



**STATE OF TENNESSEE
DEPARTMENT OF ECONOMIC AND COMMUNITY DEVELOPMENT**

**REQUEST FOR PROPOSALS
FOR
MARKETING SERVICES**

RFP # 33006-20824

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1. INTRODUCTION

The State of Tennessee, Department of Economic and Community Development, hereinafter referred to as "the State," issues this Request for Proposals (RFP) to define minimum contract requirements; solicit responses; detail response requirements; and, outline the State's process for evaluating responses and selecting a contractor to provide the needed goods or services.

Through this RFP, the State seeks to procure necessary goods or services at the most favorable, competitive prices and to give ALL qualified respondents, including those that are owned by minorities, women, service-disabled veterans, persons with disabilities and small business enterprises, an opportunity to do business with the state as contractors, subcontractors or suppliers.

1.1. Statement of Procurement Purpose

TNECD is seeking a vendor to assist with the agency's new brand and identity development, marketing strategy, media, advertising and marketing campaigns, new website development, website maintenance, and video and photo asset creation and organization.

The total estimated maximum liability associated with this solicitation and *pro forma* contract is anticipated to be \$750,000.00.

1.2. Scope of Service, Contract Period, & Required Terms and Conditions

The RFP Attachment 6.6., *Pro Forma* Contract details the State's requirements:

- Scope of Services and Deliverables (Section A);
- Contract Period (Section B);
- Payment Terms (Section C);
- Standard Terms and Conditions (Section D); and,
- Special Terms and Conditions (Section E).

The *pro forma* contract substantially represents the contract document that the successful Respondent must sign.

1.3. Nondiscrimination

No person shall be excluded from participation in, be denied benefits of, or be otherwise subjected to discrimination in the performance of a Contract pursuant to this RFP or in the employment practices of the Contractor on the grounds of handicap or disability, age, race, creed, color, religion, sex, national origin, or any other classification protected by federal, Tennessee state constitutional, or statutory law. The Contractor pursuant to this RFP shall, upon request, show proof of such nondiscrimination and shall post in conspicuous places, available to all employees and applicants, notices of nondiscrimination.

1.4. RFP Communications

1.4.1. The State has assigned the following RFP identification number that must be referenced in all communications regarding this RFP:

RFP # 33006-20824

1.4.2. **Unauthorized contact about this RFP with employees or officials of the State of Tennessee except as detailed below may result in disqualification from consideration under this procurement process.**

1.4.2.1. Prospective Respondents must direct communications concerning this RFP to the following person designated as the Solicitation Coordinator:

Stephen Seibert, Sourcing Account Specialist
 State of Tennessee, Central Procurement Office
 (615) 253-2187
 Stephen.Seibert@tn.gov

1.4.2.2. Notwithstanding the foregoing, Prospective Respondents may alternatively contact:

- a. staff of the Governor's Office of Diversity Business Enterprise for assistance available to minority-owned, woman-owned, service-disabled veteran-owned, businesses owned by persons with disabilities, and small businesses as well as general, public information relating to this RFP (visit <https://www.tn.gov/generalservices/procurement/central-procurement-office--cpo-/governor-s-office-of-diversity-business-enterprise--godbe--/godbe-general-contacts.html> for contact information); and
- b. the following individual designated by the State to coordinate compliance with the nondiscrimination requirements of the State of Tennessee, Title VI of the Civil Rights Act of 1964, the Americans with Disabilities Act of 1990, and associated federal regulations:

Brice Rochelle, Assistant General Counsel
 State of Tennessee, Department of Economic and Community Development
 312 Rosa Parks Ave, Nashville, TN 37243
 (615) 946-0642
 Brice.J.Rochelle@tn.gov

- 1.4.3. Only the State's official, written responses and communications with Respondents are binding with regard to this RFP. Oral communications between a State official and one or more Respondents are unofficial and non-binding.
- 1.4.4. Potential Respondents must ensure that the State receives all written questions and comments, including questions and requests for clarification, no later than the Written Questions & Comments Deadline detailed in the RFP Section 2, Schedule of Events.
- 1.4.5. Respondents must assume the risk of the method of dispatching any communication or response to the State. The State assumes no responsibility for delays or delivery failures resulting from the Respondent's method of dispatch. Actual or digital "postmarking" of a communication or response to the State by a specified deadline is not a substitute for the State's actual receipt of a communication or response. It is encouraged for Respondents to submit bids digitally.
- 1.4.6. The State will convey all official responses and communications related to this RFP to the prospective Respondents from whom the State has received a Notice of Intent to Respond.
- 1.4.7. The State reserves the right to determine, at its sole discretion, the method of conveying official, written responses and communications related to this RFP. Such written communications may be transmitted by mail, hand-delivery, facsimile, electronic mail, Internet posting, or any other means deemed reasonable by the State. For internet posting, please refer to the following website: <https://www.tn.gov/generalservices/procurement/central-procurement-office--cpo-/supplier-information/request-for-proposals--rfp--opportunities1.html>.
- 1.4.8. The State reserves the right to determine, at its sole discretion, the appropriateness and adequacy of responses to written comments, questions, and requests related to this RFP. The State's official, written responses will constitute an amendment of this RFP.
- 1.4.9. Any data or factual information provided by the State (in this RFP, an RFP amendment or any other communication relating to this RFP) is for informational purposes only. The State will make

reasonable efforts to ensure the accuracy of such data or information, however it is the Respondent's obligation to independently verify any data or information provided by the State. The State expressly disclaims the accuracy or adequacy of any information or data that it provides to prospective Respondents.

1.5. **Assistance to Respondents With a Handicap or Disability**

Prospective Respondents with a handicap or disability may receive accommodation relating to the communication of this RFP and participating in the RFP process. Prospective Respondents may contact the Solicitation Coordinator to request such reasonable accommodation no later than the Disability Accommodation Request Deadline detailed in the RFP Section 2, Schedule of Events.

1.6. **Respondent Required Review & Waiver of Objections**

- 1.6.1. Each prospective Respondent must carefully review this RFP, including but not limited to, attachments, the RFP Attachment 6.6., *Pro Forma* Contract, and any amendments, for questions, comments, defects, objections, or any other matter requiring clarification or correction (collectively called "questions and comments").
- 1.6.2. Any prospective Respondent having questions and comments concerning this RFP must provide them in writing to the State no later than the Written Questions & Comments Deadline detailed in the RFP Section 2, Schedule of Events.
- 1.6.3. Protests based on any objection to the RFP shall be considered waived and invalid if the objection has not been brought to the attention of the State, in writing, by the Written Questions & Comments Deadline.

1.7. **Pre-Response Conference**

A Pre-response Conference will be held at the time and date detailed in the RFP Section 2, Schedule of Events. Pre-response Conference attendance is not mandatory, and prospective Respondents may be limited to a maximum number of attendees depending upon overall attendance and space limitations.

The conference will be held at:

Microsoft Teams [Need help?](#)

[Join the meeting now](#)

Meeting ID: 287 282 709 276

Passcode: VzY9kC

Dial in by phone

[+1 629-209-4396,,121519877#](#) United States, Triune

[Find a local number](#)

Phone conference ID: 121 519 877#

Join on a video conferencing device

Tenant key: stateoftn@m.webex.com

Video ID: 114 874 330 5

[More info](#)

The purpose of the conference is to discuss the RFP scope of goods or services. The State will entertain questions, however prospective Respondents must understand that the State's oral response to any question at the Pre-response Conference shall be unofficial and non-binding. Prospective Respondents must submit all questions, comments, or other concerns regarding the RFP in writing prior to the Written

Questions & Comments Deadline date detailed in the RFP Section 2, Schedule of Events. The State will send the official response to these questions and comments to prospective Respondents from whom the State has received a Notice of Intent to respond as indicated in RFP Section 1.8 and on the date detailed in the RFP Section 2, Schedule of Events.

1.8. **Notice of Intent to Respond**

Before the Notice of Intent to Respond Deadline detailed in the RFP Section 2, Schedule of Events, prospective Respondents should submit to the Solicitation Coordinator a Notice of Intent to Respond (in the form of a simple e-mail or other written communication). Such notice should include the following information:

- the business or individual's name (as appropriate);
- a contact person's name and title; and
- the contact person's mailing address, telephone number, facsimile number, and e-mail address.

A Notice of Intent to Respond creates no obligation and is not a prerequisite for submitting a response, however, it is necessary to ensure receipt of any RFP amendments or other notices and communications relating to this RFP.

1.9. **Response Deadline**

A Respondent must ensure that the State receives a response no later than the Response Deadline time and date detailed in the RFP Section 2, Schedule of Events. The State will not accept late responses, and a Respondent's failure to submit a response before the deadline will result in disqualification of the response. It is the responsibility of the Respondent to ascertain any additional security requirements with respect to packaging and delivery to the State of Tennessee. Respondents should be mindful of any potential delays due to security screening procedures, weather, or other filing delays whether foreseeable or unforeseeable.

2. RFP SCHEDULE OF EVENTS

2.1. The following RFP Schedule of Events represents the State's best estimate for this RFP.

EVENT	TIME (central time zone)	DATE
1. RFP Issued		October 28, 2024
2. Disability Accommodation Request Deadline	2:00 p.m.	October 31, 2024
3. Pre-response Conference	1:30 p.m.	November 8, 2024
4. Notice of Intent to Respond Deadline	2:00 p.m.	November 13, 2024
5. Written "Questions & Comments" Deadline	2:00 p.m.	November 19, 2024
6. State Response to Written "Questions & Comments"		December 4, 2024
7. Response Deadline	2:00 p.m.	December 12, 2024
8. State Completion of Technical Response Evaluations		December 19, 2024
9. State Schedules Respondent Oral		December 20, 2024
10. Respondent Oral Presentation		January 7 – 9, 2025
11. State Opening & Scoring of Cost Proposals	2:00 p.m.	January 10, 2025
12. Negotiations	4:30 p.m.	January 13 – 17, 2025
13. State Notice of Intent to Award Released <u>and</u> RFP Files Opened for Public Inspection	2:00 p.m.	January 20, 2025
14. End of Open File Period		January 27, 2025
15. State sends contract to Contractor for signature		January 29, 2025
16. Contractor Signature Deadline	2:00 p.m.	January 31, 2025

2.2. **The State reserves the right, at its sole discretion, to adjust the RFP Schedule of Events as it deems necessary.** Any adjustment of the Schedule of Events shall constitute an RFP amendment, and the State will communicate such to prospective Respondents from whom the State has received a Notice of Intent to Respond (refer to section 1.8).

3. RESPONSE REQUIREMENTS

3.1. Response Form

A response to this RFP must consist of two parts, a Technical Response and a Cost Proposal.

- 3.1.1. **Technical Response.** RFP Attachment 6.2., Technical Response & Evaluation Guide provides the specific requirements for submitting a response. This guide includes mandatory requirement items, general qualifications and experience items, and technical qualifications, experience, and approach items all of which must be addressed with a written response and, in some instances, additional documentation.

NOTICE: A technical response must not include any pricing or cost information. If any pricing or cost information amounts of any type (even pricing relating to other projects) is included in any part of the technical response, the state may deem the response to be non-responsive and reject it.

- 3.1.1.1. A Respondent should duplicate and use the RFP Attachment 6.2., Technical Response & Evaluation Guide to organize, reference, and draft the Technical Response by duplicating the attachment, adding appropriate page numbers as required, and using the guide as a table of contents covering the Technical Response.
- 3.1.1.2. A response should be economically prepared, with emphasis on completeness and clarity. A response, as well as any reference material presented, must be written in English and must be written on standard 8 ½" x 11" pages (although oversize exhibits are permissible) and use a 12 point font for text. Smaller font is permitted for exhibits, graphics, tables, forms, headers/footers, graphical cover pages, charts, callouts, and resumes, as long as all items remain legible and easily viewed. All response pages must be numbered.
- 3.1.1.3. All information and documentation included in a Technical Response should correspond to or address a specific requirement detailed in the RFP Attachment 6.2., Technical Response & Evaluation Guide. All information must be incorporated into a response to a specific requirement and clearly referenced. Any information not meeting these criteria will be deemed extraneous and will not contribute to evaluations.
- 3.1.1.4. The State may determine a response to be non-responsive and reject it if:
- a. the Respondent fails to organize and properly reference the Technical Response as required by this RFP and the RFP Attachment 6.2., Technical Response & Evaluation Guide; or
 - b. the Technical Response document does not appropriately respond to, address, or meet all of the requirements and response items detailed in the RFP Attachment 6.2., Technical Response & Evaluation Guide.

- 3.1.2. **Cost Proposal.** A Cost Proposal must be recorded on an exact duplicate of the RFP Attachment 6.3., Cost Proposal & Scoring Guide.

NOTICE: If a Respondent fails to submit a cost proposal exactly as required, the State may deem the response to be non-responsive and reject it.

- 3.1.2.1. A Respondent must only record the proposed cost exactly as required by the RFP Attachment 6.3., Cost Proposal & Scoring Guide and must NOT record any other rates, amounts, or information.
- 3.1.2.2. The proposed cost shall incorporate ALL costs for services under the contract for the total contract period, including any renewals or extensions.
- 3.1.2.3. A Respondent must sign and date the Cost Proposal.
- 3.1.2.4. A Respondent must submit the Cost Proposal to the State in a sealed package separate from the Technical Response (as detailed in RFP Sections 3.2.3., *et seq.*).

3.2. Response Delivery

- 3.2.1. A Respondent must ensure that both the Technical Response and Cost Proposal files meet all form and content requirements, including all required signatures, as detailed within this RFP.
- 3.2.2. A Respondent must submit their response as specified in one of the two formats below.

3.2.2.1. Digital Media Submission

3.2.2.1.1. Cost Proposal:

The Cost Proposal should be in the form of one (1) digital document in “PDF” or “XLS” format properly recorded on a separate, otherwise blank, standard USB flash drive clearly labeled:

“RFP # 33006-20824 COST PROPOSAL”

An electronic or facsimile signature, as applicable, on the Cost Proposal is acceptable.

3.2.2.2. E-mail Submission

3.2.2.2.1. Technical Response

The Technical Response document should be in the form of one (1) digital document in “PDF” format or other easily accessible digital format attached to an e-mail to the Solicitation Coordinator. Both the subject and file name should be clearly identified as follows:

“RFP # 33006-20824 TECHNICAL RESPONSE”

The customer references should be delivered by each reference in accordance with RFP Attachment 6.4. Reference Questionnaire.

3.2.2.2.2. Cost Proposal:

The Cost Proposal should be in the form of one (1) digital document in “PDF” or “XLS” format or other easily accessible digital format attached to an e-mail to the Solicitation Coordinator. Both the subject and file name should be clearly identified as follows:

“RFP # 33006-20824 COST PROPOSAL”

An electronic or facsimile signature, as applicable, on the Cost Proposal is acceptable.

“RFP # 33006-20824 TECHNICAL RESPONSE”

- 3.2.3. For e-mail submissions, the Technical Response and Cost Proposal documents must be dispatched to the Solicitation Coordinator in separate e-mail messages. For digital media submissions, a Respondent must separate, seal, package, and label the documents and copies for delivery as follows:

- 3.2.3.1. The Technical Response and copies must be placed in a sealed package that is clearly labeled:

“DO NOT OPEN... RFP # 33006-20824 TECHNICAL RESPONSE FROM [RESPONDENT LEGAL ENTITY NAME]”

- 3.2.3.2. The Cost Proposal must be placed in a separate, sealed package that is clearly labeled:

“DO NOT OPEN... RFP # 33006-20824 COST PROPOSAL FROM [RESPONDENT LEGAL ENTITY NAME]”

- 3.2.3.3. The separately, sealed Technical Response and Cost Proposal components may be enclosed in a larger package for mailing or delivery, provided that the outermost package is clearly labeled:

“RFP # 33006-20824 SEALED TECHNICAL RESPONSE & SEALED COST PROPOSAL FROM [RESPONDENT LEGAL ENTITY NAME]”

- 3.2.3.4. Any Respondent wishing to submit a Response in a format other than digital may do so by contacting the Solicitation Coordinator.

- 3.2.4. A Respondent must ensure that the State’s Solicitation Coordinator receives a written response no later than the Response Deadline time and date detailed in the RFP Section 2, Schedule of Events to the following:

Stephen Seibert, Sourcing Account Specialist
State of Tennessee, Central Procurement Office
Stephen.Seibert@tn.gov

3.3. Response & Respondent Prohibitions

- 3.3.1. A response must not include alternate contract terms and conditions. If a response contains such terms and conditions, the State, at its sole discretion, may determine the response to be a non-responsive counteroffer and reject it.
- 3.3.2. A response must not restrict the rights of the State or otherwise qualify either the offer to deliver goods or provide services as required by this RFP or the Cost Proposal. If a response restricts the rights of the State or otherwise qualifies either the offer to deliver goods or provide services as required by this RFP or the Cost Proposal, the State, at its sole discretion, may determine the response to be a non-responsive counteroffer and reject it.
- 3.3.3. A response must not propose alternative goods or services (*i.e.*, offer services different from those requested and required by this RFP) unless expressly requested in this RFP. The State may consider a response of alternative goods or services to be non-responsive and reject it.
- 3.3.4. A Cost Proposal must be prepared and arrived at independently and must not involve any collusion between Respondents. The State will reject any Cost Proposal that involves collusion, consultation, communication, or agreement between Respondents. Regardless of the time of detection, the State will consider any such actions to be grounds for response rejection or contract termination.
- 3.3.5. A Respondent must not provide, for consideration in this RFP process or subsequent contract negotiations, any information that the Respondent knew or should have known was materially incorrect. If the State determines that a Respondent has provided such incorrect information, the State will deem the Response non-responsive and reject it.

- 3.3.6. A Respondent must not submit more than one Technical Response and one Cost Proposal in response to this RFP, except as expressly requested by the State in this RFP. If a Respondent submits more than one Technical Response or more than one Cost Proposal, the State will deem all of the responses non-responsive and reject them.
- 3.3.7. A Respondent must not submit a response as a prime contractor while also permitting one or more other Respondents to offer the Respondent as a subcontractor in their own responses. Such may result in the disqualification of all Respondents knowingly involved. This restriction does not, however, prohibit different Respondents from offering the same subcontractor as a part of their responses (provided that the subcontractor does not also submit a response as a prime contractor).
- 3.3.8. The State shall not consider a response from an individual who is, or within the past six (6) months has been, a State employee. For purposes of this RFP:
- 3.3.8.1. An individual shall be deemed a State employee until such time as all compensation for salary, termination pay, and annual leave has been paid;
- 3.3.8.2. A contract with or a response from a company, corporation, or any other contracting entity in which a controlling interest is held by any State employee shall be considered to be a contract with or proposal from the employee; and
- 3.3.8.3. A contract with or a response from a company, corporation, or any other contracting entity that employs an individual who is, or within the past six (6) months has been, a State employee shall not be considered a contract with or a proposal from the employee and shall not constitute a prohibited conflict of interest.
- 3.3.9. This RFP is also subject to Tenn. Code Ann. §§ 12-4-101 through 105.

3.4. **Response Errors & Revisions**

A Respondent is responsible for any and all response errors or omissions. A Respondent will not be allowed to alter or revise response documents after the Response Deadline time and date detailed in the RFP Section 2, Schedule of Events unless such is formally requested, in writing, by the State.

3.5. **Response Withdrawal**

A Respondent may withdraw a submitted response at any time before the Response Deadline time and date detailed in the RFP Section 2, Schedule of Events by submitting a written request signed by an authorized Respondent representative. After withdrawing a response, a Respondent may submit another response at any time before the Response Deadline. After the Response Deadline, a Respondent may only withdraw all or a portion of a response where the enforcement of the response would impose an unconscionable hardship on the Respondent.

3.6. **Additional Services**

If a response offers goods or services in addition to those required by and described in this RFP, the State, at its sole discretion, may add such services to the contract awarded as a result of this RFP. Notwithstanding the foregoing, a Respondent must not propose any additional cost amounts or rates for additional goods or services. Regardless of any additional services offered in a response, the Respondent's Cost Proposal must only record the proposed cost as required in this RFP and must not record any other rates, amounts, or information.

NOTICE: If a Respondent fails to submit a Cost Proposal exactly as required, the State may deem the response non-responsive and reject it.

3.7. **Response Preparation Costs**

The State will not pay any costs associated with the preparation, submittal, or presentation of any response.

4. GENERAL CONTRACTING INFORMATION & REQUIREMENTS

4.1. RFP Amendment

The State at its sole discretion may amend this RFP, in writing, at any time prior to contract award. However, prior to any such amendment, the State will consider whether it would negatively impact the ability of potential Respondents to meet the response deadline and revise the RFP Schedule of Events if deemed appropriate. If an RFP amendment is issued, the State will convey it to potential Respondents who submitted a Notice of Intent to Respond (refer to RFP Section 1.8). A response must address the final RFP (including its attachments) as amended.

4.2. RFP Cancellation

The State reserves the right, at its sole discretion, to cancel the RFP or to cancel and reissue this RFP in accordance with applicable laws and regulations.

4.3. State Right of Rejection

4.3.1. Subject to applicable laws and regulations, the State reserves the right to reject, at its sole discretion, any and all responses.

4.3.2. The State may deem as non-responsive and reject any response that does not comply with all terms, conditions, and performance requirements of this RFP. Notwithstanding the foregoing, the State reserves the right to waive, at its sole discretion, minor variances from full compliance with this RFP. If the State waives variances in a response, such waiver shall not modify the RFP requirements or excuse the Respondent from full compliance, and the State may hold any resulting Contractor to strict compliance with this RFP.

4.4. Assignment & Subcontracting

4.4.1. The Contractor may not subcontract, transfer, or assign any portion of the Contract awarded as a result of this RFP without prior approval of the State. The State reserves the right to refuse approval, at its sole discretion, of any subcontract, transfer, or assignment.

4.4.2. If a Respondent intends to use subcontractors, the response to this RFP must specifically identify the scope and portions of the work each subcontractor will perform (refer to RFP Attachment 6.2., Section B, General Qualifications & Experience Item B.14.).

4.4.3. Subcontractors identified within a response to this RFP will be deemed as approved by the State unless the State expressly disapproves one or more of the proposed subcontractors prior to signing the Contract.

4.4.4. After contract award, a Contractor may only substitute an approved subcontractor at the discretion of the State and with the State's prior, written approval.

4.4.5. Notwithstanding any State approval relating to subcontracts, the Respondent who is awarded a contract pursuant to this RFP will be the prime contractor and will be responsible for all work under the Contract.

4.5. Right to Refuse Personnel or Subcontractors

The State reserves the right to refuse, at its sole discretion and notwithstanding any prior approval, any personnel of the prime contractor or a subcontractor providing goods or services in the performance of a contract resulting from this RFP. The State will document in writing the reason(s) for any rejection of personnel.

4.6. **Insurance**

The State will require the awarded Contractor to provide a Certificate of Insurance issued by an insurance company licensed or authorized to provide insurance in the State of Tennessee. Each Certificate of Insurance shall indicate current insurance coverages meeting minimum requirements as may be specified by this RFP. A failure to provide a current, Certificate of Insurance will be considered a material breach and grounds for contract termination.

4.7. **Professional Licensure and Department of Revenue Registration**

- 4.7.1. All persons, agencies, firms, or other entities that provide legal or financial opinions, which a Respondent provides for consideration and evaluation by the State as a part of a response to this RFP, shall be properly licensed to render such opinions.
- 4.7.2. Before the Contract resulting from this RFP is signed, the apparent successful Respondent (and Respondent employees and subcontractors, as applicable) must hold all necessary or appropriate business or professional licenses to provide the goods or services as required by the contract. The State may require any Respondent to submit evidence of proper licensure.
- 4.7.3. Before the Contract resulting from this RFP is signed, the apparent successful Respondent must be registered with the Tennessee Department of Revenue for the collection of Tennessee sales and use tax. The State shall not award a contract unless the Respondent provides proof of such registration or provides documentation from the Department of Revenue that the Contractor is exempt from this registration requirement. The foregoing is a mandatory requirement of an award of a contract pursuant to this solicitation. To register, please visit the Department of Revenue's Tennessee Taxpayer Access Point (TNTAP) website for Online Registration and the Vendor Contract Questionnaire. These resources are available at the following:
<https://tntap.tn.gov/eservices/#1>

4.8. **Disclosure of Response Contents**

- 4.8.1. All materials submitted to the State in response to this RFP shall become the property of the State of Tennessee. Respondents are cautioned not to provide any materials in response to this RFP that are trade secrets, as defined under Tenn. Code Ann. § 47-25-1702 and any other applicable law. By submitting a response to this RFP, the respondent acknowledges and agrees that the State shall have no liability whatsoever for disclosure of a trade secret under the Uniform Trade Secrets Act, as provided at Tenn. Code Ann. § 47-25-1701-1709, or under any other applicable law. Selection or rejection of a response does not affect this right. By submitting a response, a Respondent acknowledges and accepts that the full response contents and associated documents will become open to public inspection in accordance with the laws of the State of Tennessee.
- 4.8.2. The State will hold all response information, including both technical and cost information, in confidence during the evaluation process.
- 4.8.3. Upon completion of response evaluations, indicated by public release of a Notice of Intent to Award, the responses and associated materials will be open for review by the public in accordance with Tenn. Code Ann. § 10-7-504(a)(7).

4.9. **Contract Approval and Contract Payments**

- 4.9.1. After contract award, the Contractor who is awarded the contract must submit appropriate documentation with the Department of Finance and Administration, Division of Accounts.
- 4.9.2. This RFP and its contractor selection processes do not obligate the State and do not create rights, interests, or claims of entitlement in either the Respondent with the apparent best-evaluated response or any other Respondent. State obligations pursuant to a contract award

shall commence only after the Contract is signed by the State agency head and the Contractor and after the Contract is approved by all other state officials as required by applicable laws and regulations.

4.9.3. No payment will be obligated or made until the relevant Contract is approved as required by applicable statutes and rules of the State of Tennessee.

4.9.3.1. The State shall not be liable for payment of any type associated with the Contract resulting from this RFP (or any amendment thereof) or responsible for any goods delivered or services rendered by the Contractor, even goods delivered or services rendered in good faith and even if the Contractor is orally directed to proceed with the delivery of goods or the rendering of services, if it occurs before the Contract Effective Date or after the Contract Term.

4.9.3.2. All payments relating to this procurement will be made in accordance with the Payment Terms and Conditions of the Contract resulting from this RFP (refer to RFP Attachment 6.6., *Pro Forma* Contract, Section C).

4.9.3.3. If any provision of the Contract provides direct funding or reimbursement for the competitive purchase of goods or services as a component of contract performance or otherwise provides for the reimbursement of specified, actual costs, the State will employ all reasonable means and will require all such documentation that it deems necessary to ensure that such purchases were competitive and costs were reasonable, necessary, and actual. The Contractor shall provide reasonable assistance and access related to such review. Further, the State shall not remit, as funding or reimbursement pursuant to such provisions, any amounts that it determines do not represent reasonable, necessary, and actual costs.

4.10. **Contractor Performance**

The Contractor who is awarded a contract will be responsible for the delivery of all acceptable goods or the satisfactory completion of all services set out in this RFP (including attachments) as may be amended. All goods or services are subject to inspection and evaluation by the State. The State will employ all reasonable means to ensure that goods delivered or services rendered are in compliance with the Contract, and the Contractor must cooperate with such efforts.

4.11. **Contract Amendment**

After Contract award, the State may request the Contractor to deliver additional goods or perform additional services within the general scope of the Contract and this RFP, but beyond the specified Scope, and for which the Contractor may be compensated. In such instances, the State will provide the Contractor a written description of the additional goods or services. The Contractor must respond to the State with a time schedule for delivering the additional goods or accomplishing the additional services based on the compensable units included in the Contractor's response to this RFP. If the State and the Contractor reach an agreement regarding the goods or services and associated compensation, such agreement must be effected by means of a contract amendment. Further, any such amendment requiring additional goods or services must be signed by both the State agency head and the Contractor and must be approved by other state officials as required by applicable statutes, rules, policies and procedures of the State of Tennessee. The Contractor must not provide additional goods or render additional services until the State has issued a written contract amendment with all required approvals.

4.12. **Severability**

If any provision of this RFP is declared by a court to be illegal or in conflict with any law, said decision will not affect the validity of the remaining RFP terms and provisions, and the rights and obligations of the State and Respondents will be construed and enforced as if the RFP did not contain the particular provision held to be invalid.

4.13. **Next Ranked Respondent**

The State reserves the right to initiate negotiations with the next ranked Respondent should the State cease doing business with any Respondent selected via this RFP process.

5. EVALUATION & CONTRACT AWARD

5.1. Evaluation Categories & Maximum Points

The State will consider qualifications, experience, technical approach, and cost in the evaluation of responses and award points in each of the categories detailed below (up to the maximum evaluation points indicated) to each response deemed by the State to be responsive.

EVALUATION CATEGORY	MAXIMUM POINTS POSSIBLE
General Qualifications & Experience (refer to RFP Attachment 6.2., Section B)	15
Technical Qualifications, Experience & Approach (refer to RFP Attachment 6.2., Section C)	55
Oral Presentation (refer to RFP Attachment 6.2., Section D)	10
Cost Proposal (refer to RFP Attachment 6.3.)	20

5.2. Evaluation Process

The evaluation process is designed to award the contract resulting from this RFP not necessarily to the Respondent offering the lowest cost, but rather to the Respondent deemed by the State to be responsive and responsible who offers the best combination of attributes based upon the evaluation criteria. ("Responsive Respondent" is defined as a Respondent that has submitted a response that conforms in all material respects to the RFP. "Responsible Respondent" is defined as a Respondent that has the capacity in all respects to perform fully the contract requirements, and the integrity and reliability which will assure good faith performance.)

5.2.1. **Technical Response Evaluation.** The Solicitation Coordinator and the Proposal Evaluation Team (consisting of three (3) or more State employees) will use the RFP Attachment 6.5., Technical Response & Evaluation Guide to manage the Technical Response Evaluation and maintain evaluation records.

- 5.2.1.1. The State reserves the right, at its sole discretion, to request Respondent clarification of a Technical Response or to conduct clarification discussions with any or all Respondents. Any such clarification or discussion will be limited to specific sections of the response identified by the State. The subject Respondent must put any resulting clarification in writing as may be required and in accordance with any deadline imposed by the State.
- 5.2.1.2. The Solicitation Coordinator will review each Technical Response to determine compliance with RFP Attachment 6.2., Technical Response & Evaluation Guide, Section A— Mandatory Requirements. If the Solicitation Coordinator determines that a response failed to meet one or more of the mandatory requirements, the Solicitation Coordinator will review the response and determine whether:
- a. the response adequately meets RFP requirements for further evaluation;
 - b. the State will request clarifications or corrections for consideration prior to further evaluation; or,
 - c. the State will determine the response to be non-responsive to the RFP and reject it.

- 5.2.1.3. Proposal Evaluation Team members will independently evaluate each Technical Response (that is responsive to the RFP) against the evaluation criteria in this RFP, and will score each in accordance with the RFP Attachment 6.2., Technical Response & Evaluation Guide.
- 5.2.1.4. For each response evaluated, the Solicitation Coordinator will calculate the average of the Proposal Evaluation Team member scores for RFP Attachment 6.2., Technical Response & Evaluation Guide, and record each average as the response score for the respective Technical Response section.
- 5.2.1.5. The Solicitation Coordinator will invite the top three (3) ranked Respondents to make an Oral Presentation. The ranking will be determined after the Technical Response score is totaled and ranked (e.g., 1 – the best evaluated ranking, etc.).
- 5.2.1.5.1. The Oral Presentations are mandatory. The Solicitation Coordinator will schedule Respondent Oral Presentations during the period indicated by the RFP Section 2, Schedule of Events. The Solicitation Coordinator will make every effort to accommodate each Respondent's schedules. When the Respondent Oral Presentation schedule has been determined, the Solicitation Coordinator will contact Respondents with the relevant information as indicated by RFP Section 2, Schedule of Events.
- 5.2.1.5.2. Respondent Oral Presentations are only open to the invited Respondent, Proposal Evaluation Team members, the Solicitation Coordinator, and any technical consultants who are selected by the State to provide assistance to the Proposal Evaluation Team.
- 5.2.1.5.3. Oral Presentations provide an opportunity for Respondents to explain and clarify their responses and for the State to test to better understand the practical application of the good or service as applicable. Respondents must not materially alter their responses and Oral Presentations will be limited to addressing the items detailed in RFP Attachment 6.2., Technical Response & Evaluation Guide. Respondent pricing shall not be discussed or provided during Oral Presentations.
- 5.2.1.5.4. The State will maintain an accurate record of each Respondent's Oral Presentation session. The record of the Respondent's Oral Presentation shall be available for review when the State opens the procurement files for public inspection.
- 5.2.1.5.5. Proposal Evaluation Team members will independently evaluate each Oral Presentation in accordance with the RFP Attachment 6.2., Technical Response & Evaluation Guide, Section D.
- 5.2.1.5.6. The Solicitation Coordinator will calculate and document the average of the Proposal Evaluation Team member scores for RFP Attachment 6.2., Technical Response & Evaluation Guide, Section D, and record that number as the score for Respondent's Technical Response section.
- 5.2.2. **Cost Proposal Evaluation.** The Solicitation Coordinator will open for evaluation the Cost Proposal of each Respondent deemed by the State to be responsive and responsible and calculate and record each Cost Proposal score in accordance with the RFP Attachment 6.3., Cost Proposal & Scoring Guide.
- 5.2.3. **Clarifications and Negotiations.** The State reserves the right to award a contract on the basis of initial responses received, therefore, each response shall contain the Respondent's best terms and conditions from a technical and cost standpoint. The State reserves the right to conduct

clarifications or negotiations with one or more Respondents. All communications, clarifications, and negotiations shall be conducted in a manner that supports fairness in response improvement.

5.2.3.1. **Clarifications:** The State may identify areas of a response that may require further clarification or areas in which it is apparent that there may have been miscommunications or misunderstandings as to the State's specifications or requirements. The State may seek to clarify those issues identified during one or multiple clarification rounds. Each clarification sought by the State may be unique to an individual Respondent, provided that the process is conducted in a manner that supports fairness in response improvement.

5.2.3.2. **Negotiations:** The State may elect to negotiate with one or more Respondents by requesting revised responses, negotiating costs, or finalizing contract terms and conditions. The State reserves the right to conduct multiple negotiation rounds or no negotiations at all.

5.2.3.3. **Cost Negotiations:** All Respondents, selected for negotiation by the State, will be given equivalent information with respect to cost negotiations. All cost negotiations will be documented for the procurement file. Additionally, the State may conduct target pricing and other goods or services level negotiations. Target pricing may be based on considerations such as current pricing, market considerations, benchmarks, budget availability, or other methods that do not reveal individual Respondent pricing. During target price negotiations, Respondents are not obligated to reduce their pricing to target prices, but no Respondent is allowed to increase prices.

5.2.3.4. If the State determines that it is unable to successfully negotiate terms and conditions of a contract with the apparent best evaluated Respondent, the State reserves the right to bypass the apparent best evaluated Respondent and enter into terms and conditions contract negotiations with the next apparent best evaluated Respondent.

5.2.4. **Total Response Score.** The Solicitation Coordinator will calculate the sum of the Technical Response section scores and the Cost Proposal score and record the resulting number as the total score for the subject Response (refer to RFP Attachment 6.5., Score Summary Matrix).

5.3. **Contract Award Process**

5.3.1 The Solicitation Coordinator will review the Proposal Evaluation Team determinations and scores for consideration along with any other relevant information that might be available and pertinent to contract award.

5.3.2. The Solicitation Coordinator will determine the apparent best-evaluated Response using the scoring provided by the Proposal Evaluation Team. To effect a contract award to a Respondent other than the one receiving the highest evaluation process score, the Solicitation Coordinator must provide written justification and obtain the written approval of the Chief Procurement Officer and the Comptroller of the Treasury.

5.3.3. The State will issue a Notice of Intent to Award identifying the apparent best-evaluated response and make the RFP files available for public inspection at the time and date specified in the RFP Section 2, Schedule of Events.

NOTICE: The Notice of Intent to Award shall not create rights, interests, or claims of entitlement in either the apparent best-evaluated Respondent or any other Respondent.

5.3.4. The Respondent identified as offering the apparent best-evaluated response must sign a contract drawn by the State pursuant to this RFP. The Contract shall be substantially the same as the RFP Attachment 6.6., *Pro Forma* Contract. The Respondent must sign the contract by the Contractor Signature Deadline detailed in the RFP Section 2, Schedule of Events. If the

Respondent fails to provide the signed Contract by this deadline, the State may determine that the Respondent is non-responsive to this RFP and reject the response.

- 5.3.5. Notwithstanding the foregoing, the State may, at its sole discretion, entertain limited terms and conditions or pricing negotiations prior to Contract signing and, as a result, revise the *pro forma* contract terms and conditions or performance requirements in the State's best interests, **PROVIDED THAT** such revision of terms and conditions or performance requirements shall **NOT** materially affect the basis of response evaluations or negatively impact the competitive nature of the RFP and contractor selection process.
- 5.3.6. If the State determines that a response is non-responsive and rejects it after opening Cost Proposals, the Solicitation Coordinator will re-calculate scores for each remaining responsive Cost Proposal to determine (or re-determine) the apparent best-evaluated response.

RFP ATTACHMENT 6.1.**RFP # 33006-20824 STATEMENT OF CERTIFICATIONS AND ASSURANCES**

The Respondent must sign and complete the Statement of Certifications and Assurances below as required, and it must be included in the Technical Response (as required by RFP Attachment 6.2., Technical Response & Evaluation Guide, Section A, Item A.1.).

The Respondent does, hereby, expressly affirm, declare, confirm, certify, and assure ALL of the following:

1. The Respondent will comply with all of the provisions and requirements of the RFP.
2. The Respondent will provide all services as defined in the Scope of the RFP Attachment 6.6., *Pro Forma* Contract for the total Contract Term.
3. The Respondent, except as otherwise provided in this RFP, accepts and agrees to all terms and conditions set out in the RFP Attachment 6.6., *Pro Forma* Contract.
4. The Respondent acknowledges and agrees that a contract resulting from the RFP shall incorporate, by reference, all proposal responses as a part of the Contract.
5. The Respondent will comply with:
 - (a) the laws of the State of Tennessee;
 - (b) Title VI of the federal Civil Rights Act of 1964;
 - (c) Title IX of the federal Education Amendments Act of 1972;
 - (d) the Equal Employment Opportunity Act and the regulations issued there under by the federal government; and,
 - (e) the Americans with Disabilities Act of 1990 and the regulations issued there under by the federal government.
6. To the knowledge of the undersigned, the information detailed within the response submitted to this RFP is accurate.
7. The response submitted to this RFP was independently prepared, without collusion, under penalty of perjury.
8. No amount shall be paid directly or indirectly to an employee or official of the State of Tennessee as wages, compensation, or gifts in exchange for acting as an officer, agent, employee, subcontractor, or consultant to the Respondent in connection with this RFP or any resulting contract.
9. Both the Technical Response and the Cost Proposal submitted in response to this RFP shall remain valid for at least 120 days subsequent to the date of the Cost Proposal opening and thereafter in accordance with any contract pursuant to the RFP.
10. The Respondent affirms the following statement, as required by the Iran Divestment Act Tenn. Code Ann. § 12-12-111: "By submission of this bid, each bidder and each person signing on behalf of any bidder certifies, and in the case of a joint bid each party thereto certifies as to its own organization, under penalty of perjury, that to the best of its knowledge and belief that each bidder is not on the list created pursuant to §12-12-106." For reference purposes, the list is currently available online at: <https://www.tn.gov/generalservices/procurement/central-procurement-office--cpo-/library-/public-information-library.html>.

By signing this Statement of Certifications and Assurances, below, the signatory also certifies legal authority to bind the proposing entity to the provisions of this RFP and any contract awarded pursuant to it. If the signatory is not the Respondent (if an individual) or the Respondent's company *President* or *Chief Executive Officer*, this document must attach evidence showing the individual's authority to bind the Respondent.

DO NOT SIGN THIS DOCUMENT IF YOU ARE NOT LEGALLY AUTHORIZED TO BIND THE RESPONDENT

SIGNATURE:

PRINTED NAME & TITLE:

DATE:

**RESPONDENT LEGAL ENTITY
NAME:**

RFP ATTACHMENT 6.2. — Section A

TECHNICAL RESPONSE & EVALUATION GUIDE

SECTION A: MANDATORY REQUIREMENTS. The Respondent must address all items detailed below and provide, in sequence, the information and documentation as required (referenced with the associated item references). The Respondent must also detail the response page number for each item in the appropriate space below.

The Solicitation Coordinator will review the response to determine if the Mandatory Requirement Items are addressed as required and mark each with pass or fail. For each item that is not addressed as required, the Solicitation Coordinator must review the response and attach a written determination. In addition to the Mandatory Requirement Items, the Solicitation Coordinator will review each response for compliance with all RFP requirements.

RESPONDENT LEGAL ENTITY NAME:			
Response Page # (Respondent completes)	Item Ref.	Section A— Mandatory Requirement Items	Pass/Fail
		The Response must be delivered to the State no later than the Response Deadline specified in the RFP Section 2, Schedule of Events.	
		The Technical Response and the Cost Proposal documentation must be packaged separately as required (refer to RFP Section 3.2., <i>et. seq.</i>).	
		The Technical Response must NOT contain cost or pricing information of any type.	
		The Technical Response must NOT contain any restrictions of the rights of the State or other qualification of the response.	
		A Respondent must NOT submit alternate responses (refer to RFP Section 3.3.).	
		A Respondent must NOT submit multiple responses in different forms (as a prime and a subcontractor) (refer to RFP Section 3.3.).	
	A.1.	Provide the Statement of Certifications and Assurances (RFP Attachment 6.1.) completed and signed by an individual empowered to bind the Respondent to the provisions of this RFP and any resulting contract. The document must be signed without exception or qualification.	
	A.2.	Provide a statement, based upon reasonable inquiry, of whether the Respondent or any individual who shall cause to deliver goods or perform services under the contract has a possible conflict of interest (<i>e.g.</i> , employment by the State of Tennessee) and, if so, the nature of that conflict. NOTE: Any questions of conflict of interest shall be solely within the discretion of the State, and the State reserves the right to cancel any award.	
	A.3.	Provide at least one of the following financial documents dated within the last three (3) months: (1) an official document or letter from an accredited credit bureau, indicating a satisfactory credit score for the Respondent (NOTE: A credit bureau report number without the full report is insufficient and will not be considered responsive.); (2) income statement, indicating the Respondent's financial operations; or (3) balance sheet, showing the Respondent's flow of funds. Any documentation disclosing the amount of cash flows from operating activities should be for the Respondent's most current operating period and	

RESPONDENT LEGAL ENTITY NAME:			
Response Page # (Respondent completes)	Item Ref.	Section A— Mandatory Requirement Items	Pass/Fail
		<p>must indicate whether the cash flows are positive or negative. If the cash flows are negative for the most recent operating period, the documentation must include a detailed explanation of the factors contributing to the negative cash flows.</p> <p>NOTICE: All persons, agencies, firms, or other entities that provide opinions regarding the Respondent’s financial status must be properly licensed to render such opinions. The State may require the Respondent to submit proof of such licensure detailing the state of licensure and licensure number for each person or entity that renders the opinions.</p>	
	A.4	Provide a statement of whether the Respondent has experience developing and launching domestic and international economic development marketing campaigns in the last three (3) years.	
	A.5	Provide a statement of whether the Respondent has experience building economic development-specific websites for local or state economic development organizations.	
<i>State Use – Solicitation Coordinator Signature, Printed Name & Date:</i>			

RFP ATTACHMENT 6.2. — SECTION B

TECHNICAL RESPONSE & EVALUATION GUIDE

SECTION B: GENERAL QUALIFICATIONS & EXPERIENCE. The Respondent must address all items detailed below and provide, in sequence, the information and documentation as required (referenced with the associated item references). The Respondent must also detail the response page number for each item in the appropriate space below. Proposal Evaluation Team members will independently evaluate and assign one score for all responses to Section B— General Qualifications & Experience Items.

RESPONDENT LEGAL ENTITY NAME:		
Response Page # (Respondent completes)	Item Ref.	Section B— General Qualifications & Experience Items
	B.1.	Detail the name, e-mail address, mailing address, telephone number, and facsimile number, if applicable, of the person the State should contact regarding the response.
	B.2.	Describe the Respondent's form of business (<i>i.e.</i> , individual, sole proprietor, corporation, non-profit corporation, partnership, limited liability company) and business location (physical location or domicile).
	B.3.	Detail the number of years the Respondent has been in business.
	B.4.	Briefly describe how long the Respondent has been providing the goods or services required by this RFP.
	B.5.	Describe the Respondent's number of employees, client base, and location of offices.
	B.6.	Provide a statement of whether there have been any mergers, acquisitions, or change of control of the Respondent within the last ten (10) years. If so, include an explanation providing relevant details.
	B.7.	Provide a statement of whether the Respondent or, to the Respondent's knowledge, any of the Respondent's employees, agents, independent contractors, or subcontractors, involved in the delivery of goods or performance of services on a contract pursuant to this RFP, have been convicted of, pled guilty to, or pled <i>nolo contendere</i> to any felony. If so, include an explanation providing relevant details.
	B.8.	Provide a statement of whether, in the last ten (10) years, the Respondent has filed (or had filed against it) any bankruptcy or insolvency proceeding, whether voluntary or involuntary, or undergone the appointment of a receiver, trustee, or assignee for the benefit of creditors. If so, include an explanation providing relevant details.
	B.9.	Provide a statement of whether there is any material, pending litigation against the Respondent that the Respondent should reasonably believe could adversely affect its ability to meet contract requirements pursuant to this RFP or is likely to have a material adverse effect on the Respondent's financial condition. If such exists, list each separately, explain the relevant details, and attach the opinion of counsel addressing whether and to what extent it would impair the Respondent's performance in a contract pursuant to this RFP. NOTE: All persons, agencies, firms, or other entities that provide legal opinions regarding the Respondent must be properly licensed to render such opinions. The State may require the Respondent to submit proof of license for each person or entity that renders such opinions.

RFP ATTACHMENT 6.2. — SECTION B (continued)

RESPONDENT LEGAL ENTITY NAME:		
Response Page # (Respondent completes)	Item Ref.	Section B— General Qualifications & Experience Items
	B.10.	<p>Provide a statement of whether there are any pending or in progress Securities Exchange Commission investigations involving the Respondent. If such exists, list each separately, explain the relevant details, and attach the opinion of counsel addressing whether and to what extent it will impair the Respondent's performance in a contract pursuant to this RFP.</p> <p>NOTE: All persons, agencies, firms, or other entities that provide legal opinions regarding the Respondent must be properly licensed to render such opinions. The State may require the Respondent to submit proof of license for each person or entity that renders such opinions.</p>
	B.11.	<p>Provide a brief, descriptive statement detailing evidence of the Respondent's ability to deliver the goods or services sought under this RFP (e.g., prior experience, training, certifications, resources, program and quality management systems, etc.).</p>
	B.12.	<p>Provide a narrative description of the proposed project team, its members, and organizational structure along with an organizational chart identifying the key people who will be assigned to deliver the goods or services required by this RFP.</p>
	B.13.	<p>Provide a personnel roster listing the names, titles, and position descriptions for key personnel the Respondent will assign to meet the Respondent's requirements under this RFP along with the estimated number of hours that each individual will devote to that performance. Follow the personnel roster with a resume for each person listed. The resumes must detail the individual's title, education, current position with the Respondent, and employment history.</p>
	B.14.	<p>Provide a statement of whether the Respondent intends to use subcontractors to meet the Respondent's requirements of any contract awarded pursuant to this RFP, and if so, detail:</p> <ol style="list-style-type: none"> the names of the subcontractors along with the contact person, mailing address, telephone number, and e-mail address for each; a description of the scope and portions of the goods each subcontractor involved in the delivery of goods or performance of the services each subcontractor will perform; <u>and</u> a statement specifying that each proposed subcontractor has expressly assented to being proposed as a subcontractor in the Respondent's response to this RFP.
	B.15.	<p>Provide documentation of the Respondent's commitment to diversity as represented by the following:</p> <ol style="list-style-type: none"> <u>Business Strategy</u>. Provide a description of the Respondent's existing programs and procedures designed to encourage and foster commerce with business enterprises owned by minorities, women, service-disabled veterans, persons with disabilities, and small business enterprises. Please also include a list of the Respondent's certifications as a diversity business, if applicable. <u>Business Relationships</u>. Provide a listing of the Respondent's current contracts with business enterprises owned by minorities, women, service-disabled veterans, persons with disabilities, and small business enterprises. Please include the following information: <ol style="list-style-type: none"> contract description; contractor name and ownership characteristics (i.e., ethnicity, gender, service-disabled veteran-owned or persons with disabilities); contractor contact name and telephone number. <u>Estimated Participation</u>. Provide an estimated level of participation by business enterprises owned by minorities, women, service-disabled veterans, persons with disabilities and small business enterprises if a contract is awarded to the Respondent pursuant to this RFP. Please include the following information: <ol style="list-style-type: none"> a percentage (%) indicating the participation estimate. (Express the estimated participation number as a percentage of the total estimated contract value that will be

RFP ATTACHMENT 6.2. — SECTION B (continued)

RESPONDENT LEGAL ENTITY NAME:		
Response Page # (Respondent completes)	Item Ref.	Section B— General Qualifications & Experience Items
		<p>dedicated to business with subcontractors and supply contractors having such ownership characteristics only and DO NOT INCLUDE DOLLAR AMOUNTS;</p> <p>(ii) anticipated goods or services contract descriptions;</p> <p>(iii) names and ownership characteristics (i.e., ethnicity, gender, service-disabled veterans, or disability) of anticipated subcontractors and supply contractors.</p> <p>NOTE: In order to claim status as a Diversity Business Enterprise under this contract, businesses must be certified by the Governor's Office of Diversity Business Enterprise (Go-DBE). Please visit the Go-DBE website at https://tn.diversitysoftware.com/FrontEnd/StartCertification.asp?TN=tn&XID=9810 for more information.</p> <p>(d) <u>Workforce</u>. Provide the percentage of the Respondent's total current employees by ethnicity and gender.</p> <p>NOTE: Respondents that demonstrate a commitment to diversity will advance State efforts to expand opportunity to do business with the State as contractors and subcontractors. Response evaluations will recognize the positive qualifications and experience of a Respondent that does business with enterprises owned by minorities, women, service-disabled veterans, persons with disabilities, and small business enterprises and who offer a diverse workforce.</p>
	B.16.	<p>Provide a statement of whether or not the Respondent has any current contracts with the State of Tennessee or has completed any contracts with the State of Tennessee within the previous five (5) year period. If so, provide the following information for all of the current and completed contracts:</p> <p>(a) the name, title, telephone number and e-mail address of the State contact knowledgeable about the contract;</p> <p>(b) the procuring State agency name;</p> <p>(c) a brief description of the contract's scope of services;</p> <p>(d) the contract period; and</p> <p>(e) the contract number.</p>
	B.17.	<p>Provide a statement and any relevant details addressing whether the Respondent is any of the following:</p> <p>(a) is presently debarred, suspended, proposed for debarment, or voluntarily excluded from covered transactions by any federal or state department or agency;</p> <p>(b) has within the past three (3) years, been convicted of, or had a civil judgment rendered against the contracting party from commission of fraud, or a criminal offence in connection with obtaining, attempting to obtain, or performing a public (federal, state, or local) transaction or grant under a public transaction; violation of federal or state antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property;</p> <p>(c) is presently indicted or otherwise criminally or civilly charged by a government entity (federal, state, or local) with commission of any of the offenses detailed above; and</p> <p>(d) has within a three (3) year period preceding the contract had one or more public transactions (federal, state, or local) terminated for cause or default.</p>

RFP ATTACHMENT 6.2. — SECTION B (continued)

RESPONDENT LEGAL ENTITY NAME:		
Response Page # (Respondent completes)	Item Ref.	Section B— General Qualifications & Experience Items
	B.18.	<p>Identify whether the Respondent has had a contract terminated or not renewed within the past five (5) years. If so, please describe the reason(s) for the termination/non-renewal, the parties involved, and provide the address and telephone number of the client. If the contract was terminated/non-renewed based on the Respondent's performance, please describe any corrective action taken to prevent any future occurrence of the problem leading to the termination/non-renewal.</p> <p>Respondent shall include the Respondent's parent organization, affiliates, and subsidiaries.</p>
	B.19.	Provide examples of the Respondent's experience developing and launching domestic and international economic development marketing campaigns in the last three (3) years.
	B.20.	Provide a narrative of the Respondent's experience with media buys in the past three (3) years, including the total amount (in dollars) of media placed.
	B.21.	Provide a narrative of the Respondent's experience building economic development-specific websites for local or state economic development organizations.
	B.22.	If the business location identified in Respondent's Attachment 6.2, Section B.2 response is not located in Tennessee, provide a narrative to describe the Respondent's business presence in Tennessee, or alternatively, outline the steps the Respondent plans to execute to establish a business presence in Tennessee.
	B.23.	<p>Provide customer references from individuals who are not current or former State employees for projects similar to the goods or services sought under this RFP and which represent:</p> <ul style="list-style-type: none"> a) one (1) account the Respondent currently services; and b) one (1) completed project that was economic development-related the Respondent previously serviced. <p>References from at least two (2) different individuals are required to satisfy the requirements above. The standard reference questionnaire, which must be used and completed, is provided at RFP Attachment 6.4. References that are not completed as required may be deemed non-responsive and may not be considered. The Respondent will be solely responsible for obtaining fully completed reference questionnaires and ensuring they are e-mailed to the solicitation coordinator or including them in the sealed Technical Response. In order to obtain and submit the completed reference questionnaires follow one of the two processes below.</p> <p><u>Written:</u></p> <ul style="list-style-type: none"> a) Add the Respondent's name to the standard reference questionnaire at RFP Attachment 6.4. and make a copy for each reference. b) Send a reference questionnaire and new, standard #10 envelope to each reference. c) Instruct the reference to: <ul style="list-style-type: none"> i. complete the reference questionnaire; ii. sign and date the completed reference questionnaire; iii. seal the completed, signed, and dated reference questionnaire within the envelope provided; iv. sign his or her name in ink across the sealed portion of the envelope; and v. return the sealed envelope directly to the Respondent (the Respondent may wish to give each reference a deadline, such that the Respondent will be able to collect all required references in time to include them within the sealed Technical Response). d) Do NOT open the sealed references upon receipt. e) Enclose all sealed reference envelopes within a larger, labeled envelope for inclusion in the Technical Response as required. <p><u>E-mail:</u></p>

RFP ATTACHMENT 6.2. — SECTION B (continued)

RESPONDENT LEGAL ENTITY NAME:		
Response Page # (Respondent completes)	Item Ref.	Section B— General Qualifications & Experience Items
		<p>a) Add the Respondent's name to the standard reference questionnaire at RFP Attachment 6.4. and make a copy for each reference.</p> <p>b) E-mail the reference with a copy of the standard reference questionnaire.</p> <p>c) Instruct the reference to:</p> <ol style="list-style-type: none"> i. complete the reference questionnaire; ii. sign and date the completed reference questionnaire; iii. e-mail the reference directly to the Solicitation Coordinator by the RFP Technical Response Deadline with the Subject line of the e-mail as "[Respondent Name] Reference for RFP 33006-20824. <p>NOTES:</p> <ul style="list-style-type: none"> • The State will not accept late references or references submitted by any means other than the two which are described above, and each reference questionnaire submitted must be completed as required. • The State will not review more than the number of required references indicated above. • While the State will base its reference check on the contents of the reference e-mails or sealed reference envelopes included in the Technical Response package, the State reserves the right to confirm and clarify information detailed in the completed reference questionnaires and may consider clarification responses in the evaluation of references. • The State is under no obligation to clarify any reference information
		<p>SCORE (for <u>all</u> Section B—Qualifications & Experience Items above): (maximum possible score = 15)</p>
State Use – Evaluator Identification:		

RFP ATTACHMENT 6.2. — SECTION C

TECHNICAL RESPONSE & EVALUATION GUIDE

SECTION C: TECHNICAL QUALIFICATIONS, EXPERIENCE & APPROACH. The Respondent must address all items (below) and provide, in sequence, the information and documentation as required (referenced with the associated item references). The Respondent must also detail the response page number for each item in the appropriate space below.

A Proposal Evaluation Team, made up of three or more State employees, will independently evaluate and score the response to each item. Each evaluator will use the following whole number, raw point scale for scoring each item:

0 = little value 1 = poor 2 = fair 3 = satisfactory 4 = good 5 = excellent

The Solicitation Coordinator will multiply the Item Score by the associated Evaluation Factor (indicating the relative emphasis of the item in the overall evaluation). The resulting product will be the item's Raw Weighted Score for purposes of calculating the section score as indicated.

RESPONDENT LEGAL ENTITY NAME:					
Response Page # (Respondent completes)	Item Ref.	Section C— Technical Qualifications, Experience & Approach Items	Item Score	Evaluation Factor	Raw Weighted Score
	C.1.	Provide a narrative that illustrates the Respondent's understanding of the State's requirements and explain how the Respondent plans to complete the scope of services and accomplish the required objectives.		20	
	C.2.	Provide a narrative that illustrates how the Respondent will manage projects to meet the State's objectives, which may include research, strategy, planning, execution, and reporting to ensure completion of the scope of services and accomplishment of the required objectives.		15	
	C.3.	Provide examples of how the Respondent would approach brand development on behalf of the State of Tennessee.		15	
	C.4.	Provide a narrative that indicates the Respondent's current knowledge and experience in both domestic and international marketing as it relates to economic development.		10	
	C.5.	Provide a narrative to illustrate the Respondent's experience in placing media, reaching both domestic and international audiences, and how the Respondent would provide added value in media placement opportunities to the State.		15	
	C.6.	Provide a narrative detailing the Respondent's experience in building a website(s) for state or local economic development organizations (EDOs) and any unique or creative applications or tools incorporated into the site that set the site apart from others. Provide examples of the website(s) created and the technology utilized.		15	
	C.7.	Demonstrate the level of creativity and execution by the Respondent by providing an example of a new brand identity or campaign developed for a similar organization and explain any corresponding metrics related to tracking and increasing engagements and impressions.		10	
<i>The Solicitation Coordinator will use this sum and the formula below to calculate the section score. All calculations will use and result in numbers rounded to two (2) places to the right of the decimal point.</i>			Total Raw Weighted Score: <i>(sum of Raw Weighted Scores above)</i>		

RFP ATTACHMENT 6.2. — SECTION C (continued)

RESPONDENT LEGAL ENTITY NAME:					
Response Page # (Respondent completes)	Item Ref.	Section C— Technical Qualifications, Experience & Approach Items	Item Score	Evaluation Factor	Raw Weighted Score
$\frac{\text{Total Raw Weighted Score}}{\text{Maximum Possible Raw Weighted Score}} \times 55 = \text{SCORE:}$ <p><i>(i.e., 5 x the sum of item weights above)</i> <i>(maximum possible score)</i></p>					
<i>State Use – Evaluator Identification:</i>					
<i>State Use – Solicitation Coordinator Signature, Printed Name & Date:</i>					

RFP ATTACHMENT 6.2.— SECTION D

TECHNICAL RESPONSE & EVALUATION GUIDE

SECTION D: ORAL PRESENTATION. The Respondent must address ALL Oral Presentation Items (below).

A Proposal Evaluation Team, made up of three or more State employees, will independently evaluate and score the oral presentation or field test response to each item. Each evaluator will use the following whole-number, raw point scale for scoring each item:

0 = little value 1 = poor 2 = fair 3 = satisfactory 4 = good 5 = excellent

The Solicitation Coordinator will multiply the Item Score by the associated Evaluation Factor (indicating the relative emphasis of the item in the overall evaluation). The resulting product will be the item's raw, weighted score for purposes of calculating the section score as indicated.

RESPONDENT LEGAL ENTITY NAME:				
Oral Presentation Items		Item Score	Evaluation Factor	Raw Weighted Score
D.1.	Provide an example (i.e., a brief summary with supporting exhibits) demonstrating marketing and advertising campaigns the Respondent has developed and implemented within the last three (3) years that reflect the Respondent's level of creativity.		20	
D.2.	Provide an example (i.e., a brief summary with supporting exhibits) demonstrating brand development projects the Respondent has led within the past three (3) years.		20	
D.3.	Provide an example (i.e., a brief summary with supporting exhibits) demonstrating Respondent's experience in creating and deploying a website with unique functionality and modern features.		20	
D.4.	Demonstrate Respondent's knowledge of marketing to domestic and international audiences as it relates to the economic development industry.		10	
D.5.	Provide examples and discuss the Respondent's experience and creative strategy for achieving objectives in both traditional and digital advertising.		10	
D.6.	Demonstrate how the Respondent would directly manage the State's account and communications, both internally and in collaboration with the State.		10	
D.7.	Demonstrate the Respondent's ability to evolve and strategically align with the State's needs.		5	
D.8.	Demonstrate the planning tools, reporting tools, website testing, website maintenance, website update capabilities, and any other resources that would be used to complete the services outlined in the Contract.		5	
Total Raw Weighted Score (<i>sum of Raw Weighted Scores above</i>):				
The Solicitation Coordinator will use this sum and the formula below to calculate the score. Numbers rounded to two (2) places to the right of the decimal point will be standard for calculations.				
total raw weighted score				
maximum possible raw weighted score (i.e., 5 x the sum of item weights above)		X 10 (maximum section score)	= SCORE:	
<i>State Use – Evaluator Identification:</i>				

RFP ATTACHMENT 6.2. — SECTION C (continued)

**RESPONDENT LEGAL ENTITY
NAME:**

State Use – Solicitation Coordinator Signature, Printed Name & Date:

RFP ATTACHMENT 6.3.**COST PROPOSAL & SCORING GUIDE**

NOTICE: THIS COST PROPOSAL MUST BE COMPLETED EXACTLY AS REQUIRED

COST PROPOSAL SCHEDULE— The Cost Proposal, detailed below, shall indicate the proposed price for goods or services defined in the Scope of Services of the RFP Attachment 6.6., *Pro Forma* Contract and for the entire contract period. The Cost Proposal shall remain valid for at least one hundred twenty (120) days subsequent to the date of the Cost Proposal opening and thereafter in accordance with any contract resulting from this RFP. All monetary amounts shall be in U.S. currency and limited to two (2) places to the right of the decimal point.

NOTICE: Respondents should provide a rate for each position. Cells left blank shall be considered zero.

The Evaluation Factor associated with each cost item is for evaluation purposes only. The evaluation factors do NOT and should NOT be construed as any type of volume guarantee or minimum purchase quantity. The evaluation factors shall NOT create rights, interests, or claims of entitlement in the Respondent.

Notwithstanding the cost items herein, pursuant to the second paragraph of the *Pro Forma* Contract section C.1. (refer to RFP Attachment 6.6.), the State is under no obligation to request work from the Contractor in any specific dollar amounts or to request any work at all from the Contractor during any period of this Contract.

This Cost Proposal must be signed, in the space below, by an individual empowered to bind the Respondent to the provisions of this RFP and any contract awarded pursuant to it. If said individual is not the *President* or *Chief Executive Officer*, this document must attach evidence showing the individual's authority to legally bind the Respondent.

RESPONDENT SIGNATURE:	
PRINTED NAME & TITLE:	
DATE:	

RFP ATTACHMENT 6.3. (continued)

RESPONDENT LEGAL ENTITY NAME:			
Cost Item Description	Proposed Cost	State Use Only	
		Evaluation Factor	Evaluation Cost (cost x factor)
Develop new Department-wide Brand and Relevant Sub-brands (Pro Forma § A.4.a)	\$ _____	1	
Design and Development of New Agency Website (Pro Forma § A.5.a)	\$ _____	1	
Perform Marketing Campaign and Strategy Services (Pro Forma § A.6)	\$ _____	1	
Perform Advertising Services relating to Media and Advertising Campaign Development and Management (Pro Forma §§ A.7.a.1 – A.7.a.3)	\$ _____	1	
Perform Advertising Services relating to Media Placement (Pro Forma § A.7.d)	\$ _____ per year	5	

RESPONDENT LEGAL ENTITY NAME:									
Cost Item Description	Proposed Cost					State Use ONLY			
	1/1/2025 – 12/31/2025	1/1/2026 – 12/31/2026	1/1/2027 – 12/31/2027	1/1/2028 – 12/31/2028	1/1/2029 – 12/31/2029	Sum	Evaluation Factor	Evaluation Cost (sum x factor)	
ACCOUNT DIRECTOR	\$ _____ / HOUR	\$ _____ / HOUR	\$ _____ / HOUR	\$ _____ / HOUR	\$ _____ / HOUR		1		
ACCOUNT MANAGER	\$ _____ / HOUR	\$ _____ / HOUR	\$ _____ / HOUR	\$ _____ / HOUR	\$ _____ / HOUR		1		
ART DIRECTOR	\$ _____ / HOUR	\$ _____ / HOUR	\$ _____ / HOUR	\$ _____ / HOUR	\$ _____ / HOUR		1		
BRAND STRATEGIST	\$ _____ / HOUR	\$ _____ / HOUR	\$ _____ / HOUR	\$ _____ / HOUR	\$ _____ / HOUR		1		
COMMUNICATIONS DIRECTOR	\$ _____ / HOUR	\$ _____ / HOUR	\$ _____ / HOUR	\$ _____ / HOUR	\$ _____ / HOUR		1		
CONTENT MANAGER	\$ _____ / HOUR	\$ _____ / HOUR	\$ _____ / HOUR	\$ _____ / HOUR	\$ _____ / HOUR		1		
CREATIVE DIRECTOR	\$ _____ / HOUR	\$ _____ / HOUR	\$ _____ / HOUR	\$ _____ / HOUR	\$ _____ / HOUR		1		
DIGITAL MARKETING STRATEGIST	\$ _____ / HOUR	\$ _____ / HOUR	\$ _____ / HOUR	\$ _____ / HOUR	\$ _____ / HOUR		1		
MEDIA PLANNER / BUYER	\$ _____ / HOUR	\$ _____ / HOUR	\$ _____ / HOUR	\$ _____ / HOUR	\$ _____ / HOUR		1		
PRODUCTION MANAGER	\$ _____ / HOUR	\$ _____ / HOUR	\$ _____ / HOUR	\$ _____ / HOUR	\$ _____ / HOUR		1		
UX/UI DESIGNER	\$ _____ / HOUR	\$ _____ / HOUR	\$ _____ / HOUR	\$ _____ / HOUR	\$ _____ / HOUR		1		
VIDEOGRAPHER / PHOTOGRAPHER	\$ _____ / HOUR	\$ _____ / HOUR	\$ _____ / HOUR	\$ _____ / HOUR	\$ _____ / HOUR		1		
VIDEO & PHOTO EDITOR	\$ _____ / HOUR	\$ _____ / HOUR	\$ _____ / HOUR	\$ _____ / HOUR	\$ _____ / HOUR		1		
WEB DEVELOPER	\$ _____ / HOUR	\$ _____ / HOUR	\$ _____ / HOUR	\$ _____ / HOUR	\$ _____ / HOUR		1		
EVALUATION COST AMOUNT (sum of evaluation costs above):									
The Solicitation Coordinator will use this sum and the formula below to calculate the Cost Proposal Score. Numbers rounded to two (2) places to the right of the decimal point will be standard for calculations.									
lowest evaluation cost amount from <u>all</u> proposals <hr style="width: 50%; margin-left: 0;"/> evaluation cost amount being evaluated						X 20 (maximum section score)	=	SCORE:	
State Use – Solicitation Coordinator Signature, Printed Name & Date:									

REFERENCE QUESTIONNAIRE

The standard reference questionnaire provided on the following pages of this attachment should be completed by all individuals offering a reference for the Respondent.

The Respondent will be solely responsible for obtaining completed reference questionnaires as detailed below.. Provide references from individuals who are not current State employees of the procuring State Agency for projects similar to the goods or services sought under this RFP and which represent:

- One (1) contract Respondent currently services that is similar in size and scope to the services required by this RFP; and
- Two (2) completed contracts that are similar in size and scope to the services required by this RFP.

References from at least three (3) different individuals are required to satisfy the requirements above, e.g., an individual may provide a reference about a completed project and another reference about a currently serviced account. The individual contact reference provided for each contract or project shall not be a current State employee of the procuring State agency. Procuring State agencies that accept references from another State agency shall document, in writing, a plan to ensure that no contact is made between the procuring State agency and a referring State agency. The standard reference questionnaire should be used and completed, and is provided on the next page of this RFP Attachment 6.4.

In order to obtain and submit the completed reference questionnaires following one of the two processes below.

Written:

- (a) Add the Respondent's name to the standard reference questionnaire at RFP Attachment 6.4. and make a copy for each reference.
- (b) Send a reference questionnaire and new, standard #10 envelope to each reference.
- (c) Instruct the reference to:
 - (i) complete the reference questionnaire;
 - (ii) sign and date the completed reference questionnaire;
 - (iii) seal the completed, signed, and dated reference questionnaire within the envelope provided;
 - (iv) sign his or her name in ink across the sealed portion of the envelope; and
 - (v) return the sealed envelope directly to the Respondent (the Respondent may wish to give each reference a deadline, such that the Respondent will be able to collect all required references in time to include them within the sealed Technical Response).
- (d) Do NOT open the sealed references upon receipt.
- (e) Enclose all sealed reference envelopes within a larger, labeled envelope for inclusion in the Technical Response as required.

Email:

- (a) Add the Respondent's name to the standard reference questionnaire at RFP Attachment 6.4. and make a copy for each reference.
- (b) E-mail a reference questionnaire to each reference.
- (c) Instruct the reference to:
 - (i) complete the reference questionnaire;
 - (ii) sign and date the completed reference questionnaire;
 - (iii) E-mail the reference directly to the Solicitation Coordinator by the RFP Technical Response Deadline with the Subject line of the e-mail as "[Respondent's Name] Reference for RFP # 33006-20824".

NOTES:

- The State will not accept late references or references submitted by any means other than the two which are described above, and each reference questionnaire submitted must be completed as required.
- The State will not review more than the number of required references indicated above.

- While the State will base its reference check on the contents of the reference e-mails or sealed reference envelopes included in the Technical Response package, the State reserves the right to confirm and clarify information detailed in the completed reference questionnaires, and may consider clarification responses in the evaluation of references.
- The State is under no obligation to clarify any reference information.

RFP # 33006-20824 REFERENCE QUESTIONNAIRE

REFERENCE SUBJECT: RESPONDENT NAME (completed by Respondent before reference is requested)

The “reference subject” specified above, intends to submit a response to the State of Tennessee in response to the Request for Proposals (RFP) indicated. As a part of such response, the reference subject must include a number of completed and sealed reference questionnaires (using this form).

Each individual responding to this reference questionnaire is asked to follow these instructions:

- complete this questionnaire (either using the form provided or an exact duplicate of this document);
- sign and date the completed questionnaire and follow either process outlined below;

Physical:

- seal the completed, signed, and dated questionnaire in a new standard #10 envelope;
- sign in ink across the sealed portion of the envelope; and
- return the sealed envelope containing the completed questionnaire directly to the reference subject.

E-Mail:

- e-mail the completed questionnaire to:
 Stephen Seibert, Sourcing Account Specialist
 State of Tennessee, Central Procurement Office
 Stephen.Seibert@tn.gov

(1) **What is the name of the individual, company, organization, or entity responding to this reference questionnaire?**

(2) **Please provide the following information about the individual completing this reference questionnaire on behalf of the above-named individual, company, organization, or entity.**

NAME:	
TITLE:	
TELEPHONE #	
E-MAIL ADDRESS:	

(3) **What goods or services does/did the reference subject provide to your company or organization?**

- (4) **If the goods or services that the reference subject provided to your company or organization are completed, were the goods or services provided in compliance with the terms of the contract, on time, and within budget? If not, please explain.**

- (5) **If the reference subject is still providing goods or services to your company or organization, are these goods or services being provided in compliance with the terms of the contract, on time, and within budget? If not, please explain.**

- (6) **How satisfied are you with the reference subject's ability to perform based on your expectations and according to the contractual arrangements?**

REFERENCE SIGNATURE:

(by the individual completing this request for reference information)

(must be the same as the signature across the envelope seal)

DATE:

RFP ATTACHMENT 6.5.

SCORE SUMMARY MATRIX

	<i>RESPONDENT NAME</i>		<i>RESPONDENT NAME</i>		<i>RESPONDENT NAME</i>	
GENERAL QUALIFICATIONS & EXPERIENCE (maximum: 10)						
<i>EVALUATOR NAME</i>						
<i>EVALUATOR NAME</i>						
<i>REPEAT AS NECESSARY</i>						
	AVERAGE:		AVERAGE:		AVERAGE:	
TECHNICAL QUALIFICATIONS, EXPERIENCE & APPROACH (maximum: 50)						
<i>EVALUATOR NAME</i>						
<i>EVALUATOR NAME</i>						
<i>REPEAT AS NECESSARY</i>						
	AVERAGE:		AVERAGE:		AVERAGE:	
ORAL PRESENTATION (maximum: 10)						
<i>EVALUATOR NAME</i>						
<i>EVALUATOR NAME</i>						
<i>REPEAT AS NECESSARY</i>						
	AVERAGE:		AVERAGE:		AVERAGE:	
COST PROPOSAL (maximum: 20)	SCORE:		SCORE:		SCORE:	
TOTAL RESPONSE EVALUATION SCORE: (maximum: 100)						
<i>Solicitation Coordinator Signature, Printed Name & Date:</i>						

RFP # 33006-20824 PRO FORMA CONTRACT

The *Pro Forma* Contract detailed in following pages of this exhibit contains some “blanks” (signified by descriptions in capital letters) that will be completed with appropriate information in the final contract resulting from the RFP.

CONTRACT
BETWEEN THE STATE OF TENNESSEE,
DEPARTMENT OF ECONOMIC AND COMMUNITY DEVELOPMENT
AND
CONTRACTOR NAME

This Contract, by and between the State of Tennessee, Department of Economic and Community Development ("State" or "TNECD") and **Contractor Legal Entity Name** ("Contractor"), is for the provision of marketing services, as further defined in the "SCOPE." State and Contractor may be referred to individually as a "Party" or collectively as the "Parties" to this Contract.

The Contractor is **a/an Individual, For-Profit Corporation, Non-Profit Corporation, Special Purpose Corporation or Association, Partnership, Joint Venture, or Limited Liability Company.**

Contractor Place of Incorporation or Organization: **Location**

Contractor Edison Registration ID # **Number**

A. SCOPE:

- A.1. The Contractor shall provide all goods or services and deliverables as required, described, and detailed below and shall meet all service and delivery timelines as specified by this Contract.
- A.2. Definitions and Acronyms. For purposes of this Contract, definitions and acronyms shall be as follows and as set forth in the Contract:
- a. **Application Programming Interface (API)** – A set of defined rules and protocols that allows an interface to transmit data between software programs.
 - b. **Content** – Any textual, aural, or visual content published on the website and mobile application, i.e., any creative element, for example, text, animation, images, data, audio, and video.
 - c. **Dashboard** – An easy to read, real-time user-interface, showing a graphical presentation of the current status and historical trends of key performance metrics and data related to a website and mobile app's performance and marketing efforts that allows Users to monitor and analyze the effectiveness of the website, mobile application, and marketing strategies in real-time.
 - d. **Engagement** – Measurement of public shares, likes, and comments regarding the State's online marketing efforts.
 - e. **Impressions** – The consumption of any advertisement on any medium by public audience, including but not limited to the following: television, terrestrial or internet radio, social media, websites, and print publications.
 - f. **Search Engine Optimization** – Improving a website's visibility in organic (non-paid) search engine results.
 - g. **Stakeholders** – The key individuals and groups of individuals for which are impacted and invested in the development of the website and mobile application, which shall include the full range of necessary Department of Economic and Community Development personnel, representatives from the State's current contractors, and teams and personnel from the State's other departments.
 - h. **Website and Content Management System (CMS)** – A software content management system (CMS) specifically designed for web content, which facilitates website authoring, collaboration, and administration tools that help users with little knowledge of web programming languages or mark-up languages to create and manage website content.

A.3. Originality of Work. All services provided by the Contractor shall be original in all respects. If any component of prior work is being utilized, that information shall be disclosed to TNECD. TNECD must approve in writing any use of prior work.

A.4. Brand Development Services.

- a. The Contractor shall develop a new department-wide brand and relevant sub-brands that can be used in the marketing of Tennessee's business development, community and rural development, innovation, and small business efforts. It is the State's goal to build awareness and promote Tennessee as a top tier destination for commerce and talent among C-suite executives, site selection consultants, entrepreneurs, and small business communities across the U.S. and around the globe. It is also imperative that the Tennessee brand showcase its communities and demonstrate both business and quality of life advantages. Brand development shall include, but not be limited to, the following:
1. Development of a TNECD identity and branding redesign with executable milestones culminating in a comprehensive brand package. This shall include an initial proposal with executable milestones for brand redesign and an assessment of how to incorporate sub-brands related to other departments and programs that fall under the TNECD umbrella.
 2. Development of visual elements, messaging, and brand expression to include logos, taglines, fonts, colors, and brand guidelines. Public input and the inclusion of diverse stakeholders must be included in the development process to ensure that the brand identity and design reflects the State as a whole. Research, data analytics, and prospect profiles shall also be evaluated in brand identification.
 3. Development of a style guide for graphics and templates for the necessities of day-to-day operations (e.g., letterheads, memos, presentations, report covers, and other digital and print assets as needed).
 4. Positioning or modification to the brand and adjustment or modification to the use of the brand as needed to benefit the State's marketing objectives.
- b. The Contractor shall assist TNECD with additional Brand Development projects, as agreed upon in writing by the Parties via the Statement of Work / Task Order Process detailed in Section A.19.

A.5. Website Development Services.

- a. The Contractor will design and develop a new mobile-first website for TNECD (TNECD.com) that is responsive to agency needs and specifications by enhancing all existing TNECD digital property and all related TNECD programmatic sites. All website development services performed by the Contractor shall be consistent with the requirements and specifications detailed below.
1. The Contractor shall be responsible for the development and of an integrated website and Content Management System (CMS) and the provision of all hardware, software, and telecommunications required for the development, deployment, hosting, operation, and administration of the system. Any programming, coding, data, and related deliverables resulting from the execution of this Contract shall be developed and provided by the Contractor in such a manner that the State retains all rights to and ownership of said services, products, and deliverables.
 2. The Contractor shall develop and implement all website elements in alignment with overall objectives of the TNECD marketing program and in partnership and alignment with the State's central information technology services bureau—the

Office of Strategic Technology Solutions (STS). Said website elements shall include, but not be limited to, the following:

- (i) Content, features, and functionality of the existing websites, mobile sites, and any other created sites. The State may require additional specifications relating to the theme, style, and/or navigation of TNECD website(s) as needed.
 - (ii) Microsites based on particular areas of interest designed to drive users to the State's sites;
 - (iii) An enhanced video initiative;
 - (iv) Connected social media opportunities with the website(s);
 - (v) Continued development of the site(s) and subsections; and
 - (vi) Advertising space on the website(s) that is used by the State to generate sales revenue. The Contractor shall develop the space provided utilizing an expert-level knowledge of digital marketing and positioning for potential advertisers.
3. The Contractor shall perform an initial assessment and evaluation of the current TNECD website and provide a plan to TNECD detailing a recommended development strategy to facilitate TNECD's digital initiatives, including continued development of the site and any subsequently created TNECD sites.
4. The Contractor shall also provide a secure graphical user interface on the website, which shall provide TNECD with adequate access to the website that allows TNECD to fulfill the following:
- (i) Management of all website content, including, but not limited to, management of all HTML page content;
 - (ii) Administration of efforts dedicated to digital marketing and advertising;
 - (ii) Management of digital event posting;
 - (iv) Utilization of information furnished by organizations, participants, or partners through the use of a username/password database to enable stakeholders to change, update, and/or refresh respective content while also providing TNECD the ability to pre-approve any such change prior to its posting on the Website(s);
 - (v) Management of a TNECD image library; and
 - (vi) Access to comprehensive website statistical analysis programs capable of reporting site traffic (i.e., sessions, page views, visitors, etc.) and information relating to pages, files, navigation, referrals, domains, browsers, and other data as may be required by TNECD.
5. Following implementation, the Contractor shall ensure that System availability is at 99.9% availability for any given period, excluding unavailability related to:
- (i) Regularly scheduled downtime;
 - (ii) Any acts or omissions of anyone other than the Contractor, excluding the Contractor's employees, agents, or subcontractors; and

- (iii) Loss of the State's internet connectivity.

All scheduled downtime shall be approved in writing by the State in advance.

6. The Contractor shall maintain proficiency in and employ digital industry standard tools, languages, applications, database management, and operating systems in the development and support of TNECD websites, mobile sites, and any additional site owned/controlled by TNECD.
7. The Contractor shall evaluate and implement, as appropriate, emerging technologies and provide current, technical expertise as needed to maintain state-of-the-art, digital marketing and advertising on sites owned or controlled by TNECD.
8. The Contractor shall, no later than the fifteenth day of each month, provide statistical and site-traffic reporting regarding the TNECD websites for the prior month. Said report(s) shall capture the following minimum data elements: (i) total number of unique visits; (ii) percentage changes over the same month in the prior year; (iii) percentage changes over the previous month in the same year; (iv) websites inquiries; (v) page views; (vi) average page views per visit; (vii) e-guide views; (viii) print guide inquiries; (ix) average time on the site; (x) keywords; (xi) traffic sources; (xii) ad-tracking reports; (xiii) keyword searches; and (xiv) any other reports requested by TNECD in writing.
9. The Contractor shall provide the thorough capability to accommodate increases in visitor, consumer, and/or advertising traffic to the websites.
10. The Contractor shall develop websites for TNECD that fulfill the following minimum functionality requirements:
 - (i) Fully responsive design from desktop to mobile;
 - (ii) Renders properly on all major modern web browsers;
 - (iii) HTTPS by default;
 - (iv) Built to be search-engine-friendly and ready to be properly indexed and utilize canonical linking;
 - (v) Existing URLs that may be phased out with the new website shall meet industry standards to notify search engines of the changes; and
 - (vi) Built on open-source WordPress CMS allowing TNECD the freedom to make content changes to existing dynamic content and maintain full accessibility.
11. The Contractor shall migrate the following core website features and functionality to the new website and optimize them for the latest version of WordPress:
 - (i) CRM Integration – Form integration with the State's CRM using documented API endpoints.
 - (ii) Other Program Integrations – The TNECD website shall integrate with other programs and software applications utilized by TNECD, which shall include, but not be limited to, SmartSimple, Formstack, SurveyMonkey, and TN.gov dashboards.
 - (iii) Analytics – Connection to Google Analytics, Google Tag Manager, and other analytics tools specified by TNECD.

- (iv) Custom applications – Custom applications shall include a county profile tool, certified sites directory, and a Tableau-embedded industry Dashboard.
 - (v) International Accessibility – The TNECD website shall maintain current international capabilities, including dynamic text translations and IP address recognition to populate core homepage content specific to the TNECD's international offices and prospects.
 - (vi) CRD Sections and Content – TNECD Community and Rural Development sections and content development shall be included under copy and website costs.
 - (vii) Entrepreneur/Innovation and Small Business Sections and Content – Entrepreneur/Innovation and Small Business sections and content development shall be included under copy and website costs.
 - (viii) Other TNECD-related Websites – Connectivity to (or integration of) other TNECD-related websites, such as websites associated with the Tennessee Entertainment Commission (TEC), Fund Tennessee, the Community-based Marketing Asset Program (MAP) websites, and other websites as directed by TNECD.
12. The Contractor shall develop and provide other relevant website components, including the following:
- (i) Information Architecture – Prior to design and development, the Contractor shall develop Information Architecture (I/A) for the TNECD website. A collaborative software platform shall be used to develop the Information Architecture allowing input from all stakeholders identified by TNECD.
 - (ii) Wireframes – The Contractor shall develop wireframes that establish foundational page elements, framework and outline functionality, and hierarchy.
 - (iii) Visual Design and User Experience – The Contractor shall develop a mobile-first design system for the website. These designs shall be presented as prototype links allowing TNECD to review, comment on, and approve the visual design before the project goes to development. The final visual design will match TNECD's current brand standards and align with modern best practices for user experience.
 - (iv) Content Management System (CMS) – TNECD.com shall be developed via the WordPress CMS. TNECD shall have full administrator access for ongoing updates and CMS updates. The CMS shall be optimized in the backend to allow for intuitive updates by the client to existing dynamic content and images, interactive maps, forms, pages, and navigation.
 - (v) Content Loading – Content load assistance includes the Contractor loading select images, logos icons, databases and final copy, both new and repurposed from existing website properties, including the homepage, secondary pages, select tertiary pages and press releases.
 - (vi) Copyediting – The Contractor will optimize copywriting across the website to be more intuitive and engaging with a focus on primary landing pages to ensure the website is industry-leading, seamless and easy to follow for visitors and stakeholders. This includes custom

marketing messaging, headlines, call-to-action callouts, and directional language around key tasks. All copy will be reviewed and approved by the State.

- (vii) Quality Assurance – The Contractor will conduct testing on all applicable platforms to ensure the website is functional. Prior to website launch, features and functionality will be tested via quality assurance and quality control and presented for final approval. The State will be granted access to a Trello board to assist with the quality control and quality assurance process.
- (viii) Content Management System Training – Prior to the launch of the website, Contractor will provide content management system, backend and hosting overview with the State’s developer.

13. The Contractor may develop the following optional deliverables and custom functionality for the TNECD website:

- (i) Start-Up Pathway Interactive Map;
- (ii) Interactive Regional Map and Guide;
- (iii) Location Wizard for Businesses;
- (iv) Incentive Wizard for Businesses;
- (v) Research data portal and shopping cart to export or save;
- (vi) Goal, Event and Conversion Tracking;
- (vii) County Profile Importer;
- (viii) Content and Search Audit; and
- (ix) User Heat Mapping to measure the areas that get the most clicks and identify which sections users tend to ignore, giving key insights for reordering important calls to action and site content.

b. The Contractor shall assist TNECD with additional Website Development projects, as agreed upon in writing by the Parties via the Statement of Work / Task Order Process detailed in Section A.19.

A.6. Marketing Campaign and Strategy Services. The Contractor shall perform Marketing Campaign and Strategy services which shall include, but not be limited to, the following:

- a. Identification and confirmation of target audiences of TNECD, development of social media strategy, creation of messaging, and implementation of a marketing campaign in conjunction with the department’s new brand roll-out in order to drive traffic to the website and social media platforms. Contractor shall also identify other digital opportunities (Search Engine Optimization, digital ads, etc.) to increase brand recognition and reach. On a regular basis, Contractor shall provide a report to TNECD which measures and analyzes Engagement and Impressions of the new brand campaign and recommendations for improvement.
- b. Performance of initial updates to the TNECD Strategic Plan by proposing marketing and media strategies to expand promotional efforts effectively into new markets, maintain successful traditional markets, and test new markets.

- c. Maintaining an understanding of the overall objectives of the State, and its prior and current marketing strategies, to effectively recommend and implement strong media and creative initiatives.
- d. Rendering professional advice and recommendations for the development of marketing strategies and promotional activities to benefit the State's marketing programs.
- e. Evaluation of and assistance for other marketing entities, sponsorship programs, and partnership programs as authorized by TNECD in order to leverage and maximize TNECD's marketing efforts and funding.
- f. Provision of additional *ad hoc* updates to the strategic plan throughout the term of the Contract through the Statement of Work / Task Process detailed in Section A.19.

A.7. Advertising Services.

- a. **Media and Advertising Campaign Development & Management.** The Contractor shall perform Media and Advertising Campaign Development and Management services, which shall include, but not be limited to, the following:
 - 1) Creation, development, and implementation of an initial comprehensive plan for domestic and international advertising and media placement in support of the new brand.
 - 2) Development and presentation of an initial marketing analysis with criteria/assessment points, as provided by State, of the effectiveness of the State's advertising campaigns and media purchases. Such analysis should include but not be limited to the tracking of all advertising and media placement efforts against agreed upon Key Performance Indicators on an ongoing basis no less than once a month. Changes to media placement tactics, markets, or brand creatives to improve campaign performance will be made with the State's prior approval as warranted.
 - 3) Maintaining subject matter expertise of current domestic and international economic development and business trends and rendering of recommendations to the State as to how to best promote Tennessee to C-suite executives, site selection consultants, entrepreneurs, and small businesses, including, but not limited to niche audiences, targeted industries, and specific demographics by means of paid, earned, and owned media opportunities.
 - 4) Assisting with additional advertising and media placement comprehensive plans and marketing analyses as directed by TNECD via the Statement of Work / Task Order Process detailed in Section A.19.
- b. **Traditional Advertising.** The Contractor shall perform traditional advertising services for the State, including, but not limited to, the following:
 - 1) Provision of creative services such as concept development, copywriting, art direction, layout and design, video and image collection, graphic design, asset organization and management, and other creative services to support, develop, and track the State's brand and marketing campaign(s) on an as-needed basis;
 - 2) Provision of production services capable of supporting all aspects of a given campaign, including but not limited to: print design, television spots, radio spots, direct marketing, outdoor advertising, and other forms of production services necessary to support the State's marketing campaign(s);
 - 3) Making adjustments or changes to the campaign(s) as required to meet the State's advertising objectives; and

- 4) Management of projects and tracking the status of required tasks to complete advertising campaigns as directed.

The Contractor shall perform the services detailed in Section A.7.b pursuant to the Statement of Work / Task Order Process detailed in Section A.19.

- c. **Digital Advertising.** The Contractor shall perform digital advertising services for the State, which shall include, but not be limited to, the following:
- 1) Maintain a comprehensive understanding of the overall objectives of the State's digital advertising program to effectively create and produce digital advertising which generates Impressions for the department's websites, social media channels, YouTube, and other online platforms resulting in increased visitation and Engagement;
 - 2) Implement a digital promotion advertising concept(s) with art direction, copy and design, image collection, graphic design and other production services, as requested by the State to support, develop, track, manage, and maintain such digital advertising campaign(s);
 - 3) Make adjustments or changes to the digital advertising campaign(s) as needed to meet the State's digital marketing objectives;
 - 4) Integrate social media and user-generated initiatives to develop and maintain the platforms throughout the Term of the Contract;
 - 5) Utilize available research to support Contractor's digital advertising recommendations, subject to the State's approval;
 - 6) Render complete marketing analysis as to the effectiveness of the State's digital advertising campaign(s) implemented during each year of the Contract; and
 - 7) Provide senior-level supervision of the digital advertising services and document and communicate with the State as to the status and timeline of each online advertising campaign weekly or upon request by the State.

The Contractor shall perform the services detailed in Section A.7.c pursuant to the Statement of Work / Task Order Process detailed in Section A.19.

d. **Media Placement.**

- 1) The Contractor shall perform media placement services, which shall include, but not be limited to, the following:
 - i. Maintain an understanding of the overall objective of TNECD's marketing programs to effectively recommend and place traditional and digital media placements that generate visitation to Tennessee and the State's websites resulting in increased Engagement;
 - ii. Ensure media placement goals and practices align with the overall TNECD strategic marketing plan;
 - iii. Provide recommendations for media placement that will accomplish outlined campaign goals, including projected Impressions or results for the State to approve prior to purchase/buy;

- iv. Coordinate with TNECD and other stakeholders, as directed by TNECD, to ensure that appropriate production materials are obtained to satisfy media placement requirements in a timely fashion for media vendor(s);
 - v. Provide TNECD reports to document the media was placed as required;
 - vi. Provide post-buy analysis and media audits, as well as change tactics, with TNECD's prior approval, as necessary for a given media placement campaign;
 - vii. Conduct and provide research, surveys, and studies, as requested by TNECD, or as needed to support digital advertising and media placement recommendations and decisions; and
 - viii. Provide on-going, senior-level account supervisors who communicate and document the timing and cost status of all media placement projects and provide necessary reports, estimates, accounting documentation, and other financial information necessary to comply with the Contract's payment terms and conditions.
- 2) The Contractor shall be responsible for developing and managing all TNECD media buys pursuant to TNECD specifications. Said media buy responsibilities shall include, but not be limited to, the following:
- i. Development of an annual paid media plan, including channels such as social media advertising, trade publications, programmatic display advertising networks, retargeting, search engine marketing (SEM), LinkedIn, and others to be provided by TNECD in a separate writing;
 - ii. Engaging media vendors to negotiate pricing and terms in order to prepare a media buy plan for TNECD's review and approval. The media buy plan shall include justifications for how each channel aligns with TNECD's goals and target audiences as well as alignment with the department's annual paid media budget (Note: the annual paid media spend is not included in the value of this Contract because the media buys will be planned and managed by the contractor but paid by TNECD separately);
 - iii. Monthly monitoring of ad campaigns and auditing optimization for ad units and creative elements;
 - iv. Submitting monthly performance reports related to campaign results and providing suggestions for changes in allocation based on performance, if necessary;
 - v. Continuous coordination with media reps to evaluate new advertising opportunities that yield better results;
 - vi. Evaluating viable media opportunities throughout the year and providing media opportunity recommendations to TNECD for review and approval;
 - vii. Providing creative campaign concept or budget direction and recommendations to the TNECD graphic designer on an as-needed basis;
 - viii. Any creative optimizations or revisions to existing ad units will be approved and executed by TNECD.

ix. Working with TNECD (Marketing & Communications Team in addition to Procurement) to provide detailed vendor analysis and supporting documents as required.

3) The Contractor shall **not** bear any responsibility for any payments associated with any TNECD media buy, which shall remain the sole responsibility of TNECD. However, the Contractor shall assist TNECD with any billing or payment responsibilities that arise from said negotiations.

4) The Contractor shall submit recurring media placement reports to TNECD, which shall include, but not be limited to, the following:

- i. Monthly Competitive Spend Report;
- ii. Content Audits; and
- iii. Post-Buy Analysis.

Said reports shall be submitted to TNECD pursuant to the preferred transmission method and data element specifications of TNECD, which shall be provided in a separate writing.

e. **Public Relations.** As requested, and in collaboration with the TNECD Communications Team, the Contractor shall render public relations services either in-house or through the use of a full-service subcontractor subject to the State's prior approval in accordance with Contract Section D.7 (*Assignment and Subcontracting*). Subcontractors utilized shall demonstrate a high level of expertise in relation to the State's target audiences and must maintain well-established relationships with top-tier national media. Services shall include, but not be limited to, the following:

- 1) Development and implementation of earned media campaigns that amplify marketing goals and generate broad-reaching media interest for Tennessee's industries, brands, business climate, quality of life, and other assets.

The Contractor shall perform the services detailed in Section A.7.e pursuant to the Statement of Work / Task Order Process detailed in Section A.19.

A.8. Video and Photo Asset Creation and Organization Services.

a. The Contractor shall create video content and animation resources using existing video hosted in TNECD's media library or by shooting new content, as needed.

Examples of video content shall include, but not be limited to, annual anthem videos, one-minute hype videos, animation videos for the annual Governor's Conference, animation elements as needed for other areas of the conference, animations for TNECD programs (e.g., Select Tennessee, digital marketing ads, testimonials, company profiles, etc.).

- i. The Contractor shall collaborate with TNECD to draft a full script, including both narration and visual direction, for all video content and animation resources.
- ii. The Contractor shall organize all logistical arrangements during pre-production of video content, including creation of a project timeline, scheduling staff, arranging working sessions and check-ins, identifying potential licensing platforms, and securing voiceover talent. If the determination is made that the original capture of any specific footage is necessary, the Contractor shall first collaborate with TNECD to utilize its in-house videography staff. If the needs of the original capture are outside the technical or equipment capabilities of the TNECD team, production is included without incurring an overage. If additional time, travel, or

crew are necessary, an overage may be assessed. Any overages must be approved by TNECD prior to proceeding with video content creation projects.

- b. The Contractor shall collaborate with TNECD to develop and organize a new asset library of all TNECD-related video and photo assets. Taking inventory of all assets across various teams within TNECD shall first be performed with the primary goal of moving all digital assets into the same place. Sources of material may include archival libraries, past projects, limited stock clips available through paid licensing platforms, and limited licensing of freelance videographer or drone imagery that is available online. The new digital asset library shall be catalogued and searchable by tags, including, but not limited to, Community/County Name, Company Name, TNECD Program, and others requested by TNECD.

The Contractor shall perform the services detailed in Section A.8 pursuant to the Statement of Work / Task Order Process detailed in Section A.19.

A.9. Other Marketing Services. The Contractor shall perform additional marketing services pursuant to the specifications detailed below in this section and as otherwise directed by TNECD.

- a. **Social Media Management and Content Development** – The Contractor shall perform social media management and content development services on behalf of TNECD and/or TNECD sub-brands and initiatives.
- b. **Advertising and Media Management and Planning for TNECD Sub-brands and Initiatives** – The Contractor shall perform advertising and media management and planning for TNECD sub-brands and initiatives.
- c. **Assistance with TNECD Event Planning and Coordination** – The Contractor shall assist TNECD with event planning and coordination for TNECD’s annual Governor’s Conference and other department-related events, as directed by TNECD.
- d. **Research** – The Contractor shall provide TNECD marketing research assistance, which shall include, but shall not be limited to, benchmarking with other states in terms of economic development tools and initiatives, as well as re-evaluations of current metrics, target industries, incentives, and other data elements as directed by TNECD.
- e. **Marketing Campaigns for New TNECD Programs and Initiatives** – The Contractor shall assist TNECD with the development and launch of new marketing campaigns necessary for new TNECD programs and initiative rollouts as directed by TNECD.

The Contractor shall perform the services detailed in Section A.9 pursuant to the Statement of Work / Task Order Process detailed in Section A.19.

A.10. Administrative Requirements.

- a. The Contractor shall secure temporary office space within six (6) weeks after the start of the Contract and maintain said office space throughout the Term of the Contract. Said office space shall be located within the State of Tennessee. All costs associated with obtaining the office space shall be the sole responsibility of the Contractor. The Contractor may, at its discretion, either directly house any subcontractors retained for performance of services under the Contract, or alternatively, may require said subcontractors to obtain separate office space, so long as such space is also located within the State of Tennessee. The Contractor staff shall be available for in-person meetings at the TNECD office or at the Contractor’s local office, as directed by TNECD. Meeting locations will be established by TNECD.
- b. The Contractor shall not commence work on any services set forth in this Contract before submitting an estimate of the total project cost and receiving prior approval for each proposed project by the appropriate TNECD official. If TNECD requests changes

to any project, the Contractor shall submit revised cost and timing estimates. Such estimates shall be approved by TNECD prior to the commencement of services on the project by the Contractor.

- c. The Contractor shall be available to participate and make oral and written presentations regarding the services it provides under this Contract at meetings, conferences, or other events, as requested by TNECD.
- d. The Contractor shall provide necessary reports, estimates, accounting documentation, and other financial information necessary to comply with contract payment terms and conditions as set forth in this Contract.
- e. The Contractor shall not release any campaign or project without first receiving TNECD's prior approval. If TNECD rejects a proposed campaign or project or if said campaign or project proposal requires modifications, the Contractor shall continue development of the campaign or project until it meets TNECD specifications and receives final approval.

A.11. Intellectual Property. All content, websites, intellectual property, and services provided by the Contractor under this Contract shall be the sole and exclusive property of the State of Tennessee except as otherwise may be mutually agreed upon in a signed writing by the parties to this Contract in accordance with State of Tennessee contracting requirements.

A.12. Prioritization of Projects. The services to be rendered under this Contract will involve a wide variety of project types. Unless otherwise specified in writing by TNECD, all projects associated with the services to be rendered under this Contract shall be generally prioritized pursuant to the following tiers:

Tier 1 (Critical Priority)
Brand Development Projects
Website Development Projects
Marketing Campaign and Strategy Projects
Tier 2 (High Priority)
Advertising Projects
Tier 3 (Moderate Priority)
Video and Photo Asset Creation and Organization Projects
Other Marketing Services

The Contractor shall make reasonable efforts to prioritize projects based on the tiers provided above.

A.13. Key Personnel.

- a. For purposes of this contract, the term "Key Personnel," refers to Contractor personnel deemed by TNECD to be essential to the Contractor's satisfactory performance of the requirements contained in this Contract. Unless otherwise approved in writing by TNECD, the Contractor shall comply with the following general framework for Key Personnel requirements in performance of the services described herein:

Position Title	Description
Account Director	Primary point of contact between the client and the agency, overseeing the overall management of the client relationship and ensuring that the agency's deliverables align with the client's strategic goals. Role involves leading the account team, coordinating across departments, and managing the execution of campaigns and projects. The

Position Title	Description
	Account Director is responsible for strategic planning, client presentations, and ensuring client satisfaction throughout the project lifecycle.
Account Manager	Primary liaison between the client and the agency, ensuring that the client's needs are met and that the project is progressing according to plan.
Art Director	Responsible for overseeing the visual aspects of a project, including the development and execution of design concepts. This role involves leading the creative team in designing layouts, graphics, and visual elements that align with the client's brand identity and project objectives.
Brand Strategist	Responsible for developing and defining the brand identity, including messaging, tone, and visual elements. This role involves conducting market research, competitive analysis, and working closely with creative teams to ensure that the brand resonates with the target audience.
Communications Director	Oversees the development and execution of the agency's communication strategies, both internally and externally. This role is responsible for crafting clear and compelling messages that align with the client's brand and objectives. The Communications Director manages public relations efforts, media relations, and the creation of communication materials, including press releases, speeches, and promotional content. They ensure consistency in messaging across all channels and work closely with other team members to coordinate campaign efforts and manage the overall narrative of the client's brand.
Content Manager	Oversees the creation, organization, and management of content across all platforms. This role ensures that all content aligns with the brand's voice and meets the needs of the target audience and channel.
Creative Director	Leads the creative vision for the project, guiding the design, content, and overall aesthetic of the brand. This role works closely with designers, writers, and other creative professionals to develop and execute the visual and narrative aspects of the brand.
Digital Marketing Strategist	Responsible for developing and implementing online marketing strategies, including SEO, social media, email campaigns, and digital advertising. This role involves analyzing data, optimizing campaigns, and ensuring that digital efforts drive engagement and conversions.
Media Planner / Buyer	Responsible for developing and executing media plans that effectively reach the target audience. This role involves negotiating media buys, analyzing campaign performance, and optimizing media strategies to achieve the best ROI.
Production Manager	Oversees the planning, coordination, and execution of the creative process, including managing timelines, budgets, and resources to ensure that all production activities are completed efficiently and to the highest quality standards.
UX/UI Designer	Focuses on creating user-friendly and aesthetically pleasing interfaces for websites and applications. This role involves user research, wireframing, prototyping, and collaborating with developers to bring the designs to life.
Videographer / Photographer	Captures high-quality video and photo assets that align with the brand's visual identity. This role involves planning and shooting visual content for use across various platforms.
Video & Photo Editor	Responsible for editing and assembling raw material into a suitable, finished product ready for broadcasting. The material may include camera footage, dialogue, sound effects, graphics and special effects.
Web Developer	Tasked with building and maintaining the website, ensuring it is responsive, user-friendly, and aligned with the brand's identity. This role involves coding, testing, and collaborating with designers to implement the visual and functional elements of the site.

- b. Full-Time Employees. All key personnel shall be employed full-time at the Contractor's local site from their start date throughout the applicable project. Changes to this arrangement must receive prior approval from the State.
- c. Additional Key Personnel Positions. If the Contractor's methodology deems an additional key personnel position(s) necessary, beyond the positions listed in the table below, the Contractor must identify these positions and provide a complete description of how these positions support the fulfillment of the Contract scope of work. Any additions approved-in-principle by the State will require an amendment before being incorporated into the Contract.
- d. Subcontractor Staff. If any Contractor staff members are not employees of the Contractor, the Contractor is required to identify those personnel, provide TNECD with agreements

establishing their subcontract and the Contractor must receive approval of that subcontract from TNECD.

- f. **Key Personnel Replacements.** The qualifications and consistency of the Contractor's personnel are crucial to the performance of the services described in this Contract. Therefore, no proposed personal change shall become effective until it is approved in writing by TNECD, and TNECD retains the right to approve or disapprove proposed key personnel staffing and reserves the right to require the Contractor to replace specified staff. The Contractor agrees to substitute, with TNECD's prior approval, any employee so replaced with an employee of equal or better qualifications. The Contractor shall send written notification of the proposed change to TNECD at least two (2) weeks prior to the proposed begin date for any proposed personnel change. Said written notification shall be provided to TNECD upon the reassignment, departure, or hiring of personnel who is involved in the performance of services under to this Contract. The State, in its sole discretion, shall approve or disapprove such personnel changes.
- A.14. **Reporting.** The Contractor shall provide to TNECD all reports set forth in this Contract. The format, content, and frequency of such reports shall be as requested by TNECD. The Contractor shall also provide any *ad hoc* reports requested by the State in writing. The Contractor shall provide the reports to TNECD in a manner approved by TNECD which may include, but shall not be limited to, the following: (1) e-mail; or (2) a file distribution program established by the Contractor which TNECD can fully access and from which it can retrieve reports.
- a. **Monthly and Quarterly Reports.**
- 1) **Campaign Summaries.** Unless otherwise specified by TNECD in writing, the Contractor shall provide TNECD monthly and quarterly reports providing an overview of all planned, active, and completed campaigns. The overview shall consist of the projected staffing plan, including the positions and projected hours per position that was approved by TNECD and the actual positions utilized and actual hours per position completed. Said report shall be sent to TNECD within fifteen (15) calendar days after the end of each month.
 - 2) **Media Plan & Buy Summaries.** Unless otherwise specified by TNECD in writing, the Contractor shall provide TNECD monthly and quarterly reports, providing an overview of all planned, active, and completed media buys. The overview shall consist of, but not be limited to, confirmation of placed media, media performance summaries, media placement changes, and any available make-good reports. Said report shall be sent to TNECD within fifteen (15) calendar days after the end of each month.
 - 3) **Website Summaries.** Unless otherwise specified by TNECD in writing, the Contractor shall provide TNECD monthly and quarterly reports providing an overview of the following: (i) unique visits; (ii) percentage changes in traffic; (iii) volume of website inquiries; (iv) page views; and (v) average time on the site. Said report shall be sent to TNECD within fifteen (15) calendar days after the end of each month.
- b. **Business Reviews.** Unless otherwise specified by TNECD in writing, the Contractor shall organize and attend semi-annual (i.e., twice per year) for the purpose of providing an overview of all completed projects, status updates regarding pending projects, long-term strategy and planning for upcoming projects, and additional items specified by TNECD.
- c. **Reporting Checkpoints.** Unless otherwise specified by TNECD in writing, the Contractor shall organize and attend quarterly reporting checkpoints for the purpose of providing status updates on pending projects, as well any additional discussion items requested by TNECD.

- A.15. Confidentiality During Project Development. The Contractor shall maintain confidentiality during the development phase for all TNECD projects fielded during the performance of services under this Contract.
- A.16. Warranty. The Contractor represents and warrants that the term of the warranty (“Warranty Period”) shall be the greater of the Term of this Contract or any other warranty generally offered by Contractor, its suppliers, or manufacturers to customers of its goods or services. The goods or services provided under this Contract shall conform to the terms and conditions of this Contract throughout the Warranty Period. Any nonconformance of the goods or services to the terms and conditions of this Contract shall constitute a “Defect” and shall be considered “Defective.” If Contractor receives notice of a Defect during the Warranty Period, then the Contractor shall correct the Defect, at no additional charge.

The Contractor represents and warrants that the State is authorized to possess and use all equipment, materials, software, and deliverables provided under this Contract.

The Contractor represents and warrants that all goods or services provided under this Contract shall be provided in a timely and professional manner, by qualified and skilled individuals, and in conformity with standards generally accepted in the Contractor’s industry.

If the Contractor fails to provide the goods or services as warranted, then the Contractor will re-provide the goods or services at no additional charge. If the Contractor is unable or unwilling to re-provide the goods or services as warranted, then the State shall be entitled to recover the fees paid to the Contractor for the Defective goods or services. Any exercise of the State’s rights under this Section shall not prejudice the State’s rights to seek any other remedies available under this Contract or applicable law.

- A.17. Inspection and Acceptance. The State shall have the right to inspect all goods or services provided by the Contractor under this Contract. If, upon inspection, the State determines that the goods or services are Defective, the State shall notify the Contractor, and the Contractor shall re-deliver the goods or provide the services at no additional cost to the State. If after a period of thirty (30) days following delivery of goods or performance of services the State does not provide a notice of any Defects, the goods or services shall be deemed to have been accepted by the State.
- A.18. Scanning. The Contractor must annually perform Penetration Tests and Vulnerability Assessments against its Processing Environment per the NIST 800-115 definition. “Processing Environment” shall mean the combination of software and hardware on which the Application runs. “Application” shall mean the computer code that supports and accomplishes the State’s requirements as set forth in this Contract. “Penetration Tests” shall be in the form of attacks on the Contractor’s computer system, with the purpose of discovering security weaknesses which have the potential to gain access to the Processing Environment’s features and data. The “Vulnerability Assessment” shall be designed and executed to define, identify, and classify the security holes (vulnerabilities) in the Processing Environment. The Contractor shall allow the State, at its option, to perform Penetration Tests and Vulnerability Assessments on the Processing Environment. The Contractor shall provide a letter of attestation on its processing environment that penetration tests and vulnerability assessments has been performed on an annual basis and taken corrective action to evaluate and address any findings.

In the event of an unauthorized disclosure or unauthorized access to State data, the State Strategic Technology Solutions (STS) Security Incident Response Team (SIRT) must be notified and engaged by calling the State Customer Care Center (CCC) at 615-741-1001. Any such event must be reported by the Contractor within twenty-four (24) hours after the unauthorized disclosure has come to the attention of the Contractor.

- A.19. Statements of Work and Task Orders. The specifications for the goods and services to be provided by the Contractor on a project-by-project basis shall be established by the State through a series of Statements of Work (Attachment A), which detail respective State project needs and

expectations (including applicable deadlines). After reviewing a proposed Statement of Work, the Contractor shall prepare a proposed Task Order (Attachment B) for State review.

The Contractor shall include the following information in each Task Order:

- a. An explanation of the Contractor's understanding of State needs and objectives for the project;
- b. A detailed list of tasks anticipated for the project;
- c. A list of any deliverables to be provided for the project;
- d. A list of all positions to be utilized;
- e. An anticipated date of completion for the project; and
- f. The anticipated total cost of the project, as well as a breakdown of the maximum number of position hours required for the completion of the deliverables set forth in the Task Orders and application of the hourly position rates stated in Contract Section C.3.c.

Task Orders signed by both parties shall be considered finalized unless revised via a separate and subsequent Task Order.

B. TERM OF CONTRACT:

- B.1. This Contract shall be effective on **DATE** ("Effective Date") and extend for a period of thirty-six (36) months after the Effective Date ("Term"), thereby ending on **DATE**. The State shall have no obligation for goods or services provided by the Contractor prior to the Effective Date.
- B.2. Renewal Options. This Contract may be renewed upon satisfactory completion of the Term. The State reserves the right to execute up to two (2) renewal options under the same terms and conditions for a period not to exceed twelve (12) months each by the State, at the State's sole option. In no event, however, shall the maximum Term, including all renewals or extensions, exceed a total of sixty (60) months.

C. PAYMENT TERMS AND CONDITIONS:

- C.1. Maximum Liability. In no event shall the maximum liability of the State under this Contract exceed **Written Dollar Amount (\$Number)** ("Maximum Liability"). This Contract does not grant the Contractor any exclusive rights. The State does not guarantee that it will buy any minimum quantity of goods or services under this Contract. Subject to the terms and conditions of this Contract, the Contractor will only be paid for goods or services provided under this Contract after a purchase order is issued to Contractor by the State or as otherwise specified by this Contract.
- C.2. Compensation Firm. The payment methodology in Section C.3. of this Contract shall constitute the entire compensation due the Contractor for all goods or services provided under this Contract regardless of the difficulty, materials or equipment required. The payment methodology includes all applicable taxes, fees, overhead, and all other direct and indirect costs incurred or to be incurred by the Contractor.
- C.3. Payment Methodology. The Contractor shall be compensated based on the payment methodology for goods or services authorized by the State in a total amount as set forth in Section C.1.
 - a. The Contractor's compensation shall be contingent upon the satisfactory provision of goods or services as set forth in Section A.
 - b. The Contractor shall be compensated based upon the following payment methodology:

Line #	Goods or Services Description	Amount (per compensable increment)
1	Develop new Department-wide Brand and Relevant Sub-brands (Contract § A.4.a) Deliverable #1 [40%]: Development of a TNECD identity and branding redesign (§ A.4.a.1). Deliverable #2 [30%]: Development of visual elements, messaging, and brand expression to include logos, taglines, fonts, colors, and brand guidelines (§A.4.a.2). Deliverable #3 [20%]: Development of a style guide for graphics and templates for the necessities of day-to-day operations (§ A.4.a.3). Deliverable #4 [10%]: Positioning or modification to the brand and adjustment or modification to the use of the brand as needed to benefit the State’s marketing objectives (§ A.4.a.4).	\$ _____
2	Design and Development of New Agency Website (Contract § A.5.a)	\$ _____
3	Perform Marketing Campaign and Strategy Services (Contract § A.6)	\$ _____
4	Perform Advertising Services relating to Media and Advertising Campaign Development and Management (Contract §§ A.7.a.1 – A.7.a.3)	\$ _____
5	Perform Advertising Services relating to Media Placement (Contract § A.7.d)	\$ _____ per year

c. The Contractor shall be compensated for work via task orders requested and performed pursuant to Contract Section A.19, without a formal amendment of this Contract based upon the payment rates detailed in the schedule below and as agreed pursuant to Section A.19, PROVIDED THAT compensation to the Contractor for such “task orders” work shall not exceed seven percent (7%) of the sum of milestone payment rates detailed in Section C.3.b., above (which is the total cost for the milestones and associated deliverables set forth in Lines 1 through 5 of Contract Section C.3.b above). If, at any point during the Term, the State determines that the cost of necessary “task order” work would exceed the maximum amount, the State may amend this Contract to address the need.

Position	Hourly Rates				
	1/1/2025 – 12/31/2025	1/1/2026 – 12/31/2026	1/1/2027 – 12/31/2027	1/1/2028 – 12/31/2028	1/1/2029 – 12/31/2029
Account Director	\$ _____ / HOUR	\$ _____ / HOUR	\$ _____ / HOUR	\$ _____ / HOUR	\$ _____ / HOUR

Position	Hourly Rates				
	1/1/2025 – 12/31/2025	1/1/2026 – 12/31/2026	1/1/2027 – 12/31/2027	1/1/2028 – 12/31/2028	1/1/2029 – 12/31/2029
Account Manager	\$ _____ / HOUR	\$ _____ / HOUR	\$ _____ / HOUR	\$ _____ / HOUR	\$ _____ / HOUR
Art Director	\$ _____ / HOUR	\$ _____ / HOUR	\$ _____ / HOUR	\$ _____ / HOUR	\$ _____ / HOUR
Brand Strategist	\$ _____ / HOUR	\$ _____ / HOUR	\$ _____ / HOUR	\$ _____ / HOUR	\$ _____ / HOUR
Communications Director	\$ _____ / HOUR	\$ _____ / HOUR	\$ _____ / HOUR	\$ _____ / HOUR	\$ _____ / HOUR
Content Manager	\$ _____ / HOUR	\$ _____ / HOUR	\$ _____ / HOUR	\$ _____ / HOUR	\$ _____ / HOUR
Creative Director	\$ _____ / HOUR	\$ _____ / HOUR	\$ _____ / HOUR	\$ _____ / HOUR	\$ _____ / HOUR
Digital Marketing Strategist	\$ _____ / HOUR	\$ _____ / HOUR	\$ _____ / HOUR	\$ _____ / HOUR	\$ _____ / HOUR
Media Planner / Buyer	\$ _____ / HOUR	\$ _____ / HOUR	\$ _____ / HOUR	\$ _____ / HOUR	\$ _____ / HOUR
Production Manager	\$ _____ / HOUR	\$ _____ / HOUR	\$ _____ / HOUR	\$ _____ / HOUR	\$ _____ / HOUR
UX/UI Designer	\$ _____ / HOUR	\$ _____ / HOUR	\$ _____ / HOUR	\$ _____ / HOUR	\$ _____ / HOUR
Videographer / Photographer	\$ _____ / HOUR	\$ _____ / HOUR	\$ _____ / HOUR	\$ _____ / HOUR	\$ _____ / HOUR
Video & Photo Editor	\$ _____ / HOUR	\$ _____ / HOUR	\$ _____ / HOUR	\$ _____ / HOUR	\$ _____ / HOUR
Web Developer	\$ _____ / HOUR	\$ _____ / HOUR	\$ _____ / HOUR	\$ _____ / HOUR	\$ _____ / HOUR

- C.4. Travel Compensation. The Contractor shall not be compensated or reimbursed for travel time, travel expenses, meals, or lodging.
- C.5. Invoice Requirements. The Contractor shall invoice the State only for goods delivered and accepted by the State or services satisfactorily provided at the amounts stipulated in Section C.3., above. Contractor shall submit invoices and necessary supporting documentation, no more frequently than once a month, and no later than thirty (30) days after goods or services have been provided to the following address:

ECD.Invoices@tn.gov

- a. Each invoice, on Contractor's letterhead, shall clearly and accurately detail all of the following information (calculations must be extended and totaled correctly):
 - (1) Invoice number (assigned by the Contractor);
 - (2) Invoice date;
 - (3) Contract number (assigned by the State);
 - (4) Customer account name: State of Tennessee, Department of Economic and Community Development, Division of Strategic Initiatives;
 - (5) Customer account number (assigned by the Contractor to the above-referenced Customer);
 - (6) Contractor name;
 - (7) Contractor Tennessee Edison registration ID number;
 - (8) Contractor contact for invoice questions (name, phone, or email);
 - (9) Contractor remittance address;
 - (10) Description of delivered goods or services provided and invoiced, including identifying information as applicable;
 - (11) Number of delivered or completed units, increments, hours, or days as applicable, of each good or service invoiced;
 - (12) Applicable payment methodology (as stipulated in Section C.3.) of each good or service invoiced;
 - (13) Amount due for each compensable unit of good or service; and
 - (14) Total amount due for the invoice period.
- b. Contractor's invoices shall:
 - (1) Only include charges for goods delivered or services provided as described in Section A and in accordance with payment terms and conditions set forth in Section C;
 - (2) Only be submitted for goods delivered or services completed and shall not include any charge for future goods to be delivered or services to be performed;
 - (3) Not include Contractor's taxes, which includes without limitation Contractor's sales and use tax, excise taxes, franchise taxes, real or personal property taxes, or income taxes; and
 - (4) Include shipping or delivery charges only as authorized in this Contract.
- c. The timeframe for payment (or any discounts) begins only when the State is in receipt of an invoice that meets the minimum requirements of this Section C.5.

- C.6. Payment of Invoice. A payment by the State shall not prejudice the State's right to object to or question any payment, invoice, or other matter. A payment by the State shall not be construed as acceptance of goods delivered, any part of the services provided, or as approval of any amount invoiced.
- C.7. Invoice Reductions. The Contractor's invoice shall be subject to reduction for amounts included in any invoice or payment that is determined by the State on the basis of audits conducted in accordance with the terms of this Contract, to not constitute proper compensation for goods delivered or services provided.
- C.8. Deductions. The State reserves the right to deduct from amounts, which are or shall become due and payable to the Contractor under this or any contract between the Contractor and the State of Tennessee, any amounts that are or shall become due and payable to the State of Tennessee by the Contractor.
- C.9. Prerequisite Documentation. The Contractor shall not invoice the State under this Contract until the State has received the following, properly completed documentation.

- a. The Contractor shall complete, sign, and present to the State the "Authorization Agreement for Automatic Deposit Form" provided by the State. By doing so, the Contractor acknowledges and agrees that, once this form is received by the State, payments to the Contractor, under this or any other contract the Contractor has with the State of Tennessee, may be made by ACH; and
- b. The Contractor shall complete, sign, and return to the State the State-provided W-9 form. The taxpayer identification number on the W-9 form must be the same as the Contractor's Federal Employer Identification Number or Social Security Number referenced in the Contractor's Edison registration information.

D. MANDATORY TERMS AND CONDITIONS:

- D.1. Required Approvals. The State is not bound by this Contract until it is duly approved by the Parties and all appropriate State officials in accordance with applicable Tennessee laws and regulations. Depending upon the specifics of this Contract, this may include approvals by the Commissioner of Finance and Administration, the Commissioner of Human Resources, the Comptroller of the Treasury, and the Chief Procurement Officer. Approvals shall be evidenced by a signature or electronic approval.
- D.2. Communications and Contacts. All instructions, notices, consents, demands, or other communications required or contemplated by this Contract shall be in writing and shall be made by certified, first-class mail, return receipt requested and postage prepaid, by overnight courier service with an asset tracking system, or by email or facsimile transmission with recipient confirmation. All communications, regardless of method of transmission, shall be addressed to the respective Party at the appropriate mailing address, facsimile number, or email address as stated below or any other address provided in writing by a Party.

The State:

Lyndi Berrones, Assistant Commissioner
 State of Tennessee, Department of Economic and
 Community Development, Division of Strategic Initiatives
 312 Rosa L. Parks Ave. (27th Floor)
 Nashville, TN 37243
 Lyndi.Berrones@tn.gov
 Telephone # (615) 981-3255

The Contractor:

Contractor Contact Name & Title
Contractor Name
Address
Email Address
 Telephone # **Number**

All instructions, notices, consents, demands, or other communications shall be considered effective upon receipt or recipient confirmation as may be required.

- D.3. Modification and Amendment. This Contract may be modified only by a written amendment signed by all Parties and approved by all applicable State officials. The State's exercise of a valid Renewal Option or Term Extension does not constitute an amendment so long as there are no other changes to the Contract's terms and conditions.
- D.4. Subject to Funds Availability. The Contract is subject to the appropriation and availability of State or federal funds. In the event that the funds are not appropriated or are otherwise unavailable, the State reserves the right to terminate this Contract upon written notice to the Contractor. The State's exercise of its right to terminate this Contract shall not constitute a breach of Contract by the State. Upon receipt of the written notice, the Contractor shall cease all work associated with the Contract. If the State terminates this Contract due to lack of funds availability, the Contractor shall be entitled to compensation for all conforming goods requested and accepted by the State and for all satisfactory and authorized services completed as of the termination date. Should the State exercise its right to terminate this Contract due to unavailability of funds, the Contractor shall have no right to recover from the State any actual, general, special, incidental, consequential, or any other damages of any description or amount.

- D.5. Termination for Convenience. The State may terminate this Contract for convenience without cause and for any reason. The State shall give the Contractor at least thirty (30) days written notice before the termination date. The Contractor shall be entitled to compensation for all conforming goods delivered and accepted by the State or for satisfactory, authorized services completed as of the termination date. In no event shall the State be liable to the Contractor for compensation for any goods neither requested nor accepted by the State or for any services neither requested by the State nor satisfactorily performed by the Contractor. In no event shall the State's exercise of its right to terminate this Contract for convenience relieve the Contractor of any liability to the State for any damages or claims arising under this Contract.
- D.6. Termination for Cause. If the Contractor fails to properly perform its obligations under this Contract in a timely or proper manner, or if the Contractor materially violates any terms of this Contract ("Breach Condition"), the State shall have the right to immediately terminate the Contract and withhold payments in excess of compensation for completed services or provided goods. Notwithstanding the above, the Contractor shall not be relieved of liability to the State for damages sustained by virtue of any Breach Condition and the State may seek other remedies allowed at law or in equity for breach of this Contract.
- D.7. Assignment and Subcontracting. The Contractor shall not assign this Contract or enter into a subcontract for any of the goods or services provided under this Contract without the prior written approval of the State. Notwithstanding any use of the approved subcontractors, the Contractor shall be the prime contractor and responsible for compliance with all terms and conditions of this Contract. The State reserves the right to request additional information or impose additional terms and conditions before approving an assignment of this Contract in whole or in part or the use of subcontractors in fulfilling the Contractor's obligations under this Contract.
- D.8. Conflicts of Interest. The Contractor warrants that no part of the Contractor's compensation shall be paid directly or indirectly to an employee or official of the State of Tennessee as wages, compensation, or gifts in exchange for acting as an officer, agent, employee, subcontractor, or consultant to the Contractor in connection with any work contemplated or performed under this Contract.

The Contractor acknowledges, understands, and agrees that this Contract shall be null and void if the Contractor is, or within the past six (6) months has been, an employee of the State of Tennessee or if the Contractor is an entity in which a controlling interest is held by an individual who is, or within the past six (6) months has been, an employee of the State of Tennessee.

- D.9. Nondiscrimination. The Contractor hereby agrees, warrants, and assures that no person shall be excluded from participation in, be denied benefits of, or be otherwise subjected to discrimination in the performance of this Contract or in the employment practices of the Contractor on the grounds of handicap or disability, age, race, creed, color, religion, sex, national origin, or any other classification protected by federal or state law. The Contractor shall, upon request, show proof of nondiscrimination and shall post in conspicuous places, available to all employees and applicants, notices of nondiscrimination.
- D.10. Prohibition of Illegal Immigrants. The requirements of Tenn. Code Ann. § 12-3-309 addressing the use of illegal immigrants in the performance of any contract to supply goods or services to the state of Tennessee, shall be a material provision of this Contract, a breach of which shall be grounds for monetary and other penalties, up to and including termination of this Contract.
- a. The Contractor agrees that the Contractor shall not knowingly utilize the services of an illegal immigrant in the performance of this Contract and shall not knowingly utilize the services of any subcontractor who will utilize the services of an illegal immigrant in the performance of this Contract. The Contractor shall reaffirm this attestation by submitting to the State a completed Attestation (accessible through the Edison Supplier Portal) and included at Attachment C, semi-annually during the Term. If the Contractor is a party to more than one contract with the State, the Contractor may submit one attestation that applies to all contracts with the State. All Contractor attestations shall be maintained by the Contractor and made available to State officials upon request.

- b. Prior to the use of any subcontractor in the performance of this Contract, and semi-annually thereafter, during the Term, the Contractor shall obtain and retain a current, written attestation that the subcontractor shall not knowingly utilize the services of an illegal immigrant to perform work under this Contract and shall not knowingly utilize the services of any subcontractor who will utilize the services of an illegal immigrant to perform work under this Contract. Attestations obtained from subcontractors shall be maintained by the Contractor and made available to State officials upon request.
 - c. The Contractor shall maintain records for all personnel used in the performance of this Contract. Contractor's records shall be subject to review and random inspection at any reasonable time upon reasonable notice by the State.
 - d. The Contractor understands and agrees that failure to comply with this section will be subject to the sanctions of Tenn. Code Ann. § 12-3-309 for acts or omissions occurring after its effective date.
 - e. For purposes of this Contract, "illegal immigrant" shall be defined as any person who is not: (i) a United States citizen; (ii) a Lawful Permanent Resident; (iii) a person whose physical presence in the United States is authorized; (iv) allowed by the federal Department of Homeland Security and who, under federal immigration laws or regulations, is authorized to be employed in the U.S.; or (v) is otherwise authorized to provide services under the Contract.
- D.11. Records. The Contractor shall maintain documentation for all charges under this Contract. The books, records, and documents of the Contractor, for work performed or money received under this Contract, shall be maintained for a period of five (5) full years from the date of the final payment and shall be subject to audit at any reasonable time and upon reasonable notice by the State, the Comptroller of the Treasury, or their duly appointed representatives. The financial statements shall be prepared in accordance with generally accepted accounting principles.
- D.12. Monitoring. The Contractor's activities conducted and records maintained pursuant to this Contract shall be subject to monitoring and evaluation by the State, the Comptroller of the Treasury, or their duly appointed representatives.
- D.13. Progress Reports. The Contractor shall submit brief, periodic, progress reports to the State as requested.
- D.14. Strict Performance. Failure by any Party to this Contract to require, in any one or more cases, the strict performance of any of the terms, covenants, conditions, or provisions of this Contract shall not be construed as a waiver or relinquishment of any term, covenant, condition, or provision. No term or condition of this Contract shall be held to be waived, modified, or deleted except by a written amendment signed by the Parties.
- D.15. Independent Contractor. The Parties shall not act as employees, partners, joint venturers, or associates of one another. The Parties are independent contracting entities. Nothing in this Contract shall be construed to create an employer/employee relationship or to allow either Party to exercise control or direction over the manner or method by which the other transacts its business affairs or provides its usual services. The employees or agents of one Party are not employees or agents of the other Party.
- D.16. Patient Protection and Affordable Care Act. The Contractor agrees that it will be responsible for compliance with the Patient Protection and Affordable Care Act ("PPACA") with respect to itself and its employees, including any obligation to report health insurance coverage, provide health insurance coverage, or pay any financial assessment, tax, or penalty for not providing health insurance. The Contractor shall indemnify the State and hold it harmless from any costs to the State arising from Contractor's failure to fulfill its PPACA responsibilities for itself or its employees.

- D.17. Limitation of State's Liability. The State shall have no liability except as specifically provided in this Contract. In no event will the State be liable to the Contractor or any other party for any lost revenues, lost profits, loss of business, decrease in the value of any securities or cash position, time, goodwill, or any indirect, special, incidental, punitive, exemplary or consequential damages of any nature, whether based on warranty, contract, statute, regulation, tort (including but not limited to negligence), or any other legal theory that may arise under this Contract or otherwise. The State's total liability under this Contract (including any exhibits, schedules, amendments or other attachments to the Contract) or otherwise shall under no circumstances exceed the Maximum Liability. This limitation of liability is cumulative and not per incident.
- D.18. Limitation of Contractor's Liability. In accordance with Tenn. Code Ann. § 12-3-701, the Contractor's liability for all claims arising under this Contract shall be limited to an amount equal to two (2) times the Maximum Liability amount detailed in Section C.1. and as may be amended, PROVIDED THAT in no event shall this Section limit the liability of the Contractor for: (i) intellectual property or any Contractor indemnity obligations for infringement for third-party intellectual property rights; (ii) any claims covered by any specific provision in the Contract providing for liquidated damages; or (iii) any claims for intentional torts, criminal acts, fraudulent conduct, or acts or omissions that result in personal injuries or death. For clarity, except as otherwise expressly set forth in this Section, Contractor's indemnification obligations and other remedies available under this Contract are subject to the limitations on liability set forth in this Section.
- D.19. Hold Harmless. The Contractor agrees to indemnify and hold harmless the State of Tennessee as well as its officers, agents, and employees from and against any and all claims, liabilities, losses, and causes of action which may arise, accrue, or result to any person, firm, corporation, or other entity which may be injured or damaged as a result of acts, omissions, or negligence on the part of the Contractor, its employees, or any person acting for or on its or their behalf relating to this Contract. The Contractor further agrees it shall be liable for the reasonable cost of attorneys' fees, court costs, expert witness fees, and other litigation expenses for the State to enforce the terms of this Contract.

In the event of any suit or claim, the Parties shall give each other immediate notice and provide all necessary assistance to respond. The failure of the State to give notice shall only relieve the Contractor of its obligations under this Section to the extent that the Contractor can demonstrate actual prejudice arising from the failure to give notice. This Section shall not grant the Contractor, through its attorneys, the right to represent the State in any legal matter, as the right to represent the State is governed by Tenn. Code Ann. § 8-6-106.

- D.20. HIPAA Compliance. The State and Contractor shall comply with obligations under the Health Insurance Portability and Accountability Act of 1996 ("HIPAA"), Health Information Technology for Economic and Clinical Health ("HITECH") Act and any other relevant laws and regulations regarding privacy (collectively the "Privacy Rules"). The obligations set forth in this Section shall survive the termination of this Contract.
- a. Contractor warrants to the State that it is familiar with the requirements of the Privacy Rules, and will comply with all applicable requirements in the course of this Contract.
 - b. Contractor warrants that it will cooperate with the State, including cooperation and coordination with State privacy officials and other compliance officers required by the Privacy Rules in the course of performance of the Contract so that both parties will be in compliance with the Privacy Rules.
 - c. The State and the Contractor will sign documents, including but not limited to business associate agreements, as required by the Privacy Rules and that are reasonably necessary to keep the State and Contractor in compliance with the Privacy Rules. This provision shall not apply if information received or delivered by the parties under this Contract is NOT "protected health information" as defined by the Privacy Rules, or if the Privacy Rules permit the parties to receive or deliver the information without entering into a business associate agreement or signing another document.

- d. The Contractor will indemnify the State and hold it harmless for any violation by the Contractor or its subcontractors of the Privacy Rules. This includes the costs of responding to a breach of protected health information, the costs of responding to a government enforcement action related to the breach, and any fines, penalties, or damages paid by the State because of the violation.
- D.21. Tennessee Consolidated Retirement System. Subject to statutory exceptions contained in Tenn. Code Ann. §§ 8-36-801, *et seq.*, the law governing the Tennessee Consolidated Retirement System (“TCRS”), provides that if a retired member of TCRS, or of any superseded system administered by TCRS, or of any local retirement fund established under Tenn. Code Ann. §§ 8-35-101, *et seq.*, accepts State employment, the member's retirement allowance is suspended during the period of the employment. Accordingly and notwithstanding any provision of this Contract to the contrary, the Contractor agrees that if it is later determined that the true nature of the working relationship between the Contractor and the State under this Contract is that of “employee/employer” and not that of an independent contractor, the Contractor, if a retired member of TCRS, may be required to repay to TCRS the amount of retirement benefits the Contractor received from TCRS during the Term.
- D.22. Tennessee Department of Revenue Registration. The Contractor shall comply with all applicable registration requirements contained in Tenn. Code Ann. §§ 67-6-601 – 608. Compliance with applicable registration requirements is a material requirement of this Contract.
- D.23. Debarment and Suspension. The Contractor certifies, to the best of its knowledge and belief, that it, its current and future principals, its current and future subcontractors and their principals:
- a. are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions by any federal or state department or agency;
 - b. have not within a three (3) year period preceding this Contract been convicted of, or had a civil judgment rendered against them from commission of fraud, or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (federal, state, or local) transaction or grant under a public transaction; violation of federal or state antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification, or destruction of records, making false statements, or receiving stolen property;
 - c. are not presently indicted or otherwise criminally or civilly charged by a government entity (federal, state, or local) with commission of any of the offenses detailed in section b. of this certification; and
 - d. have not within a three (3) year period preceding this Contract had one or more public transactions (federal, state, or local) terminated for cause or default.
- The Contractor shall provide immediate written notice to the State if at any time it learns that there was an earlier failure to disclose information or that due to changed circumstances, its principals or the principals of its subcontractors are excluded, disqualified, or presently fall under any of the prohibitions of sections a-d.
- D.24. Force Majeure. “Force Majeure Event” means fire, flood, earthquake, elements of nature or acts of God, wars, riots, civil disorders, rebellions or revolutions, acts of terrorism or any other similar cause beyond the reasonable control of the Party except to the extent that the non-performing Party is at fault in failing to prevent or causing the default or delay, and provided that the default or delay cannot reasonably be circumvented by the non-performing Party through the use of alternate sources, workaroud plans or other means. A strike, lockout or labor dispute shall not excuse either Party from its obligations under this Contract. Except as set forth in this Section, any failure or delay by a Party in the performance of its obligations under this Contract arising from a Force Majeure Event is not a default under this Contract or grounds for termination. The non-performing Party will be excused from performing those obligations directly affected by the

Force Majeure Event, and only for as long as the Force Majeure Event continues, provided that the Party continues to use diligent, good faith efforts to resume performance without delay. The occurrence of a Force Majeure Event affecting Contractor's representatives, suppliers, subcontractors, customers or business apart from this Contract is not a Force Majeure Event under this Contract. Contractor will promptly notify the State of any delay caused by a Force Majeure Event (to be confirmed in a written notice to the State within one (1) day of the inception of the delay) that a Force Majeure Event has occurred and will describe in reasonable detail the nature of the Force Majeure Event. If any Force Majeure Event results in a delay in Contractor's performance longer than forty-eight (48) hours, the State may, upon notice to Contractor: (a) cease payment of the fees for the affected obligations until Contractor resumes performance of the affected obligations; or (b) immediately terminate this Contract or any purchase order, in whole or in part, without further payment except for fees then due and payable. Contractor will not increase its charges under this Contract or charge the State any fees other than those provided for in this Contract as the result of a Force Majeure Event.

- D.25. State and Federal Compliance. The Contractor shall comply with all State and federal laws and regulations applicable to Contractor in the Contractor's performance of this Contract.
- D.26. Governing Law. This Contract shall be governed by and construed in accordance with the laws of the State of Tennessee, without regard to its conflict or choice of law rules. The Tennessee Claims Commission or the state or federal courts in Tennessee shall be the venue for all claims, disputes, or disagreements arising under this Contract. The Contractor acknowledges and agrees that any rights, claims, or remedies against the State of Tennessee or its employees arising under this Contract shall be subject to and limited to those rights and remedies available under Tenn. Code Ann. §§ 9-8-101 - 408.
- D.27. Entire Agreement. This Contract is complete and contains the entire understanding between the Parties relating to its subject matter, including all the terms and conditions of the Parties' agreement. This Contract supersedes any and all prior understandings, representations, negotiations, and agreements between the Parties, whether written or oral.
- D.28. Severability. If any terms and conditions of this Contract are held to be invalid or unenforceable as a matter of law, the other terms and conditions of this Contract shall not be affected and shall remain in full force and effect. The terms and conditions of this Contract are severable.
- D.29. Headings. Section headings of this Contract are for reference purposes only and shall not be construed as part of this Contract.
- D.30. Incorporation of Additional Documents. Each of the following documents is included as a part of this Contract by reference. In the event of a discrepancy or ambiguity regarding the Contractor's duties, responsibilities, and performance under this Contract, these items shall govern in order of precedence below:
- a. any amendment to this Contract, with the latter in time controlling over any earlier amendments;
 - b. this Contract with any attachments or exhibits (excluding the items listed at subsections (c) through (f) below), which includes attachments A, B, and C.
 - c. any clarifications of or addenda to the Contractor's proposal seeking this Contract;
 - d. the State solicitation, as may be amended, requesting responses in competition for this Contract;
 - e. any technical specifications provided to proposers during the procurement process to award this Contract; and
 - f. the Contractor's response seeking this Contract.
- D.31. Iran Divestment Act. The requirements of Tenn. Code Ann. § 12-12-101, *et seq.*, addressing contracting with persons as defined at Tenn. Code Ann. §12-12-103(5) that engage in investment activities in Iran, shall be a material provision of this Contract. The Contractor certifies, under penalty of perjury, that to the best of its knowledge and belief that it is not on the list created pursuant to Tenn. Code Ann. § 12-12-106.

D.32. Insurance. Contractor shall maintain insurance coverage as specified in this Section. The State reserves the right to amend or require additional insurance coverage, coverage amounts, and endorsements required under this Contract. Contractor's failure to maintain or submit evidence of insurance coverage, as required, is a material breach of this Contract. If Contractor loses insurance coverage, fails to renew coverage, or for any reason becomes uninsured during the Term, Contractor shall immediately notify the State. All insurance companies providing coverage must be: (a) acceptable to the State; (b) authorized by the Tennessee Department of Commerce and Insurance ("TDCI"); and (c) rated A- / VII or better by A.M. Best. All coverage must be on a primary basis and noncontributory with any other insurance or self-insurance carried by the State. Contractor agrees to name the State as an additional insured on any insurance policy with the exception of workers' compensation (employer liability) and professional liability (errors and omissions) insurance. All policies must contain an endorsement for a waiver of subrogation in favor of the State. Any deductible or self-insured retention ("SIR") over fifty thousand dollars (\$50,000) must be approved by the State. The deductible or SIR and any premiums are the Contractor's sole responsibility. The Contractor agrees that the insurance requirements specified in this Section do not reduce any liability the Contractor has assumed under this Contract including any indemnification or hold harmless requirements.

To achieve the required coverage amounts, a combination of an otherwise deficient specific policy and an umbrella policy with an aggregate meeting or exceeding the required coverage amounts is acceptable. For example: If the required policy limit under this Contract is for two million dollars (\$2,000,000) in coverage, acceptable coverage would include a specific policy covering one million dollars (\$1,000,000) combined with an umbrella policy for an additional one million dollars (\$1,000,000). If the deficient underlying policy is for a coverage area without aggregate limits (generally Automobile Liability and Employers' Liability Accident), Contractor shall provide a copy of the umbrella insurance policy documents to ensure that no aggregate limit applies to the umbrella policy for that coverage area. In the event that an umbrella policy is being provided to achieve any required coverage amounts, the umbrella policy shall be accompanied by an endorsement at least as broad as the Insurance Services Office, Inc. (also known as "ISO") "Noncontributory—Other Insurance Condition" endorsement or shall be written on a policy form that addresses both the primary and noncontributory basis of the umbrella policy if the State is otherwise named as an additional insured.

Contractor shall provide the State a certificate of insurance ("COI") evidencing the coverages and amounts specified in this Section. The COI must be on a form approved by the TDCI (standard ACORD form preferred). The COI must list each insurer's National Association of Insurance Commissioners (NAIC) number and be signed by an authorized representative of the insurer. The COI must list the State of Tennessee – CPO Risk Manager, 312 Rosa L. Parks Ave., 3rd floor Central Procurement Office, Nashville, TN 37243 as the certificate holder. Contractor shall provide the COI ten (10) business days prior to the Effective Date and again thirty (30) calendar days before renewal or replacement of coverage. Contractor shall provide the State evidence that all subcontractors maintain the required insurance or that subcontractors are included under the Contractor's policy. At any time, the State may require Contractor to provide a valid COI. The Parties agree that failure to provide evidence of insurance coverage as required is a material breach of this Contract. If Contractor self-insures, then a COI will not be required to prove coverage. Instead Contractor shall provide a certificate of self-insurance or a letter, on Contractor's letterhead, detailing its coverage, policy amounts, and proof of funds to reasonably cover such expenses. The State reserves the right to require complete copies of all required insurance policies, including endorsements required by these specifications, at any time.

The State agrees that it shall give written notice to the Contractor as soon as practicable after the State becomes aware of any claim asserted or made against the State, but in no event later than thirty (30) calendar days after the State becomes aware of such claim. The failure of the State to give notice shall only relieve the Contractor of its obligations under this Section to the extent that the Contractor can demonstrate actual prejudice arising from the failure to give notice. This Section shall not grant the Contractor or its insurer, through its attorneys, the right to represent the State in any legal matter, as the right to represent the State is governed by Tenn. Code Ann. § 8-6-106.

The insurance obligations under this Contract shall be: (1)—all the insurance coverage and policy limits carried by the Contractor; or (2)—the minimum insurance coverage requirements and policy limits shown in this Contract; whichever is greater. Any insurance proceeds in excess of or broader than the minimum required coverage and minimum required policy limits, which are applicable to a given loss, shall be available to the State. No representation is made that the minimum insurance requirements of the Contract are sufficient to cover the obligations of the Contractor arising under this Contract. The Contractor shall obtain and maintain, at a minimum, the following insurance coverages and policy limits.

a. Commercial General Liability (“CGL”) Insurance

- 1) The Contractor shall maintain CGL, which shall be written on an ISO Form CG 00 01 occurrence form (or a substitute form providing equivalent coverage) and shall cover liability arising from property damage, premises and operations products and completed operations, bodily injury, personal and advertising injury, and liability assumed under an insured contract (including the tort liability of another assumed in a business contract).

The Contractor shall maintain single limits not less than one million dollars (\$1,000,000) per occurrence. If a general aggregate limit applies, either the general aggregate limit shall apply separately to this policy or location of occurrence or the general aggregate limit shall be twice the required occurrence limit.

b. Workers’ Compensation and Employer Liability Insurance

- 1) For Contractors statutorily required to carry workers’ compensation and employer liability insurance, the Contractor shall maintain:

- i. Workers’ compensation in an amount not less than one million dollars (\$1,000,000) including employer liability of one million dollars (\$1,000,000) per accident for bodily injury by accident, one million dollars (\$1,000,000) policy limit by disease, and one million dollars (\$1,000,000) per employee for bodily injury by disease.

- 2) If the Contractor certifies that it is exempt from the requirements of Tenn. Code Ann. §§ 50-6-101 – 103, then the Contractor shall furnish written proof of such exemption for one or more of the following reasons:

- i. The Contractor employs fewer than five (5) employees;
- ii. The Contractor is a sole proprietor;
- iii. The Contractor is in the construction business or trades with no employees;
- iv. The Contractor is in the coal mining industry with no employees;
- v. The Contractor is a state or local government; or
- vi. The Contractor self-insures its workers’ compensation and is in compliance with the TDCI rules and Tenn. Code Ann. § 50-6-405.

c. Automobile Liability Insurance

- 1) The Contractor shall maintain automobile liability insurance which shall cover liability arising out of any automobile (including owned, leased, hired, and non-owned automobiles).
- 2) The Contractor shall maintain bodily injury/property damage with a limit not less than one million dollars (\$1,000,000) per occurrence or combined single limit.

d. Technology Professional Liability (Errors & Omissions)/Cyber Liability Insurance

- 1) The Contractor shall maintain technology professional liability (errors & omissions)/cyber liability insurance appropriate to the Contractor's profession in an amount not less than ten million dollars (\$10,000,000) per occurrence or claim and ten million dollars (\$10,000,000) annual aggregate, covering all acts, claims, errors, omissions, negligence, infringement of intellectual property (including copyright, patent and trade secret); network security and privacy risks, including but not limited to unauthorized access, failure of security, information theft, damage to destruction of or alteration of electronic information, breach of privacy perils, wrongful disclosure and release of private information, collection, or other negligence in the handling of confidential information, and including coverage for related regulatory fines, defenses, and penalties.
- 2) Such coverage shall include data breach response expenses, in an amount not less than ten million dollars (\$10,000,000) and payable whether incurred by the State or Contractor, including but not limited to consumer notification, whether or not required by law, computer forensic investigations, public relations and crisis management firm fees, credit file or identity monitoring or remediation services and expenses in the performance of services for the State or on behalf of the State hereunder.

- D.33. Major Procurement Contract Sales and Use Tax. Pursuant to Tenn. Code Ann. § 4-39-102 and to the extent applicable, the Contractor and the Contractor's subcontractors shall remit sales and use taxes on the sales of goods or services that are made by the Contractor or the Contractor's subcontractors and that are subject to tax.
- D.34. Confidentiality of Records. Strict standards of confidentiality of records and information shall be maintained in accordance with applicable state and federal law. All material and information, regardless of form, medium or method of communication, provided to the Contractor by the State or acquired by the Contractor on behalf of the State that is regarded as confidential under state or federal law shall be regarded as "Confidential Information." Nothing in this Section shall permit Contractor to disclose any Confidential Information, regardless of whether it has been disclosed or made available to the Contractor due to intentional or negligent actions or inactions of agents of the State or third parties. Confidential Information shall not be disclosed except as required or permitted under state or federal law. Contractor shall take all necessary steps to safeguard the confidentiality of such material or information in conformance with applicable state and federal law.

The obligations set forth in this Section shall survive the termination of this Contract.

- D.35. Boycott of Israel. The Contractor certifies that it is not currently engaged in, and covenants that it will not, for the duration of the Contract, engage in a Boycott of Israel, as that term is defined in Tenn. Code Ann. § 12-4-119.
- D.36. Prohibited Contract Terms. The prohibited contract terms and conditions enumerated in Tenn. Code Ann. § 12-3-515, shall be a material provision of this Contract. The Contractor acknowledges, understands, and agrees that the inclusion of a term or condition prohibited by Tenn. Code Ann. § 12-3-515, shall be null and void and the Contract shall be enforceable as if the Contract did not contain such term or condition.

E. SPECIAL TERMS AND CONDITIONS:

- E.1. Conflicting Terms and Conditions. Should any of these special terms and conditions conflict with any other terms and conditions of this Contract, the special terms and conditions shall be subordinate to the Contract's other terms and conditions.
- E.2. Contractor Commitment to Diversity. The Contractor shall comply with and make reasonable business efforts to exceed the commitment to diversity represented by the Contractor's Response to RFP # 33006-20824 and resulting in this Contract.

The Contractor shall assist the State in monitoring the Contractor's performance of this commitment by providing, as requested, a monthly report of participation in the performance of this Contract by small business enterprises and businesses owned by minorities, women, service-disabled veterans, and persons with disabilities. Such reports shall be provided to the State of Tennessee Governor's Office of Diversity Business Enterprise in the TN Diversity Software available online at:

<https://tn.diversitysoftware.com/FrontEnd/StartCertification.asp?TN=tn&XID=9810>.

- E.3. State Ownership of Goods. The State shall have ownership, right, title, and interest in all goods provided by Contractor under this Contract including full rights to use the goods and transfer title in the goods to any third parties.
- E.4. Intellectual Property Indemnity. The Contractor agrees to indemnify and hold harmless the State of Tennessee as well as its officers, agents, and employees from and against any and all claims or suits which may be brought against the State concerning or arising out of any claim of an alleged patent, copyright, trade secret or other intellectual property infringement. In any such claim or action brought against the State, the Contractor shall satisfy and indemnify the State for the amount of any settlement or final judgment, and the Contractor shall be responsible for all legal or other fees or expenses incurred by the State arising from any such claim. The State shall give the Contractor notice of any such claim or suit, however, the failure of the State to give such notice shall only relieve Contractor of its obligations under this Section to the extent Contractor can demonstrate actual prejudice arising from the State's failure to give notice. This Section shall not grant the Contractor, through its attorneys, the right to represent the State of Tennessee in any legal matter, as provided in Tenn. Code Ann. § 8-6-106.

In addition to the above indemnity, if the State's use of any deliverable, or any portion thereof, provided under this Contract, is or is likely to be enjoined by order of a court of competent jurisdiction as such an infringement or unauthorized use, the Contractor, at its expense, shall: (x) procure for the State the continued use of such deliverable; (y) replace such deliverable with a non-infringing counterpart; or (z) modify such deliverable so it becomes non-infringing; provided that, if (y) or (z) is the option chosen by the Contractor, the replacement or modified deliverable must be capable of performing substantially the same function. Notwithstanding the foregoing, the State retains the right to terminate the Contract in accordance with Section D.6 hereunder in the event of such infringement or unauthorized use, and any such exercise of these allowable options by Contractor shall not relieve Contractor of its indemnity obligations under this Section.

The forgoing indemnity does not apply to the extent that the infringement arises from the State's: (i) use of the deliverable not in accordance with instructions, documentations, or specifications ("Misuse"); (ii) alteration, modification or revision of the Deliverables not expressly authorized by the Contractor ("Alteration"); (iii) failure to use or implement corrections or enhancements to the Deliverables made available by the Contractor to the State at no additional cost to the State, except where such failure to use or implement corrections or enhancements is a result of State's termination in accordance with the preceding paragraph; or (iv) combination of the Deliverables with materials not provided, specified, or approved by the Contractor.

- E.5. Extraneous Terms and Conditions. The Contractor shall fill all orders submitted by the State under this Contract. No purchase order, invoice, or other documents associated with any sales, orders, or supply of any good or service under this Contract shall contain any terms or conditions other than as set forth in the Contract. Any such extraneous terms and conditions shall be void, invalid and unenforceable against the State. Any refusal by the Contractor to supply any goods or services under this Contract conditioned upon the State submitting to any extraneous terms and conditions shall be a material breach of the Contract and constitute an act of bad faith by the Contractor.
- E.6. Prohibited Advertising or Marketing. The Contractor shall not suggest or imply in advertising or marketing materials that Contractor's goods or services are endorsed by the State. The restrictions on Contractor advertising or marketing materials under this Section shall survive the termination of this Contract.
- E.7. Information Technology Security Requirements (State Data, Audit, and Other Requirements).

- a. The Contractor shall protect State Data as follows:
- (1) The Contractor shall ensure that all State Data is housed in the continental United States, inclusive of backup data. All State data must remain in the United States, regardless of whether the data is processed, stored, in-transit, or at rest. Access to State data shall be limited to US-based (onshore) resources only.

All system and application administration must be performed in the continental United States. Configuration or development of software and code is permitted outside of the United States. However, software applications designed, developed, manufactured, or supplied by persons owned or controlled by, or subject to the jurisdiction or direction of, a foreign adversary, which the U.S. Secretary of Commerce acting pursuant to 15 CFR 7 has defined to include the People's Republic of China, among others are prohibited. Any testing of code outside of the United States must use fake data. A copy of production data may not be transmitted or used outside the United States.

- b. Minimum Requirements:

- (1) The Contractor and all data centers used by the Contractor to host State data, including those of all Subcontractors, must comply with the State's Enterprise Information Security Policies as amended periodically. The State's Enterprise Information Security Policies document is found at the following URL: <https://www.tn.gov/finance/strategic-technology-solutions/strategic-technology-solutions/sts-security-policies.html>.
- (2) The Contractor agrees to maintain the Application so that it will run on a current, manufacturer-supported Operating System. "Operating System" shall mean the software that supports a computer's basic functions, such as scheduling tasks, executing applications, and controlling peripherals.
- (3) If the Application requires middleware or database software, Contractor shall maintain middleware and database software versions that are always fully compatible with current versions of the Operating System and Application to ensure that security vulnerabilities are not introduced.
- (4) In the event of drive/media failure, if the drive/media is replaced, it remains with the State and it is the State's responsibility to destroy the drive/media, or the Contractor shall provide written confirmation of the sanitization/destruction of data according to NIST 800-88.

- E.8. Comptroller Audit Requirements. When requested by the State or the Comptroller of the Treasury, the Contractor must provide the State or the Comptroller of the Treasury with a detailed written description of the Contractor's information technology control environment, including a description of general controls and application controls. The Contractor must also assist the State or the Comptroller of the Treasury with obtaining a detailed written description of the information technology control environment for any third or fourth parties, or Subcontractors, used by the Contractor to process State data and/or provide services under this Contract.

Contractor will maintain and cause its Subcontractors to maintain a complete audit trail of all transactions and activities in connection with this Contract, including all information technology logging and scanning conducted within the Contractor's and Subcontractor's information technology control environment. Upon reasonable notice and at any reasonable time, the Contractor grants the State or the Comptroller of the Treasury with the right to audit the Contractor's information technology control environment, including general controls and application controls. The audit may include testing the general and application controls within the Contractor's information technology control environment and may also include testing general and application controls for any third or fourth parties, or Subcontractors, used by the Contractor

to process State data and/or provide services under this Contract. The audit may include the Contractor's and Subcontractor's compliance with the State's Enterprise Information Security Policy and all applicable requirements, laws, regulations, or policies.

Upon reasonable notice and at any reasonable time, the Contractor and Subcontractor(s) agree to allow the State, the Comptroller of the Treasury, or their duly appointed representatives to perform information technology control audits of the Contractor and all Subcontractors used by the Contractor. Contractor will provide to the State, the Comptroller of the Treasury, or their duly appointed representatives access to Contractor and Subcontractor(s) personnel for the purpose of performing the information technology control audit. The audit may include interviews with technical and management personnel, physical or virtual inspection of controls, and review of paper or electronic documentation.

The Contractor must have a process for correcting control deficiencies that were identified in the State's or Comptroller of the Treasury's information technology audit. For any audit issues identified, the Contractor and Subcontractor(s) shall submit a corrective action plan to the State or the Comptroller of the Treasury which addresses the actions taken, or to be taken, and the anticipated completion date in response to each of the audit issues and related recommendations of the State or the Comptroller of the Treasury. The corrective action plan shall be provided to the State or the Comptroller of the Treasury upon request from the State or Comptroller of the Treasury and within 30 days from the issuance of the audit report or communication of the audit issues and recommendations. Upon request from the State or Comptroller of the Treasury, the Contractor and Subcontractor(s) shall provide documentation and evidence that the audit issues were corrected.

Each party shall bear its own expenses incurred while conducting the information technology controls audit.

- E.9. Personally Identifiable Information. While performing its obligations under this Contract, Contractor may have access to Personally Identifiable Information held by the State ("PII"). For the purposes of this Contract, "PII" includes "Nonpublic Personal Information" as that term is defined in Title V of the Gramm-Leach-Bliley Act of 1999 or any successor federal statute, and the rules and regulations thereunder, all as may be amended or supplemented from time to time ("GLBA") and personally identifiable information and other data protected under any other applicable laws, rule or regulation of any jurisdiction relating to disclosure or use of personal information ("Privacy Laws"). Contractor agrees it shall not do or omit to do anything which would cause the State to be in breach of any Privacy Laws. Contractor shall, and shall cause its employees, agents and representatives to: (i) keep PII confidential and may use and disclose PII only as necessary to carry out those specific aspects of the purpose for which the PII was disclosed to Contractor and in accordance with this Contract, GLBA and Privacy Laws; and (ii) implement and maintain appropriate technical and organizational measures regarding information security to: (A) ensure the security and confidentiality of PII; (B) protect against any threats or hazards to the security or integrity of PII; and (C) prevent unauthorized access to or use of PII. Contractor shall immediately notify State: (1) of any disclosure or use of any PII by Contractor or any of its employees, agents and representatives in breach of this Contract; and (2) of any disclosure of any PII to Contractor or its employees, agents and representatives where the purpose of such disclosure is not known to Contractor or its employees, agents and representatives. The State reserves the right to review Contractor's policies and procedures used to maintain the security and confidentiality of PII and Contractor shall, and cause its employees, agents and representatives to, comply with all reasonable requests or directions from the State to enable the State to verify or ensure that Contractor is in full compliance with its obligations under this Contract in relation to PII. Upon termination or expiration of the Contract or at the State's direction at any time in its sole discretion, whichever is earlier, Contractor shall immediately return to the State any and all PII which it has received under this Contract and shall destroy all records of such PII.

The Contractor shall report to the State any instances of unauthorized access to or potential disclosure of PII in the custody or control of Contractor ("Unauthorized Disclosure") that come to the Contractor's attention. Any such report shall be made by the Contractor within twenty-four

(24) hours after the Unauthorized Disclosure has come to the attention of the Contractor. Contractor shall take all necessary measures to halt any further Unauthorized Disclosures. The Contractor, at the sole discretion of the State, shall provide no cost credit monitoring services for individuals whose PII was affected by the Unauthorized Disclosure. The Contractor shall bear the cost of notification to all individuals affected by the Unauthorized Disclosure, including individual letters and public notice. The remedies set forth in this Section are not exclusive and are in addition to any claims or remedies available to this State under this Contract or otherwise available at law. The obligations set forth in this Section shall survive the termination of this Contract.

- E.10. Americans with Disabilities Act. The Contractor must comply with the Americans with Disabilities Act (ADA) of 1990, as amended, including implementing regulations codified at 28 CFR Part 35 "Nondiscrimination on the Basis of Disability in State and Local Government Services" and at 28 CFR Part 36 "Nondiscrimination on the Basis of Disability in Public Accommodations and Commercial Facilities," and any other laws or regulations governing the provision of services to persons with a disability, as applicable. For more information, please visit the ADA website: <http://www.ada.gov>.
- E.11. Partial Takeover of Contract. The State may, at its convenience and without cause, exercise a partial takeover of any service that the Contractor is obligated to perform under this Contract, including any service which is the subject of a subcontract between Contractor and a third party (a "Partial Takeover"). A Partial Takeover of this Contract by the State shall not be deemed a breach of contract. The Contractor shall be given at least thirty (30) days prior written notice of a Partial Takeover. The notice shall specify the areas of service the State will assume and the date the State will be assuming. The State's exercise of a Partial Takeover shall not alter the Contractor's other duties and responsibilities under this Contract. The State reserves the right to withhold from the Contractor any amounts the Contractor would have been paid but for the State's exercise of a Partial Takeover. The amounts shall be withheld effective as of the date the State exercises its right to a Partial Takeover. The State's exercise of its right to a Partial Takeover of this Contract shall not entitle the Contractor to any actual, general, special, incidental, consequential, or any other damages irrespective of any description or amount.
- E.12. Survival. The terms, provisions, representations, and warranties contained in this Contract which by their sense and context are intended to survive the performance and termination of this Contract, shall so survive the completion of performance and termination of this Contract.

IN WITNESS WHEREOF,

CONTRACTOR LEGAL ENTITY NAME:

CONTRACTOR SIGNATURE

DATE

PRINTED NAME AND TITLE OF CONTRACTOR SIGNATORY (above)

STATE OF TENNESSEE, DEPARTMENT OF ECONOMIC AND COMMUNITY DEVELOPMENT:

STUART C. MCWHORTER, COMMISSIONER

DATE

STATEMENT OF WORK [###]

Contract #: [###]
Date: [DATE]

Full Scope of Project Requirements and Project Schedule
[Description of State's Project Needs, Expectations, and Deadlines]

The Contractor shall remit proposed Task Orders to the following representatives of TNECD:

Names, Titles, and Email Addresses

The Contractor shall not perform any work until a signed Task Order has been received from the State.

Signature

Printed Name & Title

Date

TASK ORDER [NUMBER]

This Task Order is made and entered into between the State of Tennessee Department of Economic and Community Development ("STATE") and **[CONTRACTOR NAME]** (the "Contractor"). The CONTRACTOR agrees to undertake the following work in accordance with the provisions of Contract #XXXX between the STATE and the CONTRACTOR dated **XX/XX/20XX**.

Scope of Work:

The CONTRACTOR shall **[Description of Task Order Scope of Work]**.

Tasks: **[Description of each Task numbered sequentially]**

Deliverable(s): **[Description of Deliverables]**

The CONTRACTOR shall utilize the following positions at the rates required under the Contract in its performance of the Scope of Work for this project:

Service Description	Service Price	Quantity (Maximum Number of Hours)	Total Service Price Per Line
[Position]			
[Position]			
[Position]			

Time of Performance:

All tasks associated with the scope of work shall be completed by **XX/XX/20XX** assuming a start date of **XX/XX/20XX**. A project schedule is included in the project scope.

Compensation:

Payment to the CONTRACTOR shall be the not-to-exceed amount of \$ _____. Amount is based on the CONTRACTOR'S estimate of work hours by classification multiplied by the CONTRACTOR'S associated hourly Billing Rates as established in the Contract and summarized in Contract section C.3. The not-to-exceed amount represents maximum payment and will not be increased. All total budget proposals should be rounded to the nearest whole dollar.

The receipt of this Task Order signed by the STATE will constitute the CONTRACTOR'S Notice to Proceed. The CONTRACTOR is not to undertake any extra work outside the scope of this Task Order, unless amended in writing.

IN WITNESS WHEREOF,

CONTRACTOR NAME:

PRINTED NAME AND TITLE OF CONTRACTOR SIGNATORY **DATE**

STATE OF TENNESSEE, DEPARTMENT OF ECONOMIC AND COMMUNITY DEVELOPMENT:

PRINTED NAME AND TITLE OF AGENCY SIGNATORY **DATE**

ATTESTATION RE PERSONNEL USED IN CONTRACT PERFORMANCE	
SUBJECT CONTRACT NUMBER:	
CONTRACTOR LEGAL ENTITY NAME:	
EDISON VENDOR IDENTIFICATION NUMBER:	

The Contractor, identified above, does hereby attest, certify, warrant, and assure that the Contractor shall not knowingly utilize the services of an illegal immigrant in the performance of this Contract and shall not knowingly utilize the services of any subcontractor who will utilize the services of an illegal immigrant in the performance of this Contract.

CONTRACTOR SIGNATURE

NOTICE: This attestation MUST be signed by an individual empowered to contractually bind the Contractor. Attach evidence documenting the individual's authority to contractually bind the Contractor unless the signatory is the Contractor's chief executive or president.

PRINTED NAME AND TITLE OF SIGNATORY

DATE OF ATTESTATION