

REQUEST FOR PROPOSALS
SBC PROJECT NO.: 100/001-01-2020
AMENDMENT # Two
FOR Natchez Trace Survey

DATE: 10/1/2020

RFP SBC Project No.: 100/001-01-2020 IS AMENDED AS FOLLOWS:

- 1. This RFP Schedule of Events updates and confirms scheduled RFP dates. Any event, time, or date containing revised or new text is highlighted.**

EVENT	TIME (Central Time)	DATE	UPDATED / CONFIRMED
1 RFP Issued		September 10, 2019	CONFIRMED
2 Disability Accommodation Request Deadline		September 14, 2020	CONFIRMED
3 Notice of Intent to Respond Deadline		September 15, 2020	CONFIRMED
4 Deadline to Submit Written "Questions & Comments."	2:00 p.m.	September 22, 2020	CONFIRMED
5 State Response to Written "Questions & Comments."		October 1, 2020	UPDATED
6 Technical Response Deadline	2:00 p.m.	October 8, 2020	UPDATED
7 State Completion of Technical Response Evaluations and Notification Released Listing Respondents who qualify and are invited to submit a Cost Proposal Response (RFP Attachment 6.3.). Email Delivery Instructions will be sent to the qualified Respondents.		October 16, 2020	UPDATED
8 Cost Proposal Response Deadline (via email submittal)		October 29, 2020	UPDATED
9 State Notice of Intent to Award Released <u>and</u> RFP Files Opened for Public Inspection		October 29, 2020	UPDATED
10 State Building Commission ("SBC") Approval Sought		November 12, 2020	CONFIRMED
11 State sends contract to Respondent for signature		November 12, 2020	CONFIRMED
12 Respondent Signature Deadline		November 30, 2020	CONFIRMED

- 2. State responses to questions and comments in the table below amend and clarify this RFP.**

Any restatement of RFP text in the Question/Comment column shall NOT be construed as a change in the actual wording of the RFP document.

QUESTION / COMMENT	STATE RESPONSE
<p>1. Are we to assume the other sections of the boundary around the Natchez Trace Forest have been recently surveyed and verified, and if this is the case is this where the 20% assumed re-monumentation is derived? Can we have access to prior surveys, maps, deeds, etc. prior to the cost proposal phase? This will affect strategic planning and ultimately the cost.</p>	<p>The “western” portions of the boundary were re-surveyed in 2013. A copy of the existing deed, deed tracts and previously surveyed boundary limits, that the State has on file for the forest are made available via a reference materials links on our website: https://www.tn.gov/generalservices/real-estate-/redirect-stream/contractors/requests-for-proposal-rfps-.html</p> <p>However, it is the bidder’s responsibility to perform any associated research that might affect the resurvey of the boundary. Any provided information does not represent a complete property history or title search.</p>
<p>2. Do you have coordinates for the monuments?</p>	<p>Yes, approximate GPS coordinates of the corners (monuments) are available. Existing boundary data is housed in GIS and the files can be downloaded at the reference material link above. Google Earth KMZ files are also available. These are for informational purposes only and do not necessarily represent actual locations.</p>
<p>3. Is there a desired schedule or time limit for the completion of this project? RFP alludes to due date, but is not mentioned in Pro-Forma.</p>	<p>Please refer to Section A.1. of the <i>Pro Forma</i> Contract included as RFP Attachment 6.6.</p>
<p>4. Outside of re-establishing any missing monumentation and marking the boundary line every 250’, what if any are the final deliverables required for this project? A deliverable is referenced in the RFP but the Pro-Forma does not specify any.</p>	<p>Please refer to Section A.1. of the <i>Pro Forma</i> Contract included as RFP Attachment 6.6.</p>
<p>5. The RFP mentions that we need to plan on 20% replacement of monuments. Are we to assume that we will be reimbursed any time and materials over 20%?</p>	<p>Any missing or obliterated monuments that need to be replaced above 20% will be reimbursed for materials only. Monument replacement time would be occurring at the same time as the marking of the boundary.</p>
<p>6. It is stated that stamping needs to be put on the caps, please confirm what needs to be included on each cap.</p>	<p>Monument stamping data will include agency name, center coordinate point, point number, and bearing line direction to adjacent state property corners.</p>
<p>7. To what minimum technical standards are we going to be required to adhere?</p>	<p>The winning contractor must meet the requirements of a Category III survey and comply with the Standards of Practice Rules promulgated by the TENNESSEE STATE BOARD OF EXAMINERS FOR</p>

QUESTION / COMMENT	STATE RESPONSE
	<p>LAND SURVEYORS pursuant to T.C.A. § 62-18-106(c), available at:</p> <p>https://publications.tnsosfiles.com/rules/0820/0820-03.20180411.pdf</p>
<p>8. In the event boundary lines follow a natural feature, such as a creek where the use of boundary lines markers may not be practical, what is the expectation for denoting the line? Offset, blazing?</p>	<p>In the event that boundary line markers cannot be placed, trees on the state property side of the natural feature may be blazed.</p>
<p>9. Are there any previous surveys or existing monumentation on out parcels North and South? If not, what are the expectations?</p>	<p>Limited information is available for the outparcels, which can be downloaded at the reference material link above.</p>
<p>10. Can we use ATV's to transport people, equipment, and supply's around on state lands?</p>	<p>The use of ATV's is limited to state property only. No new roads or trails may be constructed in the course of the survey unless authorized by Forestry. All applicable state and federal laws regarding the use of ATV's will need to be adhered to during the course of the survey.</p>
<p>11. In Section 6 we were wondering if there was going to be a cost breakdown of each carsonite marker to be used?</p>	<p>The cost of installing the carsonite markers should be included in the total cost proposed for each task.</p>
<p>12. Will there need to be a carsonite marker placed with each monument?</p>	<p>Yes.</p>
<p>13. In the Pass/Fail section of the RFP it states that we need to include a Cost Proposal. Elsewhere in the RFP, it states that we would be contacted at a later date to prepare a Cost Proposal and submit it by a different deadline.</p>	<p>The Cost Proposal is due at a later date (Phase Two), and only those that qualify will be invited to submit a Cost Proposal. The Pass/Fail in the mandatory section is to make sure there are no costs in the technical response. The technical and cost proposals MUST be separated.</p>
<p>14. Is the 120 days, working days (Mon. – Fri.), or calendar days?</p>	<p>Calendar days. Refer to item #3 below with the revision from 120 to 150 days.</p>
<p>15. Is the 120 day for each tack or for all 5 combined?</p>	<p>Please refer to Section A .1. of the <i>Pro Forma</i> Contract included as RFP Attachment 6.6. The revision of 150 days on the <i>Pro Forma</i> Contract is the number of days for completion of all tasks. Refer to item #3 below.</p>
<p>16. Is there an allowance for weather events?</p>	<p>Yes, if notice is provided in accordance with Section D.16 of the <i>Pro Forma</i> Contract included as RFP Attachment 6.6.</p>

QUESTION / COMMENT	STATE RESPONSE
17. What is the anticipated start date?	It is anticipated that the notice to proceed will be issued 10-30 days after contract execution.
18. Will there be any work restrictions imposed by TWRA during the Deer or Turkey Seasons?	No.

3. Please delete RFP Attachment 6.6., *Pro Forma* Contract in its entirety and replace with the attached. Changes are highlighted in yellow.

**CONTRACT
 BETWEEN THE STATE OF TENNESSEE,
 DEPARTMENT OF GENERAL SERVICES
 FOR
 DEPARTMENT OF AGRICULTURE
 AND
 CONTRACTOR NAME
 TO
 SBC PROJECT NUMBER 100/001-01-2020**

This Contract, by and between the State of Tennessee, Department of General Services for Department of Agriculture, hereinafter referred to as the "State" and **Contractor Legal Entity Name**, hereinafter referred to as the "Contractor," is for the provision of Natchez Trace Survey, as further defined in the "SCOPE OF SERVICES."

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 OF SERVICES:

A.1 The Contractor shall provide all service and deliverables as required, described, and detailed herein (each a "Task") and shall meet all service and delivery timelines as specified by the Contract. For each of Tasks 1-5 below, Contractor shall complete a Tennessee Category III survey including the following increments for service, at which time the Contractor shall be permitted to invoice the State at the percentages listed for said increment of service plus the cost of any installed pre-cast concrete monuments:

Increment 1: Perform field measurements and

- (i) install new corner pre-cast concrete monuments (equal to Berntsen 4"x4"x30" with 2.5 Diam. Bronze domed marker) where missing. Old marker debris shall be removed and delivered to the State; and
- (ii) install new fiberglass markers (equal to Berntsen 72" dual-sided with decals) every 250'. At completion of increment 1, Contractor may invoice the State for 65% of the Lump Sum for the Task, plus the cost of all pre-cast concrete monuments installed at the amount listed in Section C.3. Increment 1 must be completed for each of Tasks One through Five within **150 calendar** days after receipt of a Notice to Proceed from the State.

Increment 2: Provide State with one labelled compact disk in a durable container containing a narrative legal description as a Microsoft Word document file and GIS files for the survey in .DXF format in the Projected Coordinate System – State Plane- NAD_1983_StatePlane_Tennessee_FIPS_4100_Feet. At completion of Increment 2, Contractor may invoice the State for 25% of the Lump Sum for each Task. Increment 2 must be completed for each of Tasks One through Five within **180 calendar days** after receipt of a Notice to Proceed from the State.

Increment 3: Within **15 calendar days** of receipt, incorporate all revisions requested by the State regarding the deliverables for Increment 2 and provide to the State one parcel plat on mylar, 24 inch x 36 inch; four blue-line or blackline paper copies, 24 inch x 36 inch; and two digital copies in labeled compact disks in durable containers that will contain the narrative legal description as a Microsoft Work document file and survey drawing in .DXF and .PDF formats. At the completion of Increment 3, Contractor may invoice the State for the remaining 10% of the Lump Sum for the Task.

Task One: Lump Sum \$ _____
 North Tract of 27.5 miles.

Task Two: Lump Sum \$ _____
 South Tract 1 of 14.6 miles.

Task Three: Lump Sum \$ _____
 South Tract 2 of 4.16 miles.

Task Four:
Outparcel North Tract of 3.4 miles.

Lump Sum \$ _____

Task Five:
Outparcel South Tract of 1.8 miles.

Lump Sum \$ _____

B. CONTRACT PERIOD:

B.1 Contract Period. This Contract shall be effective for the period commencing on the date of full and complete execution of this Contract and ending after completion of all Tasks as described in Section A, subject to earlier termination or extension pursuant to the terms of this Contract. The Contractor hereby acknowledges and affirms that the State shall have no obligation for services rendered by the Contractor which were not performed within this specified contract period.

B.2 Term Extension. The Owner reserves the right to extend this Contract for a total Contract term of no more than five years, provided that such an extension the Contract term is effected prior to the current Contract expiration date by means of a Contract Amendment. If a term extension necessitates additional funding beyond that which was included in the original Contract, an increase of the State's maximum liability will also be effected through Contract Amendment, and shall be based upon payment rates provided in the original Contract.

B.3 In Process Work Term Extension. The Contract shall be automatically extended for a period beginning at the end of the final term for the purpose of completing all work activities associated with any Tasks during the term of this Contract.

C. PAYMENT TERMS AND CONDITIONS:

C.1 Maximum Liability. In no event shall the maximum liability of the State under this Contract exceed **To Be Determined Via Cost Proposal**. The payment rates in Section C.3 shall constitute the entire compensation due the Contractor for all service and Contractor obligations hereunder regardless of the difficulty, hours worked, materials or equipment required. The Contract Amount includes, but is not limited to, all applicable taxes, fees, overheads, and all other direct and indirect costs incurred or to be incurred by the Contractor.

The Contractor is not entitled to be paid the maximum liability for any period under the Contract or any extensions of the Contract for work not requested by the State. The maximum liability represents available funds for payment to the Contractor and does not guarantee payment of any such funds to the Contractor under this Contract unless the State requests work and the Contractor performs said work. In which case, the Contractor shall be paid in accordance with Section C.3. 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.

C.2 Compensation Firm. The payment rates and the maximum liability of the State under this Contract are firm for the duration of the Contract and are not subject to escalation for any reason unless amended.

C.3 Payment Methodology. The Contractor shall be compensated based on the payment rates herein for units of service authorized by the State in a total amount not to exceed the Contract Maximum Liability established in Section C.1.

- a. The Contractor's compensation shall be contingent upon the satisfactory completion of units, milestones, increments of service, or other authorized work, as defined in Section A.
- b. New corner pre-cast concrete monuments (equal to Berntsen 4"x4"x30" with 2.5 Diam. Bronze domed marker) shall be invoiced at a rate of \$_____ per monument.

C.4 Travel Compensation. All travel shall be included in the lump sum amounts in Section A.

C.5 Invoice Requirements. The Contractor shall invoice the State only for completed increments of service and for the amount stipulated in section C.3, above, and present said invoices no more often than monthly, with all necessary supporting documentation, to:

Original: Project Coordinator
Department of General Services
312 Rosa L. Parks Avenue, 24th Floor
Nashville, Tennessee 37243

- a. Each invoice shall clearly and accurately detail all of the following required information

(calculations must be extended and totaled correctly).

- (1) Invoice Number (assigned by the contractor);
- (2) Invoice Date;
- (3) Contract Number SBC Project No. 100/001-01-2020
- (4) Customer Account Name: Department of General Services, Real Estate Asset Management;
- (5) Customer Account Number (assigned by the Contractor to the above-referenced State Agency);
- (6) Contractor Name;
- (7) Contractor Federal Employer Identification, Social Security, or Tennessee Edison Registration ID Number Referenced in Preamble of this Contract;
- (8) Contractor Contact for Invoice Questions (name, phone, and/or fax);
- (9) Contractor Remittance Address;
- (10) Description of Delivered Service;
- (11) Total Amount Due for delivered service (as stipulated in Section C.3. above);

- b. The Contractor understands and agrees that an invoice under this Contract shall:

- (1) include only charges for service described in Contract Section A and in accordance with payment terms and conditions set forth in Contract Section C;
- (2) only be submitted for completed service and shall not include any charge for future work;
- (3) not include sales tax or shipping charges; and
- (4) initiate the timeframe for payment (and any discounts) only when the State is in receipt of the invoice, and the invoice 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 matter in relation thereto. A payment by the State shall not be construed as acceptance of any part of the work or service 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 theretofore made which are determined by the State, on the basis of audits conducted in accordance with the terms of the Contract, not to constitute proper remuneration for compensable services.

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, which 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 documentation properly completed.

- a. The Contractor shall complete, sign, and present to the State an "Authorization Agreement for Supplier Direct Deposit Form". By doing so, the Contractor acknowledges and agrees that, once said form is received by the State, all payments to the Contractor, under this or any other contract the Contractor has with the State of Tennessee shall be made by Direct Deposit. This form can be found at <http://www.tn.gov/finance/article/fa-acccfin-swa>. Please follow the instructions at the top of the form regarding submission of the form.
- b. The Contractor shall complete, sign, and present to the State a "Taxpayer Identification Number and Certification Form". The taxpayer identification number detailed by said

form must agree with the Contractor's Federal Employer Identification Number or Tennessee Edison Registration ID referenced in this Contract. This form can be found at <https://www.irs.gov/pub/irs-pdf/fw9.pdf>. Please submit this form with the Authorization Agreement for Supplier Direct Deposit Form form as indicated at the top of the form regarding submission of the form.

D. STANDARD TERMS AND CONDITIONS:

- D.1 Required Approvals. The State is not bound by this Contract until it is signed by the contract parties and approved by the appropriate officials in accordance with applicable Tennessee laws and regulations (depending upon the specifics of this contract, said officials may include, but are not limited to the Commissioner of General Services, the Office of the State Architect, the Comptroller of the Treasury, and the Office of the Attorney General).
- D.2 Modification and Amendment. This Contract may be modified only by a written amendment signed by all parties hereto and approved by both the officials who approved the base contract and, depending upon the specifics of the contract as amended, any additional officials required by Tennessee laws and regulations (said officials may include, but are not limited to, the Commissioner of General Services, the Office of the State Architect, the Comptroller of the Treasury, and the Office of the Attorney General).
- D.3 Termination for Convenience. The State may terminate this Contract without cause for any reason. Said termination shall not be deemed a breach of contract by the State. The State shall give the Contractor at least thirty days written notice before the effective termination date. The Contractor shall be entitled to compensation for satisfactory, authorized service completed as of the termination date, but in no event shall the State be liable to the Contractor for compensation for any service which has not been rendered. Upon such termination, the Contractor shall have no right to any actual, general, special, incidental, consequential, or any other damages whatsoever of any description or amount. 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.4 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 fair compensation for completed services. 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.5 Assignment and Subcontracting. The Contractor shall not assign this Contract or enter into a subcontract for any of the services performed under this Contract without obtaining the prior written approval of the State. If such subcontracts are approved by the State, each shall contain, at a minimum, sections of this Contract pertaining to "Conflicts of Interest", "Nondiscrimination," and "Records" (as identified by the section headings). Notwithstanding any use of approved subcontractors, the Contractor shall be the prime contractor and shall be responsible for all work performed.
- D.6 Conflicts of Interest. The Contractor warrants that no part of the total Contract 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 contractor to the Contractor in connection with any work contemplated or performed relative to 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 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 months has been, an employee of the State of Tennessee.

The Contractor acknowledges, understands, and agrees that it and its performance under this Contract are subject to State Building Commission Policy and Procedure 12.02, "Organizational Conflicts of Interest," (the "SBC Conflict Policy"), and that Contractor has read and understands

all of the provisions and requirements of same.

- D.7 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, color, religion, sex, national origin, or any other classification protected by Federal, or Tennessee State constitutional or statutory law. The Contractor shall, upon request, show proof of such nondiscrimination and shall post in conspicuous places, available to all employees and applicants, notices of nondiscrimination.
- D.8 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, in writing, by submitting to the State a completed and signed copy of the document at Exhibit A, hereto, with each invoice, as described in C.5, during the period of this Contract. 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 not authorized to be employed in the U.S.; or (v) otherwise authorized to provide services under the Contract.
- D.9 Licensure. The Contractor and its employees and all sub-contractors shall be licensed pursuant to all applicable federal, state, and local laws, ordinances, rules, and regulations and shall upon request provide proof of all licenses.
- D.10 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 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.11 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.12 Progress Reports. The Contractor shall submit brief, periodic, progress reports to the State as

requested.

- D.13 Strict Performance. Failure by any party to this Contract to insist in any one or more cases upon 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 such 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 hereto.
- D.14 Independent Contractor. The parties hereto, in the performance of this Contract, shall not act as employees, partners, joint ventures, or associates of one another. It is expressly acknowledged by the parties hereto that such parties are independent contracting entities and that nothing in this Contract shall be construed to create an employer/employee relationship or to allow either 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 shall not be deemed or construed to be the employees or agents of the other party for any purpose whatsoever.
- D.15 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, money, 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.16 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, workaround 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 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. 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.17 State and Federal Compliance. The Contractor shall comply with all applicable State and Federal laws and regulations in the performance of this Contract.
- D.18 Governing Law. This Contract shall be governed by and construed in accordance with the laws of the State of Tennessee. 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 - 407.
- D.19 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.20 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 hereof shall not be affected thereby and shall remain in full force and effect. To this end, the terms and conditions of this Contract are declared severable.

D.21 Headings. Section headings of this Contract are for reference purposes only and shall not be construed as part of this Contract.

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, these special terms and conditions shall control.

E.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 with recipient confirmation. Any such communications, regardless of method of transmission, shall be addressed to the respective party at the appropriate mailing address or EMAIL address set forth below or to that of such party of address, as may be hereafter specified by written notice.

The State:
Deputy Commissioner of STREAM or designee
Department of General Services
312 Rosa L. Parks Avenue
William R. Snodgrass Tennessee Tower, 24th Floor
Nashville, Tennessee 37243

The Contractor:

Contractor Name & Title
Firm Name
Address
City, State Zip
Email Address
Telephone # Number
Mobile # Number

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

E.3 Subject to Funds Availability. The Contract is subject to the appropriation and availability of State and/or Federal funds. In the event that the funds are not appropriated or are otherwise unavailable, the State reserves the right to terminate the Contract upon written notice to the Contractor. Said termination shall not be deemed a breach of Contract by the State. Upon receipt of the written notice, the Contractor shall cease all work associated with the Contract. Should such an event occur, the Contractor shall be entitled to compensation for all satisfactory and authorized services completed as of the termination date. Upon such termination, the Contractor shall have no right to recover from the State any actual, general, special, incidental, consequential, or any other damages whatsoever of any description or amount.

E.4 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.

- E.5 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.
- E.6 Insurance. The Contractor shall carry adequate liability and other appropriate forms of insurance including without limitation, the coverages set forth in this Section E.6. Such insurance shall provide for policy limits equal or greater to the amounts set forth herein and shall list the State as additional insured.

A copy of the appropriate policy or a Certificate of Coverage fully listing all limits of liability shall verify all required insurance. Such insurance shall be maintained through the life of the Contract. Renewal policies or certificates of coverage must be forwarded to the State within thirty days upon issuance. Failure to maintain required insurance could be cause for cancellation of the Contract.

- a. **Workers Compensation and Employer’s Liability:**
 (without restriction as to whether covered by Workmen’s Compensation law):
 Workers Compensation: according to statute
 Employer’s Liability:
 Each Accident: \$100,000
 Disease – Policy Limit: \$500,000
 Disease – Each Employee: \$100,000
- b. **Commercial General Liability Insurance:**
 - 1. The Contractor shall maintain commercial general liability insurance, which shall be written on an Insurance Services Office, Inc. (also known as ISO) occurrence form (or a substitute form providing equivalent coverage) and shall cover liability arising from property damage, premises/operations, independent contractors, contractual liability, completed operations/products, personal and advertising injury, and liability assumed under an insured contract (including the tort liability of another assumed in a business contract).
 - 2. The Contractor shall maintain bodily injury/property damage with a combined single limit not less than \$1,000,000 per occurrence and \$2,000,000 aggregate for bodily injury and property damage, including products and completed operations coverage with an aggregate limit of at least \$2,000,000.
- c. **Business Automobile Liability:**

 Including owned, hired, and non-owned vehicles; or, if there are no owned vehicles, Contractor may provide written certification of such and provide coverage limited to hired and non-owned vehicles.

 Bodily injury and property damage combined single limits:
 Each Occurrence: \$1,000,000
- d. **Professional Liability Insurance:** Employed Licensed Surveyors Professional liability shall be covered with a limit of not less than:

 Each Claim: \$1,000,000
 Aggregate: \$2,000,000

(The remainder of this page left blank intentionally)

This instrument may be executed in one or more counterparts. It shall be fully executed when each party whose signature is required has signed at least one counterpart, even though no one counterpart contains the signatures of all parties to this instrument. Electronic, scanned or facsimile signatures shall have the same force and effect as original signatures.

IN WITNESS WHEREOF:

CONTRACTOR LEGAL ENTITY NAME:

Contractor Signatory, Contractor Title

DATE: _____

STATE OF TENNESSEE,

DEPARTMENT OF GENERAL SERVICES:

Christi W. Branscom, Commissioner

DATE: _____

OFFICE OF THE STATE ARCHITECT:

Ann McGauran, State Architect

DATE: _____

APPROVED AS TO COMPLIANCE WITH POLICY AND STATUTE:

Justin P. Wilson, Comptroller of the Treasury

DATE: _____

APPROVED AS TO COMPLIANCE WITH FORM AND LEGALITY:

Herbert H. Slatery III, Attorney General and Reporter

DATE: _____

ATTESTATION RE PERSONNEL USED IN CONTRACT PERFORMANCE

SUBJECT CONTRACT NUMBER:	100/001-01-2020
CONTRACTOR LEGAL ENTITY NAME:	
FEDERAL EMPLOYER IDENTIFICATION NUMBER: (or Social Security 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. If said individual is not the chief executive or president, this document shall attach evidence showing the individual's authority to contractually bind the Contractor.

PRINTED NAME AND TITLE OF SIGNATORY
