one (1) Vendor.

An attendance sheet provided at the pre-bid meeting shall serve as the official document attendance verification. The State will not accept any other form of proof or documentation to verify attendance. Any person attending the pre-bid meeting on behalf of a Vendor must list his or her name and the name of the Vendor he or she is representing.

Additionally, the person attending the pre-bid meeting should include the Vendor's e-mail address, phone number, and fax number on the attendance sheet. It is the Vendor's responsibility to locate the attendance sheet and provide the required information. **Failure to complete the attendance sheet as required may result in disqualification of Vendor's bid.**

All Vendors should arrive prior to the starting time for the pre-bid. Vendors who arrive after the starting time but prior to the end of the pre-bid will be permitted to sign in, but are charged with knowing all matters discussed at the pre-bid meeting.

If possible, questions submitted at least five (5) business days prior to a scheduled pre-bid meeting will be discussed at the pre-bid meeting. Any discussions or answers to questions at the pre-bid meeting are preliminary in nature and are non-binding. Official and binding answers to questions will be published in a written addendum to the Solicitation prior to bid opening.

- 4. VENDOR QUESTION DEADLINE:** Vendors may submit questions relating to this Solicitation to the Marshall University Office of Purchasing as directed below. Questions must be submitted in writing. All questions must be submitted on or before the date listed below and to the address listed below to be considered. A written response will be published in a Solicitation addendum if a response is possible and appropriate. Non-written discussions, conversations, or questions and answers regarding this Solicitation are preliminary in nature and are nonbinding.

Submissions should include solicitation number in the subject line.

Question Submission Deadline (date and time): **August 3, 2021, by 3 p.m., LPT**

Submit Questions to: **Michelle Wheeler, Associate Director of Purchasing**
Old Main 125
One John Marshall Drive
Huntington, WV 25755
Fax: (304) 696-3333 (Vendors should not use this fax number for bid submission)
Email: michelle.wheeler@marshall.edu

- 5. VERBAL COMMUNICATION:** Any verbal communication between the Vendor and any State personnel is not binding, including verbal communication at the mandatory pre-bid conference. Only information issued in writing and added to the Solicitation by an official written addendum by the Marshall University Office of Purchasing is binding.
- 6. BID SUBMISSION:** All bids must be submitted electronically through Bonfire™ or signed and delivered by the Vendor to the Marshall University Office of Purchasing at the address listed above on or before the date and time of the bid opening. Any bid received by the Office of Purchasing staff is in the possession of the Office of Purchasing and will not be returned for any reason. The Office of Purchasing will not accept bids, modification of bids, or addendum acknowledgment forms via e-mail. Acceptable delivery methods include electronic submission via Bonfire™, hand delivery, or delivery by courier.

INSTRUCTIONS TO VENDORS

A bid that is not submitted electronically through Bonfire™ should contain the information listed below on the face of the envelope or the bid may be rejected by the University.

SEALED BID: MU22METROETHER

CONTACT: MICHELLE WHEELER

SOLICITATION NAME: LAYER2 unmanaged Metropolitan Area Network (MAN)

SOLICITATION CLOSING DATE: August 13, 2021

SOLICITATION CLOSING TIME: 3:00 p.m., LPT

7. **BID OPENING:** Bids submitted in response to this Solicitation will be opened at the location identified below on the date and time listed below. Delivery of a bid after the bid opening date and time will result in bid disqualification. For purposes of this Solicitation, a bid is considered delivered when confirmation of delivery is provided by Bonfire™ (in the case of electronic submission), when the bid is delivered via mail or courier and time stamped by the official Marshall University Office of Purchasing's time clock or when the bid is delivered and is time stamped by the official Marshall University Office of Purchasing's time clock.

Bid Opening Date and Time: August 13, 2021, at 3 p.m., LPT

Bid Opening Location: Marshall University Office of Purchasing
Old Main 125
One John Marshall Drive
Huntington, WV 25755

8. **ADDENDUM ACKNOWLEDGEMENT:** Changes or revisions to this Solicitation will be made by an official addendum issued by the University. Vendor should acknowledge receipt of all addenda issued with this Solicitation by completing an Addendum Acknowledgment Form, 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.
9. **BID FORMATTING:** Vendor should type or electronically enter the information onto its written bid to prevent errors in the evaluation. Failure to type or electronically enter the information may result in bid disqualification.

- 10. ALTERNATES:** Any model, brand, or specification listed in this Solicitation establishes the acceptable level of quality only and is not intended to reflect a preference for, or in any way favor, a particular brand or Vendor. Vendors may bid alternates to a listed model or brand provided that the alternate is at least equal to the model or brand and complies with the required specifications. The equality of any alternate being bid shall be determined by the University at its sole discretion. Any Vendor bidding an alternate model or brand should clearly identify the alternate items in its bid and should include manufacturer's specifications, industry literature, and/or any other relevant documentation demonstrating the equality of the alternate items. Failure to provide information for alternate items may be grounds for rejection of a Vendor's bid.
- 11. EXCEPTIONS AND CLARIFICATIONS:** The Solicitation contains the specifications that shall form the basis of a contractual agreement. Vendor shall clearly mark any exceptions, clarifications, or other proposed modifications in its bid. Exceptions to, clarifications of, or modifications of a requirement or term and condition of the Solicitation may result in bid disqualification.
- 12. COMMUNICATION LIMITATIONS:** In accordance with Marshall University Board of Governors Policy No. FA-9 Purchasing Policy, communication with Marshall University or any of its employees regarding this Solicitation during the solicitation, bid, evaluation or award periods, except through the Marshall University Office of Purchasing, is strictly prohibited without prior Office of Purchasing approval for such communication.
- 13. REGISTRATION:** Prior to Contract award, the apparent successful Vendor must be properly registered with the West Virginia Purchasing Division and must have paid the registration fee, if applicable.
- 14. UNIT PRICE:** Unit prices shall prevail in cases of a discrepancy in the Vendor's bid.
- 15. PREFERENCE:** Vendor Preference may be requested in purchases of motor vehicles or construction and maintenance equipment and machinery used in highway and other infrastructure projects. Any request for preference must be submitted in writing with the bid, must specifically identify the preference requested with reference to the applicable subsection of West Virginia Code § 5A-3-37, and should include with the bid any information necessary to evaluate and confirm the applicability of the requested preference. A request form to help facilitate the request can be found at: <http://www.state.wv.us/admin/purchase/vrc/Venpref.pdf>. Please Note: Vendor Preference is not applicable to construction projects.
- 15A. RECIPROCAL PREFERENCE:** The State of West Virginia applies a reciprocal preference to all solicitations for commodities and printing in accordance with W. Va. Code § 5A-3-37(b). In effect, if reciprocal preference is requested by a West Virginia resident vendor, non-resident vendors receiving a preference in their home states, will see that same preference granted to West Virginia resident vendors bidding against them in West Virginia. A request form to help facilitate the request can be found at: <http://www.state.wv.us/admin/purchase/vrc/Venpref.pdf>.

- 16. SMALL, WOMEN-OWNED, OR MINORITY-OWNED BUSINESSES:** For any solicitations publicly advertised for bid, in accordance with West Virginia Code §5A-3-37(a)(7) and W. Va. CSR § 148-22-9, any non-resident vendor certified as a small, women-owned, or minority-owned business under W. Va. CSR § 148-22-9 shall be provided the same preference made available to any resident vendor. Any non-resident small, women-owned, or minority-owned business must identify itself as such in writing, must submit that writing to the Purchasing Division with its bid, and must be properly certified under W. Va. CSR § 148-22-9 prior to contract award to receive the preferences made available to resident vendors. Preference for a non-resident small, women-owned, or minority owned business shall be applied in accordance with W. Va. CSR § 148-22-9.
- 17. WAIVER OF MINOR IRREGULARITIES:** The Chief Procurement Officer reserves the right to waive minor irregularities in bids or specifications in accordance with Marshall University Board of Governors Policy No. FA-9 Purchasing Policy.
- 18. ELECTRONIC FILE ACCESS RESTRICTIONS:** Vendor must ensure that its submission in Bonfire™ can be accessed and viewed by the University staff immediately upon bid opening. The University will consider any file that cannot be immediately access and viewed at the time of the bid opening (such as, encrypted files, password protected files, or incompatible files) to be blank or incomplete as context requires, and therefore unacceptable. A Vendor will not be permitted to unencrypt files, remove password protections, or resubmit documents after bid opening to make a file viewable if those documents are required with the bid. A Vendor may be required to provide document passwords or removed access restrictions to allow the University to print or electronically save documents provided that those documents are viewable by the University prior to obtaining the password or removing the access restriction.
- 19. NON-RESPONSIBLE:** The Chief Procurement Officer reserves the right to reject the bid of any Vendor as Non-Responsible in accordance with Marshall University Board of Governors Policy No. FA-9 Purchasing Policy, when the Chief Procurement Officer determines that the Vendor submitting the bid does not have the capability to fully perform or lacks the integrity and reliability to assure good-faith performance.
- 20. NON-RESPONSIVE:** The Chief Procurement Officer reserves the right to reject the bid of any Vendor as Non-Responsive in accordance with Marshall University Board of Governors Policy No. FA-9 Purchasing Policy, when the Chief Procurement Officer determines that the Vendor submitting the bid does not conform to the mandatory or essential requirements contained in the solicitation.
- 21. ACCEPTANCE/REJECTION:** The University may accept or reject any bid in whole, or in part in accordance with Marshall University Board of Governors Policy No. FA-9 Purchasing Policy.

- 22. 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 Marshall University Board of Governors Policy No. FA-9 Purchasing Policy, §5-22-1 et seq., §5G-1-1 et seq., and the West Virginia Freedom of Information Act in W. Va. Code § 29B-1-1 et seq.

DO NOT SUBMIT MATERIAL YOU CONSIDER TO BE CONFIDENTIAL, A TRADE SECRET (S), OR 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. The University may disclose any document labeled "confidential," "proprietary," "trade secret," "private," or labeled with any other claim against public disclosure of the documents, to include any "trade secrets" as defined by W. Va. Code § 47-22-1 et seq. and subject to W. Va. Code 29B-1-4(a) (1). All submissions are subject to public disclosure without notice.

- 23. PURCHASING AFFIDAVIT:** The University is prohibited from awarding a contract to any bidder that owes a debt to the State or 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.

<http://www.state.wv.us/admin/purchase/vrc/pAffidavit.pdf>

- 24. INTERESTED PARTY DISCLOSURE:** West Virginia Code § 6D-1-4 requires that the vendor submit to the Marshall University Office of Purchasing a disclosure of interested parties to the contract for all contracts with an actual or estimated value of at least \$1 million. That disclosure must occur on the form prescribed and approved by the WV Ethics Commission prior to contract award. A copy of that form is included with this solicitation or can be obtained from the WV Ethics Commission. This requirement does not apply to publicly traded companies listed on a national or international stock exchange. A more detailed definition of interested parties can be obtained from the form referenced above.

http://www.state.wv.us/admin/purchase/VRC/Ethics_DisclosureInterestedParties_2018.pdf

- 25. WITH THE BID REQUIREMENTS:** In instances where these specifications require documentation or other information with the bid, and a vendor fails to provide it with the bid, the Chief Procurement Officer reserves the right to request those items after bid opening and prior to contract award pursuant to the authority to waive minor irregularities in bids or specifications under Marshall University Board of Governors Policy No. FA-9 Purchasing Policy. This authority does not apply to instances where state law mandates receipt with the bid.

SECTION 3: GENERAL TERMS AND CONDITIONS

Instructions begin on next page.

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.

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.

2.10 "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.

2.11 "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.

2.12 "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.

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

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

2.15 "University" means Marshall University or Marshall.

2.16 "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.

2.17 "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 upon 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 four (4) successive one (1) year periods or multiple renewal periods of less than one year, provided that the multiple renewal periods do not exceed _____ months in total. Automatic renewal of the Contract is prohibited.

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. MU22METROETHER

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.
- WV Contractor License
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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 per occurrence and an aggregate of 1,000,000.

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

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.

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:

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

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.

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

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

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

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,

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.

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.

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.

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;

(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: _____

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.

Attach additional pages if necessary

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.

(Name, Title)

(Printed Name and Title)

(Address)

(Phone Number)

(Fax Number)

(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.

(Company)

(Authorized Signature)

(Printed Name and Title of Authorized Representative)

(Date)

(Phone Number)

(Fax Number)

ADDENDUM ACKNOWLEDGEMENT FORM
SOLICITATION NO.: MU22METROETHER
(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 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.

Company

Authorized Signature

Date

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

SECTION 4: PROJECT SPECIFICATIONS

4.1. Background and Current Operating Environment: The Department is currently using an expiring state contract to provide Layer2 transparent LAN services to the locations listed in Appendix C. This RFP will provide the University with additional redundancy and resiliency.

4.2. Project Goals and Mandatory Requirements: The purpose of this request for proposal is to seek interested and qualified vendors to establish an open-end non-exclusive contract from which Marshall University can procure a turnkey installation of facilities and service of a Layer2 unmanaged multi-point to single-point Ethernet Metropolitan Area Network (MAN). Vendor should describe its approach and methodology to providing the service or solving the problem described by meeting the goals/objectives identified below. Vendor's response should include any information about how the proposed approach is superior or inferior to other possible approaches.

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

4.2.1.1. Goal 1: To supply service to the widest possible selection of locations. The Ethernet MAN will supply Ethernet between Marshall University's Drinko Library, located at 1 John Marshall Drive, Huntington, WV 25755 to the other locations listed in Appendix C, Cost Sheet.

4.2.1.2. Goal 2: The Vendor will attach any appropriate descriptions or brochures that describe the general operation and features of its proposed Ethernet MAN service.

4.2.1.3. Goal 3: The Vendor shall specify its approach to guaranteeing bandwidth across the Ethernet MAN core network.

4.2.1.4. Goal 4: The Vendor shall describe the capability to increase bandwidth of specific service addresses in a short timeframe.

4.2.1.5. Goal 5: The Vendor shall specify the process for providing bandwidth reservation should any network node require additional capacity on an Access Circuit.

4.2.1.6. Goal 6: The Vendor shall describe their approach for complete MAN install and be operational by December 1, 2021.

4.2.1.7. Goal 7: The Vendor shall provide solutions for monitoring equipment to meet the required Service Level Agreement (SLA) as defined in RFP Appendix A.

4.2.1.8. Goal 8: The Vendor shall describe their outage notification process and identify the individual responsible for notifying the University. In addition, Vendor shall provide a toll-free number for technical support at a minimum.

4.2.1.9. Goal 9: Vendor solutions shall include all recurring and capital costs for customer premise equipment (CPE) and services. Respondents shall provide information for all proposed CPE equipment with response.

4.2.1.10. Goal 10: Marshall University requests that Vendors incorporate network facilities redundancy and routing redundancy where possible. For example, for any fiber that Vendor may install to any site's main equipment room, Vendor should demonstrate that spare fiber strands are available for immediate use in the event of damage to the primary strands in use.

4.2.1.11. Goal 11: Vendor shall describe their method of measuring and monitoring service levels on an end-to-end basis.

4.2.2. Mandatory Project Requirements: The following mandatory requirements relate to the goals and objectives and shall 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. Both 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: The vendor provided solution shall include all necessary outside plant and entrance facilities infrastructure as may be required.

4.2.2.2: The vendor shall provide notification to the assigned Marshall contact for all outages within 10 minutes of loss of connectivity.

4.2.2.3: The vendor shall respond to all outages within 1 hour of loss of connectivity.

4.2.2.4: Respondents shall provide complete pricing details for each proposed Ethernet MAN solution option listed for each site.

4.2.2.5: All Vendor proposed solutions shall adequately identify and detail any costs associated with on-going support. Vendors shall include all costs in the Cost Sheet in Appendix C.

4.2.2.6: Marshall University requests that vendors provide one (1) year pricing with the option to renew each year for an additional four (4) years. Term shall not exceed sixty (60) months in total.

4.2.2.7: Vendors shall include a detailed list of all engineering, construction, and project management costs. Vendors shall include all costs for materials, labor, and possible electronic equipment (hardware and software) needed for connectivity.

4.2.2.8: Entrance Facilities – the selected Vendor will be responsible for providing connectivity from the curb to the appropriate demarcation location within each building. Some of the buildings currently have a demarcation which is either connected via buried conduit or overhead cabling. Existing conduit may be used provided: (a) it is the University's property; and (b) it has sufficient capacity to carry additional cabling without placing undue stress on existing cabling.

4.2.2.9: Marshall University makes no representations that any existing entrance facilities are available. The Vendor will be responsible for determining at each location the availability or the cost of adding new facilities. In the event that a new conduit has to be placed, the Vendor will be responsible for the cost of all work associated with installing its conduit and cable plant to each site's main equipment room.

4.2.2.10: All standards listed in Appendix B should be adhered to.

4.2.2.11: The Vendor shall protect all buildings, furniture, equipment, personal items, trees, shrubs, lawns and all landscaping on school property from damage. Any damaged property shall be repaired or replaced at the Vendor's expense. Labor shall include all restoration (leveling, sodding) of grounds broken up during the installation of this network.

4.2.2.12: Vendor shall maintain compliance with the specifications of this bid throughout the life of any awarded contract.

4.2.2.13: Vendor shall provide a project timeline reflecting the project implemented and operational by December 1, 2021.

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.

4.3.1. Mandatory Qualification/Experience Requirements: The following mandatory qualification/experience requirements shall be met by the Vendor as a part of its submitted proposal. Vendor should describe how it meets the mandatory requirements and include any areas where it exceeds the mandatory requirements. Failure to comply with mandatory requirements will lead to disqualification, but areas where the mandatory requirements are exceeded will be included in technical scores where appropriate. The mandatory qualifications/experience requirements are listed below.

4.3.1.1. Vendor shall provide a network diagram document and a description of the network design including transport speeds at each location.

4.3.1.2. Vendor shall submit at least three references from higher education systems OR large-scale deployments that can verify successful completion of similar projects.

4.3.1.3. Vendor shall have at least five years of experience in implementation and support of MAN operations.

4.3.1.4. Vendor shall provide most recent fixed and current asset lists, profit and loss (P&L) statements, and credit rating documentation.

4.3.1.5. Vendor shall be able to provide on-site maintenance using experienced and qualified personnel.

4.4. Oral Presentations (Department Option): The Department has the option of requiring oral presentations of all Vendors participating in the RFP process. If this option is exercised, it would be listed in the Schedule of Events (Section 1.2) of this RFP. During oral presentations, Vendors may

not alter or add to their submitted proposal, but only clarify information. A description of the materials and information to be presented is provided below:

Materials and Information Requested at Oral Presentation:

- 4.4.1.** The Vendor and all appropriate key staff shall be present.
- 4.4.2.** The Vendor will provide a question-and-answer period at the end of their presentation. The Vendor should be prepared and shall have the ability to answer any questions during their allotted time.
- 4.4.3.** The Vendor will provide not only a sales presentation but a technical overview of the proposed solution. The Vendor will also discuss installation of equipment.
- 4.4.4.** The Vendor will provide five (5) original copies of your submittal and one electronic PowerPoint of their oral presentation.

SECTION 5: VENDOR PROPOSAL

- 5.1. Economy of Preparation:** Proposals should be prepared simply and economically providing a concise description of the items requested in Section 4. Emphasis should be placed on completeness and clarity of the content.
- 5.2. Incurring Cost:** Neither the University nor any of its employees or officers shall be held liable for any expenses incurred by any Vendor responding to this RFP, including but not limited to preparation, delivery, or travel.
- 5.3. Proposal Format:** Vendors should provide responses in the format listed below:
- 5.3.1. Two-Part Submission:** Vendors shall submit proposals in two distinct parts: technical and cost. Technical proposals shall not contain any cost information relating to the project. Cost proposal shall contain all cost information and shall be sealed in a separate envelope from the technical proposal to facilitate a secondary cost proposal opening.
- 5.3.2. Title Page:** State the RFP subject, number, Vendor's name, business address, telephone number, fax number, name of contact person, e-mail address, and Vendor signature and date.
- 5.3.3. Table of Contents:** Clearly identify the material by section and page number.
- 5.3.4. Response Reference:** Vendor's response should clearly reference how the information provided applies to the RFP request. For example, listing the RFP number and restating the RFP request as a header in the proposal would be considered a clear reference.
- 5.3.5. Proposal Submission:** All proposals shall be submitted to the Office of Purchasing **prior** to the date and time stipulated in the RFP as the opening date. All submissions shall be in accordance with the provisions listed in Section 2: Instructions to Vendors Submitting Bids.

SECTION 6: EVALUATION AND AWARD

- 6.1. Evaluation Process:** Proposals will be evaluated in two parts by a committee of three (3) or more individuals. The first evaluation will be of the technical proposal and the second is an evaluation of the cost proposal. The Vendor who demonstrates that it meets all the mandatory specifications required, attains the minimum acceptable score and attains the highest overall point score of all Vendors shall be awarded the contract.
- 6.2. Evaluation Criteria:** Proposals will be evaluated based on criteria set forth in the solicitation and information contained in the proposals submitted in response to the solicitation. The technical evaluation will be based upon the point allocations designated below for a total of seventy (70) of the one hundred (100) points. Cost represents thirty (30) of the one hundred (100) total points.

Evaluation Point Allocation:

Project Goals and Proposed Approach (§ 4.2)

- Approach & Methodology to Goals/Objectives (§ 4.2.1) (20) Points Possible
- Approach & Methodology to Compliance with Mandatory Project Requirements (§ 4.2.2). (20) Points Possible

Qualifications and Experience (§ 4.3)

- Qualifications and Experience Generally (§ 4.3.1) (10) Points Possible
- Exceeding Mandatory Qualification/Experience Requirements (§ 4.3) (10) Points Possible

(Oral interview, if applicable) (§ 4.4) (10) Points Possible

Total Technical Score: (70) Points Possible

Total Cost Score: (30) Points Possible

Total Proposal Score: 100 Points Possible

- 6.3. Technical Bid Opening:** At the technical bid opening, the Office of Purchasing will open and announce the technical proposals received prior to the bid opening deadline. Once opened, the technical proposals will be provided to the Department evaluation committee for technical evaluation.
- 6.4. Technical Evaluation:** The Department evaluation committee will review the technical proposals, assign points where appropriate, and make a final written recommendation to the Office of Purchasing.
- 6.5. Proposal Disqualification:**

6.5.1. Minimum Acceptable Score (“MAS”): Vendors shall score a minimum of seventy (70) percent (forty-nine (49) points) of the total technical points possible in order to move past the technical evaluation and have their cost proposal evaluated. All vendor proposals not attaining the MAS will be disqualified.

6.5.2. Failure to Meet Mandatory Requirement: Vendors shall meet or exceed all mandatory requirements in order to move past the technical evaluation and have their cost proposals evaluated. Proposals failing to meet one or more mandatory requirements of the RFP will be disqualified.

6.6. Cost Bid Opening: The Office of Purchasing will publicly open and announce cost proposals after technical evaluation has been completed and the Office of Purchasing has approved the technical recommendation of the evaluation committee. All cost bids received will be opened. Cost bids for disqualified proposals will be opened for record keeping purposes only and will not be evaluated or considered. Once opened, the cost proposals will be provided to the Department evaluation committee for cost evaluation.

The Office of Purchasing reserves the right to disqualify a proposal based upon deficiencies in the technical proposal even after the cost evaluation.

6.7. Cost Evaluation: The Department evaluation committee will review the cost proposals, assign points in accordance with the cost evaluation formula contained herein and make a final recommendation to the Office of Purchasing.

Cost Evaluation Formula: Each cost proposal will have points assigned using the following formula for all Vendors not disqualified during the technical evaluation. The lowest cost of all proposals is divided by the cost of the proposal being evaluated to generate a cost score percentage. That percentage is then multiplied by the points attributable to the cost proposal to determine the number of points allocated to the cost proposal being evaluated.

Step 1: $\text{Lowest Cost of All Proposals} / \text{Cost of Proposal Being Evaluated} = \text{Cost Score Percentage}$

Step 2: $\text{Cost Score Percentage} \times \text{Points Allocated to Cost Proposal} = \text{Total Cost Score}$

Example:

Proposal 1 Cost is \$1,000,000

Proposal 2 Cost is \$1,100,000

Points Allocated to Cost Proposal is 30

Proposal 1: Step 1 – $\$1,000,000 / \$1,000,000 = \text{Cost Score Percentage of } 1 \text{ (100\%)}$
Step 2 – $1 \times 30 = \text{Total Cost Score of } 30$

Proposal 2: Step 1 – $\$1,000,000 / \$1,100,000 = \text{Cost Score Percentage of } 0.909091 \text{ (90.9091\%)}$
Step 2 – $0.909091 \times 30 = \text{Total Cost Score of } 27.27273$

6.8. Availability of Information: Proposal submissions become public and are available for review immediately after opening pursuant to West Virginia Code §5A-3-11(h). All other information

associated with the RFP, including but not limited to, technical scores and reasons for disqualification, will not be available until after the contract has been awarded pursuant to West Virginia Code of State Rules §148-1-6.3.d.

By signing below, I certify that I have reviewed this Request for Proposal in its entirety; understand the requirements, terms and conditions, and other information contained herein; that I am submitting this proposal for review and consideration; that I am authorized by the bidder to execute this bid or any documents related thereto on bidder's behalf; that I am authorized to bind the bidder in a contractual relationship; and that, to the best of my knowledge, the bidder has properly registered with any State Department that may require registration.

(Company)

(Representative Name, Title)

(Contact Phone/Fax Number)

(Date)

Request for Proposal MU22METROETHER

Appendix A: Service Level Agreement (SLA)

Marshall University considers both the quality and availability of the service to be of the essence and as such the largest component in selecting a vendor to provide the service. The data service shall be available twenty-four (24) hours a day, seven (7) days a week, three hundred sixty-five (365) days a year (24x7x365). Scheduled maintenance is defined as those times that the vendor needs to make modifications to the service to ensure delivery of services prior to any service problems. Vendors will be required to coordinate maintenance with Marshall University. Vendor will conduct scheduled repairs and upgrades during off hour periods not affecting the University's normal business hours (8:00 a.m.- 9:00 p.m. M-F) operation. All scheduled repairs will be subject to notification of the University's representative in advance. Vendor will coordinate all repairs involving access to facilities in advance with the University's representative.

The vendor shall have a Network Operations Center (NOC) that will monitor the service for troubles 24x7x365 that will convey real time alarms, alert and reporting of troubles.

Expected uptime for each of the data service types, will be 99.9% on a 24x7 basis. Uptime is defined as full usage of the service and at full capacity as stated herein, with the exception of scheduled maintenance. Uptime does not include the operation of the network on a diminished service level on any or all links due to errors, packet loss or any other factor causing the network to operate in a substandard manner. Any network condition other than uptime is considered a Network Failure.

Vendor will provide the University with an on-line, web-based network monitoring capability for the Vendor-supplied Ethernet MAN. It will include, but not limited to, the following metrics, as long as the values reflect industry accepted tolerances:

Bandwidth utilization.

Errors such as collisions.

Packet loss, delay and jitter.

Retransmits.

Throughput.

If the metrics exceed the allowable tolerances, the Vendor will distribute reports to the University daily along with an action plan, including an expected resolution time for out of specification metrics.

Vendor will identify a technical contact assigned to the University that will be accessible during normal University business hours and a secondary contact for emergency situations during non-business hours.

In the event the Vendor is unable to respond and/or make corrections to the operation of the contracted goods and services to the substantial satisfaction of the University, the Vendor will immediately make available a supervisor with the authority to obtain the resources required to make such repairs as may be necessary.

If the University does not receive a satisfactory resolution of any network service failure within forty-eight (48) hours the University may exercise its right to penalize and withhold amounts equal to 100% of the monthly service fee for all locations on an hourly basis that network uptime is not restored between the University and any other location.

Request for Proposal MU22METROETHER

If the University does not receive a satisfactory resolution of any network service failure within five (5) business days, the University may exercise its right to declare that the Vendor is in breach of this SLA.

In the event the University declares the Vendor in breach of the SLA agreement, the University will notify the vendor by US Mail of the breach and advise the Vendor that it has ten (10) business days to cure the breach.

If the Vendor fails to cure the breach within ten (10) business days, the University, at its option, may declare the vendor in default in whole or in part of the entire SLA agreement and seek whatever legal relief may be available.

Termination of service by the Vendor, for any reason, will require no less than six (6) months notification to enable the University to make other service arrangements. Both parties agree that substantial effort will be required on the University's behalf to seek out, negotiate and install a suitable replacement service in the event of termination of service by the Vendor. Further, it is agreed by the Vendor that this termination notice does not in any way change, alter or subjugate any and all remedies that may be legally available to the University.

The Vendor will be required, at all times, to stock spares of any and all equipment that may be required for replacement in the event of a network outage. The spares will be locally available and deliverable to any site within two (2) hours from the time requested by the technician determining the cause of failure.

Request for Proposal MU22METROETHER

Appendix B: Mandatory Standards

This RFP section covers the general requirements for the installation of fiber, equipment, and other associated materials by the vendor within the sites listed in Appendix C.

The vendor shall comply with the most current release of the following documents:

ANSI/TIA/EIA – 568 Commercial Building Telecommunications Cabling Standards

ANSI/TIA/EIA – 569 Telecommunications Pathways and Spaces

ANSI/TIA/EIA – 570 Residential Telecommunications Cabling Standard

ANSI/TIA/EIA – 606 Administration Standard for Telecommunications Infrastructure of Commercial Buildings

ANSI/TIA/EIA – 607 Commercial Building Grounding and Bonding Requirements for Telecommunications

ANSI/TIA/EIA – 758 Customer-Owned Outside Plant Telecommunications Cabling Standard

BICSI - TDMM, Building Industries Consulting Services International, Telecommunications Distribution Methods Manual (TDMM)

National Fire Protection Agency (NFPA)

National Electrical Code (NEC)

Institute of Electrical and Electronic Engineers (IEEE)

American National Standards Institute (ANSI)

International Standards Organization/International Electro-technical Commission (ISO/IEC)

associated with the RFP, including but not limited to, technical scores and reasons for disqualification, will not be available until after the contract has been awarded pursuant to West Virginia Code of State Rules §148-1-6.3 d.

By signing below, I certify that I have reviewed this Request for Proposal in its entirety; understand the requirements, terms and conditions, and other information contained herein; that I am submitting this proposal for review and consideration; that I am authorized by the bidder to execute this bid or any documents related thereto on bidder's behalf, that I am authorized to bind the bidder in a contractual relationship; and that, to the best of my knowledge, the bidder has properly registered with any State Department that may require registration.

Frontier West Virginia Inc.
(Company)

JEFFREY KAY SALES DIRECTOR
(Representative Name, Title)

(304) 216-7606
(Contact Phone/Fax Number)

8/23/2021
(Date)

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.

Frontier West Virginia Inc.

(Name, Title)

Chad Stepp - Sr. Enterprise Account Executive

(Printed Name and Title)

1500 MacCorkle Avenue SE, Charleston WV 25396

(Address)

(304) 410-5659

(Phone Number)

N/A

(Fax Number)

chad.stepp@ftr.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.

Frontier West Virginia Inc.

(Company)


(Authorized Signature)

Jeff Kay - Director Enterprise Sales

(Printed Name and Title of Authorized Representative)

8/23/2021

(Date)

(304) 216-7606

(Phone Number)

N/A

(Fax Number)

Appendix C: Cost Sheet

Marshall University Locations					
Site #	Requested Service	Existing Site Name	Site Address	Unit of Measure	Cost
1	3 Gbps	Drinko Library	1 John Marshall Drive, Huntington, WV 25755	Monthly	
2	1 Gbps	South Charleston Campus	100 Angus E. Peyton Drive, South Charleston, WV 25303	Monthly	
3	100 Mbps	Mid-Ohio Valley Center	1 John Marshall Way, Pt. Pleasant, WV 25550	Monthly	
4	10 Mbps	RCBI	2400 E.Benedum Industrial Drive, Bridgeport, WV 26330	Monthly	
5	10 Mbps	Larry Joe Harless Commu	202 Larry Joe Harless Dr, Gilbert, WV 25621	Monthly	
6	1 Gbps	Coon Education Building	1540 Spring Valley Dr, Huntington, WV 25704	Monthly	
7	1 Gbps	Yeager Airport	600 Eagle Mountain Road, Charleston, WV 25311	Monthly	
8	1 Gbps	Tri-State Airport	1449 Airport Rd, Bldg. #17, Huntington, WV 25704	Monthly	

Appendix: D Upgrade Cost Sheet

Marshall University Locations						
Site #	Requested Service	Upgraded Service	Existing Site Name	Site Address	Unit of Measure	Cost
1	3 Gbps	3 Gbps	Drinko Library	1 John Marshall Drive, Huntington, WV 25755	Monthly	
2	1 Gbps	1 Gbps	South Charleston Campus	100 Angus E. Peyton Drive, South Charleston, WV 25303	Monthly	
3	100 Mbps	1 Gbps	Mid-Ohio Valley Center	1 John Marshall Way, Pt. Pleasant, WV 25550	Monthly	
4	10 Mbps	100 Mbps	RCBI	2400 E. Benedum Industrial Drive, Bridgeport, WV 26330	Monthly	
5	10 Mbps	100 Mbps	Larry Joe Harless Community Center	202 Larry Joe Harless Dr, Gilbert, WV 25621	Monthly	
6	1 Gbps	1 Gbps	Coon Education Building	1540 Spring Valley Dr, Huntington, WV 25704	Monthly	
7	1 Gbps	1 Gbps	Yeager Airport	600 Eagle Mountain Road, Charleston, WV 25311	Monthly	
8	1 Gbps	1 Gbps	Tri-State Airport	1449 Airport Rd, Bldg. #17, Huntington, WV 25704	Monthly	

ADDENDUM ACKNOWLEDGEMENT FORM
SOLICITATION NO.: MU22METROETHER
(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 checked="" 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.

Frontier West Virginia Inc

Company _____

Authorized Signature _____

Date 8/23/2021

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

Addendum No. 01
MU22METROETHER
Marshall University Division Office of Information &
Technology
Pre-bid Questions and Answers

Q1. What do you mean by providing QoS?

A.1 Guarantee bandwidth is available at the site for the specified circuit size and pass our QoS tags within the vendor network.

Q2. How are the sites connected back to the Marshall location, site-to-site or mesh?

A2. Mesh

Q3. Vendors in attendance requested an extension on 1.2, the technical question deadline so they have more time to visit each location listed in the RFP.

A3. Marshall has agreed to issue extensions to the RFP Schedule of Events as follows:

- **Vendor's Written Question Submission Deadline - August 13, 2021 at 3 PM**
- **Addendum Issued -August 18, 2021 3PM**
- **Technical Bid Opening Date – August 27, 2021 3 PM**

Q4. What are the termination devices on the University side?

A4. Copper or Fiber, straight ethernet and size depends on the location.

Q5. Who is currently the incumbent vendor for Marshall.

A5. Frontier

Q6. Clarification this unmanaged and fiber is built in.

A6. Kevin clarified that this is an unmanaged contract service and the fiber is built in.

Q8. Current pricing was requested

A8. Reference Attachment # 1

Addendum No. 01
MU22METROETHER
**Marshall University Division Office of Information &
Technology**
Pre-bid Questions and Answers

Q9. What do you mean that the vendor is responsible for conduit into the building if necessary?

A9. If an existing conduit is full or unavailable the vendor is responsible for placing a new conduit into the facility.

Q10. Bonfire link was requested for this RFP

A10. <https://marshall.bonfirehub.com/projects/48828/details>

Q11. Confirm Marshall's conduit comes into the Coon building by placing an arrow on the picture labeled Attachment No. 2.

A11. See Attachment No. 2, map

PRE-BID SIGN-IN SHEET

29 JULY 2021 – 10:00 am Location: 125 OLD MAIN OR
TEAMS

Marshall University

Name: Randy Jones
Company: Segra
Address: 1200 Greenbrier St
Charleston WV 25311
E-Mail: randy.jones@segra.com
Phone: 304-720-2991
Fax: _____
Trade: _____

Name: Bre Schyers
Company: marshall university
Address: one john marshall dr.
E-Mail: schyers44@marshall.edu
Phone: 304 696 8853
Fax: _____
Trade: _____

Name: Chip Meerritt
Company: Verizon
Address: 3401 MacCorkle Ave
Charleston, WV 25304
E-Mail: Chip.j.meerritt@verizon.com
Phone: 304.590.6999
Fax: _____
Trade: _____

Name: _____
Company: _____
Address: _____
E-Mail: _____
Phone: _____
Fax: _____
Trade: _____

Name: GREG FLORENCE
Company: SEGRA
Address: 1200 GREENBRIER
CHARLESTON, WV 25311
E-Mail: GREG.FLORENCE@SEGRA.COM
Phone: 304-414-0411
Fax: _____
Trade: _____

Name: _____
Company: _____
Address: _____
E-Mail: _____
Phone: _____
Fax: _____
Trade: _____

Name: Michelle Wheeler
Company: Marshall University
Address: one John Marshall Dr.
E-Mail: michelle.wheeler@marshall.edu
Phone: 304-696-2727
Fax: _____
Trade: _____

Name: _____
Company: _____
Address: _____
E-Mail: _____
Phone: _____
Fax: _____
Trade: _____



Office of Purchasing
MANDATORY PHYSICAL AND VIRTUAL PRE-BID MEETING SIGN-IN SHEET

PROJECT NAME: MU22METROETHER
PROJECT NO: MARSHALL UNIVERSITY AND TEAMS VIRTUAL MEETING
MEETING PLACE: JULY 29, 2021
DATE:

Confirmed Email Attendees:

#	NAME	TITLE	REPRESENTING	PHONE	CELL	FAX	EMAIL
1.	Michelle Wheeler	Associate Director of Purchasing	Marshall- Purchasing	304-696-2727			michelle.wheeler@marshall.edu
2.	Bre Salyers	Purchasing Agent	Marshall- Purchasing	304-696-8853			salyers44@marshall.edu
3.	Kevin Maynard	Director IT Infrastructure Communications	Marshall- IT	304-696-6107			kevin.maynard@marshall.edu
4.	Mike Adkins	Director Infrastructure	Marshall – Infrastructure	304-696-3209			mike.adkins@marshall.edu
5.	Jonathan Jakubcin	Account Director	Lumen	713-341-4208			jonathan.jakubcin@lumen.com
6.	Chad Stepp	Sr. Enterprise Account Executive	Frontier Business	304-410-5659			chad.stepp@ftr.com
7.	Chris Haydon	Senior Account Executive – SLED	CBTS (Consult Build Transform Support)	631-245-7385			christopher.haydon@cbs.com
8.	Randy Jones		Segra	304-720-2991			randy.jones@segra.com
9.	Chip Merritt	Channel Partner Manager	Verizon Business Markets	304-590-6999			chip.j.merritt@verizon.com



Office of Purchasing
MANDATORY PHYSICAL AND VIRTUAL PRE-BID MEETING SIGN-IN SHEET

#	NAME	TITLE	REPRESENTING	PHONE	CELL	FAX	EMAIL
10.	Greg Florence	Government Account Executive	Segra	304-414-0411			greg.florence@segra.com
11.							
12.							
13.							
14.							
15.							
16.							
17.							
18.							
19.							
20.							
21.							

Attachment No. 1



June 28, 2019
State of West Virginia
Attn: Justin McAllister
Office of Technology
1900 Kanawha Blvd E
Bldg. 5, 10th Floor
Charleston, WV 25305

RE: MPLS07EEEEEE
Dear Mr. McAllister:

Per the email dated May 21, 2019, West Virginia Office of Technology is requesting an Emergency Replacement Contract which is necessary to continue supporting the current operating environment without change or disruption of services for the period July 1, 2019 to December 30, 2019 during which time certain provisions of the original MPLS07 contract, "Section 3.16.12 Disentanglement", are to continue and be completed. WVOT is requesting the Emergency Replacement Contract according to all Terms and Conditions, Pricing and Specifications contained in the original MPLS07 Contract including all authorized Change Orders and the subsequent Emergency Replacement Contracts approved by the State of WV.

Verizon is agreeable to an additional six (6) months for the purpose of continuation of the existing services during the transition period and implementing the disentanglement provisions of Section 3.16.12 of MPLS07, subject to and incorporating all terms & conditions, pricing, specifications and authorized Change Orders and prior emergency replacement contracts approved by the State of WV. Verizon is also willing to pass through any price increases proposed by co-prime Frontier and accepted by WVOT as presented by Frontier to Verizon for billing purposes without any associated one-time billing change charges. Notwithstanding the foregoing, Verizon understands that new service request must be provided either from the DATATRANS contract or separately bid with WVOT approval.

Verizon's acceptance of the Emergency Replacement Contract is contingent upon: (i) co-prime Frontier's agreement to the above, and (ii) Frontier's agreement to continue supporting the Coordinated Performance Agreement between Verizon and Frontier under the same terms and conditions. Frontier's support is necessary in order to provision the existing services (including: billing, ordering, repair, etc.) as they are today.

Thank you again for the opportunity to provide your telecommunications needs.

Sincerely,

Sandra Hawkins
Senior Account Manager
Authorized Contact
Verizon
304-356-3395
sandra.k.hawkins@verizon.com

Attachment No. 1

ILEC PROVIDED SERVICES

Description of Offering	Page # and/or RFP Section Access	NRC	New month-to-month rate Unit Cost
Frame Relay Indirect Access Method	3.1.12 & 3.1.17		
DS-0		\$ 800.00	237.00
DS-1		\$ 1,000.00	581.00
DS-3 4Mb		\$ 1,500.00	6,111.00
DS-3 6Mb		\$ 1,500.00	6,172.00
DS-3 22Mb		\$ 1,500.00	6,656.00
DS-3 45Mb		\$ 1,500.00	7,352.00
Additional PVC		\$ -	5.06
Multilink Frame Relay		\$ -	25.30
ATM Indirect Access	3.1.12 & 3.1.17		
DS-1		\$ -	787.00
DS-3 with 10Mb CBR		\$ -	8,034.00
DS-3 45 Mb		\$ -	8,034.00
OC-3		\$ -	11,967.00
Private Line Pt to Pt Direct Access Method	3.1.12 & 3.1.17.5		
DS-0		\$ 800.00	237.00
DS-1 Access to PIP only		\$ -	360.53
DS-1		\$ -	499.68
N x DS-1 (max of 12 Mg support or 8 T-1's)		\$ -	360.53
DS-3 (Direct Access to PIP & Frontier territory only)		\$ -	3,605.25
		\$ 0	-

Attachment No. 1

Internet Dedicated Access IDA is referenced in the technical section as an access method for VoIP. Pricing for IDA would have to be provided o an ICB bases due to the public nature of the access instead of the Private IP access offered by PIP. IDA can not be postilized but could be utilized on an ICB by a buying entity not needing the connection to PIP. However in most all cases PIP offers the most economical connection with the highest SLA.

Ethernet SES (Standard VLAN) 3.1.12.1

10 Mb	0 \$	-	-
100 Mb	0 \$	-	-
1 Gb	0 \$	-	-
	\$ 1,300.00	\$	1,200.00
	\$ 1,300.00	\$	2,400.00
	\$ 1,300.00	\$	4,000.00

Interoffice Transport per mile (only applies when SES platform is not in local office

EVC's (with Standard Access not to PIP)

10 Mb	0 \$	-	-
100 Mb	0 \$	-	-
1 Gb	0 \$	-	-
	\$ 220.00	\$	63.25
	\$ 220.00	\$	126.50
	\$ 220.00	\$	253.00

Ethernet SES Access (Premier Access)

Must select EVC with CoS below

100Mb	0 \$	-	-
1 Gb	0 \$	-	-
	\$ 1,430.00	\$	1,265.00
	\$ 3,080.00	\$	2,530.00

EVC's with Basic CoS within SES Platform

1	0 \$	-	-
2	0 \$	-	-
3	0 \$	-	-
4	0 \$	-	-
5	0 \$	-	-
	\$ 220.00	\$	12.65
	\$ 220.00	\$	25.30
	\$ 220.00	\$	37.95
	\$ 220.00	\$	50.60
	\$ 220.00	\$	63.25

Attachment No. 1

6	\$	220.00	\$	75.90
7	\$	220.00	\$	88.55
8	\$	220.00	\$	101.20
9	\$	220.00	\$	113.85
10	\$	220.00	\$	126.50
20	\$	220.00	\$	253.00
30	\$	220.00	\$	379.50
40	\$	220.00	\$	506.00
50	\$	220.00	\$	632.50
60	\$	220.00	\$	759.00
70	\$	220.00	\$	885.50
80	\$	220.00	\$	1,012.00
90	\$	220.00	\$	1,138.50
100	\$	220.00	\$	1,265.00
200	\$	220.00	\$	1,518.00
300	\$	220.00	\$	1,581.25
400	\$	220.00	\$	1,644.50
500	\$	220.00	\$	1,707.75
600	\$	220.00	\$	1,771.00
700	\$	220.00	\$	1,834.25
800	\$	220.00	\$	1,897.50
900	\$	220.00	\$	1,960.75
1000	\$	220.00	\$	2,024.00

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Multilink Frame Relay		\$ -	\$ 25.30
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DS-1		\$ -	\$ 360.53
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DS-3 (Direct Access to PIP & Frontier territory only)		\$ -	\$ 360.53
		\$ -	\$ 3,605.25
		\$ 0	\$ -

Attachment No. 1

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1 Gb	0 \$	-
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	\$ 220.00	253.00

Ethernet SES Access (Premier Access)

3.1.12.1

Must select EVC with CoS below	0 \$	-
100Mb	0 \$	-
1 Gb	0 \$	-
	\$ 1,430.00	1,265.00
	\$ 3,080.00	2,530.00

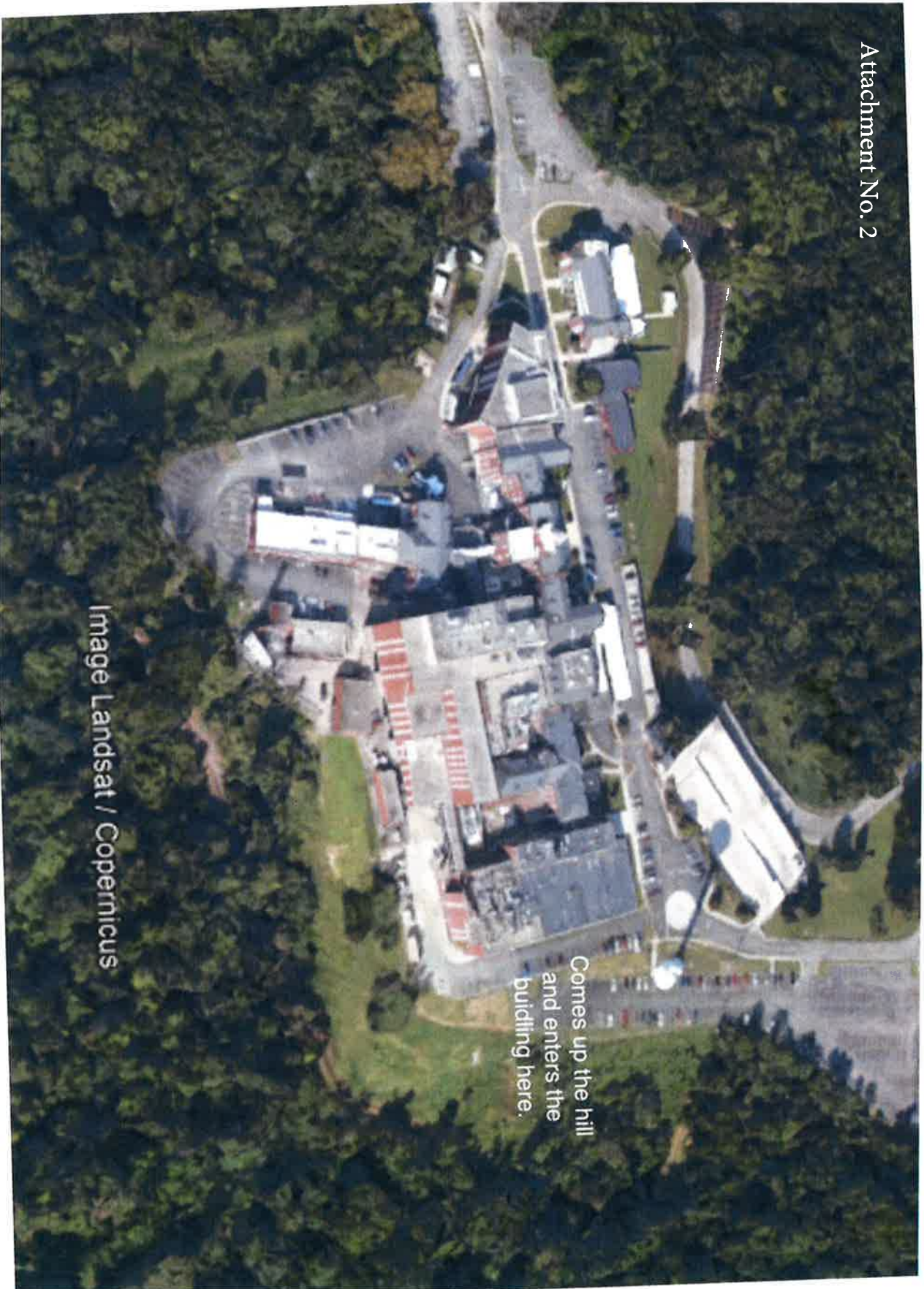
EVC's with Basic CoS within SES Platform

3.1.12.1

1	0 \$	-
2	0 \$	-
3	0 \$	-
4	0 \$	-
5	0 \$	-
	\$ 220.00	12.65
	\$ 220.00	25.30
	\$ 220.00	37.95
	\$ 220.00	50.60
	\$ 220.00	63.25

Attachment No. 1

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8	\$	220.00	\$	101.20
9	\$	220.00	\$	113.85
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40	\$	220.00	\$	506.00
50	\$	220.00	\$	632.50
60	\$	220.00	\$	759.00
70	\$	220.00	\$	885.50
80	\$	220.00	\$	1,012.00
90	\$	220.00	\$	1,138.50
100	\$	220.00	\$	1,265.00
200	\$	220.00	\$	1,518.00
300	\$	220.00	\$	1,581.25
400	\$	220.00	\$	1,644.50
500	\$	220.00	\$	1,707.75
600	\$	220.00	\$	1,771.00
700	\$	220.00	\$	1,834.25
800	\$	220.00	\$	1,897.50
900	\$	220.00	\$	1,960.75
1000	\$	220.00	\$	2,024.00



Comes up the hill
and enters the
building here.

Image Landsat / Copernicus



Office of Purchasing
MANDATORY PHYSICAL AND VIRTUAL PRE-BID MEETING SIGN-IN SHEET

PROJECT NAME: Comprehensive Chiller Maintenance and Repair Services
PROJECT NO: MU22METROETHER
MEETING PLACE: MARSHALL UNIVERSITY AND TEAMS VIRTUAL MEETING
DATE: JULY 29, 2021

Confirmed Email Attendees:

#	NAME	TITLE	REPRESENTING	PHONE	CELL	FAX	EMAIL
1.	Michelle Wheeler	Associate Director of Purchasing	Marshall- Purchasing	304-696-2727			michelle.wheeler@marshall.edu
2.	Bre Salyers	Purchasing Agent	Marshall- Purchasing	304-696-8853			salyers44@marshall.edu
3.	Kevin Maynard	Director IT Infrastructure Communications	Marshall- IT	304-696-6107			kevin.maynard@marshall.edu
4.	Mike Adkins	Director Infrastructure	Marshall – Infrastructure	304-696-3209			mike.adkins@marshall.edu
5.	Jonathan Jakubcian	Account Director	Lumen	713-341-4208			jonathan.jakubcin@lumen.com
6.	Chad Stepp	Sr. Enterprise Account Executive	Frontier Business	304-410-5659			chad.stepp@fr.com
7.	Chris Haydon	Senior Account Executive – SLED	CBTS (Consult Build Transform Support)	631-245-7385			christopher.haydon@cbts.com
8.	Randy Jones		Segra	304-720-2991			randy.jones@segra.com
9.	Chip Merritt	Channel Partner Manager	Verizon Business Markets	304-590-6999			chip.j.merritt@verizon.com

meetingAttendanceReport(MU22METROETHER Mandatory Prebid)

Meeting Summary										
Total Number of Participants 7										
Meeting Title MU22METROETHER Mandatory Prebid										
Meeting Start Time		7/29/2021		9:57:10 AM						
Meeting End Time		7/29/2021		10:25:52 AM						
Full Name	Join Time	Leave Time	Duration	Email	Role					
Bryers	Bry	7/29/2021	9:57:10 AM	7/29/2021	10:25:52 AM	28m 41s	bryers44@marshall.edu	Presenter		
Adkins	Mike	7/29/2021	9:57:18 AM	7/29/2021	10:25:44 AM	28m 25s	adkins@marshall.edu	Presenter		
Vance	Javey	7/29/2021	9:58:01 AM	7/29/2021	10:25:40 AM	26m 38s	vance30@marshall.edu	Presenter		
HAYDON	CHRISTOPHER	7/29/2021	9:58:05 AM	7/29/2021	10:25:48 AM	28m 40s	christopher.haydon@cbts.com	Presenter		
Jakubcin	Jonathan	7/29/2021	10:00:19 AM	7/29/2021	10:25:40 AM	25m 20s	jonathan.jakubcin@lumen.com	Presenter		
1304502066	7/29/2021	10:03:07 AM	7/29/2021	10:04:55 AM	1m 48s			Attendee		
Stapp	Chad	7/29/2021	10:04:25 AM	7/29/2021	10:25:45 AM	21m 18s	rcs534@ttc.com	Presenter		

Addendum No. 02
MU22METROETHER
Marshall University Division Office of Information &
Technology
Vendor Technical Questions and Answers

Q1. What do you mean by providing QoS?

A.1 Guarantee bandwidth is available at the site for the specified circuit size and pass our QoS tags within the vendor network.

Q2. How are the sites connected back to the Marshall location, site-to-site or mesh?

A2. Mesh

Q3. Vendors in attendance requested an extension on 1.2, the technical question deadline so they have more time to visit each location listed in the RFP.

A3. Marshall has agreed to issue extensions to the RFP Schedule of Events as follows:

- **Vendor's Written Question Submission Deadline - August 13, 2021 at 3 PM**
- **Addendum Issued -August 18, 2021 3PM**
- **Technical Bid Opening Date – August 27, 2021 3 PM**

Q4. **What are the termination devices on the University side?**

A4. Copper or Fiber, straight ethernet and size depends on the location.

Q5. Who is currently the incumbent vendor for Marshall.

A5. Frontier

Q6. Clarification this unmanaged and fiber is built in.

A6. Kevin clarified that this is an unmanaged contract service and the fiber is built in.

Q8. Current pricing was requested

A8. Reference Attachment # 1

Addendum No. 02
MU22METROETHER
Marshall University Division Office of Information &
Technology
Vendor Technical Questions and Answers

Q9. What do you mean that the vendor is responsible for conduit into the building if necessary?

A9. If an existing conduit is full or unavailable the vender is responsible for placing a new conduit into the facility.

Q10. Bonfire link was requested for this RFP

A10. <https://marshall.bonfirehub.com/projects/48828/details>

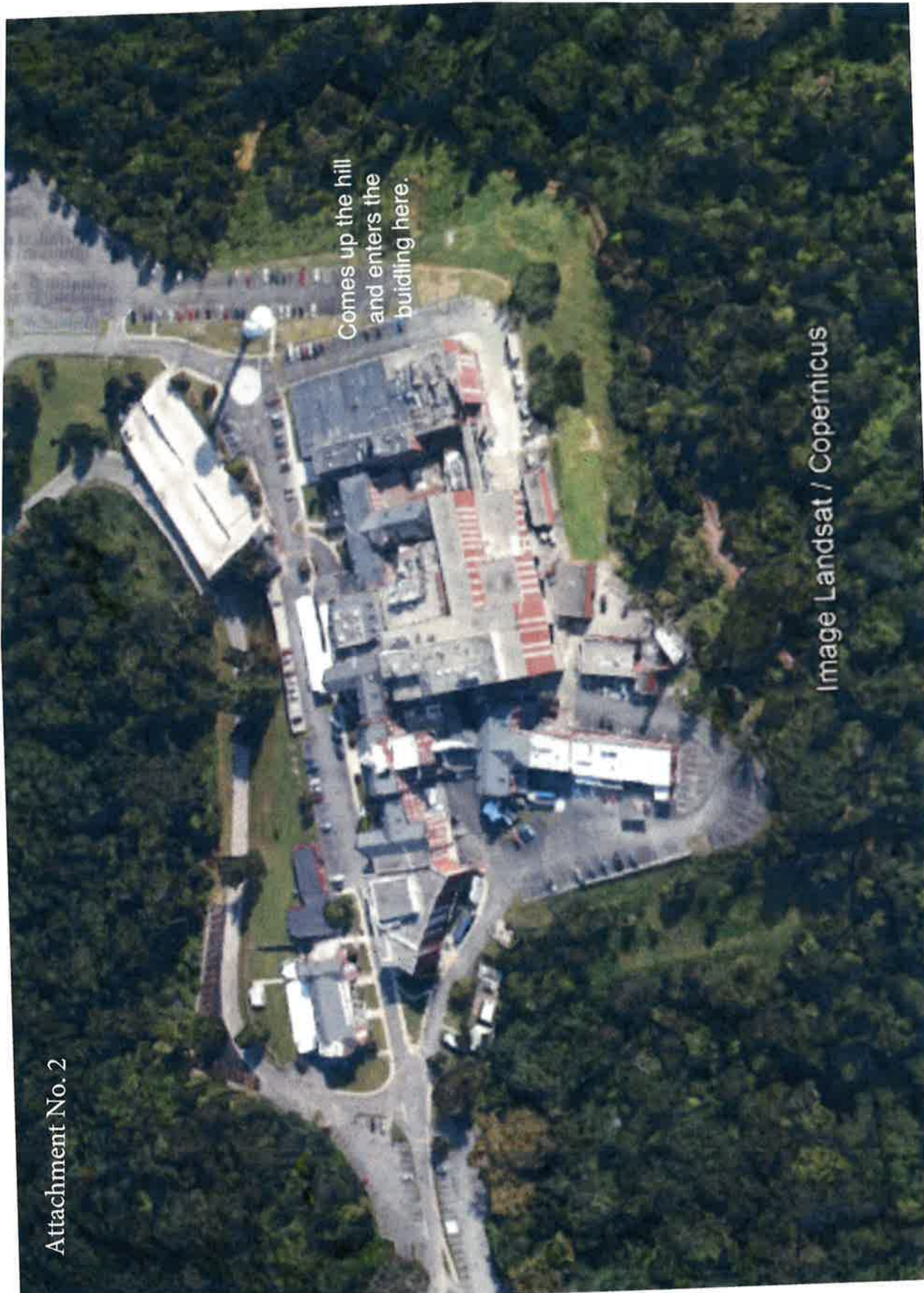
Q11. Confirm Marshall's conduit comes into the Coon building by placing an arrow on the picture labeled Attachment No. 2.

A11. See Attachment No. 2, map

Q12. We would like to request an extension on the installation due date since permitting can take up to 121 days once the award is presented and the order is completed. Would April 1st be a possibility?

A12. If this is a factor, it will be addressed with the awarded supplier.

Attachment No. 2



Comes up the hill
and enters the
building here.

Image Landsat / Copernicus

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MU22METROETHER
**Marshall University Division Office of Information &
Technology**
Vendor Technical Questions and Answers

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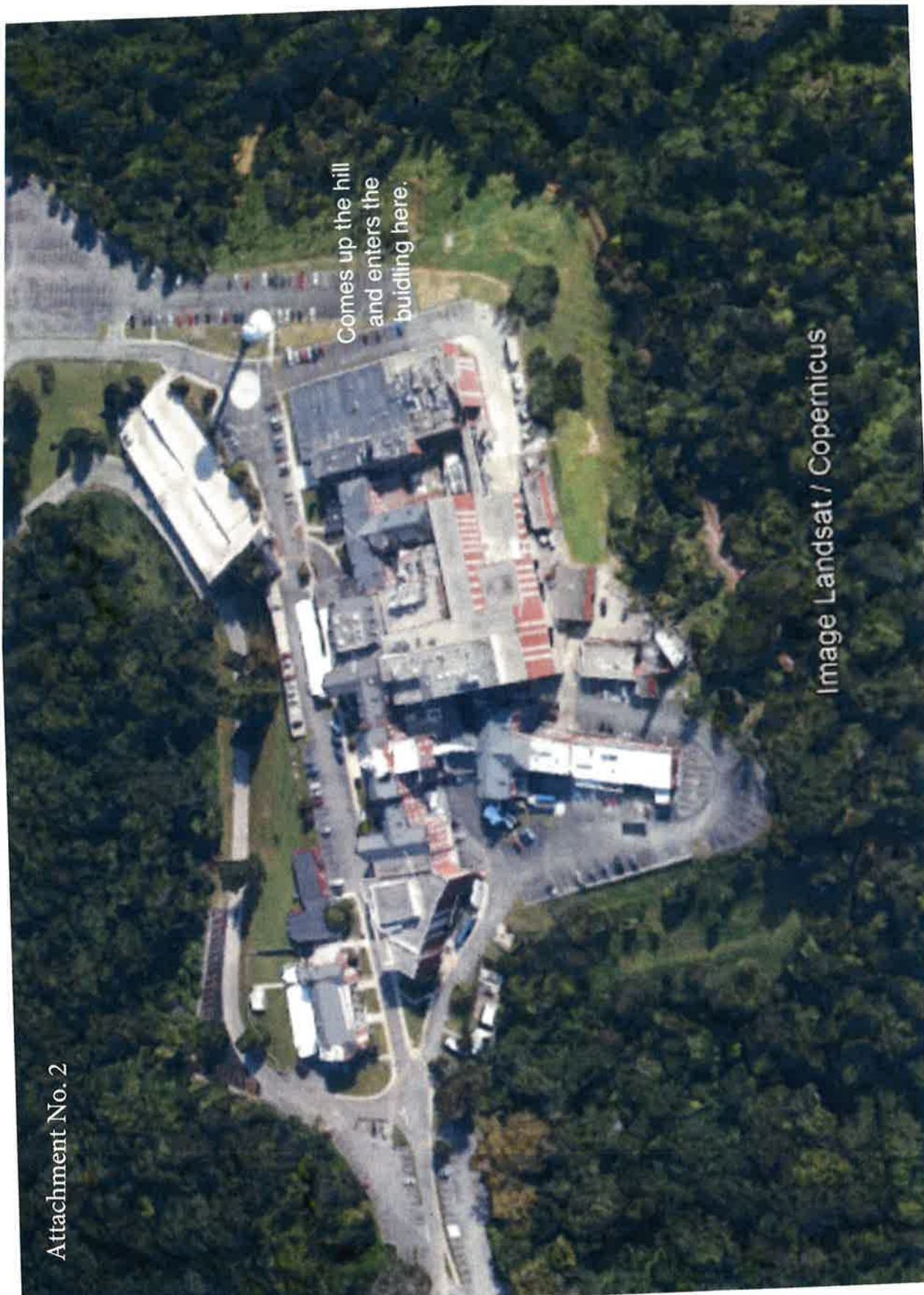
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Comes up the hill
and enters the
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Image Landsat / Copernicus

SOLICITATION NUMBER: MU22METROETHER

Addendum Number: No.03

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.

Notification of the following dates:

Technical Evaluation Begins..... 08/30/2021
Cost Bid Opening..... 09/08/2021
Cost Evaluation Begins09/09/2021
Contract Award Made09/10/2021

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.

State of West Virginia

VENDOR PREFERENCE CERTIFICATE

Certification and application is hereby made for Preference in accordance with **West Virginia Code**, §5A-3-37. (Does not apply to construction contracts). **West Virginia Code**, §5A-3-37, provides an opportunity for qualifying vendors to request (at the time of bid) preference for their residency status. Such preference is an evaluation method only and will be applied only to the cost bid in accordance with the **West Virginia Code**. This certificate for application is to be used to request such preference. The Purchasing Division will make the determination of the Vendor Preference, if applicable.

1. **Application is made for 2.5% vendor preference for the reason checked:**
 Bidder is an individual resident vendor and has resided continuously in West Virginia, or bidder is a partnership, association or corporation resident vendor and has maintained its headquarters or principal place of business continuously in West Virginia, for four (4) years immediately preceding the date of this certification; **or**,
 Bidder is a resident vendor partnership, association, or corporation with at least eighty percent of ownership interest of bidder held by another entity that meets the applicable four year residency requirement; **or**,
 Bidder is a nonresident vendor which has an affiliate or subsidiary which employs a minimum of one hundred state residents and which has maintained its headquarters or principal place of business within West Virginia continuously for the four (4) years immediately preceding the date of this certification; **or**,
2. **Application is made for 2.5% vendor preference for the reason checked:**
 Bidder is a resident vendor who certifies that, during the life of the contract, on average at least 75% of the employees working on the project being bid are residents of West Virginia who have resided in the state continuously for the two years immediately preceding submission of this bid; **or**,
3. **Application is made for 2.5% vendor preference for the reason checked:**
 Bidder is a nonresident vendor that employs a minimum of one hundred state residents, or a nonresident vendor which has an affiliate or subsidiary which maintains its headquarters or principal place of business within West Virginia and employs a minimum of one hundred state residents, and for purposes of producing or distributing the commodities or completing the project which is the subject of the bidder's bid and continuously over the entire term of the project, on average at least seventy-five percent of the bidder's employees or the bidder's affiliate's or subsidiary's employees are residents of West Virginia who have resided in the state continuously for the two immediately preceding years and the vendor's bid; **or**,
4. **Application is made for 5% vendor preference for the reason checked:**
 Bidder meets either the requirement of both subdivisions (1) and (2) or subdivision (1) and (3) as stated above; **or**,
5. **Application is made for 3.5% vendor preference who is a veteran for the reason checked:**
 Bidder is an individual resident vendor who is a veteran of the United States armed forces, the reserves or the National Guard and has resided in West Virginia continuously for the four years immediately preceding the date on which the bid is submitted; **or**,
6. **Application is made for 3.5% vendor preference who is a veteran for the reason checked:**
 Bidder is a resident vendor who is a veteran of the United States armed forces, the reserves or the National Guard, if, for purposes of producing or distributing the commodities or completing the project which is the subject of the vendor's bid and continuously over the entire term of the project, on average at least seventy-five percent of the vendor's employees are residents of West Virginia who have resided in the state continuously for the two immediately preceding years.
7. **Application is made for preference as a non-resident small, women- and minority-owned business, in accordance with West Virginia Code §5A-3-59 and West Virginia Code of State Rules.**
 Bidder has been or expects to be approved prior to contract award by the Purchasing Division as a certified small, women- and minority-owned business.
8. **Application is made for reciprocal preference.**
 Bidder is a West Virginia resident and is requesting reciprocal preference to the extent that it applies.

Bidder understands if the Secretary of Revenue determines that a Bidder receiving preference has failed to continue to meet the requirements for such preference, the Secretary may order the Director of Purchasing to: (a) rescind the contract or purchase order; or (b) assess a penalty against such Bidder in an amount not to exceed 5% of the bid amount and that such penalty will be paid to the contracting agency or deducted from any unpaid balance on the contract or purchase order.

By submission of this certificate, Bidder agrees to disclose any reasonably requested information to the Purchasing Division and authorizes the Department of Revenue to disclose to the Director of Purchasing appropriate information verifying that Bidder has paid the required business taxes, provided that such information does not contain the amounts of taxes paid nor any other information deemed by the Tax Commissioner to be confidential.

Bidder hereby certifies that this certificate is true and accurate in all respects; and that if a contract is issued to Bidder and if anything contained within this certificate changes during the term of the contract, Bidder will notify the Purchasing Division in writing immediately.

Bidder: FRONTIER WEST VIRGINIA INC Signed: 
Date: 8/23/2021 Title: SALES DIRECTOR

*Check any combination of preference consideration(s) indicated above, which you are entitled to receive.

1 of 1 | [View All](#) Some of the values entered as Search Criteria for UI secured field ...

Vendor/Customer

[Menu](#)

Vendor/Customer	Legal Name	Alias/DBA	Vendor Active Status	Customer Active Status	Previous Name
✓ 000000101327	FRONTIER		Active	Inactive	
000000219447	FRONTIER COMMUNICATIONS OF WV		Active	Inactive	

From 1 to 2 of 2 First Prev Next Last [Attachments](#)

Save [Undo](#) Delete Insert [Copy](#) Paste [Search](#) 

▶ General Info

▶ Headquarters

▶ Organization

▶ Disbursement Options

▶ Prenote/EFT

▶ Remittance Advice

▶ Vendor Terms

▶ Accounts Receivable

▶ eMALL

▶ Location Information

▶ Fee and Vendor Compliance Holds

Fee Exempt : <input type="checkbox"/>	Tax Clearance : <input type="checkbox"/>
Registration Application Date : 09/23/2011 <input type="checkbox"/>	Unemployment Insurance : <input type="checkbox"/>
Registration Effective Date : 09/23/2011 <input type="checkbox"/>	Worker's Compensation : <input type="checkbox"/>
Registration Expiration Date : 09/23/2012 <input type="checkbox"/>	Secretary of State Registration : <input type="checkbox"/>
Pre-Registration Code : <input type="text"/>	Federal Debarred : <input type="checkbox"/>

▶ Executive Compensation

▶ Additional Information

▶ Travel

▶ Change Management

[Top](#)

CREATE DOCUMENT> [Create New Record](#) [Modify Existing Record](#)

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: _____

Authorized Signature: *[Signature]* Date: 8/11/21

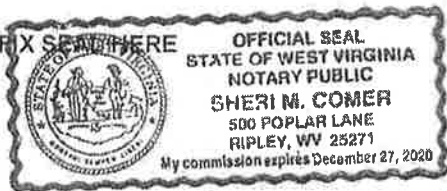
State of West Virginia

County of Kanawha, to-wit:

Taken, subscribed, and sworn to before me this 10th day of August, 2021.

My Commission expires 12/27, 2021

AFFIX SEAL HERE



NOTARY PUBLIC *[Signature]*

Purchasing Affidavit (Revised 01/19/2018)