

**TENNESSEE DEPARTMENT OF TRANSPORTATION**

**CONTRACT NO. \_\_\_\_\_**

This agreement is made and executed between the State of Tennessee, Department of Transportation, hereinafter referred to as the "Department" and

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hereinafter referred to as the "Contractor."

**WITNESSETH**

The Department did advertise for, receive, and accept a proposal from the Contractor for work on the above identified contract.

In consideration of the agreements herein contained, to be performed by the parties hereto and of the payments hereafter agreed to be made, it is mutually agreed by both parties that:

1. The contract between the parties consists of the following "Contract Documents" all of which constitute one instrument. The Contract Documents are intended to be complementary and to describe and provide for a complete work. Requirements in one of these are as binding as if occurring in all of them. In case of discrepancy, the items shall govern in order of precedence below:
  - (a) This Contract form
  - (b) Contract Payment & Performance Bond(s)
  - (c) Supplemental Agreements
  - (d) Scope of Services, as amended if applicable
  - (e) Special Provisions
  - (f) Supplemental Specifications
  - (g) 221 Standard Specifications
  - (h) BAFO RFP, if any
  - (i) Request for Proposals, as amended if applicable
  - (j) Tennessee Department of Transportation Standard Drawings
  - (k) Contractor's Technical Response submitted in response to the Request for Proposals (or in response to the BAFO RFP if applicable)
  - (l) Contractor's Cost Proposal submitted in response to the Request for Proposals (or in response to the BAFO RFP if applicable)
  - (m) Starting Notice
  - (n) All material included by reference in any of the above documents

All of the provisions contained in the listed Contract Documents are incorporated herein by reference with the same force and effect as though set out in full.

2. The Contractor agrees to furnish all materials, equipment, machinery, tools and labor and to perform the work required to complete the work in a thorough and skillful manner, to the satisfaction of the appropriate official of the Department.

3. The Department agrees to pay the Contractor for the work as provided in the Contract Documents. In case of discrepancy, the items shall govern in order of precedence below:
  - (a) Request for Proposals (or BAFO RFP if applicable)
  - (b) Scope of Services, as amended if applicable
  - (c) Contractor's Cost Proposal submitted in response to the Request for Proposals (or in response to the BAFO RFP, if applicable)
  - (d) Special Provisions
  - (e) Supplemental Specifications
  - (f) 2021 Standard Specifications
4. The Contractor shall, at all times, observe and comply with all applicable federal, state and local laws, ordinances and regulations and shall indemnify and hold harmless the State of Tennessee and all of its officers, agents and servants against any claim of liability or assessment of fines or penalties arising from or based upon the Contractor's and/or its employees' violations of any such law ordinance or regulation. The Contractor shall maintain documentation for all charges against the State under this Contract. The books, records and documents of the Contractor insofar as they relate to the work performed or money received under this contract shall be maintained for a period of three (3) 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.
5. The Contractor shall be responsible for any and all injury or damage to persons or to property arising from the prosecution of the work and due to any act, omission, neglect or misconduct in its manner or method of prosecuting the work or due to its non-execution of the work or due to defective work or materials. The Contractor shall provide proof of adequate and appropriate general liability insurance providing liability coverage in an amount not less than \$1 million dollars per occurrence and \$300,000 per claimant, naming the State of Tennessee as an additional insured.
6. The Contractor shall indemnify and hold harmless the State, the Department and all of its officers, agents and employees from all suits, actions or claims of any character arising from the Contractor's acts or omissions in the prosecution of the work, use of unacceptable materials in constructing the work, infringement of patent, trade mark or copyright, or claims for Workers' Compensation. If any such suit, action or claim is filed, the Department may retain from the monies due to the Contractor under this Contract a sum deemed sufficient by the Department to protect the Department from loss therefrom. Upon resolution of the suit, action or claim, any remaining retained funds will be released.
7. Upon execution of this Contract, the Contractor shall be prepared to begin the work to be performed under the Contract. The Starting Notice will stipulate the date that the work shall begin. All other requirements in regard to the beginning of construction set forth in the Request for Proposal (or BAFO RFP if applicable), Scope of Services, and Special Provisions will apply from this date.

8. 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.
  
10. 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.

**IN WITNESS WHEREOF**, the parties hereto have caused this Contract to be signed and executed by their respective authorized agents or officials, and, by signing this Contract, the parties agree that the electronic signature provided is the legal equivalent of a manual signature.

\_\_\_\_\_  
Contractor

By: _____ Authorized Agent/Official	_____ Name
_____ Date	

**STATE OF TENNESSEE**  
**DEPARTMENT OF TRANSPORTATION**

Approved:

_____ Department Attorney
_____ Date

_____ Commissioner
_____ Date

This Contract is accepted on \_\_\_\_\_ and is effective on \_\_\_\_\_.

Once executed by the Commissioner, Regional Operations shall proceed with scheduling the Preconstruction Conference.

**CONTRACT PAYMENT AND PERFORMANCE BOND**

**CONTRACT NO.**\_\_\_\_\_

Be it known that \_\_\_\_\_, as

Principal, and \_\_\_\_\_, as

Surety(ies), all authorized to do business in the State of Tennessee, hereby bind themselves to the State of Tennessee, Department of Transportation, and other potential claimants, for all obligations incurred by the Principal under its contract with the State of Tennessee, Department of Transportation, for the construction of the above identified contract; in the full amount of \$\_\_\_\_\_ for a term beginning on **DATE** and ending on **DATE** (“Term”).

The obligations of the Principal and Surety(ies) under these payment and performance bonds shall continue in full force and effect until all materials, equipment and labor have been provided AND all requirements contained in the contract, plans and specifications have been completed in a timely, thorough and satisfactory manner, through the end of the Term. The parties agree that these bonds are statutory in nature and are governed by the provisions contained in Title 54, chapter 5 of the Tennessee Code Annotated relating to bonds required of contractors and that those provisions constitute a part of this bond. The Surety(ies) shall have no further obligation under these payment and performance bond for any obligations of the Principal outside the Term.

The Principal further agrees to provide additional such payment and performance bonds annually throughout the term of the Contract, as detailed in the Contract.

By this instrument, the Principal and Surety(ies) specifically bind themselves, their heirs, successors, and assigns, *in solido*, under the following bonds:

**Payment Bond.** To the Tennessee Department of Transportation and all “Claimants,” as contemplated by T.C.A. Title 54, chapter 5, in the full amount of \$\_\_\_\_\_, in order to secure the payment in full of all timely claims under the project.

**Performance Bond.** To the Tennessee Department of Transportation in the full contract amount of \$\_\_\_\_\_, in order to secure the full and faithful performance and timely completion of the work during the Term according to its plans and specifications, inclusive of overpayments to the contractor and liquidated damages as assessed.

Upon receipt of notice that the Principal is in default under the Contract, the Surety(ies) shall undertake to complete performance, without regard to cost. If the Surety(ies) fail or refuse to complete performance of the contract, the Department may then proceed with the work in any lawful manner that it may elect until it is finally completed. When the work is thus finally completed, the total cost of the same will be computed. All costs and charges incurred by the Department in completing the Work during the Term will be deducted from any monies due

or which may become due to the Principal. If the total costs of completion exceeds the sum which would have been payable under the Contract, then the Principal and the Surety(ies), *in solido*, shall be liable for and shall pay to the Department the amount of such excess.

*In witness whereof we have signed this instrument as dated, and, by signing this Contract Payment and Performance Bond, the parties agree that the electronic signature provided is the legal equivalent of a manual signature.*

**Principal/Contractor:** \_\_\_\_\_

_____	_____
Authorized Agent/Official	Name
_____	
Date	

**Surety:** \_\_\_\_\_

By: _____	_____
	Name
_____	
Date	

\_\_\_\_\_  
Bonding Agency Name

\_\_\_\_\_  
Street Address

\_\_\_\_\_  
City, State, Zip

\_\_\_\_\_  
Phone