WEST VIRGINIA COMMUNITY AND TECHNICAL COLLEGE SYSTEM
REQUEST FOR EXPRESSIONS OF INTEREST (EOI)
EOI No. 27158

For more information about WVCTCS, please visit https://wvctcs.org.

TITLE: New River Community & Technical College's (NRCTC), Ghent Campus, New Welding Lab Building

PROPOSAL DUE DATE: December 18, 2026, 2:00pm ESDT

PROCUREMENT OFFICIAL: Connie Oswald, Procurement Specialist

cbid.receipt@wvhepc.edu

Any and all communication shall be held with the Procurement Specialist or Director of Procurement Official. Proposers shall not communicate with any other West Viginia Community & Technical College System, (WVCTCS), and New River Community & Technical College, (NRCTC), personnel or representative during the EOI process. If Proposers are found to have communicated with any other representative of WVCTCS, and/or NRCTC during the EOI process, the Proposer may be disqualified, and the Proposal will not be accepted by WVCTC.

I. INTRODUCTION AND OVERVIEW OF SOLICITATION

A. OVERVIEW OF SOLICITATION

The West Virginia Community and Technical College System ("WVCTCS" and/or "Owner") is seeking Expressions of Interest ("EOI") from architectural firms experienced in planning, designing, and providing construction administration services for a new 10,500 SF Welding Lab Building at New River Community and Technical College's ("NRCTC") Ghent Campus, located in Ghent, West Virginia.

B. SOLICITATION SCHEDULE

The following is an anticipated Solicitation Schedule. The WVCTCS may, in its sole discretion change this schedule at any time. If WVCTCS changes dates in the schedule before the deadline for receipt of Proposals, it will do so by an addendum to this EOI. It is each prospective Proposer's responsibility to check the EOI posted at the

following URL:
https://wvctcs.org/purchasing-and-finance

It is the Bidder's obligation to check this website for current information regarding this EOI and its timelines.

EOI Publication	November 23, 2026
Question Deadline (see Exhibit A)	December 11, 2026, 2:00pm ESDT
EOI Submission Due Date ("Due Date")	December 18, 2026, 2:00pm ESDT
Anticipated Contract Start Date	January/February 2026

C. PRE-PROPOSAL MEETING:

See Exhibit A - Instructions To Bidders

II. SCOPE OF SERVICES

Submitter must be aware that the overall Project Schedule is paramount in this project, and a schedule extension is unacceptable. Proposers must take this into consideration in preparing the Submission.

The following is a list of Exhibits that are attached and are applicable to this EOI:
See Exhibit A, Instructions to Bidders
See Exhibit B, General Terms and Conditions
See Exhibit C, Guidelines for Email Submissions
See Exhibit D, Addendum Acknowledgement
See Exhibit E, State of West Virginia Supplementary Conditions to AIA Document B101
See Exhibit F, State of West Virginia Purchasing Affidavit
See Exhibit G, State of West Virginia WV-96 May 2026
See Exhibit H, EOI Certification and Signature

III. RESPONSE REQUIREMENTS & EVALUATION CRITERIA

All submissions must be formatted with the items and in the sequence as presented in this Section of the EOI. Except as otherwise set forth herein, Section III outlines the minimum requirements for the preparation and presentation of a response. Failure to comply may result in rejection of the response. The Submission should be specific and complete in every detail, prepared in a simple and straightforward manner.

Submitters are expected to examine the entire EOI, including all specifications, standard provisions and instructions. Failure to do so will be at the Submitters' risk. Each Submission shall furnish the information required by the EOI.

Evaluation Criteria: The following evaluation factors will be used in determining the best-qualified Submission:

SCOPE OF SERVICES

The selected architect will work with WVCTCS staff and NRCTC's faculty and staff to: (1) confirm the project program, (2) design a flexible, state-of-the-art facility that meets programmatic needs and the schools requirements, is aesthetically pleasing and energy efficient; (3) develop a logical and economic construction phasing plan for the current project; (4) provide construction administration services; (5) assist with Owner purchased and installed equipment and furniture, and (6) coordinate services as needed and work seamlessly with the Owner's other consultants, i.e., geotechnical engineers, construction quality control testing consultants, HVAC commissioning agent, etc.

EXPRESSIONS OF INTEREST AND EVALUATION

Architectural firms interested in being considered for this engagement should provide the following which the WVCTCS and NRCTC staff will use to evaluate and select the architectural firm(s) that the staff believes to be the best qualified to provide the services requested:

1. Relevant prior experience of the firm, the professionals it assigns to the project, including its proposed consultants, (the "project team") with similar projects and in Welding Labs requirements that apply to the project. (25 points maximum)

2. Perceived quality of the firm's management and project team's capability to provide the scope of services identified above. The firm will be expected to clearly demonstrate that it has the expertise, flexibility to work with WVCTCS, its other consultants, and NRCTC staff to meet program, design, and construction objectives. (25 points maximum)

3. The principals and project personnel assigned to the project, including consultant's personnel. (15 points maximum)

4. Determination that the firm and project team is of sufficient size and has the capability to manage the project by providing services on a timely basis and within the project schedule and fee agreed to at the outset. (15 points maximum)

5. The perceived ability of the firm and project team to produce the kind of facility envisioned; experience in designing flexible, aesthetically pleasing, energy efficient "green" buildings, by applying these design principals and objectives to the facility. (20 points maximum)

Interested firms should submit a marketing package clearly and concisely covering the evaluative criteria above as well as the firm's history, resumes of principals and proposed project team, including proposed consultants, organizational arrangement, and at least three references from recent clients with similar projects.

Expressions of interest will be used by the interview/selection committee (comprised of WVCTCS and NRCTC staff/personnel) to select the most experienced and qualified firm and project team

(in the committee's opinion). Firms under final consideration will be interviewed prior to making a final decision. A stipulated sum fee and a not-to-exceed amount for reimbursable expenses will be negotiated with the selected firm after the selection committee names their final selection. No fee discussions will occur before, on, or during the interviewing process.

OTHER INFORMATION

If mutually acceptable terms cannot be reached within a reasonable period of time, the WVCTCS reserves the right to undertake negotiations with the next most advantageous firm or firms without undertaking a new procurement process. The project architect shall be licensed to practice architecture in the State of West Virginia, and the architect's consulting engineers of record shall be registered professional engineers in the State of West Virginia. The successful firm shall be a registered vendor with the Purchasing Division, WV Department of Administration, and have a valid vendor number. The form of agreement will be AIA Document B101-2017, Standard Form of Agreement Between Owner and Architect, with the State of West Virginia Supplementary Conditions to AIA Document B101. The successful firm shall provide professional liability, general liability, automobile liability, and workers compensation insurance for the duration of the project, or as otherwise proscribed by law, as identified below, and provide certificates of insurance to document such coverage.

IV. RFP RULES AND GUIDELINES

A. COMMUNICATIONS

Throughout the procurement process, all communication, outside of those submitted under "Explanations and Clarifications" as described herein, between the Submitter and the WVCTCS shall be with the Procurement Official identified above. "Submitters" includes subcontractors at all levels and joint venture members, where applicable. Discussions or communications regarding this solicitation with any other individuals associated in any capacity with the WVCTCS, its consultants, contractors or members of its Board of Governors, or members of any Evaluation Committee are prohibited, unless otherwise approved in writing by the Procurement Official. Discussions or communications with any other person, regardless of the format, could result in disclosure of proprietary or other competitive sensitive information or otherwise create the appearance of impropriety or unfair competition and, thereby, compromise the integrity of WVCTCS's procurement process.

Submitters shall provide immediate written notice to the Procurement Official any time contact has not been limited to the Procurement Official concerning this solicitation, whether initiated by the Proposer or by other WVCTCS employees, consultants, contractors or members of its Board of Governors. **Any violation of this prohibition may result in the disqualification of the Submitter from further participation in this solicitation, and from award of any contract or subcontract under this solicitation. By submitting, the Submitter certifies that it is in compliance with the above.**

B. REVISIONS, EXPLANATION, AND CLARIFICATIONS TO THE EOI

Any explanation or clarification desired by a Submitter regarding the meaning or interpretation of any part of this solicitation must be submitted in writing by an authorized representative of the Submitter through the e-mail address listed in Exhibit A with a clear cross-reference to the relevant EOI section. Requests for explanations or clarifications must be submitted on or before the deadline for questions. Requests for clarification received after this deadline may not be considered and the WVCTCS is under no obligation to address them.

Written explanations or clarifications provided to a Submitter concerning an interpretation of the solicitation shall be furnished to all Submitters if such information is necessary in submitting Submissions or if the lack of such information would be prejudicial to uninformed Submissions. The Submitter must check the Q&A Board throughout the procurement process to view all applicable information. The WVCTCS is under no further obligation to ensure that Submitters receive explanations or clarifications.

Oral explanations or clarifications given before the award of any contract, at any pre-submission conferences or otherwise, do not serve to modify the solicitation and will not be binding on the WVCTCS. Suggestions for EOI revision may be submitted to the Procurement Official by emailing Connie Oswald Procurement Specialist at cbid.receipt@wvhepc.edu. This is an opportunity for prospective Proposers, prospective partnership members, and others to provide feedback to inform EOI revisions if needed.

The WVCTCS also reserves the right to cancel or to reissue the EOI, in whole or in part, prior to execution of a contract.

C. MODIFICATION/ACKNOWLEDGMENT OF SOLICITATION ADDENDA

The WVCTCS reserves the right to modify or amend the solicitation. If it is amended, then all terms and conditions which are not modified remain unchanged. When the solicitation is modified or amended, the Procurement Official shall post a solicitation addendum on the following URL:

https://wvctcs.org/purchasing-and-finance.

The WVCTCS is under no further obligation to ensure that Submitters receive addenda.

An Addendum may be issued for many reasons including, but not limited to, (a) making changes or corrections to the EOI; (b) clarifications, revisions, additions or deletions to the goods or services specifications; (c) providing information necessary to ensure fair and competitive solicitation (i.e. used in cases where one Submitter has received information that other Submitters have not); (d) extension or postponement of the Due Date, or other EOI date, due to WVCTCS need or Submitter request; or (e) any other reason determined by the Procurement Official

to be necessary or advantageous to WVCTCS.

The CPO, PS, or designee may extend the Submission Due Date, if doing so is in the best interest of the WVCTCS. Additionally, Submitters who contact the Procurement Official prior to the Due Date, may request to extend the Due Date, such issuance of an extension is at the WVCTC's sole discretion. Such postponement shall be accomplished through an Addendum to the EOI, which shall be published and distributed through the WVCTC's Public URL Site.

D. PREPARATION OF PROPOSALS – GENERAL

1. Examine the Entire Solicitation. Prior to submission of Submissions, Submitters are expected to thoroughly examine all provisions of and Attachments, Appendices, and/or Addendums to the solicitation, whether incorporated by reference or otherwise. Failure to do so will be at the Submitter's risk and will not be a basis for the Submitter to request relief of any kind prior to or after contract award.

2. Exceptions to Solicitation. If the Submitter cannot accept WVCTCS's terms, conditions or requirements, the Submitter shall raise their exceptions in their Submissions. It is the WVCTC's sole discretion as to whether or not it will accept or deny any exceptions raised by Submitters.

3. Furnish Information. Submitters shall furnish all information required by the Solicitation. Unnecessarily elaborate Submissions or lengthy presentations are not desired or required; however, Submissions should be clear, concise, and include sufficient detail for effective evaluation. The Submitter is cautioned that it is the Submitter's sole responsibility to submit information related to the evaluation categories, and that WVCTCS is under no obligation to solicit such information if it is not included in its Submission. Failure by the Submitter to submit such information may cause an adverse impact on the evaluation of its Submission.

4. General Format. To provide uniformity and to facilitate comparison of Proposals, all information submitted should clearly refer to the page number, section, or other identifying reference in this EOI. All information submitted must be noted in the same sequence as its appearance in this EOI.

5. Required Signatures. All Submissions must be submitted by an individual authorized to extend a formal Submission. The WVCTCS accepts electronic signatures. By submitting the Submission, the Submitter certifies compliance with the signature authority required.

6. Alternate Submissions. Submitters may submit more than one Submission. All Submissions must comply with the requirements of the EOI except that additional Submissions may incorporate, by reference, repetitive information

which is provided in the original Submission. Such alternative proposals should be clearly marked as an alternate to clearly delineate from submitter's official submission.

7. Proprietary Information or Other Confidential Information. Submissions submitted in response to this solicitation shall become the property of WVCTCS. All Submissions received shall remain confidential until the contract(s), if any, resulting from this EOI are signed by an authorized representative of the WVCTCS and the Apparent Successful Submitter; thereafter, the Submissions shall be deemed public records as defined in W. Va. Code § 29B-1-1, *et seq*. commonly referred to as the West Virginia Freedom of Information Act.

   Submitter must clearly designate any information in the Submission that the Submitter desires to claim as proprietary and exempt from disclosure under the provisions of W. Va. Code § 29B-1-1 et seq. or other state or federal law that provides for the nondisclosure of your document. The page must be identified, as well as the particular exception from disclosure upon which the Submitter is making the claim. Each page claimed to be exempt from disclosure must be clearly identified by the word "Confidential" printed on the lower right-hand corner of the page.

   The WVCTCS will consider a Submitter's request for exemption from disclosure; however, the WVCTCS will decide predicated upon W. Va. Code § 29B-1-1 et seq. Designating the entire Submission exempt from disclosure will not be honored. The Submitter must be reasonable in designating information as confidential. If any information is designated as proprietary in the Submission, such information will not be made available until the affected Submitter has been given an opportunity to seek a court injunction against the requested disclosure if such time can be provided without violation of complying with W. Va. Code § 29B-1-1 et seq.

8. Use of Subcontractors. If the Submitter intends to use subcontractors to perform any portion of the work or to provide any of the parts or equipment described in this EOI, this must be clearly stated in the Submission. The Submitter's response must include a description of which portion(s) of the work that will be sub-contracted and the names and addresses of potential subcontractors under the contract. The WVCTCS reserves the right to reject any proposed Subcontractor of the Submitter. Submitter may not change or revise any subcontractor after the Submission is submitted without the written approval of WVCTCS.

9. Proposal Preparation Costs. The WVCTCS shall not be liable for any costs incurred by a Submitter in responding to this EOI, regardless of whether the WVCTCS awards a contract through this process, cancels this EOI for any reason, or contracts through another EOI or another process.

10. Errors and Omissions. The Submitter is expected to comply with the true intent of

this EOI taken as a whole and shall not avail itself of any errors or omissions to the detriment of the WVCTCS. Should the Submitter suspect any error, omission, or discrepancy in the scope of work or other portions of the EOI, the Submitter shall immediately notify the WVCTCS procurement officer. The Submitter is responsible for the contents of its Submission and for satisfying the requirements set forth in the EOI.

11. Firm Offer Period. Offers must be kept firm for acceptance by the WVCTCS for at least one hundred twenty (120) days after the date that Submissions are due. Submissions with acceptance periods of less than one hundred twenty (120) days may be considered non-responsive. The Submitter may specify a longer period than indicated here. If the Proposer indicates no time period for acceptance, the Submission will be considered firm for one hundred twenty (120) days and thereafter until written notice to the contrary is received.

E. PROPOSAL SUBMISSION & FORMAT

1. Proposal Submission.

   The Submission must be submitted per s Section III ("Response Requirements and Evaluation Criteria").

2. Proposal Format for Submission. The Submission response shall be set out in the format outlined in Section III ("Response Requirements and Evaluation Criteria") of this EOI. These sections represent the minimum amount of information required by the WVCTCS. Submitters are encouraged to add content if needed; however, unnecessarily elaborate Submissions are discouraged. The Proposal shall be submitted in the following formats: One single PDF file in 8.5"x11" format.

a. PROPOSAL MATERIALS

The Submission material and accompanying documentation submitted in response to the EOI becomes the property of the WVCTCS upon submission to the WVCTCS and may be appended, if necessary, to any formal document which would further define or expand the contractual relationship between the WVCTCS and the Submitter. All of the material will be considered as part of this EOI.

b. WITHDRAWAL AND MODIFICATION OF PROPOSALS

Submission withdrawals shall be submitted through the WVCTCS Director of Procurement Officer or Procurement Specialist prior to the Due Date and Time set forth in the EOI. Withdrawals must be made on company letterhead and signed by an authorized representative of the Submitter. Once withdrawn, the Submitter may modify and resubmit their Submission before the Due Date and Time.

Any modification of a Submission should be prepared on company letterhead, signed by an authorized representative, and state that the new document supersedes or modifies the prior Proposals, and submitted to the WVCTCS as required pursuant to this EOI.

c. REJECTION OF SUBMISSIONS

The WVCTCS reserves the right at its sole discretion to reject any and all Submissions received without penalty and not to issue a contract as a result of this EOI. If any Submission is rejected, a written explanation prepared by the CPO, PS, or designee, shall be noted in the Procurement File.

d. LATE SUBMISSIONS

Any Submission, withdrawal, or modification received after the Due Date and Time will not be considered. The electronic clock on the National Institute of Standards and Technology Site, (nist.gov), shall be considered the official timepiece used to determine whether the Proposal, withdrawal, or modification was late.

e. SUBMISSION EVALUATION

1. Submission Opening. Submissions, modifications, and withdrawals shall be opened by the WVCTCS. Upon receipt of Submissions, the Director of Procurement, Procurement Specialist, and the Director of Facilities and Capitol Project Management Officials will initiate the evaluation and selection process, to include a general review to determine if Submissions comply with the solicitation provisions and contain the required information and submittals. If they do not, the Director of Procurement, Procurement Specialist, and the Director of Facilities and Capitol Project Management Officials may reject them.

2. Evaluation Committee. An Evaluation Committee will be appointed to evaluate Submissions. Appointments are at the sole discretion of the WVCTCS.

3. Substantiation of Submissions. The WVCTCS reserves the right to require each Submitter to substantiate any aspect of the Submission, its own qualifications for providing the services required, and any other area of interest relative to the Submission response.

4. Evaluation Criteria. The evaluation factors identified in Section III of this EOI will be used in determining the best qualified (3) Proposals that are most advantageous to the WVCTCS. The Evaluation Committee shall utilize the consensus scoring method as outlined in Section III of this EOI, unless otherwise approved by the Director of Procurement Official or designee.

5. Oral Presentations. The WVCTCS will, after evaluating the written Submissions, select (3) three EOI's to schedule oral presentations interviews

with requested Submitters. The WVCTCS will contact the selected Submitters from the written evaluation to schedule a date, time, and location. Commitments made by the Submitter at the oral interview, if any, will be considered binding. The WVCTCS may update initial scoring based on Submitter interviews at its discretion.

6. Discussions/Negotiations. If discussions or negotiations occur, they may include both the technical and financial aspects of the Submissions.

7. Final Negotiations of Terms/Conditions with Best Submitter. Following the selection of the best Submission, the WVCTCS and selected Submitter may enter into negotiations to arrive at mutually agreeable terms and conditions. The contents of the selected Submission may become contractual obligations of the contract. Failure of the Submitter to accept or negotiate, in good faith, the Submission obligations into a contract may result in rejection of the Submission. If the WVCTCS is unable to negotiate a mutually satisfactory contract with the best Submitter, negotiations shall be formally ended with the Submitter and begun with the next best Submitter. Negotiations shall be undertaken in this manner until a mutually satisfactory contract has been negotiated or the solicitation is canceled. The WVCTCS will demonstrate "good faith" in reaching a mutually acceptable contractual agreement.

f. AWARD OF CONTRACT

1. Basis of Award. The WVCTCS will award a contract based upon the evaluation of (3) three selected Submitters interviews.

2. Determination of Responsibility. A responsible Submitter is one who affirmatively demonstrates to the WVCTCS that it has adequate financial resources and the requisite capacity, capability, and facilities to perform the contract, has a satisfactory record of performance on other comparable projects, has a satisfactory record of integrity and business ethics, and is otherwise qualified and eligible to receive award under the solicitation and laws or regulations applicable to the procurement. The WVCTCS reserves the right to investigate the capabilities of Submitters, confirm any part of the information furnished by a Submitter, and require other evidence to determine that the Submitter is responsible.

3. Rejection of Submissions & Waiver of Minor Information/Irregularities. The WVCTCS reserves the right to reject any or all Submissions in part or in total for any reason, to accept any Submission if considered best for its interest, and to waive informalities and minor irregularities in Submissions received, commensurate with best public procurement practices.

4. Notice of Award. Any award of a contract resulting from this EOI will be made only by an authorized WVCTCS Employee.

g. CANCELLATION OF SOLICITATION

The WVCTCS may cancel this solicitation at any time before or after receipt of Submissions.

h. COMPLAINTS OR PROTESTS

Complaints or protests associated with this solicitation must be submitted in accordance with the WVCTCS's Procurement Manual.

E. REQUIREMENTS FOR FINAL CONTRACT

The WVCTCS may provide a sample contract and its terms and conditions as an Attachment to this EOI. If the WVCTCS provides a sample contract, the Apparent Successful Submitter will be expected to enter into a contract that is substantially the same as the sample contract and its terms and conditions. If no sample contract is provided, the WVCTCS and the Apparent Successful Submitter shall enter negotiations, in good faith, to mutually agree on a bi-lateral contract for such services related to this EOI. In no event is a Submitter to submit its own standard contract terms and conditions in response to this solicitation, unless specifically requested by the WVCTCS. The Submitter may submit questions or exceptions to any terms and conditions of a provided sample contract or pertaining to the "Prohibited State Terms" listed below to this solicitation. All exceptions to the contract terms and conditions or "Prohibited State Terms" must be submitted through the WVCTCS Public Bid Site. The WVCTCS will review requested exceptions and accept or reject the same at its sole discretion.

a. PROHIBITED TERMS

WVCTCS's status as a state agency imposes certain restrictions on its contracting activities that a private university, school, or company does not face. Many standard clauses typically found in commercial contracts cannot be accepted by WVCTCS. The restrictions are based on constitutional and statutory prohibitions. The following provisions, without limitation, are some of the most common provisions that we must strike when negotiating an agreement or contract.

1. Indemnification and/or Hold Harmless. State agencies are constitutionally prohibited from agreeing to indemnify third parties.

2. Limitation of Liability. WVCTCS does not have the authority to prejudice the rights of the State of West Virginia to sue or otherwise enforce a contract by agreeing to a limit on or a waiver of liability.

3. Governing Law of or Venue in a State Other than West Virginia. West Virginia CTCS does not have statutory authority to accept the governing laws of or venue in another state. As an alternative, the WVCTCS may agree to be silent on such

issues.

4. Confidentiality. WVCTCS is subject to the West Virginia Freedom of Information Act (W. Va. Code §29B-1-1 et. seq.). Thus, WVCTCS cannot agree to keep the terms and conditions of a contract or agreement confidential.

5. Attorney Fees. As a public institution, the WVCTCS cannot agree to pay attorney's fees, court costs, or other litigation expenses in the event of a dispute as that would be a violation of the constitutional gratuities clause.

6. Damage Clauses. Damage clauses that include indirect or incidental damages as additional types of damages payable by WVCTCS is not acceptable.

7. Late Payment/Cancellation Charges/Interest Charges. State agencies are prohibited from agreeing to pay late payments or cancellation charges.
8. Taxes. The State is exempt from most taxes and generally will not agree to contract language which requires the payment of taxes. The WVCTCS will not agree to reimburse the vendor for the payment of taxes.

9. Binding Arbitration. The WVCTCS has no statutory authority to agree to binding arbitration and the State Attorney General has exclusive authority and control over all matters of litigation or potential litigation involving State agencies. Thus, WVCTCS has no authority to limit the type or scope of judicial action.

10. Interest. The WVCTCS lacks statutory authority to agree to the payment of interest.

11. Funding Clause. The WVCTCS cannot commit funds on multi-year contracts across Fiscal Years. All contracts across Fiscal Years are subject to fund availability and legislative appropriation. The WVCTCS has a right to terminate due to non-funding outside the current Fiscal Year. Such termination shall not be an event of default.

b. ELECTRONIC PAYMENT

The WVCTCS strongly prefers to utilize electronic payments in its transactions. The successful Proposer will be provided a form to complete with the contract to authorize such payment method.

c. INSURANCE COVERAGE

i.Proposer shall be subject to the standard insurance provisions in this Section. OR

☒Proposer shall be subject to the insurance provisions in Exhibit B

The successful Proposer shall, at its own expense, obtain and keep in force insurance coverage which shall be maintained in full force and effect during the term of the contract. The Proposer shall furnish evidence in the form of a Certificate of Insurance that insurance shall be provided, and a copy shall be forwarded to the WVCTCS prior to the contract effective date. Additionally, the Proposer is responsible for ensuring that any subcontractors provide adequate insurance coverage for the activities arising out of subcontracts.

The successful Proposer shall procure, at its own expense, and maintain for the duration of the PO/contract, the following insurance coverage from insurers licensed or registered to do business in the State of West Virginia: (a) Commercial general liability insurance of not less than $1,000,000 per occurrence and $2,000,000 general aggregate; (b) Worker's Compensation insurance in accordance with applicable statutory limits (c) Commercial Automobile insurance in the amount of $1,000,000 per occurrence for all owned, non-owned, hired. leased, rented, and employee non-owned vehicles, (d) where applicable, professional liability insurance of $1,000,000 per claim/loss and $2,000,000 annual aggregate, with proof that coverage shall remain in effect for a minimum of three years from the date of completion of the project, Supplier shall provide such other insurance as may be required by law. All insurance carried by Supplier in connection with the Services shall list WVCTCS as an additional insured and such insurance shall be primary and not contributory as to any other insurance the WVCTCS may have in effect. The Supplier shall provide a certificate of insurance to the WVCTCS evidencing required coverage prior to commencement of the Services All policies shall provide a minimum of thirty (30) calendar days' written notice prior to cancellation or material change. The insurance company(ies) providing the above-described coverage shall have an AM Best Rating of no less than (A-) excellent. Workers Compensation: West Virginia Statutory requirements including WV Code §23-4-2 (Mandolidis).

Exhibit A

INSTRUCTIONS TO BIDDERS

1. REVIEW DOCUMENTS THOROUGHLY: The attached documents contain an EOI for submissions. 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 submission. All EOIs must be submitted in accordance with the provisions contained in these instructions and the Experion of Interests (EOI). Failure to do so may result in disqualification of vendor's submission.

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

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

[**X**] A pre-bid meeting will not be held prior to bid opening

[ ] ~~A **MANDATORY PRE-BID** meeting will be held at the following place and time:~~

~~All vendors submitting a bid must attend the mandatory pre-bid meeting. Failure to attend the mandatory pre-RFP meeting shall result in disqualification of the vendor's RFP. No one individual is permitted to represent more than one vendor at the pre-RFP meeting. Any individual that does attempt to represent two or more vendors will be required to select one vendor to which the individual's attendance will be attributed. The vendors not selected will be deemed to have not attended the pre-bid meeting unless another individual attended on their behalf.~~

4. VENDOR QUESTION DEADLINE: Vendors may submit questions relating to this EOI. Questions must be submitted in writing. All questions must be submitted on or before the date listed below and to the e-mail address listed below to be considered. Submitted e-mails should have EOI number in the subject line. A written response will be published in an EOI addendum if a response is possible and appropriate. Non-written discussions, conversations, or questions and answers regarding this RFP are preliminary in nature and are nonbinding.

Submit Questions by Deadline in Schedule of Events to: cbid.receipt@wvhepc.edu

5. VERBAL COMMUNICATION: Any verbal communication between the vendor and any Commission/Council/Institution personnel is not binding, including verbal communication at the mandatory pre-bid conference. Only information issued in writing and added to the EOI by an official written addendum is binding.

6. BID SUBMISSION: All Submissions must be submitted electronically to the e-mail address identified in the bid document **cbid.receipt@wvhepc.edu**.

7. EOI OPENING: Submissions submitted in response to this EOI will be opened on the date and time listed below. Delivery of an EOI, after the EOI opening date and time will result in EOI disqualification.

EOI Opening Date and Time: December 18, 2026, @ 2:00 pm ESDT

8. ADDENDUM ACKNOWLEDGEMENT: Changes or revisions to this EOI will be made by an official written addendum. Vendor should acknowledge receipt of all addenda issued with this EOI 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 bid to prevent errors in the evaluation. Failure to type or electronically enter the information may result in submission disqualification.

10. ALTERNATE MODEL OR BRAND: Any model, brand, or specification listed in this EOI 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 Commission/Council/Institution's 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 EOI 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 EOI. Exceptions to, clarifications of, or modifications of a requirement or term and condition of the EOI may result in EOI disqualification.

12. COMMUNICATION LIMITATIONS: Communication with the Commission/ Institution or any of its employees regarding this EOI during the EOI, submission, evaluation, or award periods, except through the Director of Procurement, is strictly prohibited without prior approval.

13. REGISTRATION: Prior to award of any contract award in the amount of $25,000 or greater, the apparent successful vendor must be properly registered with the West Virginia Purchasing Division and must have paid the $125 fee, if applicable.

14. UNIT PRICE: Unit prices shall prevail in cases of a discrepancy in the vendor's RFP.

15. WAIVER OF MINOR IRREGULARITIES: The Commission/Council/Institution reserves the right to waive minor irregularities in bids or specifications.

16. NON-RESPONSIBLE: The Commission/Council/Institution reserves the right to reject

the bid of any vendor as Non-Responsible in accordance with W. Va. Code of State Rules § 148-1- 5.3, when the Director determines that the vendor submitting the RFP does not have the capability to fully perform or lacks the integrity and reliability to assure good-faith performance."

17. ACCEPTANCE/REJECTION: The Commission/Council/Institution may accept or reject any EOI in whole, or in part if it is found to be in the best interest of the Commission/Council/Institution.

18. YOUR SUBMISSION IS A PUBLIC DOCUMENT: Vendor's entire response to the EOI and the resulting Contract are public documents. As public documents, they will be disclosed to the public following the EOI/proposal opening or award of the contract, as required by the Freedom of Information Act West Virginia Code §§ 29B-1-1 et seq.

DO NOT SUBMIT MATERIAL YOU CONSIDER TO BE CONFIDENTIAL, A TRADE SECRET, OR OTHERWISE NOT SUBJECT TO PUBLIC DISCLOSURE.

Submission of any EOI, proposal, submission, or other document to the Commission/Council/ Institution constitutes your explicit consent to the subsequent public disclosure of the EOI, proposal, or document. The Commission/Council/Institution will 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 West Virginia Code § 47-22-1 et seq. All submissions are subject to public disclosure without notice.

19. INTERESTED PARTY DISCLOSURE: West Virginia Code § 6D-1-4 requires that the vendor submit a disclosure of interested parties to the contract for all contracts with an actual or estimated value of at least $100 thousand. That disclosure must occur on the form prescribed prior to contract award.

A copy of that form will be provided to the successful bidder to complete before contract award. 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.

20. WITH THE BID REQUIREMENTS: In instances where these specifications require documentation or other information with the EOI, and a vendor fails to provide it with the bid, the Commission/Council/Institution reserves the right to request those items after EOI opening and prior to contract award.

21. EMAIL NOTIFICATION OF AWARD:
The Commission/Council/Institution will attempt to provide submitters with e-mail notification of contract award when an EOI that the submitter participated in has been awarded. For notification purposes, Submitters must provide the Commission/Council/Institution with a valid email address in the EOI response. Submitters may also monitor Commission/Council/Institution's websites to determine when a contract has been awarded.

Exhibit B

GENERAL TERMS AND CONDITIONS:

1. CONTRACTUAL AGREEMENT: Issuance of a Purchase Order signed by the Commission/Institution's Chief Procurement Officer or Director of Purchasing, or their designee, and approved as to form by the Attorney General's Office constitutes acceptance by the Commission/Institution of this Contract made by and between the Commission/Institution and the Vendor. Vendor's signature on its bid, or on the Contract if the Contract is not the result of a submission EOI, signifies vendor's agreement to be bound by and accept the terms and conditions contained in this Contract.

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

2.1. "Agency" or **"Agencies"** means the agency, institution, board, commission, or other entity of the State of West Virginia that is identified on the first page of the EOI or any other public entity seeking to procure goods or services under this Contract.

2.2. "Proposal" or "Submission" means the vendors submitted response to this EOI.

2.3. "Chief Procurement Officer" or **"Director of Procurement"** means the individual authorized to sign Purchase Order/Contracts.

2.4. "Commission/Institution" means the entity identified on the first page of the EOI who is issuing the solicitation.

2.5. "Contract" or "Purchase Order" means the binding agreement that is entered into between the Commission /Institution and the vendor to provide the goods or services requested in the EOI.

2.6. "Award Document" means the document signed by the Commission/Institution and approved as to form by the Attorney General, that identifies the vendor as the contract holder.

2.7. "EOI" means the official notice of an opportunity to supply the Commission/ Institution with goods or services.

2.8. "State" means the State of West Virginia and/or any of its agencies, institutions, commissions, boards, institutions etc. as context requires.

2.9. "Vendor(s)" or **"Submitter(s)"** means any entity submitting a bid in response to the EOI, the entity that has been selected as the lowest responsible bidder, submitter, or the entity that has been awarded the Contract as context requires.

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

[X] **Term Contract**

Initial Contract Term: The Initial Contract Term will be for a period of three (3) years. The Initial Contract Term becomes effective on the effective start date listed on the first page of this Contract and the Initial Contract Term ends on the effective end date also shown on the first page of this Contract.

Renewal Term: This Contract may be renewed upon the mutual written consent of the Commission/Institution, and the Vendor, with approval of the Attorney General's Office (Attorney General approval is as to form only) for 2 successive years. Any request for renewal should be delivered to the Commission/Institution thirty (30) days prior to the expiration date of the contract.

Automatic renewal of this Contract is prohibited.

Delivery Order Limitations: In the event that this contract permits delivery orders, a delivery order may only be issued during the time this Contract is in effect. Any delivery order issued within one year of the expiration of this Contract shall be effective for one year from the date the delivery order is issued. No delivery order may be extended beyond one year after this Contract has expired.

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

[ ] **Other:** Contract Term specified in _____

4. AUTHORITY TO PROCEED: Vendor is authorized to begin performance of this contract upon receipt of a signed Purchase Order.

5. QUANTITIES: The quantities required under this Contract shall be identified in the EOI/RFP/RFB/Purchase Order.

6. INSURANCE: The apparent successful Vendor shall furnish proof of the insurance identified by a checkmark below and must include the Commission/Institution as an additional insured on each policy prior to Contract award. The insurance coverages identified below must be maintained throughout the life of this contract. Thirty (30) days prior to the expiration of the insurance policies, vendor shall provide the Commission/Institution with proof that the insurance mandated herein has been continued. Vendor must also provide the Commission/Institution with immediate notice of any changes in its insurance policies, including but not limited to, policy cancelation, policy reduction, or change in insurers. The apparent successful vendor shall also furnish proof of any additional insurance requirements contained in the specifications prior to Contract award.

Vendor must maintain:

[**X**] **Commercial General Liability/Errors and Omissions Insurance** in at least an amount of: $1,000,000.00 per occurrence each. $2,000,000.00 general aggerate, and $2,000,000.00 aggerate for products-completed operations hazard, providing coverage for claims.

[**X**] **Automobile Liability Insurance** in at least an amount of: $1,000,000.00 per occurrence.

[ ] **Cyber Liability Insurance** in an amount of: _____ per occurrence.

[ ] **Builders Risk Insurance** in an amount equal to 100% of the amount of the Contract.

7. WORKERS' COMPENSATION INSURANCE: 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.

8. ACCEPTANCE: Vendor's signature on its bid, or on the certification and signature page, constitutes an offer to the Commission/Institution that cannot be unilaterally withdrawn, signifies that the product or service proposed by vendor meets the mandatory requirements contained in the EOI for that product or service, unless otherwise indicated, and signifies acceptance of the terms and conditions contained in the EOI unless otherwise indicated.

9. PRICING: The pricing set forth herein is firm for the life of the Contract, unless specified elsewhere within this EOI/Contract by the Commission/Council/Institution. A vendor may request the inclusion of price adjustment provisions in its bid, but final approval of any price adjustments will be made by the Commission/Institution. Vendor must extend any publicly advertised sale price to the State and invoice at the lower of the contract price or the publicly advertised sale price.

10. 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 maintenance, licenses, or subscriptions may be paid annually in advance.

11. PAYMENT METHODS: Vendor must accept payment by electronic funds transfer and/or P-Card. (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.)

12. TAXES: The Vendor shall pay any applicable sales, use, personal property or any other taxes arising out of this Contract and the transactions contemplated thereby. The State of West Virginia is exempt from federal and state taxes and will not pay or reimburse such taxes.

13. ADDITIONAL FEES: Vendor is not permitted to charge additional fees or assess additional charges that were not expressly provided for in the EOI.

14. FUNDING: This Contract shall continue for the term stated herein, contingent upon funds being appropriated by the Legislature or otherwise being made available. In the event funds are not appropriated or otherwise made available, this Contract becomes void and of no effect beginning on July 1 of the fiscal year for which funding has not been appropriated or otherwise made available. If that occurs, the Commission/Institution 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.

15. CANCELLATION: The Commission/Institution reserves the right to cancel this Contract immediately upon written notice to the vendor if the materials or workmanship supplied do not conform to the specifications contained in the Contract.

16. APPLICABLE LAW: This 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 or West Virginia Code, is void and of no effect.

17. COMPLIANCE WITH LAWS: Vendor or approved Subcontractor 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.

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

19. MODIFICATIONS: Any change to existing contracts that adds work or changes contract cost, and were not included in the original contract, must be approved by the Commission /Institution and the Attorney General's Office (as to form) prior to the implementation of the change or commencement of work affected by the change.

20. WAIVER: The failure of either party to insist upon a strict performance of any of the terms or provision of this 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.

21. SUBSEQUENT FORMS: The terms and conditions contained in this Contract shall supersede any and all subsequent terms and conditions which may appear on any form documents submitted by vendor to the Commission/Institution 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.

22. ASSIGNMENT: Neither this Contract nor any monies due, or to become due hereunder, may be assigned by the vendor without the express written consent of the Commission/ Institution and the Attorney General's Office (as to form only).

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

24. STATE EMPLOYEES: State employees (including Commission/Institution employees)

are not permitted to utilize this Contract for personal use and the vendor is prohibited from permitting or facilitating the same.

25. 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 Commission/Institution, unless the individual who is the subject of the information consents to the disclosure in writing or the disclosure is made pursuant to the Commission/Institution's policies, procedures, and rules.

26. 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 agency 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, West Virginia Contractor Licensing Board, or any other state agency or political subdivision. Upon request, the vendor must provide all necessary releases to obtain information to enable the Commission/Institution to verify that the vendor is a licensed general contractor and in good standing with the above entities.

SUBCONTRACTOR COMPLIANCE: Vendor shall notify all subcontractors providing commodities or services related to this Contract that as subcontractors, they too are required to be licensed general contractor, in good standing, and up to date on all state and local obligations as described in this section. Notification under this provision must occur prior to the performance of any work under the contract by the subcontractor.

27. ANTITRUST: In submitting a bid to, signing a contract with, or accepting a Purchase Order with the Commission or any Institution of the State of West Virginia, the vendor agrees to convey, sell, assign, or transfer to the institution 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 the Commission/Institution. Such assignment shall be made and become effective at the time the Commission/Institution tenders the initial payment to vendor.

28. VENDOR CERTIFICATIONS: By signing its bid or entering into this 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 this 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 this RFP 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 Commission/Institution. The individual signing this bid or offer on behalf of the 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; and that he or she is authorized to bind the vendor in a contractual relationship.

29. VENDOR RELATIONSHIP: The relationship of the vendor to the Commission/ Institution shall be that of an independent contractor and no principal-agent relationship or employer-employee relationship is contemplated or created by this 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 RFP and resulting contract. Neither the vendor, nor any employees or subcontractors of the vendor, shall be deemed to be employees of the State 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 Commission/Institution and shall provide the State and Commission/Institution 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.

30. INDEMNIFICATION: The Vendor agrees to indemnify, defend, and hold harmless the State and the Commission/Institution, 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.

31. PURCHASING AFFIDAVIT: In accordance with West Virginia Code §5-22-1(i), the State 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 Commission/Institution affirming under oath that it is not in default on any monetary obligation owed to the state or a political subdivision of the state.

32. 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 Commission/Institution.

33. BACKGROUND CHECK: In accordance with W. Va. Code §15-2D-3, the State reserves the right to prohibit a service provider's employees from accessing sensitive or critical information or to be present at the Commission/Institution based upon results addressed from a criminal background check.

34. INTERESTED PARTY SUPPLEMENTAL DISCLOSURE: W. Va. Code § 6D-1-4 requires that for contracts with an actual or estimated value of at least $100,000.00, the vendor must submit to the Commission/Institution a supplemental disclosure of interested parties reflecting any new or differing interested parties to the contract, which were not included in the original pre- award interested party disclosure, within 30 days following the completion or termination of the contract. A copy of that form will be provided to the successful bidder. 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.

35. PROHIBITION AGAINST USED OR REFURBISHED: Unless expressly permitted in the EOI published by the Commission/Institution, vendor must provide new, unused commodities, and is prohibited from supplying used or refurbished commodities, in fulfilling its responsibilities under this Contract.

36. VOID CONTRACT CLAUSES – The Commission/Institution is requiring the vendor to follow the provisions of West Virginia Code §5A-3-62, which automatically voids certain contract clauses that violate State Law

Exhibit C

GUIDELINES FOR VENDORS FOR BID SUBMISSIONS VIA EMAIL

NOTE: This document is specific to the competitive solicitation processes, where bid submissions must arrive at the closing location on time.

1. Purpose of These Guidelines

The Commission/Council may post opportunities that allow vendors to submit their bids / proposals / responses (known as submissions) electronically via email. This document is intended to assist vendors in understanding:

- the risks associated with submitting an emailed submission; and
- the pitfalls that should be avoided if emailing a submission.

NOTE: Vendors who deliver submissions via email do so at their own risk; the Commission/ Council does not take any responsibility for any emailed submission that:

- does not arrive on time;
- is rejected; or
- contains corrupted electronic files.

2. Risks

Although emails are sent every day without incident, there are a number of risks that could occur and delay the receipt of an email. An email submission is deemed to have been received once it arrives in the Commission/Council's Electronic Mail System. Emailed submissions that arrive late will not be considered, regardless of the reason, and vendors will not have the option to resubmit after the closing date and time.

Following are some of the reasons that may delay an email, or cause an email to be rejected by the Commission/Council's email system:

i. Delays can occur as an email moves from server to server between the sender and the recipient, meaning that the time when an email is received can be later – and sometimes considerably later – than the time when it was sent. The Commission/Council will consider the time that an email was received by the Commission/Council's email system as the official time for any emailed submission.

ii. The Commission/Council's email system has technical and security limitations on the size and type of files that will be accepted. Emails containing attachments that exceed 30 MB cannot be accepted.

iii. The Commission/Council's email system has protocols whereby an email may be investigated as potential spam or containing a virus / malware. Such protocols may result in an email being sent to the recipient's inbox late.

iv. The Commission/Council's email system has protocols whereby an email may be

investigated as having Personally Identifiable Information (PII). An email determined by the system to contain PII or data of a similar appearance of PII will not be delivered.

v. The Commission/Council's email system is designed to reject any email that is considered spam or that contains a virus or malware. On occasion, an email may be falsely flagged and rejected. Copies of rejected emails are not kept in the email system, and therefore no possibility exists to retrieve an emailed submission that has been rejected.

vi. In addition, it is possible that one or more attachments to an email to become corrupted and therefore inaccessible to the Commission/Council's email system. Vendor will not have the option to resubmit after closing if the attachments cannot be opened. Further, the Commission/Council cannot open any submission prior to closing to confirm whether or not the files have been corrupted.

3. Vendor Guidance for Emailed Submissions

1. Never assume that a solicitation allows for emailed submissions. Emails should only be used as a delivery mechanism when the opportunity expressly allows for it.

2. Never assume which email address is being used for submissions, when emailed submissions are permitted. Carefully read the instructions and ask questions well in advance of closing if the email address for submissions is not clear. Submissions that are emailed to any address other than the one expressly stated for the purpose may be rejected as missing a mandatory requirement of the solicitation.

3. Avoid using generic subject lines in the emailed submissions that do not clearly identify the solicitation name and / or number as well as the vendor organization name. The subject line of the email should be: BID FOR xxxxxxxxx DUE WEDNESDAY xxxxxxxxxx AT 3:00PM. A sample email subject line for an open bid might be: BID FOR 21001 DUE WEDNESDAY, APRIL 7, 2021 AT 3:00PM.

4. Avoid multiple emails from the same vendor for the same opportunity wherever possible. If multiple emails cannot be avoided (e.g., the collective size of the emails exceeds the maximum size allowed), identify how many emails constitute the full submission and provide clear instructions on how to assemble the submission. Multiple submissions from the same vendor for the same opportunity may result in rejection if these instructions are unclear.

5. Vendors may update, change, or withdraw their submission at any time prior to the closing date and time. If emailing updates or changes, do not submit only the changes that then require collation with the previous submission. Instead, a complete revised package with clear instructions that it replaces the earlier submission should be sent. This will help to avoid any confusion as to what constitutes the complete submission.

6. Avoid emailing submissions in the last 60 minutes that the solicitation is open. Sufficient time should be left prior to closing to ensure that the email was received, and to resubmit before closing if a problem occurs.

7. Do not assume that the email has been received. If a confirmation email is not received shortly after sending the email, contact the named Contact on the solicitation to confirm whether or not their submission was received. In addition, send the emailed submission with a delivery receipt request. If unsure how to send an email with a delivery receipt request, contact the vendor's own system support personnel or search online for instructions specific to the vendor's email system (e.g., Outlook, Gmail, etc.)

8. If the confirmation email is not received, do not resubmit without first contacting the named Contact. Resending a submission should only occur once confirmation is received that the original email was not received, and enough time is left for receipt of the submission prior to the closing date and time.

9. Do not ignore any message from the Commission/Council regarding rejection of an emailed submission. If such a message is received prior to closing, contact the named Contact on the opportunity immediately.

10. If time permits prior to closing, possible remedies for a rejected or missing emailed submission include:
    i. If the collective size of the emailed attachments exceeds 30 MB, resubmit it over multiple emails, clearly identify how many emails constitute the full submission and how to collate the files.
    ii. If the emailed submission included zipped or executable files, unzip or remove the executable the files and resubmit over one or more emails (see previous bullet if the files collectively exceed 30 MB).
    iii. Resend the submission from a different email account.
    iv. If permitted in the opportunity, use an alternative method to deliver the submission (e.g., mailed or hand delivered).

Note: None of these remedies are applicable after the closing date and time.

State of West Virginia

Supplementary Conditions to AIA Document B101-2017
Standard Form of Agreement Between Owner and Architect

The following Supplementary Conditions modify the Standard Form of Agreement Between Owner and Architect, AIA Document B101-2017 Edition. Where a portion of the Agreement is modified or deleted by these Supplementary Conditions, the unaltered portions of the Agreement shall remain in effect.

Order of Precedence: The documents contained in the contract to which this document has been attached shall be interpreted in the following order of precedence:

First Priority – Documents developed by the State or agency and utilized to provide public notice of the solicitation, along with other general terms and conditions shall be first in priority.

Second Priority – This document "Supplementary Conditions to the AIA Document B101-2017 Standard Form of Agreement Between Owner and Architect" shall be second in priority.

Third Priority – all other AIA documents including the AIA Document A201-2017 General Conditions of the Contract for Construction shall be third or lower in priority.

ARTICLE 1
INITIAL INFORMATION

§1.1.3 Section 1.1.3 is removed in its entirety.

§1.1.6.1 Section 1.1.6.1 is removed in its entirety.

§1.2 Make the following changes to Section 1.2:

In the second and third sentences, delete "shall" and substitute "may" and delete the period at the end of each sentence and add ", if applicable."

§1.3 Remove the last sentence from Section 1.3

§1.3.1 Make the following change to Section 1.3.1:

Remove the phrase "in AIA Document E203TM-2013, Building Information Modeling and Digital Data Exhibit, and the requisite AIA Document G2O2TM-2013, Project Building Information Modeling Protocol Form" and replace it with "in this Agreement"

ARTICLE 2
ARCHITECT'S RESPONSIBILITIES

§2.1 Add the following sentences to the end of Section 2.1. Notwithstanding the foregoing, Architect is not authorized to hire other design professionals unless doing so was expressly included in the scope of this agreement, or this agreement is appropriately modified by Change Order to include the hiring of other expressly identified design professionals. The Architect shall also satisfy the requirements for the lawful practice of architecture in the State of West Virginia.

§ 2.5 Make the following changes to Section 2.5:

Delete the section in its entirety and replace it with the following: "The Architect shall maintain the insurance specified in this Agreement either below or in other documentation included herewith.

§ 2.5.7 Make the following change to Section 2.5.7

Remove § 2.5.7 in its entirety and replace it with the following: "The Owner must be listed as an additional insured on all insurance mandated by this Agreement, excluding professional liability insurance."

Add the following Sections to Article 2:

§2.6 The format and minimum standard of quality to be used by the Architect in preparing specifications for the Project shall be AIA MASTERSPEC or equal, and the Architect shall use the CSI

Masterformat numbering system, unless a different standard is approved in writing by the owner

§2.7 The Architect shall review laws, codes and regulations applicable to the Architect's services and shall comply in the design of the Project with applicable provisions and standards of the West Virginia Building Code, the West Virginia Fire Code and the Americans with Disabilities Act (ADA). The most stringent application of these codes and standards shall apply. In the design of the Project, the Architect shall comply with the requirements imposed by governmental authorities having jurisdiction.

ARTICLE 3
SCOPE OF ARCHITECT'S BASIC SERVICES

§3.1.1 Add the phrase "consult with Owner," after the word "services" in the first sentence.

§3.1.2 Make the following change to Section 3.1.2:

In the third sentence, after "shall" add "thoroughly review the services and information for completeness and sufficiency and".

§3.1.6 Delete Section 3.1.6 in its entirety and substitute the following:

§3.1.6 The Architect shall furnish and submit substantially completed construction documents to all governmental agencies having jurisdiction over the Project, shall assist the Owner in securing their approval, and shall incorporate changes in the Construction Documents as may be required by such authorities.

Add the following Section to Article 3:

§3.1.7 The Architect is responsible for the coordination of all drawings and design documents relating to Architect's design used on the Project, regardless of whether such drawings and documents are prepared or provided by Architect, by Architect's consultants, or by others. If preliminary or design development Work has been performed by others, Architect is nevertheless fully responsible for and accepts full responsibility for such earlier Work when Architect performs subsequent phases of the basic services called for under this Agreement, as fully as if the preliminary, schematic, and design development Work had been performed by the Architect itself. Architect is responsible for coordination and internal checking of all drawings and for the accuracy of all dimensional and layout information contained therein, as fully as if each drawing were prepared by Architect. Architect is responsible for the completeness and accuracy of all drawings and specifications submitted by or though Architect and for their compliance with all applicable codes, ordinances, regulations, laws, and statutes.

§3.2 SCHEMATIC DESIGN PHASE SERVICES

§3.2.2 Make the following change to Section 3.2.2:

In the second sentence, after the word "Architect" add "shall review such information to ascertain that it is consistent with the requirements of the Project and".

§3.4 CONSTRUCTION DOCUMENTS PHASE SERVICES

§ 3.4.2 Delete Section 3.4.2 in its entirety and substitute the following:

§3.4.2 Construction drawings, specifications, or other Construction Documents submitted by Architect must be complete and unambiguous and in compliance with all applicable codes, ordinances, statutes, regulations, and laws. By submitting the same, Architect certifies that Architect has informed the Owner of any tests, studies, analyses, or reports that are necessary or advisable to be performed by or for the Owner at that point in time. Architect shall confirm these facts in writing to the Owner.

§3.5 BIDDING OR NEGOTIATION PHASE SERVICES

§ 3.5.1 Make the following change to Section 3.5.1:

In the first sentence, delete the period at the end of the sentence and add "which may include the development and implementation of a prequalification process."

§3.5.2 Make the following changes to § 3.5.2.

§3.5.2.2.1 Remove section 3.5.2.2.1 in its entirety and replace it with the following:

"§ 3.5.2.2.1 facilitating the distribution of plans and specifications (and in cases where Owner expressly authorizes it, distribution of bid documents) to prospective bidders per the Owner's instructions;"

§3.5.2.2.2 Remove section 3.5.2.2.2 in its entirety and replace it with

"§ 3.5.2.2.2 attending and assisting Owner in conducting a pre-bid conference for prospective bidders (and in cases where Owner expressly authorizes it, conduct the pre-bid conference);"

§3.5.2.2.3 Remove section 3.5.2.2.3 in its entirety and replace it with the following:

preparing responses to technical questions from prospective bidders and providing clarifications and interpretations of the Bidding Documents that will be released to the prospective bidders in the form of addenda by the Owner (and in cases where Owner expressly authorizes it, releasing the addenda on Owner's behalf).

§3.5.2.2.4 Remove Section 3.5.2.4 in its entirety and replace it with the following:

if expressly authorized by Owner, and permitted by applicable procedure and law, organizing and conducting the opening of bids, and subsequently documenting and distributing the bidding results, as directed by the Owner.

§3.5.2.3. Remove the phrase "and distribute" and include the phrase "for distribution by Owner (and in cases where Owner expressly authorizes it, distributing the addenda on Owner's behalf)" at the end of the sentence.

§3.5.3 Negotiated Proposals. Remove Section 3.5.3 in its entirety.

§3.6 CONSTRUCTION PHASE SERVICES

§ 3.6.1 GENERAL

§ 3.6.1.1 Delete the last sentence in its entirety and substitute the following:

The State of West Virginia's Supplementary Conditions to the General Conditions of the Contract for Construction shall be adopted as part of the Contract Documents and shall be enforceable under this Agreement.

Add the following Section to 3.6.1:

§3.6.1.4 The Architect shall be responsible for conducting progress meetings as needed and for the preparation, distribution, and accuracy of minutes pertaining thereto to all parties as directed by the Owner.

§3.6.2 EVALUATIONS OF THE WORK

§3.6.2.1 Delete the second sentence in its entirety and substitute the following:

Although the Architect is not required to make exhaustive or continuous on-site inspections to check the quality or quantity of the Work, the Architect shall carefully review the quality and quantity of the Work at appropriate intervals necessary for Architect to remain aware and knowledgeable of issues or problems that have developed, or could reasonably be foreseen, during construction as part of the Architect's design and contract administration services, shall issue written reports of such reviews to the Owner, Owner representatives, and the Contractor, and further shall conduct any additional reviews at any other time as reasonably requested by the Owner. The Architect shall neither have control over or charge of, nor be responsible for, the construction means, methods, techniques, sequences or procedures, or for safety precautions and programs in connection with the Work, since these are solely the Contractor's rights and responsibilities under the Contract Documents

§ 3.6.2.2 Delete the first sentence of 3.6.2.2 in its entirety and substitute the following:

The Architect shall have the authority and obligation to reject Work that does not conform to the Contract Documents.

§3.6.2.4 Delete Section 3.6.2.4 it its entirety and substitute the following:

§3.6.2.4 The Architect shall render initial decisions on claims, disputes or other matters in question between the Owner and Contractor as provided in the Contract Documents. Architect shall also make initial decisions on matters relating to consistency with intent of contract documents, including aesthetic effect, however, the Owner, reserves the right make final decisions on issues of consistency with intent and aesthetic effect.

§3.6.4 SUBMITTALS

§3.6.4.2 Make the following changes to Section 3.6.4.2:

Delete the first sentence in its entirety and substitute the following:

The Architect shall review and approve or take other appropriate action upon the Contractor's submittals such as Shop Drawings, Product Data and Samples. The Architect's review of Contractor's submittals must determine the following: (1) if such submittals are in compliance with applicable laws, statutes, ordinances, codes, orders, rules, regulations; and (2) if the Work affected by and represented by such submittals is in compliance with the requirements of the Contract Documents. Architect shall promptly notify the Owner and Contractor of any submittals that do not comply with applicable laws, statutes, ordinances, codes, orders, rules, regulations, or requirements of the Contract Documents. Architect is responsible for determining what aspects of the Work will be the subject of shop drawings or submittals. Architect shall not knowingly permit such aspects of the Work to proceed in the absence of approved shop drawings and submittals. The Architect's action shall be taken with such reasonable promptness as to cause no delay in the Work or in the activities of the Owner, Contractor or separate contractors, while allowing sufficient time in the Architect's professional judgment to permit adequate review.

In the second sentence, delete the words "or performance".

§3.6.4.5 Make the following change to Section 3.6.4.5:

Add ", including a submittal log," after "The Architect shall maintain a record of submittals".

§3.6.5 CHANGES IN THE WORK

§3.6.5.2 Make the following changes to Section 3.6.5.2:

Section 3.6.5.2 shall now be Section 3.6.5.3. Section 3.6.5.2 shall read as follows:

§3.6.5.2 If the Architect and the Owner determine that the implementation of the requested change would result in a change to the Contract that may cause an adjustment in the Contract Time or Contract Sum, the Architect shall make a recommendation to the Owner who may authorize further investigation of such change.

§ 3.6.5.3 Add the following to the end of Section 3.6.5.3:

Additionally, the Architect shall review and, upon request by Owner, provide written documentation of the same of all change order requests and proposals with respect to the following criteria:

.1 confirm proposed change is a material change to the Contract;

.2 confirm appropriate credits are included for Work not completed;

.3 verify that the proposed additional cost or credit is reasonable with respect to industry standards. Cost verifications may, as authorized by Owner, include independent estimates and/or consultations with contractors and vendors; and

.4 confirm that the appropriate back up documentation is included and mathematically correct including mark ups and taxes pursuant to the requirements of the Contract Documents.

ARTICLE 4
ADDITIONAL SERVICES

§4.2 Architect's Additional Services

§4.2.1 Make the following changes to Section 4.2.1:

.6 Before the semicolon insert ", provided such alternate bids or proposals are not being used for budget control"

.9 Delete this provision in its entirety and replace it with "assist owner with owner's evaluation of the qualifications of entities providing bids or proposals.

§4.2.2 Make the following changes to Section 4.2.2:

.3 After the last sentence in the first paragraph, insert the following:

This provision only applies to the extent that such services required or requested from the Architect represent a material change in the services that are already required of the Architect for completion of the Project"

.4 Before the semicolon insert ", provided such claims are not the result of the Architect's action, inaction, errors, or omissions"

ARTICLE 5
OWNER'S RESPONSIBILITIES

§5.2 Make the following change to Section 5.2:

In the first sentence, after "The Owner" add ", with Architect's assistance,"

Add the following Section to Article 5:

§5.3.1 The Owner has the right to reject any portion of the Architect's Work on the Project, including but not limited to Schematic Design Documents, Design Development Documents, Construction Documents, or the Architect's provision of services during the construction of the Project, or any other design Work or documents on any reasonable basis, including, but not limited to aesthetics or because in the Owner's opinion, the construction cost of such design is likely to exceed the budget for Cost of the Work. If at any time the Architect's Work is rejected by the Owner, the Architect must proceed when requested by the Owner, to revise the design Work or documents prepared for that phase to the Owner's satisfaction. These revisions shall be made without adjustment to the compensation provided hereunder, unless revisions are made to Work previously approved by the Owner under previous phases, in which case such revision services will be paid as a Change in Services. Should there be substantial revisions to the original program after the approval of the Schematic Design Documents, which changes substantially increase the scope of design services to be furnished hereunder, such revision services will be paid as a Change in Services. The Architect must so notify the Owner of all Changes in Services in writing and receive approval from Owner before proceeding with revisions necessitated by such changes. No payment, of any nature whatsoever, will be made to the Architect for additional Work or Changes in Services without such written approval by Owner.

§5.5 Make the following changes to Section 5.5:

In the first sentence, delete "shall" and substitute "may".

Add the following sentence at the end of Section 5.5:

The Owner may, in its sole discretion, request that the Architect secure these services by contracting with a third party.

§5.8 Make the following change to Section 5.8:

In the third sentence, delete "shall" and substitute "may".

§5.9 Make the following change to Section 5.9:

At the beginning of this sentence, insert "Unless otherwise provided in this Agreement,"

§5.11 Add the following sentence to the beginning of Section 5.11:

The Owner shall be entitled to rely on the accuracy and completeness of services and information provided by the Architect.

§ 5.15 Remove § 5.15 in its entirety.

ARTICLE 6
COST OF WORK

§ 6.1 Delete the phrase "and shall include contractors' general conditions costs, overhead and profit" from Section 6.1. Delete the second sentence of Section 6.1 in its entirety and replace it with the following:

"In the event that Owner plans to utilize its own resources (labor, machinery, or materials) for part of the project, Owner and Architect must discuss the impact of that choice on the design and Cost of the Work prior to executing this Agreement. If Owner and Architect agree that such amounts will be included in the Cost of the Work, then that cost will be determined in advance and incorporated into this Agreement. Failure to do so will result in such costs being excluded from the Cost of the Work."

§6.3 Delete Section 6.3 in its entirety and substitute the following:

§6.3 In preparing estimates for the cost of the Work, the Architect shall be permitted to include contingencies for design, bidding and price escalation, and in consultation with the Owner, to determine what materials, equipment, component systems and types of construction to be included in the Construction Documents, to make reasonable adjustments in the scope of the Project and to include in the Contract Documents alternate bids as may be necessary to adjust the estimate of Cost of the Work to meet the Owner's adjusted budget. If an increase in the Contract Sum occurring after execution of the Contract for Construction caused the Project budget to be exceeded, the Project budget shall be increased accordingly.

§ 6.5 Remove the phrase "shall cooperate with the Architect in making such adjustments" and replace with "may cooperate with Architect in making such adjustments, at its sole discretion."

§6.6.2 After the word "renegotiating" insert "(renegotiation being limited ot instances where Owner is legally authorized to renegotiate)"

§6.7 Delete Section 6.7 in its entirety and substitute the following:

§6.7 If the Owner chooses to proceed under Section 6.6.2, the Architect, without additional compensation, shall assist the Owner in rebidding or renegotiating the Project within a reasonable time. If the Owner chooses to proceed under Section 6.6.4, the Architect, without additional compensation, shall modify the documents which the Architect is responsible for preparing under this Agreement as necessary to comply with the Owner's budget for the Cost of the Work, and shall assist the Owner in rebidding or renegotiating the Project within a reasonable time. The modification of such documents and the rebidding or renegotiating of the Project shall be the limit of the Architect's responsibility under Section 6.6.

ARTICLE 7
COPYRIGHTS AND LICENSES

§7.3 Make the following changes to Section 7.3:

In the first sentence, insert "irrevocable, royalty-free, right and" after the word "nonexclusive" and delete the words "solely and exclusively".

Delete the last sentence of Section 7.3 and substitute the following:

Upon completion of the Project, or upon termination of this Agreement for any reason prior to the completion of the Project, Owner shall be entitled to retain copies of all Instruments of Service and shall have an irrevocable, royalty-free, right and license to use all of the Instruments of Service for any and all purposes related to the Project in any manner the Owner deems fit, including the following:

a. Electronics Filing and Archiving for the purpose of record keeping at Owner designated areas;
b. Any future renovation, addition, or alteration to the Project; and
c. Any future maintenance or operations issue as it pertains to the Project.

Architect or Architect's Consultants shall not be responsible for any modifications to the Work made by Owner or Owner's representatives using the Architect's Instruments of Service.

§7.3.1 Delete the second sentence of Section 7.3.1.

ARTICLE 8
CLAIMS AND DISPUTES

§8.1 GENERAL

§8.1.1 Delete Section 8.1.1 in its entirety and substitute the following:

§8.1.1 Causes of action between the parties to this Agreement pertaining to acts or failures to act shall be deemed to have accrued

and the applicable statutes of limitations shall commence to run pursuant to applicable provisions of the West Virginia Code.

§8.1.3 Make the following change to Section 8.1.3:

At the beginning of the first sentence, insert "Unless otherwise agreed by the Parties,"

Add the following Section to Article 8.1:

§8.1.4 The Owner may suffer financial loss if the Architect's services are not completed within the schedule approved by the Owner in accordance with Section 3.1.3. If so provided, the Architect shall be liable for and shall pay the Owner, as liquidated damages and not as a penalty, any sum(s) stated in this Agreement.

Allowances may be made for delays beyond the control of the Architect. All delays and adjustments to the Architect's schedule must be properly documented and approved by the Owner in accordance with Section 3.1.3.

§8.2 MEDIATION

§8.2 Make the following changes to Section 8.2:

§8.2.1 In both instances where it appears, delete "binding dispute resolution" and substitute "litigation in a court of competent jurisdiction."

§8.2.2 Delete this Section in its entirety and substitute the following:

The parties shall endeavor to resolve their Claims by non-binding mediation which, unless the parties mutually agree otherwise, shall be administered by the American Arbitration Association in accordance with its Construction Industry Mediation Procedures in effect on the date of the Agreement.

§ 8.2.3 Add to the end of the first sentence in Section 8.2.3. the phrase

"unless fee sharing is prohibited due to a lack of a specific Legislative appropriation for the expenses. In the event that Owner determines that fee sharing is prohibited, the Architect may choose to mediate and pay the entire fee, or the parties will forgo mediation and pursue other available remedies."

§8.2.4 Delete this Section in its entirety and substitute the following:

If the parties do not resolve a dispute through mediation pursuant to this Section 8.2, the method of litigation shall be in accordance with Section 8.3.

§8.3 ARBITRATION

§8.3 Delete Section 8.3 in its entirety and substitute the following:

§8.3 SETTLEMENT OF CLAIMS

§8.3.1 The Parties understand that this sovereign immunity and the Constitution of the State of West Virginia prohibit the State and Owner, from entering into binding arbitration. Notwithstanding any provision to the contrary in the Contract Documents, all references to arbitration, regardless of whether they are included in the AIA Document B101-2017 or another related document are hereby deleted

§8.3.2 Any claim, dispute or other matter in question arising out of this Agreement which cannot be settled between the parties shall, in the case of the Architect, be submitted to the West Virginia Claims Commission, and in the case of the Owner, to the Circuit Court of Kanawha County or any other court of competent jurisdiction as the Owner may elect.

ARTICLE 9
TERMINATION OR SUSPENSION

§9.1 Make the following changes to Section 9.1:

In the first sentence, after "If the Owner fails to make payments to the Architect" add "of undisputed amounts". In the third sentence, after "In the event of a suspension of services," add "in accordance herewith". In the fourth sentence, after "Before resuming services, the Architect shall be paid all sums due prior to suspension and" add "shall negotiate with the Owner for".

§9.2 Make the following changes to Section 9.2:

In the first sentence, after "If the Owner suspends the Project" add "for more than 30 consecutive days".

Delete the last two sentences in Section 9.2 and substitute the following:

When the Project is resumed, the Owner and the Architect shall negotiate the amount of any compensation the Owner will pay the Architect for expenses incurred in the interruption and resumption of the Architect's services. The Owner and the Architect shall negotiate any adjustments to the Architect's fees for the remaining services and the time schedules for completion.

§9.6 Make the following changes to Section 9.6:

Delete "costs attributable to termination, including the costs attributable to the Architect's termination of consultant agreements".

§9.7 Delete Section 9.7 in its entirety and substitute the following:

§9.7 Service performed under this Agreement may be continued in succeeding fiscal years for the term of the Agreement contingent upon funds being appropriated by the Legislature for this service. In the event funds are not appropriated or otherwise available for this service, the Agreement shall terminate without penalty on June 30. After such date the Agreement becomes null and void.

Add the following Section to Article 9:

§9.10 In the event of any termination under this Article, the Architect consents to the Owner's selection of another architect of the Owner's choice to assist the Owner in any way in completing the Project. Architect further agrees to cooperate and provide any information requested by Owner in connection with the completion of the Project and consents to the making of any reasonable changes to the design of the Project by Owner and such other architect as Owner may desire in accordance with applicable practice laws contained in Chapter 30, Article 12 of the West Virginia Code, or elsewhere. Any services provided by Architect that are requested by Owner after termination will be fairly compensated by Owner in accordance with Article 11.

ARTICLE 10
MISCELLANEOUS PROVISIONS

§ 10.1 Make the following changes to Section 10.1:

Remove the last sentence referencing arbitration in it's entirety.

§10.2 Make the following changes to Section 10.2:

At the end of the sentence, delete the period and add ", as modified by the State of West Virginia Supplementary Conditions to the AIA Document A201-2017, General Conditions of the Contract for Construction."

§10.3 Add the following sentence to the end of Section 10.3:

The Architect shall execute all consents reasonably required to facilitate such assignment.

§10.6 Add the following sentence to the end of Section 10.6:

The Architect shall immediately report to the Owner's project manager the presence, handling, removal or disposal of, or exposure of persons to and location of any hazardous material which it discovers.

§10.8.1 Remove the phrases "after 7 days' notice to the other party," and "arbitrator's order" from Section 10.8.1.

ARTICLE 11

COMPENSATION

§11.4 Make the following changes to Section 11.4:

After the word "shall", insert "not exceed a multiple of 1.15 times the amount billed to the Architect for such Additional Services" and delete the rest of that sentence.

§11.6.1 Delete the last sentence of Section 11.6.1 in its entirety.

§11.7 Delete Section 11.7 in its entirety and substitute the following:

§11.7 The Architect's rates and multiples for service as set forth in this Agreement shall remain in effect for the life of this Agreement unless unforeseen events which are not the fault of the Architect delay the Project completion. In such event, an equitable adjustment in the Architect's rates may be negotiated with the Owner.

§11.8 COMPENSATION FOR REIMBURSABLE EXPENSES

§11.8.1 Delete Sections 11.8.1.4 and 11.8.1.5 in their entirety and substitute the following:

§11.8.1.4 The expense of reproductions, postage and handling of bidding documents shall be a Reimbursable Expense, however, the expense of reproductions, plots, standard form documents, postage, handling, and delivery of Instruments of Service for the Owner's use and for review of governmental agencies having jurisdiction over the Project shall not be a Reimbursable Expense but shall be covered in the Architect's Compensation under §11.1.

§11.8.2 Delete Section 11.8.2 in its entirety and substitute the following:

§11.8.2 For Reimbursable Expenses described in Section 11.8.1.1, compensation to the Architect shall be at actual cost and shall be made pursuant to the Owner's travel regulations. For those expenses described in Sections 11.8.1.2 through 11.8.1.11, the compensation shall be computed as a multiple of 1.15 times the expenses incurred by the Architect, the Architect's employees and consultants.

§11.9 Architect's Insurance

§11.9 Delete Section 11.9 in its entirety.

§11.10 PAYMENTS TO THE ARCHITECT

§11.10.1 Delete Section 11.10.1 in its entirety.

§11.10.2 Delete Section 11.10.2 in its entirety and substitute the following:

§11.10.2 Payments are due and payable thirty (30) days from the date of receipt of the Architect's invoice by the Owner.

§11.10.2.2 Delete Section 11.10.2.2 in its entirety.

ARTICLE 13
SCOPE OF THE AGREEMENT

Add the following Section to 13.2:

§13.2.4 State of West Virginia Supplementary Conditions to AIA Document B101-2017, Standard Form of Agreement Between Owner and Architect; Other documents included by the Owner in the solicitation requesting expressions of interest, and the contract award to Architect.

END OF SUPPLEMENTARY CONDITIONS TO AIA DOCUMENT B101-2017

The Owner and Architect hereby agree to the full performance of the covenants contained herein.

IN WITNESS WHEREOF, the Owner and Architect have entered into this Agreement as of the date and year as written below.

Owner:		Architect:	
By:	_____	By:	_____
Title:	_____	Title:	_____
Date:	_____	Date:	_____

This Supplementary Conditions to AIA Document B101-2017, Standard Form of Agreement Between Owner and Architect, has been approved as to form on this 10th day of October, 2018, by the West Virginia Attorney General's office as indicated in the signature line below. Any modification of this document is void unless expressly approved in writing by the West Virginia Attorney General's Office.

PATRICK MORRISEY, ATTORNEY GENERAL

BY: _____

DEPUTY ATTORNEY GENERAL

EXHIBIT E

EOI# 27158

ADDENDUM ACKNOWLEDGEMENT FORM

REQUEST FOR EXPERSSIONS OF INTEREST (EOI) FOR

NEW RIVER COMMUNITY & TECHNICAL COLLEGE'S

GHENT CAMPUS, NEW WELDING LAB BUILDING

Instructions: Please acknowledge receipt of all addenda issued with this EOI 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 specification, etc.

Addendum Numbers Received:
(Check the box next to each addendum received)

[ ] Addendum No. 1	[ ] Addendum No. 6
[ ] Addendum No. 2	[ ] Addendum No. 7
[ ] Addendum No. 3	[ ] Addendum No. 8
[ ] Addendum No. 4	[ ] Addendum No. 9
[ ] Addendum No. 5	[ ] Addendum No. 10

I understand that failure to confirm the receipt of addenda may be cause for rejection of this EOI. I further understand that any verbal representation made or assumed to be made during any oral discussion held between vendor's representatives and any Commission/Institution 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.

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 exceed 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: _____ Date: _____

State of _____

County of _____, to-wit:

Taken, subscribed, and sworn to before me this ___ day of _____, 20___.

My Commission expires _____, 20___.

AFFIX SEAL HERE **NOTARY PUBLIC** _____

STATE OF WEST VIRGINIA
ADDENDUM TO VENDOR'S STANDARD CONTRACTUAL FORMS

REQUIRED INFORMATION ABOUT THIS CONTRACT:

State Agency, Board, or Commission (the "State"): _____

Vendor: _____

Contract Name or Identifier/Lease Number ("Contract"): _____

Commodity/Service: _____

The State and the above-identified Vendor are entering into the above-referenced contract. The Contract or other materials incorporated into this Contract may contain provisions that are inconsistent with West Virginia law, regulations, or policy. THIS ADDENDUM SUPERSEDES, MODIFIES AND CONTROLS ANY CONFLICTING PROVISIONS CONTAINED IN THE CONTRACT REGARDLESS OF WHEN SUCH DOCUMENTS ARE SUBMITTED.

1. **PAYMENT** – The State will not make any advanced payments for goods or services unless the payment is (i) authorized by the policy of the West Virginia State Auditor (e.g., software/SaaS licenses, software support services, and the first year of a software subscription), or (ii) expressly authorized in a writing by the West Virginia State Auditor and that approval is made a part of this contract. Payments are made only after the (i) receipt of the goods and/or services and (ii) processing of all required invoice documentation to the State Auditor's satisfaction.

   The following provisions are deleted: (i) interest or penalties for late payment, (ii) payment of lost profits, termination fees, or liquidated damages upon termination, and (iii) acceleration of payments due to termination, default, or non-funding.

2. **FUNDING** –Payments under this Contract are contingent upon the availability of properly encumbered funds through legislative appropriation or other lawful funding sources. If funding becomes unavailable, then the State may terminate this Contract upon notice to the vendor. Non-appropriation or non-funding is not an event of default, and all work shall cease upon termination.

3. **TERMINATION FOR CONVENIENCE** – The State may terminate this Contract for convenience upon thirty (30) days written notice to the Vendor. The State will pay only for undisputed services rendered or goods delivered prior to termination. Any conflicting Vendor provision regarding termination is deleted.

4. **GOVERNING LAW** – The Contract shall be governed by the laws of the State of West Virginia or required federal law. Any provision requiring the application of any other state's laws is deleted.

5. **JURISDICTION/DISPUTES** – All claims for monetary damages must be filed with the West Virginia Legislative Claims Commission. Other legal actions must be brought in courts authorized under West Virginia laws to exercise jurisdiction.

6. **PRESERVATION OF STATE LEGAL RIGHTS -** Notwithstanding any provision contained in this Contract or other materials incorporated into this Contract, any term that limits, waives, or otherwise restricts the legal rights available to the State is deleted. Without limitation, the following provisions are deleted:

   a. Any requirement that the State agrees to (i) participate in binding arbitration or other extra-judicial dispute resolution process, (ii) waive a jury trial, or (iii) resolve disputes in any jurisdiction or venue other than the State of West Virginia.

   b. Any provision requiring the State to (i) indemnify, defend, or hold harmless the Vendor or any third party, or (ii) assume the Vendor's business or legal risks.

   c. Any provision limiting the Vendor's liability for direct damages arising from bodily injury, death, or damage to property (tangible or intangible) caused by the negligence or willful misconduct of the Vendor or its employees or agents. Any limitation of liability is enforceable only to the extent permitted by West Virginia Law.

   d. Any provision requiring the State to waive or limit its legal rights, claims or defenses.

   e. Any provision limiting the time within which the State may file a claim or initiate any legal action.

   f. Any provision permitting repossession of equipment without notice to the state. Repossession may occur only with appropriate notice.

   g. Any provisions requiring the State to pay Vendor's attorney fees, collection costs, or litigation expenses are deleted except in cases where they are ordered by a court of competent jurisdiction.

7. **TAXES** – The State is exempt from federal, state, and local taxes. Any provision requiring the State to pay taxes on behalf of the Vendor is deleted. The State will provide a tax-exempt certificate upon request.

8. **ASSIGNMENT** – No assignment of this contract is effective and binding until the State and Vendor execute a change order to this Contract. This Contract is automatically terminated if the assignment is to a person or entity with whom the State is prohibited from doing business. In that circumstance, Vendor agrees to pay the State a pro-rata refund equal to the cost paid for the unused portion of the commodity or service provided. The State may assign this Contract to another State agency, board or commission upon thirty (30) days written notice to the Vendor.

9. **RENEWAL/MODIFICATION** – This Contract may be renewed, extended, amended, or modified only by written agreement signed by both parties and approved, as to form, by the Attorney General. Any automatic renewal or modification provision is deleted.

10. I**NSURANCE** – Any provision requiring the State to maintain insurance for the benefit of the State, the Vendor or any third party is deleted.

11. **DELIVERY** – All deliveries under the Contract shall be FOB destination unless the State expressly and knowingly agrees otherwise in writing. Any contrary delivery term is deleted.

12. **PUBLIC RECORDS AND CONFIDENTIALITY** – This Contract and related records are subject to the West Virginia Freedom of Information Act ("W. Va. FOIA") (W. Va. Code §29B-1-1 et seq.) and applicable public procurement laws. Any provision requiring Vendor consent or notice prior to disclosure is deleted.

    All provisions requiring the non-disclosure of information must be (i) permitted by West Virginia law, (ii) incorporated through a separately signed writing, and (iii) approved, as to form, by the Attorney General.

13. **DATA OWNERSHIP**. During and after the term of this Contract, the State retains all ownership rights to information or data that the State provides to the Vendor, or which the Vendor collects or captures while providing its services (hereafter "Data"). The Vendor agrees to only use the Data to provide the procured services. Without limitation, the following provisions are deleted:

    a. Any provision granting the Vendor or any other person or entity: (i) rights to sell, license or otherwise exploit the Data, (ii) use rights (including without limitation the right to use the Data to train machine learning and/or artificial intelligence models) or (iii) any other proprietary interests in the Data.

    b. Any provision that defines "Data" in a manner that excludes from these protections: (i) transaction or system-based data, including metadata, (ii) Data once it has been de-identified, anonymized, or aggregated, or (iii) vendor analytics performed on the Data.

    Before contract termination, the Vendor agrees to coordinate with the State, to either (1) destroy the Data or (2) return it to the State in the format requested by the State. This shall be done without further conditions, costs, or delays.

14. **THIRD-PARTY SOFTWARE** – If this Contract contemplates or requires binding the State to third-party's end-users license agreement (EULA), the Vendor represents that none of the mandatory click-through, unsigned, or web-linked EULA terms and conditions 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 a wrongful representation/assertion that the EULA's terms and conditions are in accord with, or subordinate to, this Addendum.

15. **AMENDMENTS** –All amendments, modifications, alterations or changes to this Contract shall be made by a (i) written change order, (ii) signed by all parties, and (iii) approved, as to form, by the Attorney General.

If legal circumstances require this Addendum to be amended, then those changes must be made in an OBVIOUS MANNER such as by using **bold** *Italics, or* underline to identify language being added and using bold ~~**strikethrough**~~ to identify language being deleted. Do not use track-changes. All changes to this WV-96 must be expressly approved by the Office of the Attorney General.

State: _____	Vendor: _____
By: _____	By: _____
Printed Name: Kelley Smith	Printed Name: _____
Title: _____	Title: _____
Date: _____	Date: _____

EXHIBIT H

EOI# 27158

NEW RIVER COMMUNITY & TECHNICAL COLLEGE'S

GHENT CAMPUS, NEW WELDING LAB BUILDING

EOI CERTIFICATION/SIGNATURE

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

_____

(Name, Title)

_____

(Printed Name and Title) (Address)

_____

(Phone Number)

_____

(email address)

2. CERTIFICATION AND SIGNATURE: By signing below, or submitting documentation through e-mail, I certify that: I have reviewed this EOI in its entirety; that I understand the requirements, terms and conditions, and other information contained herein; that this EOI, offer or proposal constitutes an offer to the Commission/Institution that cannot be unilaterally withdrawn; that the product or service proposed meets the mandatory requirements contained in the EOI for that product or service, unless otherwise stated herein; that the vendor accepts the terms and conditions contained in the EOI, unless otherwise stated herein; that I am submitting this EOI, offer or proposal for review and consideration; that I am authorized by the vendor to execute and submit this EOI, 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 has properly registered with any State agency that may require registration.

By signing below, I further certify that I understand the Commission/Institution is requiring the vendor to follow the provisions of WV State Code 5A-3-62 which automatically voids certain contract clauses that violate State law.

_____

(Company)

_____

(Authorized Signature) (Representative Name, Title) (Printed

_____

Name and Title of Authorized Representative) (Date)

_____

(Phone Number)