

PROJECT MANUAL

19 June 2012



## HALE STADIUM PRESS BOX ROOFING

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### TENNESSEE STATE UNIVERSITY FACILITIES MANAGEMENT

STATE OF TENNESSEE BOARD OF REGENTS  
SBC # 166/001-02-2011

DOCUMENT 00 01 10

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# INVITATION TO BID

**PROJECT: TENNESSEE STATE UNIVERSITY  
HALE STADIUM  
PRESS BOX ROOFING**

**DESIGNER: TENNESSEE STATE UNIVERSITY  
FACILITY MANAGEMENT**

**BRIEF PROJECT DESCRIPTION: ROOFING OF THE PRESS BOX AT  
W.J. HALE STADIUM**

Proposals are invited for a General Contract for the Work of the above project.

Proposals will be received by Electronic Proposals **Until 2:00 pm central time Thursday 28, 2012**  
at which time proposals will be reviewed.

Proposals shall be sent to Tennessee State University, Facilities Management, Attention: George Herring.

All proposals must be sent to [george.herring@tnstate.edu](mailto:george.herring@tnstate.edu)

Subject line shall read: **Press Box Roofing Bid:**

A Pre bid conference will be held in the Tennessee State University Facility Management Conference room on Thursday June 21, 2012 at 9am central time. Facility Management is located at 1234 Schrader Lane Nashville TN 37209

Bidding documents may be examined at the Tennessee State University Planning, Design and Construction's office at 1234 Schrader lane Nashville TN 37209:

Bidding Documents may be obtained from the Tennessee State University Facilities management website

Bidders submitting bids equal to or greater than \$25,000 in value are required to be licensed in accordance with state law. A statement of public contract crime status is required in the Bid form. Prevailing Wage law applies to any contract equal to or greater than \$50,000 in value, or which has been determined to require Highway rates. Non-Discrimination policy applies to this project.

The Owner reserves the right to waive informalities and to reject bids.

# PROPOSAL FORM

**TO:** TENNESSEE STATE UNIVERSITY  
for the **PROJECT:** HALE STADIUM  
PRESS BOX ROOFING

**A.** This Bidder hereby acknowledges, attests, certifies, warrants, and assures that:

1. This Bidder has received, read, and understands the Bidding Documents, has visited the site and become familiar with local conditions under which work is to be performed, has correlated observations with requirements of Bidding Documents, and makes this bid in accordance therewith.
2. Procurement Requirements documents included provide Available Information that was prepared solely for use in design of this Work and have not been relied upon in the preparation of this bid. The use and interpretation of such information for any purposes is entirely the responsibility of the using party.
3. Contractors and subcontractors disqualified from participating in State Building Commission projects shall not be used to perform work under the contract that may result.
4. This Bidder 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 or consultant who will utilize the services of an illegal immigrant in the performance of this Contract.
5. Failure to complete Bid Form, provide required attachments, or comply otherwise with the Instructions to Bidders, may be cause for rejection of bid.
6. The person who signs this bid on behalf of Bidder is legally empowered to bind Bidder to a Contract.
7. The following statement is (mark the one that is applicable)

- True  
 False

The Bidder and/or any of the Bidder's employees, agents, independent contractors and/or proposed subcontractors have been convicted of, pled guilty to, or pled nolo contendere to any contract crime involving a public contract.

**8.** This Bidder has received the following addenda:

Addendum No \_\_\_\_\_ dated \_\_\_\_\_  
Addendum No \_\_\_\_\_ dated \_\_\_\_\_  
Addendum No \_\_\_\_\_ dated \_\_\_\_\_

**B.** This Bidder agrees to:

1. Honor this bid for a period of forty five (45) days following the date of the scheduled opening of bids.
2. Enter into and execute a contract, if presented on the basis of this bid, and furnish certificate(s) of insurance and other documents related to the contract as required, including, if the Contract Sum exceeds one-hundred-thousand dollars (\$100,000), the Contract Bond.
3. Accomplish the Work in accordance with the Contract Documents.

4. Achieve Substantial Completion of the Work 10 calendar days from and including the date stipulated in the Notice to Proceed.

**C. BASE BID:**

This Bidder agrees to complete the Work of the Base Bid for this project for the lump sum of (show amount in both words and figures):

\_\_\_\_\_ and \_\_\_\_/100ths Dollars  
\$ \_\_\_\_\_

**D. ALTERNATES:**

This Bidder agrees to include work of the following alternates for the additional amounts listed:

**Alternate No. 1:**

\_\_\_\_\_ and \_\_\_\_/100ths Dollars  
\$ \_\_\_\_\_

**E. UNIT PRICES:**

This Bidder has included Base Quantities of Unit Price Items in the Base Bid and Alternates, as specified, and proposes the following Unit Prices for use in the construction contract, if accepted by Owner. Unit prices should include overhead, profit & mark up:

Item	Name	Unit Price
1.		\$ _____ per
2.		\$ _____ per
3.		\$ _____ per
4.		\$ _____ per

**Submitted by:**

Authorized signature: \_\_\_\_\_ Date: \_\_\_\_\_

Name and title: \_\_\_\_\_  
(Type or print)

On behalf of: \_\_\_\_\_  
(Name of Bidder)

Bidder's address: \_\_\_\_\_  
(Please give Street and Mailing address if different)

Bidder's Telephone Number: \_\_\_\_\_ Bidder's Fax Number: \_\_\_\_\_

Bidder's contact's email address: \_\_\_\_\_

**STANDARD TERMS AND CONDITIONS**  
**(Bids are subject to the terms and conditions herein.)**

1. **BID SUBMITTAL/SIGNATURE:** Bid shall give the full name and business address of the bidder. If the bidder is a corporation, the name shall be stated as it is in the corporate charter. Bids must be signed in ink by the bidder's authorized agent. Unsigned bids will be rejected. Bids are to be sealed and the outside of the envelope is to reference the bid number. The person signing the bid must show his title, and if requested by the institution, must furnish satisfactory proof of his or her authority to bind his or her company in contract. Bidder understands that by submitting a bid with an authorized signature, it shall constitute an offer to the institution. Bids must be typewritten or in ink; otherwise they may not be considered. Only bids submitted on bid forms furnished by the Institution will be considered. Purchase orders will be issued to the firm name appearing on the bid.

**By signing this bid where indicated, the bidder agrees to strictly abide by all state and federal statutes and regulations. The bidder further certifies that this bid is made without collusion or fraud.**

2. **BID OPENINGS:** *Electronic* Bids are to be received no later than the specified date and time., on the bid form. All bids received after that time will not be opened or considered.

3. **BID WITHDRAWAL:** No bid shall be altered, amended or withdrawn after opening. After bid opening, a bidder may withdraw a bid only when there is obvious clerical error such as a misplaced decimal point, or when enforcement of the bid would impose unconscionable hardship due to an error in the bid resulting in a quotation substantially below the other bids received. Bid withdrawals will be considered only upon written request of the bidder.

4. **FAILURE TO BID:** Failure to bid without advising the Institution that future invitations for bids are desirable may result in removal from Institution's bidders' list covering this category of items. Bidders are cautioned to verify their bids before submission, as amendments received after the bid deadline will not be considered.

5. **DISCOUNTS:** Discounts other than "Time" or "Cash" offered should be deducted from the unit price. Time in Connection with discount offered will be computed from the date of delivery at destination, or from the date correct invoices are received, whichever is later.

6. **SPECIFICATIONS:** Reference to available specifications shall be sufficient to make the terms of the specifications binding on the bidder. The use of the name of a manufacturer, or any special brand or make in describing an item does not restrict the bidder to that manufacturer or specific article, unless specifically stated. Comparable products of other manufacturers will be considered if proof of compatibility is contained in the bid. Bidders are required to notify the Institution's ITB/RFQ Coordinator whenever specifications/procedures are not perceived to be fair and open. All suggestions or objections shall be made in writing and received by the ITB/RFQ Coordinator at least three (3) working days prior to the bid opening. The articles on which the bids are submitted must be equal or superior to that specified. Informative and Descriptive Literature: The bidder must show brand or trade names of the articles bid, when applicable. It shall be the responsibility of the vendor, including vendors whose product is referenced, to furnish with the bid such specifications, catalog pages, brochures or other data as will provide an adequate basis for determining the quality and functional capabilities of the product offered. Failure to provide this data may be considered valid justification for rejection of bid. Unless otherwise stated you may bid any brand that meets or exceed the quality of items specified. Specifications as indicated are minimum. Failure to examine any drawings, specifications, or instructions will be at the bidder's risk.

7. **SAMPLES:** Samples of items when called for, must be furnished free of expense, and if not destroyed will, upon vendor's request within ten (10) days of bid opening, be returned at the bidder's expense. Each sample must be labeled with the bidder's name, manufacturer's brand name and number, bid number and item reference.

8. **TIME OF PERFORMANCE:** The number of calendar days in which delivery is to be made after receipt of order shall be stated in the bid and may be a factor in making an award, price notwithstanding. If no delivery time is stated in the bid, bidder agrees that delivery is to be made within two weeks (10 business days) of order.



9. **TAXES:** Federal Excise and State taxes are applicable Tennessee State university is a tax exempt Institution and cannot extend their tax exempt status. Vendors making improvements or additions to, or performing repair work on real property for Institution are liable for any applicable sales or use tax on tangible personal property used in connection with the contract or furnished to vendors by the state for use under the contract.

10. **MISTAKES:** Contractors are expected to examine the specifications, delivery schedule and all instructions pertaining to supplies and services. Failure to do so will be at the Contractor's risk. No erasures permitted. In case of error in the extension of prices in the bid, the unit price will govern. Errors may be crossed out and corrections printed in ink or typewritten adjacent to error and must be initialed in ink by person signing bid.

11. **TRANSPORTATION AND DELIVERY:** Transportation and delivery charges should be included in the price and be fully prepaid by the vendor to the destination specified in the bid. Bid prices shall include delivery of all items F.O.B. destination.

12. **CONDITION AND PACKAGING:** Unless otherwise specified, it is understood and agreed that any item offered or shipped on this bid shall be new (unused current production model at time of this bid), that all containers shall be new and suitable for storage or shipment, and that prices include standard commercial packaging.

13. **INSPECTION OF PURCHASES:** Articles received which are not equivalent will not be accepted and will be picked up by the vendor or returned to vendor, shipping charges collect. Institution shall have a reasonable period in which to inspect and accept or reject materials without liability. If necessity requires Institution to use nonconforming materials, an appropriate reduction in payment may be made.

14. **DELIVERY:** Unless actual date of delivery is specified (or if specified delivery cannot be met), show number of days required to make delivery after receipt of purchase order in space provided. Delivery time may become a basis for making an award. **DELIVERY HOURS:** 8:00 a.m. to 12:00 Noon and 1:00 p.m. to 4:00 p.m., MONDAY through FRIDAY. Legal holidays excluded.

15. **AWARDS:** As the best interest of the University may require, the right is reserved to reject any and all bids and to waive any technicality in bids received. The University may accept any item or group of items unless the Contractor specified to the contrary. A "Purchase Order" when furnished the successful Contractor shall result in a binding contract without further action by either party

16. **DEFAULT OF SELECTED VENDOR:** In case of vendor default, the Institution may procure the articles or services from other sources and hold the defaulting vendor responsible for any resulting cost.

17. **ADDITIONAL INFORMATION:** If you require additional information, address your request Via e-mail to the project manager managing the project. Give us the date of bid opening and bid number. Such information must be cleared prior to bid opening.

18. **PAYMENT:** Payment will be made by the University after the items awarded to a vendor have been received, inspected and found free of damage and defect. Invoice date shall not proceed the date of shipment of order.

19. **ACCEPTANCE AND AWARD.** The Vendor agrees and understands that the Director of Facilities Management reserves the right to reject any and all bids and to waive any informality in bids and, unless otherwise specified by the bidder to accept any item in the bid in the best interest of the University. Action to reject all bids shall be taken for unreasonably high prices, errors in the bid documents, cessation of need, unavailability of funds, or any other reason approved by the Director of Facilities Management..

a. Contracts and purchases will be made with the best, responsive, responsible qualified Contractor, providing all terms, conditions, specifications and requirements have been met.

b. The Institution reserves the right to order up to 10% more or less than the quantity listed in the bid.

c. If a bidder fails to state a time within which a bid must be accepted, it is understood and agreed that the Institution shall have sixty (60) days to accept.

d. A written purchase order mailed or otherwise furnished, to the successful bidder within the time period specified in the bid results in a binding contract without further action by either party. The contract may not be assigned without written Institution consent.

e. **Use of Services by Others State Institutions:** The successful bidder agrees to allow other Tennessee Board of Regents (TBR) System Institutions and the University of Tennessee (UT) System Institutions to "Piggyback" off the contract and ITB by entering in to separate contract and same terms and conditions. Price will be negotiated at the time of mutual agreement as to specific requirement(s).

20. **ALTERNATE BIDS:** Alternate/Multiple bids are not acceptable unless specifically call for, in the bid.

21. **BOND FOR PERFORMANCE:** The University reserves the right to require the successful Contractor to furnish security, free of any expense to the State or the University, a guarantee for faithful performance.

22. **BID LIMITATIONS:** The bid of any vendor that contains a limitation of remedies clause, without exception, shall be cause for rejection.

23. **INSPECTION:** All vendors have the right to inspect the bid file, prior to award, and upon completion of bid evaluation. Interested vendors should make this fact known in writing when submitting their bid. Failure to do so will not be a basis for complaint. Upon request, a reasonable opportunity to inspect the bid file will be provided. Vendor will be notified when bid file is ready. Date and time will be established by the University and once established cannot be waived.

24. **COPYRIGHTINFRINGEMENT/LICENSED PRODUCTS:** Vendor must be an authorized dealer to sell copyright/licensed products offered under this bid.

25. **NONDISCRIMINATION:** The Institution and bidder agree to comply with Titles VI and VII of the Civil Rights Act of 1964, Title IX of the Education Amendments of 1972, Section 504 of the Rehabilitation Act of 1973, Executive Order 11,246, the Americans with Disabilities Act of 1990 and the related regulations to each. Each party assures that it will not discriminate against any individual including, but not limited to employees or applicants for employment and/or students, because of race, religion, creed, color, sex, age, disability, veteran status or national origin.

26. **PROHIBITIONS/TENNESSEE LAW/AUDIT:** Acceptance of gifts from vendors is prohibited. TCA §12-3-106. Bidding by state employees is prohibited. TCA §12-4-103. The bidder warrants that no part of the total contract amount shall be paid directly or indirectly to any officer or employee of the State of Tennessee. The contract documents for purchase under this bid request shall consist of the successful bidder's bid and the Institution's purchase order. The contract shall be governed by Tennessee law. For all awards other than for a firm, fixed price, vendor shall maintain books and records for a period of three (3) years from final payment, and these records shall be subject to audit by the State.

27. **PROHIBITION ON HIRING ILLEGAL IMMIGRANTS.** Tennessee Public Chapter No. 878 of 2006, TCA 12-4-124, requires that Contactor attest in writing that Contractor will not knowingly utilize the services of illegal immigrants in the performance of this Contract and will not knowingly utilize the services of any subcontractor, if permitted under this Contract, who will utilize the services of illegal immigrants in the performance of this Contract. The attestation shall be made on the form, Attestation re Personnel Used in Contract Performance ("the Attestation"), which is attached and hereby incorporated by this reference.

If Contractor is discovered to have breached the Attestation, the Commissioner of Finance and Administration shall declare that the Contractor shall be prohibited from contracting or submitting a bid to any Tennessee Board of Regents institution or any other state entity for a period of one (1) year from the date of discovery of the breach. Contractor may appeal the one (1) year by utilizing an appeals process in the Rules of Finance and Administration, Chapter 0620.

## General Requirements and Instructions to Bidders:

1. Contractor to provide all the necessary labor, material, equipment, and supervision needed to Repair concrete and handrails on the east Grandstands of W.J. Hale Stadium. For bid documents go to <http://www.tnstate.edu/facilities/projects.aspx>. A hard copy of the complete scope of work and drawings are available in The Department of Facilities Management.
2. The interpretation of the specifications of this ITB will be responsibility of the University.
3. The University reserves the right to accept all, part or any combination thereof of the ITB submitted in its best interest.
4. The University reserves the right to further negotiate after bids are opened with any potential Contractor, if such is deemed necessary, in the discretion and best interest of the University.
5. The university reserves the right to a one (1) year renewal option not to exceed an aggregate of sixty months from the date of the award.
6. A Purchase Order may be issued after evaluation of all bids to the best, responsive, responsible qualified contractor, providing all terms, conditions, specifications and requirements have been met.
7. Bid prices must be good for 180 days from date of opening.
8. Contractor to indicate earliest delivery date,
9. A schedule detailing how the work will proceed must be submitted within one week after award. Contractor shall allow for ten (10) working days duration for Architects and Engineers review. Successful Contractor to submit shop drawings two (2) weeks after award.
10. **References:** Contractor to provide a list of three (3) customer references for completed projects similar to the proposed project.
11. **Qualifications:** Contractor to provide copies of all licenses, certification and insurance that will allow for work in the State of Tennessee. Bidders shall be familiar with the Contractors Licensing Act of 1976, as currently amended, codified in Tennessee Code Annotated Sections (TCA §) 62-6-101, et seq. A contract will not be awarded that conflicts with state licensing law.

In compliance with TCA § SO-9-114(a), potential bidders are advised that the Owner does not operate a certified drug-free workplace program providing for testing.

Bids submitted for this project shall not include a contractor or subcontractor that has been disqualified from participating in State construction projects under the supervision of the State Building Commission. As a matter of public record, the State Architect maintains a list of those that have been disqualified, and the Owner endeavors to include a current copy of that list in Bidding Requirements for its projects as Information Available to Bidders. Failure to include a current list shall not negate the effect of disqualification.

12. **On-Site Visit:** An on-site visit and pre-bid meeting is scheduled for **Monday March 5, 2012**. The contractor shall visit the jobsite to inform him/herself of the conditions under which this work must be performed. No subsequent allowance will be made in his/her behalf because of error on his/her part for failure to visit the site and obtain the necessary information to completely estimate all work involved. Contractor to e-mail the name and telephone number of the individual who will attend the on-site visit.

### 13. **Delivery of Bid**

The prospective Contractor is to E-mail its proposal to this ITS. The subject line should include the name of the project i.e. (Bid concrete Cleaning). Proposals received after the specified time and date will be returned unopened. All responses, inquiries or correspondence submitted in reference to this ITB and any other documentation provided by any prospective Contractor will become the property of the University and will not be returned, whether or not a contract is consummated. Proposal will be delivered to:

Tennessee State University  
Facilities Management  
Attention George Herring  
E-mail address: george.herring@tnstate.edu

#### 14. Preparing the Bid

1. Bids should be prepared simply and economically, providing a clear and concise description of Contractor's capabilities to satisfy the requirements of the ITS. Emphasis should be placed on completeness and clarity of content.
2. Bids should be made in the official name of the firm or individual under which business is conducted, showing official business address.
3. Each prospective Contractor must furnish all information required by the ITB to be considered, including the submission of any material pertaining to the proposed services.
4. The bid is offered to the Contractor to whom it is addressed and may not be transferred to any other Contractor.

#### 5. Base Bid

Contractor to supply as base bid a cost to complete the full scope of work outlined in the Project Manual and Drawings for the (**East Grandstand Concrete Cleaning**). **See Project Manual and Drawings Document link** : <http://www.tnstate.edu/facilities/projects.aspx>

#### 6. Alternates

Contractor is encouraged to submit Alternates to the base bid. -Alternates shall not be included in the Base Bid and must be listed separately. **The University reserves the right to accept all, part or any combination or waive any irregularities, for any or all Alternates, which will serve in its best interest.**

#### 7. Wage Rate Requirements

All laborers and mechanics employed by pursuant to this contract shall be paid wages at rates not less than those prevailing on projects of a character similar in the locality as determined by the Secretary of labor in accordance with subchapter lv of chapter 31 of title 40, United States Code. All rulings and interpretations of the Davis-Bacon Act and Related acts contained in 29 CFR1,3, and 5 herein incorporated by reference.

#### 8. Subcontracts

If contractor enters into one or more subcontracts for any of the services performed under this contract, each subcontract shall contain provisions specifically imposing on the subcontractor all requirements set forth in this ITB.

9. Procurement Requirements documents included or referenced in this bid provide available Information that was prepared solely for Designer's use in design of this work and have not been relied upon in the preparation of this bid. The use and interpretation of such information for any purposes is entirely the responsibility of the using party.

10. Failure to complete Bid Form, provide required attachments, or comply otherwise with the Instructions to Bidders, may be cause for rejection of bid.

11. The following statement is (mark the one that is applicable) The Bidder and/or any of the Bidder's employees, agents, independent contractors and/or proposed subcontractors have been convicted of, pled guilty to, or pled nolo contendere to any contract crime involving a public contract.

True \_\_\_            False\_\_\_

12. This Bidder has received the following addenda:

Addendum No. _____	dated _____
Addendum No. _____	dated, _____
Addendum No. _____	dated _____

15. Letter of Intent: Each potential Contractor should submit a Letter of Intent to Bid by **March 6, 2012**. A Letter of Intent to bid creates no obligation and is not a prerequisite for making a proposal; however it is necessary to ensure receipt of ITB amendment and other communications regarding the ITB.

16. Any questions regarding interpretation of the ITB, or any of its provisions, or any questions to be considered by the University must be placed in writing and e-mailed to the Project manager responsible for the project.

17. The University will respond only in writing to all questions and inquiries. A written response will be furnished to the requester and all other participants who submit a letter of intent. An official record of all such communications will be maintained and available for inspection in the Planning Design and Construction department. Under no circumstances will the University accept responsibility if a Contractor bases any portion of its response on information obtained outside of this procedure. Proposal specifications may not be verbally changed.

18. Any person or firm making unauthorized contacts with employees, officers, or agents of the university on matters pertaining to this ITB will be disqualified from bidding and any bid documents submitted will be returned.

19. **BID SECURITY:** Bid Security are required on all bids greater than \$50,000 in the amount of five percent (5%) of total amount bid, including alternates, made payable to State of Tennessee. Bid Bonds shall be issued by Surety company licensed to do business in Tennessee by Tennessee Department of Commerce and Insurance, and shall have certified and current Power-of-Attorney for Attorney-in-Fact attached.

Checks shall be certified or cashier's, payable in U.S. Dollars drawn on a U.S. bank. Bid security submitted in the form of a check is deposited by the Owner until conditions for a refund are met, and then refunded in accordance with normal State requirements for prompt payment. In order to obtain such a refund, the bidder must submit a completed Substitute W-9 Form, using the form of Section 00 54 35, within 30 days of the bid opening. Bid Security that has been deposited is valid for only the one bid, and is not transferrable to another bid.

Owner may retain Bid Security of bidders to whom award is being considered until either: 1) Contract has been executed; 2) specified time has elapsed so that bid is not binding; or, 3) bid has been rejected. If Bidder refuses to enter into Contract or fails to furnish a" required attachments properly executed, the amount of bid security shall be forfeited to Owner as liquidated damages, not as penalty.

## 20. **Pro Forma Contract**

Agreement form will be the Standard Form of Agreement Between Owner and Contractor included in this Project Manual. The following information and provisions will be filled in prior to the presentation of the Agreement form to Contractor by Owner: 1) Contracting Agency, Contractor, Project, and Designer will be identified on page one; 2) A full enumeration of the Contract Documents which make up the Agreement will be provided in Article 1; 3) Provisions for Contract Time and Liquidated Damages will be incorporated in Article 2; 4) The Contract Sum and the basis upon which it is determined, and Unit Prices proposed as a part of the successful bid which are accepted by the Owner, will be stated in Article 3, and; 5) The signature page will provide for a single signature by the Contractor, and will provide for the several signatures on behalf of the Owner as required by law and policy.

If the Contract Sum exceeds \$100,000, the successful Bidder shall provide Contract Bond in the amount of one-hundred percent (100%) of the Contract Sum, and a Three Year Roof Bond, if and as stipulated in the Bid Form. Bonds shall be provided in accordance with paragraph 11.5 of the Conditions of the Contract and paragraph 17.2 below on the Owner's standard bond forms included in this Project Manual.

21. **LIQUIDATED DAMAGES and TIME:** Time for completion and amount of liquidated damages are \$150.00 per day.

22. **Minority Participation:** It is the express *desire* of the Institution to include an emphasis on diversity in its contractual relationships with contractors for the construction, demolition, or renovation of Institution projects under jurisdiction of the Institution. The Institution acknowledges that firms who demonstrate and embrace diversity within their programs and policies are assisting the Institution *in* achieving its goals in building a more reflective marketplace

of the community within this state. The Institution will require the successful bidder to report to the Institution the names and amounts of contracts entered into with minority-owned businesses on Institution projects *in* order for the Institution to collect data on such participation, as set forth in the Conditions of the Contract.

23. Failure to respond to all requirements may result in disqualification.

24. **Use of Services by Others State Institutions:** The successful vendor agrees to allow other Tennessee Board of Regents (TBR) System Institutions and the University of Tennessee (UT) System Institutions to "Piggyback" off the contract and ITB by entering in to separate contract and same terms and conditions. Price will be negotiated at the time of mutual agreement as to specific requirement(s).

Enclosures:

**ATTESTATION RE PERSONNEL USED IN CONTRACT PERFORMANCE**

<b>CONTRACT NUMBER:</b>	
<b>CONTRACTOR LEGAL ENTITY NAME:</b>	
<b>FEDERAL EMPLOYER IDENTIFICATION NUMBER:</b> (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.**

**SIGNATURE & DATE:**

\_\_\_\_\_  
**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.

# ACH CREDITS FORM

Automated Clearing House Credits (not wire transfers)  
 Authorization Agreement for Automatic Deposits

Name: \_\_\_\_\_

Federal Identification Number or Social Security Number  
 under which you are doing business with the State: \_\_\_\_\_

I/we hereby authorize the State of Tennessee, hereinafter called the STATE, to initiate credit entries to my/our  
*select type of account*  Checking or  Savings

account indicated below and the depository named below, hereinafter called DEPOSITORY, to credit the same to such account. This authority to remain in full force and effect until the STATE has received notification from me (or either of us) of its termination in such time and in such manner as to afford the STATE and DEPOSITORY a reasonable opportunity to act on it.

Do you currently receive payments from the State through ACH?  Yes  No

If yes, do you intend for this account information to replace other existing account information currently used by the State?  Yes  No

If yes, please specify the account that should be changed:

ABA Number: \_\_\_\_\_

Account Number: \_\_\_\_\_

Is this authorization only for certain types of payments?  Yes  No

If yes, please indicate types: \_\_\_\_\_

Many banking institutions use different numbers for ACH.  
 Please call your bank for verification of ACH transit and account number.

Bank official contacted: \_\_\_\_\_ Phone number: \_\_\_\_\_

Depository / Bank: \_\_\_\_\_

Name: \_\_\_\_\_ Branch: \_\_\_\_\_

City: \_\_\_\_\_ State: \_\_\_\_\_

Transit/ABA No. \_\_\_\_\_ Account No.: \_\_\_\_\_

*please print name(s) of authorized account signatory*

Name(s) \_\_\_\_\_

Date \_\_\_\_\_ Signed: \_\_\_\_\_ Signed: \_\_\_\_\_

Please attach a deposit slip (or for checking accounts, a voided check).

Please indicate address to which you would like your remittance advisories routed when payments are processed:

On pay requests during performance of the contract, you will be required to show this address.

<u>For State use only:</u>	Contact Agency: _____
	Contact Person: _____
	Telephone No.: _____



# SUBSTITUTE W-9 FORM

Request for Taxpayer identification number and certification

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## 1. Please complete general information:

Taxpayer Name \_\_\_\_\_ Phone Number \_\_\_\_\_

Business Name (if applicable) \_\_\_\_\_

Address \_\_\_\_\_

City \_\_\_\_\_ State \_\_\_\_\_ Zip Code \_\_\_\_\_

---

## 2. Circle the most appropriate category below: (please circle only one)

- 1) Individual (not an actual business)
- 2) Joint account (two or more individuals)
- 3) Custodian account of a minor
- 4) a. Revocable savings trust (grantor is also trustee)  
b. So-called trust account that is not a legal or valid trust under state law
- 5) Sole proprietorship (using a social security number for the taxpayer ID)
- 6) Sole proprietorship (using a federal employer identification number for taxpayer ID)  
**OR** Limited Liability Company (LLC) formed as a Disregarded Entity
- 7) A valid trust, estate, or pension trust
- 8) Corporation **OR** Limited Liability Company (LLC) formed as a Corporation
- 9) Association, club, religious, charitable, educational, or other non-profit organization  
**(for entities that are exempt from federal tax, use category 13 below)**
- 10) Partnership **OR** Limited Liability Company (LLC) formed as a Partnership
- 11) A broker or registered nominee
- 12) Account with the US Department of Agriculture in the name of a public entity that receives agricultural program payments
- 13) Government Agencies and organizations which are tax-exempt under Internal Revenue Service guidelines (i.e., IRC 501(c)3 entities)

---

## 3. Fill in your taxpayer identification number below: (please complete only one)

- 1) If you circled number 1-5 above, fill in your Social Security Number.

\_\_\_\_\_ - \_\_\_\_\_ - \_\_\_\_\_

- 2) If you circled number 6-13 above, fill in your Federal Employer Identification Number (EIN).

\_\_\_\_\_ - \_\_\_\_\_ - \_\_\_\_\_

---

## 4. Sign and date the form:

Certification - Under penalties of perjury, I certify that the number shown on this form is my correct taxpayer identification number. If I circled category 13 above, I also certify that my agency or organization is tax-exempt per Internal Revenue Service guidelines and not subject to backup withholding.

Signature \_\_\_\_\_ Date \_\_\_\_\_

Title (if applicable) \_\_\_\_\_

# CONTRACT BOND

standard form for construction contracts under the State Building Commission of Tennessee

**BOND NO.** \_\_\_\_\_

---

**Know all men by these presents:** that we

(hereinafter called the "Principal") and

hereinafter called the "Surety") do hereby acknowledge ourselves indebted and securely bound and held unto

(hereinafter called the "Owner"), and in the penal sum of

good and lawful money of the United States of America, for the use and benefit of those entitled thereto, for the payment of which, well and truly to be made, we bind ourselves, our heirs, our administrators, executors, successors, and assigns, jointly and severally, firmly by these presents.

**But the condition of the foregoing obligation or bond is this:**

**Whereas,** the Owner has engaged the principal for the sum of

to complete the Work of the project titled:

as more fully appears in a written agreement or contract bearing the date of

a copy of which said agreement or contract is by reference hereby made a part hereof, as fully and to the same extent as if copied at length herein, and it is the desire of the Owner that the Principal shall assure all undertakings under said agreement or contract and shall assure and protect all laborers and furnishers of material on said Work both as provided by Tennessee Code Annotated Sections 4-15-102(f)(2) and 12-4-201 through 12-4-206, and any and all amendments thereto, and shall assure the prompt payment of claims as provided by Tennessee Code Annotated Sections 12-4-207 through 12-4-208, and any and all amendments thereto. The Principal shall also comply with provisions of Tennessee Code Annotated Sections 12-4-401 through 12-4-415, and any and all amendments thereto, pertaining to the payment of the prevailing wage rate.

**Now, therefore,** if the Principal shall fully and faithfully perform all undertakings and obligations under the contract hereinbefore referred to and shall fully indemnify and hold harmless the Owner from all costs and damage whatsoever which it may suffer by reason of any failure on the part of the Principal to do so, and shall fully reimburse and repay the Owner any and all outlay and expense which it may incur in making good any such default, and shall fully pay for all of the labor, material and work used by the Principal and any immediate or remote sub-contractor or furnisher of material under him in the performance of said contract, in lawful money of the United States, as the same shall become due, then this obligation or bond shall be null and void, otherwise to remain in full force and effect.

**And** for value received, it is hereby stipulated and agreed that no change, extension of time, alteration or addition to the terms of the contract or to the Work to be performed thereunder or to the specifications accompanying the same shall in any wise affect the obligation under this bond, and notice is hereby waived of any such change, extension of time, alteration or addition to the terms of the contract or to the Work or to the specifications.

**In witness whereof** the Principal has hereunto affixed its signature and Surety has hereunto caused to be affixed its corporate signature and seal, by its duly authorized officers, on this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

Executed in \_\_\_\_\_ counterparts.

**Witness:**

\_\_\_\_\_  
*(name of Principal)*

\_\_\_\_\_  
*(name of Surety)*

\_\_\_\_\_  
*(authorized signature)*

\_\_\_\_\_  
*(signature of Attorney-in-fact)*

\_\_\_\_\_  
*(name of signatory)*

\_\_\_\_\_  
*(name of Attorney-in-fact)*

\_\_\_\_\_  
*(title of signatory)*

\_\_\_\_\_  
*(Tennessee license number of Agent or Attorney-in-fact)*

\_\_\_\_\_  
*(countersignature of resident Agent if not same as Attorney-in-fact)*

*Surety Company issuing bond shall be licensed to transact business in State of Tennessee by Tennessee Department of Commerce and Insurance. Bonds shall have certified and current Power-of-Attorney for the Surety's Attorney-in-Fact attached. Attorney-in-fact who executes bond on behalf of Surety shall be licensed by and a resident of State of Tennessee, and shall affix license number to bond; or, countersignature by a licensed agent who is a resident of State of Tennessee, and the agent's license number, shall be affixed to the bond in addition to the signature of the Attorney-in-Fact.*



# GENERAL CONDITIONS

## OF THE CONTRACT FOR CONSTRUCTION

### LIMITED WORK

Note to users: these Conditions differ from December 2010 OFD 007214 by giving Designer greater autonomy to conduct final inspections in 9.8.2.

#### ARTICLE 1 GENERAL PROVISIONS

##### 1.1 Contract Documents

1.1.1 Contract Documents consist of the signed construction Agreement, Conditions, Addenda, Specifications, Drawings, and Modifications.

1.1.2 PROJECT MANUAL is the volume or volumes which includes or lists bidding requirements, contract forms, Conditions, schedules, drawings, and Specifications.

1.1.3 Intent of Contract Documents is to include items necessary for proper completion of Work, including that which is consistent and reasonably inferable as necessary to produce intended results.

1.1.4 Contract Documents and copies are property of Owner.

1.2 **Contract** for Construction is formed by the Contract Documents and represents the entire agreement, superseding prior negotiations, representations, or agreements. Contract Documents create no contractual relationship between Designer and Contractor, but Designer is entitled to performance of obligations intended for Designer's benefit, and to enforcement thereof.

1.3 **Work** comprises the completed construction and services required by Contract Documents, including materials, equipment, and labor to produce construction.

1.4 **Project** is total construction of which Work performed under Contract Documents may be the whole or a part.

1.5 **Provide or provided** means to furnish and install, complete and ready for intended use.

##### 1.6 Governing Law

The Contract shall be governed by the law of the place where the Project is located.

1.7 If normal procedures within the Contract fail to satisfy a claim against the Owner, further action is to be taken up with the Tennessee Claims Commission, pursuant to TCA § 9-8-101, et seq. Damages recoverable against the State shall be limited expressly to claims awarded by the Commission.

#### ARTICLE 2 OWNER

##### 2.1 Definition

Owner is the government of the State of Tennessee operating through the agency or department identified in the Agreement.

##### 2.2 Information and Services Required of Owner

2.2.1 The Owner's project number constitutes verification that funding has been established as a matter of public record.

2.2.2 Owner will furnish surveys describing physical characteristics, legal limitations and utility locations for the site, and legal description of site, to the extent necessary.

2.2.3 Owner will secure and pay for necessary approvals, easements, assessments and charges required for the construction, use or occupancy of permanent structures, or for permanent changes in existing facilities, except as required of Contractor.

2.2.4 Owner will furnish information and services under Owner's control with reasonable promptness.

2.2.5 Owner will furnish Contractor the number of copies of Contract Documents reasonably necessary for execution of Work free of charge.

##### 2.3 Owner's Right to Stop Work

Owner may order Contractor in writing to stop Work or a portion thereof if Contractor fails to correct defective Work as required or persistently fails to carry out Work in accordance with Contract Documents, until the cause for such order has been eliminated. This right to stop Work imposes no duty of Owner to exercise this right for the benefit of Contractor or another person or entity.

##### 2.4 Owner's Right to Carry Out Work

If Contractor defaults or neglects to carry out Work in accordance with Contract Documents and fails within fourteen days after receipt of written notice to commence and continue correction of such default or neglect with diligence and promptness, Owner may without prejudice to other available remedy make good such deficiencies. In such case, an appropriate Change Order shall be issued deducting the cost of correcting such deficiencies from the Contract Sum, including compensation for Designer's related additional services. If payments then or thereafter due Contractor are insufficient to cover such amount, Contractor shall pay the difference to Owner.

#### ARTICLE 3 CONTRACTOR

##### 3.1 Definition and Qualification

3.1.1 Contractor is the person or entity identified as such in the Agreement.

3.1.2 At the time of bid and award, Contractor shall not be currently disqualified from participating in State construction projects under the supervision of the State Building Commission. Such disqualification extends to succeeding or related corporations, partnerships, joint ventures, and other business organizations having substantial factual or legal connections, continuity, or identity with those that have been disqualified.

##### 3.2 Review of Requirements

3.2.1 Contractor shall carefully study and compare Contract Documents and at once report discovery of error, inconsistency, or omission to Designer. Contractor shall not be liable to Owner or Designer for damage resulting from such errors, inconsistencies, or omissions.

3.2.2 Contractor shall not work without Contract Documents, or where required, approved Shop Drawings, Product Data, or Samples.

3.2.3 By submitting a bid, Contractor represents self to have visited site, become familiar with local conditions under which Work shall be performed, and correlated observations with requirements of Contract Documents.

##### 3.3 Supervision

###### and Construction Procedures

3.3.1 Contractor shall supervise and direct Work, using Contractor's best skill and attention, and is solely responsible for construction means, methods, techniques, sequences, procedures, and coordination.

3.3.2 Contractor is responsible to Owner for acts and omissions of Contractor's, subcontractors', and suppliers' agents and employees, and other persons performing work under contract with Contractor.

3.3.3 Contractor shall not be relieved from obligations to perform Work in accordance with Contract Documents either by activities or duties of Designer in administration of the Contract, or by inspections, tests or approvals required or performed by persons other than Contractor.

### **3.4 Labor and Materials**

**3.4.1** Unless otherwise provided in Contract Documents, Contractor shall provide and pay for labor, materials, equipment, tools, construction equipment and machinery, water, heat, utilities, transportation, and other facilities and services necessary for proper execution and completion of Work, whether temporary or permanent and whether or not incorporated or to be incorporated in Work. Contractor shall not receive material nor labor from one who submitted a competing general bid for the same Contract and subsequently withdrew, reneged, or otherwise failed to enter into contract.

**3.4.2** Specified materials, equipment, and systems are essential elements of the Contract. If Contractor desires to use other materials, equipment, or systems, Contractor shall request approval in writing and submit adequate samples and data for Designer's decision. No substitution shall be made without authority in writing from Designer.

#### **3.4.3 Non-discrimination in employment**

**3.4.3.1** Contractor shall not discriminate against any employee nor applicant for employment because of race, creed, color, religion, sex, age, or national origin as defined in Tennessee Code Annotated (TCA) 4-21-401, et seq, nor because of handicap, in accordance with TCA 8-50-103.

**3.4.3.2** Contractor shall take affirmative action to ensure that applicants are employed, and that employees are treated during employment without regard to handicap, race, creed, color, religion, sex, age, or national origin, including but not limited to practices in recruitment, recruitment advertising, employment, selection for training or apprenticeship, rates of pay or other forms of compensation, upgrading, demotion, transfer, layoff, or termination.

**3.4.3.3** Contractor shall post in conspicuous places, available to employees and applicants for employment, notices setting forth these policies of non-discrimination.

**3.4.3.4** Solicitations or advertisements for employees placed by or for Contractor shall state that qualified applicants shall receive consideration for employment without regard to handicap, race, creed, color, religion, sex, age, or national origin.

#### **3.4.4 Prevailing Wage Scale**

**3.4.4.1** Contractor is required to comply with policies, conditions and rules of the Tennessee Department of Labor pursuant to TCA 12-4-401, et seq, which include that if the Contract Sum exceeds fifty thousand dollars (\$50,000.00), Contractor is required to pay Prevailing Wage Scale current in the area of the project to laborers and mechanics employed on the Work, as set forth in said rules, policies, and statute, and to furnish weekly payrolls with the decision number noted on each to the Tennessee Department of Labor.

**3.4.4.2** Current Prevailing Wage Scale Determination(s) for this project will have been bound herein, as Supplementary Conditions, or issued by addendum, if Owner's estimate of the value of Work indicates that it is required. Failure of Owner or Designer to provide current wage scale decision prior to bidding does not relieve Contractor of obligations set forth above.

**3.4.4.3** If applicability or values of Prevailing Wage Rates applicable to the project change during the course of the Contract, or differ from those provided in Contract Documents, equitable adjustment in Contract Sum shall be made.

#### **3.4.5 Prohibition of Illegal Immigrants**

**3.4.5.1** The requirements of Public Acts of 2006, Chapter Number 878, of the state of Tennessee, 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, including termination of this Contract.

**3.4.5.2** The Contractor by entering into this contract attests, certifies, warrants, and assures 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 or consultant who will utilize the services of any illegal immigrant in the performance of this Contract.

**3.4.5.3** The Contractor understands and agrees that failure to comply with this section will be subject to the sanctions of Public Chapter 878 of 2006 for acts or omissions occurring after its effective date. This law provides for the prohibition of a Contractor from contracting with, or submitting an offer, proposal, or bid to contract with the State of Tennessee to supply goods or services for a period of one year after a Contractor is discovered to have knowingly used the services of illegal immigrants during the performance of this Contract.

**3.4.5.4** For purposes of this Contract, "illegal immigrant" shall be defined as any person who is not either a United States citizen, a lawful permanent resident, or a person whose physical presence in the United States is authorized or allowed by the Department of Homeland Security and who, under Federal immigration laws and/or regulations, is authorized to be employed in the U.S. or is otherwise authorized to provide services under the Contract.

### **3.5 Warranty**

Contractor warrants that materials and equipment furnished under Contract will be of good quality, free from faults and defects, and in conformance with Contract Documents. Work not conforming to these requirements, including substitutions not properly approved, may be considered defective. This warranty is not limited by provisions for correction of Work.

### **3.6 Taxes**

Contractor shall pay sales, consumer, use, and other similar taxes for Work or portions thereof provided by Contractor.

### **3.7 Permits, Fees, and Notices**

**3.7.1** Unless otherwise provided in Contract Documents, Contractor shall secure and pay for the building permit and for all other permits and governmental fees, licenses, and inspections necessary for proper execution and completion of Work which are customarily secured after execution of Contract.

**3.7.2** Contractor shall give all notices and comply with all laws, ordinances, rules, regulations and lawful orders of public authority bearing on the performance of the Work.

**3.7.3** If Contractor observes that Contract Documents are at variance with applicable laws, statutes, building codes and regulations, Contractor shall promptly notify Designer in writing, and necessary changes shall be accomplished by appropriate Modification.

**3.7.4** If Contractor performs Work knowing it to be contrary to such regulatory requirements without such notice to Designer, Contractor assumes full responsibility therefor and shall bear all costs attributable thereto.

**3.7.5** The Owner is an agency of state government, and as such has sovereign immunity from the regulations of local governments within the state; however, the Contractor shall obtain all normal permits whenever possible as if the Owner had no such immunity. If a delay or denial in securing a local permit occurs, the Contractor shall continue the Work, inform the Designer and the Owner of the situation, propose corrective measures, and continue to pursue the customary permits.

### **3.8 Allowances**

Allowances stated in Contract Documents are included in Work.

### **3.9 Superintendent**

Contractor shall employ a competent superintendent and necessary assistants who shall be in attendance at site during progress of Work, representing Contractor. Communications given to Superintendent shall be binding as if given to Contractor. Communications shall be confirmed in writing on request.

### **3.10 Progress and Submittals Schedules**

**3.10.1** FORMAT: Contractor shall format progress and submittals schedules in bar chart or other form approved by Designer, utilizing same method throughout Project, and clearly identifying Project.

**3.10.2** SUBMITTAL: Contractor shall prepare and submit three (3) copies of schedules within 7 days of award of Contract, and not later than first application for payment. Contractor shall prepare and submit three (3) copies of updated schedules with each application for payment, unless waived by Owner.

**3.10.3** **CONTENT:** Contractor's schedule shall be consistent with schedule of values and show planned progress from commencement through completion, with projected monthly progress and point of Substantial Completion.

**3.10.4** Designer may require revision of schedules if schedules seem impracticable, and Contractor shall revise and resubmit within ten (10) days.

**3.11 Documents and Samples at the Site**

**3.11.1** Contractor shall maintain at site one complete record set of Contract Documents in good order marked "Record Documents" and marked currently to record actual conditions of construction, changes, approved Shop Drawings, Product Data and Samples. These shall be available to Designer and shall be delivered to Designer for Owner upon completion of Work.

**3.11.2** Contractor shall furnish two complete sets of Project Data in commercial quality binders with:

- .1 the project identified on the face and side of the binder;
- .2 a complete listing of subcontractors and material suppliers, including dollar amount, company name, address, phone number, local company representative, and information regarding status of whether a minority-owned business as defined in paragraph 3.19; and,
- .3 copies of Certificates, Warranties, Product Data, Maintenance and Operation Data, and related documents information required by Contract Documents or furnished with items included in Project.

**3.12 Shop Drawings, Product Data, and Samples**

**3.12.1** Contractor shall review, approve and submit required Shop Drawings, Product Data and Samples with reasonable promptness and in such sequence as to cause no delay in Work or in work of Owner or separate contractor.

**3.12.2** By approving and submitting Shop Drawings, Product Data and Samples, Contractor represents to have determined and verified materials, field measurements, and field construction criteria and to have checked and coordinated information contained within such submittals with requirements of Contract Documents.

**3.12.3** Contractor shall not be relieved of responsibility for deviation from Contract requirements by Designer's approval of Shop Drawings, Product Data or Samples unless Contractor has specifically informed Designer in writing of such deviation at time of submission and Designer has given written approval to the specific deviation. Contractor shall not be relieved from responsibility for errors or omissions in Shop Drawings, Product Data or Samples by Designer's approval thereof.

**3.12.4** Contractor shall direct specific attention, in writing or on resubmitted Shop Drawings, Product Data or Samples, to revisions other than those requested by Designer on previous submittals.

**3.12.5** No portion of Work requiring submission of Shop Drawing, Product Data or Sample shall be commenced until submittal has approval of Designer. Work shall be in accordance with approved submittals.

**3.13 Use of Site**

Contractor shall confine operations at site to areas permitted by law, permits, and Contract Documents, and keep site reasonably clear of materials and equipment.

**3.14 Cutting and Patching**

Contractor shall be responsible for cutting, fitting, or patching needed to complete Work, and shall not damage or endanger a portion of Work or the work of Owner or separate contractors by cutting, patching, or otherwise altering work, and shall not alter work of Owner or separate contractor except with written consent thereof. Contractor shall not unreasonably withhold consent to cutting or otherwise altering Work by others.

**3.15 Cleaning Up**

Contractor shall keep premises free from accumulation of waste materials or rubbish caused by operations, and at completion of Work shall remove tools, equipment, machinery surplus and waste materials, and rubbish from and about the Project, or Owner may do so and charge the costs thereof to Contractor.

**3.16 Access to Work**

Contractor shall facilitate access to Work by Owner and Designer whenever and wherever Work is in preparation or progress.

**3.17 Royalties and Patents**

Contractor shall pay royalties and license fees, defend suits or claims for infringement of patent rights, and save Owner harmless from loss of account thereof.

**3.18 Indemnification**

**3.18.1** To the fullest extent permitted by law, Contractor shall indemnify and hold harmless the Owner and the Designer and their agents and employees from and against claims, damages, losses and expenses, including but not limited to attorney's fees, arising out of or resulting from performance of Work, provided that such claim, damage, loss or expense is:

- .1 attributable to bodily injury, sickness, disease or death, or to injury to or destruction of tangible property including loss of use resulting therefrom; and,
- .2 caused in whole or part by negligent act or omission of Contractor, subcontractor, anyone directly or indirectly employed by them, or one for whose acts they may be liable, regardless of whether or not it is caused in part by a party indemnified hereunder.

**3.18.2** Such obligation shall not be construed to negate, abridge, or otherwise reduce another right or obligation of indemnity which would otherwise exist as to a party or person described in this Paragraph. In claims against Owner or Designer or their agents or employees by an employee of Contractor, subcontractor, anyone directly or indirectly employed by them, or one for whose acts they may be liable, the indemnification obligation under this Paragraph shall not be limited by a limitation on the amount or type of damages, compensation or benefits payable by or for Contractor or subcontractor under workers' or workmen's compensation acts, disability benefit acts or other employee benefit acts.

**3.18.3** Obligations of Contractor under this Paragraph shall not extend to liability of Designer, its agents or employees, arising out of:

- .1 preparation or approval of maps, drawings, opinions, reports, surveys, change orders, designs or specifications; or,
- .2 giving or failure to give directions or instructions by Designer, Designer's agents or employees provided such giving or failure to give is the primary cause of injury or damage.

**3.19 Participation of Minority-Owned Businesses**

**3.19.1** To the extent that the Contractor or a subcontractor is a Minority-owned Business, the Contractor shall report to the State its own status in this regard and the names and amounts of contracts entered into with minority-owned businesses on State projects in order for the State to collect data on such participation.

**3.19.2** "Minority-owned Business" means a business which is solely owned, or at least fifty-one percent (51%) of the assets of outstanding stock of which is owned, by an individual who personally manages and controls the daily operations of such business, and who is impeded from normal entry into the economic mainstream because of past practices of discrimination based on race, religion, ethnic background, sex, or disability.

**3.19.3** To be a "Minority-owned Business" for the purposes of this contract, a business must be certified as a "Minority-owned Business" by an agency of the federal government or the government of the State of Tennessee which is normally engaged in the practice of providing such certification.

----- **ARTICLE 4** -----  
**ADMINISTRATION OF THE CONTRACT**

**4.1 Designer**

**4.1.1** Designer is the lawfully licensed Architect or Engineer, or entity lawfully practicing architecture or engineering, or another person or entity, identified as Designer in Contract Documents. "Architect" or "Engineer" when used in Contract Documents means "Designer", unless specifically required to be employed by

Contractor. Designer is Owner's representative until obligations of the Agreement are discharged.

**4.1.2** Designer provides administration of Contract, and has authority only to the extent provided in Contract Documents. Duties, responsibilities and limitations of authority of Designer may only be modified or extended by Change Order.

**4.1.3** Designer is interpreter of Contract Documents and judge of performance by both Owner and Contractor. Designer has authority to order minor changes in the Work, to reject Work which does not conform to Contract Documents, and to require special inspection or testing of Work, whether or not such Work be then fabricated, installed or completed.

**4.1.4** In case of termination of employment of Designer, Owner may appoint a Designer whose status under Contract Documents shall be that of the former Designer.

**4.2 Communications**

Contractor shall forward communications to Owner through Designer. Owner will forward instructions and communications to Contractor through Designer.

**4.3 Payments, Modifications, and Completion**

Designer will determine amounts owing to Contractor and issue Certificates for Payment based on observations of Work and evaluation of Applications for Payment. Designer will assist the Owner in the preparation of Change Orders. Designer will inspect to determine dates of Substantial Completion and final completion.

**4.4 Submittals**

Designer will review and approve or take other appropriate action on Contractor's submittals, but only for conformance with the Contract Documents. Designer's approval of a specific item shall not indicate approval of an assembly of which the item is a component. Designer will receive warranties and related documents required of and assembled by Contractor, and forward to Owner.

**4.5 Interpretations and Claims**

**4.5.1** Designer will render interpretations, judgments, and decisions with reasonable promptness, and consistent with intent of, and reasonably inferable from, Contract Documents, in writing or in form of drawings, seeking faithful performance by both Owner and Contractor, and showing partiality to neither. Designer will not be liable for the result of interpretations or decisions rendered in good faith. Designer's decisions in matters relating to artistic effect will be final.

**4.5.2** Either party to the Contract may request interpretations, judgments, and decisions. Claims, disputes and other matters in question relating to execution of Work or interpretation of Contract Documents shall be referred initially to Designer.

**4.5.3** As a matter of law, the State of Tennessee and its property are not subject to mechanic's and material suppliers liens. Subcontractors, suppliers, and other claimants are protected through the Contract Bond as required by TCA § 12-4-201 et seq., the policies of the State Building Commission, and paragraph 11.5 of these Conditions. Specific requirements for notice of claims on the bond are set forth in TCA § 12-4-205.

**4.6 Project Meetings**

Designer will schedule and administer Pre-Construction Conference, periodic Progress Meetings, and other specially called or required meetings in cooperation with Owner and Contractor. Owner, Designer, and Contractor shall attend. Contractor shall require attendance by representatives of Subcontractors, Suppliers, and others, as befits the agenda, each being qualified and authorized to act on behalf of the entity each represents.

-----**ARTICLE 5**-----  
**SUBCONTRACTORS**

**5.1 Definition**

A subcontractor is a person or entity who has a direct or indirect contract with Contractor to perform a portion of the Work.

**5.2 Award of Subcontracts**

**5.2.1** Contractor shall furnish to Owner and Designer in writing, within 21 days after award of Contract, names of

subcontractors proposed for principal portions of Work. Subcontractors listed on the Bid Envelope for this project shall be used in the capacity listed.

**5.2.2** Contractor shall neither employ subcontractors against whom Owner or Designer has reasonable objection, nor be compelled to contract with anyone against whom Contractor has reasonable objection.

**5.2.3** Contractor shall not employ a subcontractor who submitted a competing bid for the Contract and subsequently reneged upon or withdrew that bid.

**5.2.4** Contractor shall not allow work under the Contract to be performed by a contractor or subcontractor that has been disqualified from participating in State construction projects under the supervision of the State Building Commission. Such disqualification extends to succeeding or related corporations, partnerships, joint ventures, and other business organizations having substantial factual or legal connections, continuity, or identity with those that have been disqualified. If such a participant is discovered, Contractor shall immediately discontinue the participation and provide a suitable substitute at no additional cost to the Owner, and provide documentation to the Owner of the action taken to comply with this requirement.

**5.3 Subcontractual Relations**

Contractor shall require subcontractor to be bound to Contractor by the terms of the Contract Documents and to assume toward Contractor the obligations and responsibilities which Contractor assumes toward Owner and Designer, and shall allow subcontractors the benefits of rights, remedies and redress against Contractor that Contractor has against Owner.

-----**ARTICLE 6**-----  
**CONSTRUCTION BY OWNER  
OR BY SEPARATE CONTRACTORS**

**6.1 Right to Perform Work  
and Award Separate Contracts**

**6.1.1** Owner may perform work related to the Project and award separate contracts in connection with the Project or other work on site under these or similar Conditions of Contract.

**6.1.2** Owner will provide for coordination of work of its own forces and of separate contractors with Work of Contractor, who shall cooperate therewith as provided in Paragraph 6.2.

**6.1.3** Claims by Contractor that delay or additional cost is involved because of such action by Owner, shall be made as provided elsewhere in Contract Documents.

**6.2 Mutual Responsibility**

**6.2.1** Contractor shall afford Owner and separate contractors reasonable opportunity for introduction and storage of their materials and equipment and execution of their work, and shall connect and coordinate with their work as required by Contract Documents.

**6.2.2** Costs caused by defective or ill-timed work shall be borne by the responsible party.

-----**ARTICLE 7**-----  
**CHANGES IN THE WORK**

**7.1** The Owner, without invalidating the Contract, may order changes in the Work within the general scope of Contract, the Contract Sum and the Contract Time being adjusted accordingly, with such changes authorized by Change Order. The Designer may order minor changes in the Work which do not impact upon the Contract Sum and the Contract Time.

**7.2 Change Orders**

**7.2.1** A Change Order is a written order signed by Owner and Designer after execution of the Contract authorizing a change in Work or adjustment in Contract Sum or Contract Time, which may be changed only by Change Order. A Change Order not signed by Contractor may be commonly referred to as a Construction Change Directive. A Change Order signed by Contractor indicates agreement therewith, including adjustments in Contract Sum or Contract Time, and certifies that adjustments, including

allowance for overhead and profit, encompass all direct and indirect costs and schedule impacts associated with the change.

**7.2.2** Change Orders shall be written on a form consistent with that provided in the Specifications. Itemizations of cost shall be prepared by Contractor on a form consistent with that provided in the Specifications.

**7.2.3** Change Orders shall include complete description of changes in Work, Contract Sum, and Contract Time, and be further supported by:

- .1 Documentation of reasons for changes in Work, Contract Sum, and Contract Time.
- .2 Itemization of applicable direct costs to Contractor and subcontractors, citing: Material units, costs, quantities, and totals; Equipment hours, rates, and totals; and, Labor hours, rates, and totals.
- .3 If a weather-related delay, comparative data by the National Oceanic and Atmospheric Administration obtained by the Contractor as an impartial basis for determining justifiable extensions, or daily work logs which describe actual local weather conditions and impact, subject to approval by the Designer.

**7.2.4** Proposed Change Orders will be prepared by Designer or Owner and normally signed by both before being submitted to Contractor for signature. Contractor shall retain one (1) counterpart of change orders and return other counterparts to Designer.

### **7.3 Costs and Credits**

**7.3.1** Credit to Owner for change in Work shall be actual net costs as confirmed by Designer.

**7.3.2** Cost to Owner from change in Work shall be the lump sum properly itemized by Contractor into the three categories of labor, materials and equipment, as confirmed by Designer, and in accordance with 7.3.6.

**7.3.3** When both additional cost and credits are involved in a related change, overhead and profit shall be calculated on the net increase, if any, with respect to that change.

**7.3.4** In addition to the itemized costs allowed in 7.3.6, there shall be allowed 10% overhead and 5% profit.

**7.3.5** If Work is by a subcontractor or sub-subcontractor, then in addition to the costs, overhead, and profit allowed in 7.3.4, there shall be allowed a further 5% for overhead and profit.

**7.3.6** Allowable costs defined:

**7.3.6.1** Costs shall be limited to the following:

- .1 Direct Payroll Expense of labor;
- .2 costs of materials, supplies, and equipment, including cost of transportation thereof, whether incorporated or consumed;
- .3 rental costs of machinery and equipment rented from others, and not more than eighty percent (80%) of the Associated Equipment Distributors Nationally Averaged Rental Rates for Construction Equipment for machinery and equipment belonging to Contractor;
- .4 costs of premiums for bonds and insurance to the extent required by Contract Documents, permit fees, and sales, use, or other similar taxes related to the Work;
- .5 additional Direct Payroll Expense of superintendence directly attributable to authorized overtime; and,
- .6 reasonable Direct Payroll Expense of project manager and clerical work directly attributable to estimating and coordinating the change.

**7.3.6.2** The following items shall be considered as costs when Contract Time is extended due to additional work or due to a Class 1 cause defined in 8.3, and solely to the extent directly attributable to extension of time. In all other instances, the following items shall be considered fixed costs already included in the general requirements of the Work for the duration of the Contract Time:

- .1 field offices, sheds, phones, sanitary facilities, on-site utilities, drinking fountains, cleaning, safety programs, and other construction facilities and temporary controls not specifically required for additional work;

.2 costs of superintendence;

.3 Superintendent's vehicles; and,

.4 Other general use vehicles, being those requiring a class D, H, or M license, and excluding those requiring a class A, B, or C license, as set forth in the Tennessee Driver Handbook or comparable current successor publication of the Tennessee Department of Safety.

**7.3.6.3** Direct payroll expense (DPE) costs referenced in this subparagraph shall be limited to base salary or hourly wage plus a maximum of thirty nine percent (39%) of base salary or hourly wage, and further limited to a maximum of one hundred fifty five dollars (\$155) per hour, to cover social security, old age and unemployment insurance, fringe benefits required by agreement or custom, and workers' compensation insurance.

**7.3.6.4** Specifically excluded from costs and included in overhead are:

- .1 Corporate, home office, and branch office overhead, rent, mortgage, off-site utilities, project management, and personnel not otherwise mentioned;
- .2 capital expenses and interest on capital; and,
- .3 hand tools

## ----- **ARTICLE 8** ----- **TIME**

**8.1** Time limits stated in Contract Documents are of the essence of the Contract. Contractor shall expedite the Work, and achieve Substantial Completion in accordance with the Agreement.

**8.2** "Day" shall mean calendar day unless otherwise specifically designated.

### **8.3 Delays and Extensions of Time**

**8.3.1** The basis exists for an extension of time if Contractor is delayed in performing Work, but solely to the extent that delays are unforeseeable, unavoidable, and beyond the control and without fault or negligence, in whole or in part, of Contractor, subcontractors, sub-subcontractors, and suppliers at every tier, and said delays directly impact the Contractor's ability to achieve Substantial Completion in accordance with the Contract Time requirements, and said delays cannot be made up by reasonable efforts otherwise, and said delays stem from the following causes:

- .1 **Class 1** causes: an act or failure to act on the part of Owner or Designer or an employee of either, or of a separate contractor employed by Owner, or an injunction against Owner or Owner's representatives.
- .2 **Class 2** causes: abnormal weather, acts of God, riots, civil commotion, acts of War, fire, unavoidable casualties, epidemics, quarantine restrictions, labor disputes, unusual delay in transportation, freight embargoes, or delays or insolvency of subcontractors, sub-subcontractors, or suppliers.

**8.3.2** A claim for extension of time shall be made in writing to Designer not more than twenty-one days after commencement of delay; otherwise it shall be waived. In the case of a continuing delay, Contractor shall provide an estimate of probable effect of such delay on progress of Work, and subsequently detail full impact of delay before action will be taken on disposition of the claim.

**8.3.3** Neither Owner nor Designer will be obligated or liable to Contractor for, and Contractor hereby expressly waives claims against Owner and Designer on account of damages, costs, expenses, or related impacts which Contractor, subcontractors, sub-subcontractors, suppliers, or other persons may incur as a result of a Class 2 cause enumerated in 8.3.1; Contractor's sole and exclusive remedy and full compensation in such event shall be extension of Contract Time in accordance with provisions of the Contract Documents. Contractor likewise waives claims of damages, costs, or expenses due to a delay resulting from a Class 1 causes except and solely to the extent of costs allowed under 7.3.6."

**8.3.4** Modifications required under this paragraph shall be implemented in accordance with Article 7.



-----**ARTICLE 9**-----  
**PAYMENTS AND COMPLETION**

**9.1 Contract Sum** is stated in the Agreement and, including authorized adjustments thereto, is the total amount payable by Owner to Contractor for performance of Work under the Contract Documents.

**9.2 Schedule of Values** shall be submitted by Contractor to Designer before first Application for Payment, apportioning Contract Sum to the various parts of Work, prepared in such form and supported by such data to substantiate its accuracy as Designer may require, and unless objected to by Designer, shall be used as basis for Contractor's Application for Payment.

**9.3 Progress Payments**

**9.3.1** Based upon six counterparts of an Application for Payment on AIA Document G702 Application and Certificate for Payment accompanied by AIA Document G703 Continuation Sheet itemized according to the Schedule of Values with required attachments and accompanying submittals prepared and submitted to Designer by Contractor, and Certificates for Payment issued by Designer, Owner will make progress payments on account of the Contract Sum to Contractor.

**9.3.2** Applications may include proper allocations for materials suitably stored at the site and materials suitably stored at another location if agreed in writing and documented with:

- .1 attached certification as to where materials are stored and that materials are fully insured and tagged to identify them for project;
- .2 copies of bills of sale for materials; and,
- .3 certificates of insurance covering materials.

**9.3.3** Payment prior to Substantial Completion of the Work shall be in the amount of ninety five percent (95%) of the portion of Contract Sum certified by Contractor and Designer for each pay request, less the aggregate of previous payments by Owner.

**9.3.4** Upon Substantial Completion of the Work, payment sufficient to increase total payments to ninety eight percent (98%) of Contract Sum, less such amounts as Designer determines for incomplete work and unsettled claims.

**9.3.5** Contractor must attach to Application a Consent of Surety, using AIA Document G707A or a similarly formed letter, if retainage, as a percentage of the total completed and stored to date, is less than was provided in the previous application.

**9.3.6** Payment may be expected within forty five (45) days after an undisputed Certificate for Payment has been received by Owner.

**9.3.7** Contractor shall promptly pay each Subcontractor, upon receipt of payment from the Owner, the portion thereof to which the Subcontractor is entitled.

**9.3.8** Neither Certificates for Payment nor making payment shall constitute acceptance of work not in accordance with Contract Documents.

**9.4 Payments Withheld**

Payments may be withheld to such extent as may be necessary to protect the Owner from loss because of:

- .1 defective Work not remedied;
- .2 third party claims filed or reasonable evidence indicating probable filing of such claims;
- .3 failure of the Contractor to make payments properly to Subcontractors or for labor, materials or equipment;
- .4 reasonable evidence that the Work cannot be completed for the unpaid balance of the Contract Sum;
- .5 damage to the Owner or another contractor;
- .6 reasonable evidence that the Work will not be completed within the Contract Time; or,
- .7 failure to carry out the Work in accordance with the Contract Documents.

**9.5 Title to Work**

Contractor warrants that title to Work, materials, and equipment covered by an Application for Payment will pass to Owner either upon incorporation in construction or upon receipt of payment by Contractor, whichever occurs first, free and clear of claims, security interests, or encumbrances.

**9.6 Substantial Completion**

**9.6.1** The Date of Substantial Completion is the date certified by Designer when:

- .1 Work is sufficiently complete so Owner can occupy or utilize the Work or designated portion thereof for its intended use;
- .2 Contractor has provided Operating & Maintenance Data Binders which include complete Product Data, Operating & Maintenance Data, and use and occupancy permits if applicable; and,
- .3 Contractor has tested, demonstrated, and operated equipment and systems if any in the presence of Owner representatives.

**9.6.2** When Contractor considers Work substantially complete, Contractor shall submit to Designer written notice that Work is Substantially Complete, with a list of items to be completed or corrected and dates scheduled for completion or correction of each item. Upon receipt of such notice, Designer will schedule an inspection meeting with Contractor and Owner.

**9.6.3** If Designer determines that Work is not Substantially Complete, Designer will promptly notify Contractor in writing stating reasons. Contractor shall remedy deficiencies in Work and send second written notice of Substantial Completion to Designer. Designer will then schedule a reinspection meeting.

**9.6.4** When Designer concurs that Work is substantially complete, Designer will prepare a Certificate of Substantial Completion accompanied by Contractor's list of items to be completed or corrected as verified and amended by Designer. Designer will submit this Certificate to Contractor and Owner for their signatures.

**9.6.5** The Certificate of Substantial Completion shall establish the Date of Substantial Completion, stating responsibilities of Owner and Contractor for security, maintenance, heat, utilities, damage to Work, and insurance, and fixing the time within which Contractor shall complete the Work. Warranties shall commence on the Date of Substantial Completion.

**9.7 Liquidated Damages**

Time being of the essence, the parties agree that the amount of damages resulting from delay would be uncertain and difficult to prove, that the amount for liquidated damages set forth in the Agreement is a reasonable estimate of damages which would result from delay, and accept the conditions for liquidated damages in the amount set forth in the Agreement for reduction of the Contract Sum in compensation for each calendar day in excess of the allotted time for Substantial Completion.

**9.8 Final Inspection**

**9.8.1** The Date of final Completion is the date certified by Designer when Contractor has:

- .1 completed the required construction activity, with no items outstanding;
- .2 provided Record Documents required by 3.11.1;
- .3 provided Project Data Binders required by 3.11.3; and,
- .4 obtained inspections or letters of acceptance for items requiring approval from governing authorities, and added these to the Project Data Binders.

**9.8.2** When Contractor has reviewed Contract Documents and inspected Work for completion in compliance with Contract Documents, and considers Work complete and ready for final inspection and acceptance, Contractor shall submit to Designer written request for final inspection certifying readiness. Upon such request and certification, Designer will make inspection as soon as practicable.

**9.8.3** If Designer considers Work incomplete or defective, Designer will promptly notify Contractor in writing listing incomplete or defective work. Contractor shall take immediate steps to remedy stated deficiencies and repeat the process of the previous subparagraph.

**9.8.4** If Designer finds Work acceptable in accordance with Contract Documents and the Contract fully performed, Designer will make final accounting.

**9.9 Final Accounting**

**9.9.1** A final modification will be made for Liquidated Damages and other appropriate adjustments, if any, to Contract Sum not previously effected.

**9.9.2** When the Work and Final Accounting are complete, Contractor shall submit Final Application for Payment.

**9.10 Final Payment**

**9.10.1** Contractor shall submit to Designer six equal counterparts of final application on AIA Document G702 Application and Certificate for Payment, accompanied by:

- .1 AIA Document G703 Continuation Sheet itemized with line items and values of the Schedule of Values;
- .2 Contractor's Affidavit of Payment of Debts and Claims on AIA Document G706, that all payrolls, bills for materials and equipment, and other indebtedness connected with the Work for which Owner might in any way be responsible, have been paid or otherwise satisfied;
- .3 Consent of Surety Company, if any, to Final Payment on AIA Document G707 or a similarly formed letter, including acknowledgment of exemptions which were identified in Contractor's Affidavit;
- .4 other data establishing payment or satisfaction of all such obligations, such as receipts, releases, and waivers, to the extent and in such form as may be designated by the Owner;
- .5 a copy of roofing system warranties, if any are required by the Contract Documents; and,
- .6 a copy of the list of subcontractors and suppliers required by clause 3.11.2.2.

**9.10.2** Upon completion of the Work and full performance of the Contract, final inspection, and receipt of the final Application for Payment with required attachments, Designer will issue Certificate for Payment.

**9.10.3** Final Payment, constituting the entire unpaid balance of the Contract Sum, will be paid by Owner to Contractor when Work has been completed, the Contract fully performed, and a final Certificate for Payment issued by the Designer.

**9.10.4** The making of final payment shall not constitute a waiver of claims by the Owner for:

- .1 faulty or defective Work appearing after Substantial Completion;
- .2 failure of the Work to comply with the requirements of the Contract Documents; or,
- .3 terms of any special warranties required by the Contract Documents.

**9.10.5** Acceptance of final payment shall constitute a waiver of payee's claims except those previously made in writing and identified as unsettled at time of final application for payment.

**9.11 Method of Payment**

**9.11.1** Payments to Contractor shall be made through Owner's automated clearinghouse wire transfer system. Contractor shall have completed an ACH Credits Form Authorization Agreement for Automatic Deposits prior to commencing Work and prior to submitting a first application for payment.

**9.11.2** Debit entries to correct errors authorized by the ACH Credits Form Authorization Agreement for Automatic Deposits shall be limited to those errors detected prior to the effective date of the credit entry. The remittance advice shall note that a correcting entry was made. Corrections shall be made within two banking days of the effective date of the original transaction. Other errors detected at a later date shall take the form of a refund, or in some instances, a credit memo if additional payments are to be made.

**9.11.3** The Owner reserves the right to deduct from amounts which are or shall become due and payable to Contractor under this or any contract between the parties any amounts which are or shall become due and payable to the State by the Contractor.

----- **ARTICLE 10** -----  
**PROTECTION of PERSONS and PROPERTY**

**10.1** Contractor shall be responsible for initiating, maintaining and supervising safety precautions and programs in connection with the Work. Contractor shall take reasonable precautions for the safety of, and shall provide reasonable protection to prevent damage, injury, or loss to:

- .1 employees on the Work and other persons who may be affected thereby;
- .2 the Work and materials and equipment to be incorporated therein, whether in storage on or off the site, under care, custody or control of Contractor or subcontractors; and
- .3 other property and appurtenances at the site or adjacent thereto.

**10.2** Contractor shall give all notices and comply with all applicable laws, ordinances, rules, regulations and lawful orders of any public authority bearing on the safety of persons or property or their protection from damage, injury or loss.

**10.3** Contractor shall erect and maintain reasonable safeguards for safety and protection.

**10.4** When use or storage of explosives or other hazardous materials or equipment is necessary for execution of Work, Contractor shall exercise utmost care and carry on such activities under supervision of properly qualified personnel.

**10.5** The Contractor shall not load or permit any part of the Work to be loaded so as to endanger its safety.

**10.6** Contractor shall promptly remedy damage or loss to property caused in whole or in part by Contractor, subcontractor, or sub-subcontractor, or anyone directly or indirectly employed by either of them, or by anyone for whose acts either of them may be liable, except damage or loss attributable to the acts or omissions of the Owner or Designer or anyone directly or indirectly employed by either of them, or by anyone for whose acts either of them may be liable, and not attributable to the fault or negligence of the Contractor. The foregoing obligations of the Contractor are in addition to obligations under Paragraph 3.18.

----- **ARTICLE 11** -----  
**INSURANCE and BONDS**

**11.1 Contractor's Liability Insurance**

**11.1.1** The company or companies providing coverage shall be licensed to do business in Tennessee by the Tennessee Department of Commerce and Insurance. Contractor shall purchase and maintain throughout the life of this Contract such liability insurance, written in a comprehensive form satisfactory to the Owner, as will serve the contractual liability applicable to Contractor's obligations under Paragraph 3.18 and protect Contractor and the Owner from claims set forth below which might arise out of or result from Contractor's operations under Contract, whether such operations be by Contractor, subcontractor or by anyone directly or indirectly employed by any of them, or by anyone for whose acts any of them may be liable. Liabilities to be insured under Contractor's insurance shall include, but not be limited to:

- .1 claims under worker's or workmen's compensation, disability benefit and other similar employee benefits acts;
- .2 claims for damages because of bodily injury, occupational sickness or disease, or death of its employees;
- .3 claims for damages because of bodily injury, sickness or disease, or death of any person other than its employees;
- .4 claims for damages insured by usual personal injury liability coverage which are sustained (1) by any person as a result of an offense directly or indirectly related to the employment of such person by the Contractor, or (2) by any other person;
- .5 claims for damages, including to the Work itself, because of injury to or destruction of tangible property, on or away from the site, including loss of use resulting therefrom; and,

.6 claims for damages because of bodily injury or death of any person or property damage arising out of the ownership, maintenance or use of any motor vehicle.

11.1.2 Limits of liability provided under Contractor's insurance shall be not less than required by law, or as follow, whichever is greater:

.1 Comprehensive General Liability

.a including:

- Premises / Operations
- Underground, explosion, collapse
- Products / Completed Operations
- Contractual
- Independent Contractors
- Broad Form Property Damage

.b Combined single limits for bodily injury and property damage:

Each Occurrence: **\$500,000**  
Aggregate: **\$1,000,000**

.c Products and Completed Operations to be maintained for one year after final payment.

.d Asbestos abatement insurance

.1 **Non-friable asbestos:** If removal or abatement of non-friable asbestos is included in the Work, and Contractor's General Liability Insurance coverage excludes risks associated with asbestos, Contractor shall provide evidence of a Special Endorsement.

.2 **Friable asbestos:** If removal or abatement of friable asbestos is included in the Work, Contractor shall provide evidence of a special endorsement.

.3 **Special Endorsement:** Evidence of a Special Endorsement shall be in the form of a Certificate of Insurance certifying a special endorsement for asbestos abatement insurance with a minimum \$500,000 limit of liability. If Contractor is performing no portion of the asbestos removal or abatement with its own forces, Contractor, in lieu of its own such endorsement, may substitute a Certificate showing such special endorsement covering the subcontractor or sub-subcontractor which is actually performing the asbestos removal or abatement.

.2 Personal injury, with Employment Exclusion deleted:

Aggregate: **\$50,000**

.3 Comprehensive Automobile Liability:

.a 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.

.b Bodily injury and property damage combined single limits:

Each Occurrence: **\$500,000**

.4 Workers Compensation and Employer's Liability, (without restriction as to whether covered by Workmen's Compensation law):

.a Workers Compensation: according to statute

.b Employer's Liability: **\$100,000**

11.1.3 Certificates of Insurance acceptable to Owner attesting to coverage shall be filed with Owner prior to commencement of Work, and shall specifically identify, as confirmation of complete coverage:

.1 each element of coverage, except that "Commercial General Liability" shall mean all of the coverages listed in 11.1.2.1.a unless specifically noted otherwise;

.2 not less than limits set forth above;

.3 Contractor;

.4 Producer;

.5 insurance Carrier;

.6 Project; and,

.7 certificate holder;

11.1.4 Contractor shall notify Owner in writing of changes in coverage or carrier not later than 30 days after notification of Contractor by producer, or 10 days before Contractor makes a change, whichever occurs first. Contractor shall require that if policies are canceled or modified before expiration date thereof, Producer shall endeavor to mail 10 days prior written notice to certificate holder named therein.

11.2 **Owner's Liability Insurance**

The Owner's shall be responsible for purchasing and maintaining its own liability insurance and, at its option, may purchase and maintain such insurance as will protect it against claims which may arise from operations under the Contract.

11.3 **Property Insurance**

11.3.1 Owner shall purchase and maintain property insurance upon the Work at the site to the full insurable value thereof, including interests of Owner, Contractor, subcontractors and sub-subcontractors, and insuring against perils of fire (with extended coverage) and including "all risk" insurance for physical loss or damage including, without duplication of coverage, theft, vandalism, malicious mischief, collapse, earthquake, flood, windstorm, debris removal, and reasonable compensation for Designer's services and expenses required as a result of such insured loss. Such insurance carried by the Owner will include a \$10,000 deductible clause. The deductible is the responsibility of the Contractor. Owner's property insurance shall exclude portions of Work stored off-site or in transit; and, Contractor shall provide insurance upon such portions to protect Owner's interest.

11.3.2 The Owner shall purchase and maintain such boiler and machinery insurance as may be required by the Contract Documents or by law. This insurance shall include the interests of the Owner, the Contractor, Subcontractors and Sub-Subcontractors in the Work.

11.3.3 Losses insured under Subparagraph 11.3.1 are to be adjusted with the Owner and made payable to the Owner as trustee for the insureds, as their interests may appear. Contractor shall pay each Subcontractor a just share of insurance proceeds received by Contractor, and by appropriate agreement, written where legally required for validity, shall require each Subcontractor to make payments to Sub-subcontractors in similar manner.

11.3.4 Owner shall file a copy of all policies with Contractor before an exposure to loss may occur.

11.3.5 Owner and Contractor waive all rights against each other for damages caused by fire or other perils to extent covered by insurance obtained pursuant to this Article or other property insurance applicable to Work, except such rights as they may have to proceeds of such insurance held by the Owner as trustee. Contractor shall require similar waivers in favor of Owner and Contractor by subcontractors and sub-subcontractors.

11.3.6 If Owner finds it necessary to occupy or use a portion of Work prior to Substantial Completion thereof, such occupancy or use shall not commence prior to a time mutually agreed to by Owner and Contractor and to which insurance companies providing property insurance have consented by endorsement to policies. This insurance shall not be canceled or lapsed on account of such partial occupancy or use. Consent of Contractor and of insurance companies to such occupancy or use shall not be unreasonably withheld.

11.4 **Bonds**

11.4.1 Bonds shall be executed on the Owner's standard forms, as may be exhibited in the Project Manual.

11.4.2 Surety Company issuing bond shall be licensed to transact business in Tennessee by Tennessee Department of Commerce and Insurance. Bonds shall have certified and current Power-of-Attorney for Surety's Attorney-in-Fact attached. Attorney-in-fact who executes bond on behalf of Surety shall be a Tennessee licensed resident agent, and shall affix license number to bond; or, countersignature and license number of a Tennessee licensed resident agent shall be affixed to bond in addition to signature of Attorney-in-Fact.

**11.4.3 Performance Bond and Labor and Material Payment Bond**

If the Contract Sum exceeds \$100,000, Contractor shall provide Contract Bond in the amount of one hundred percent (100%) of Contract Sum covering faithful performance of contract and payment of obligations arising thereunder, and shall also provide Three Year Roof Bond, if and as stipulated in the Bid and Agreement Form.

-----**ARTICLE 12**-----  
**UNCOVERING AND CORRECTION OF WORK**

**12.1** Contractor shall promptly correct Work rejected by Designer as defective or failing to conform with Contract Documents whether discovered before or after Substantial Completion and whether or not fabricated, installed or completed. Contractor shall bear costs of correcting rejected Work, including compensation for Designer's additional services made necessary thereby.

**12.2** If within one year after Date of Substantial Completion, or such longer period of time as may be prescribed by law or by the terms of applicable special warranty required by Contract Documents, work is found to be defective or not in accordance with Contract Documents, Contractor shall correct it promptly unless Owner has previously given Contractor written acceptance of such condition. This obligation shall survive termination of Contract.

**12.3** If Three Year Roof Bond is provided according to subparagraph 11.4.3, then with regard only to the roofing system, its installation, and materials, the one year time period of 12.2 is extended for two (2) additional years for a total period of three (3) years, during which time Contractor's obligations hereunder shall be joint and several with Company as defined and set forth in the Roofing System Warranty. For the purpose of this Paragraph, Company's actions, whether of omission or commission, pursuant to Roofing System Warranty are likewise actions of Contractor and in no way negate or reduce responsibilities of Contractor.

**12.4 Corrective Inspection**  
A Corrective Inspection will be scheduled and conducted at project site prior to one year from date Substantial Completion was achieved, but as close to the end of that year as is reasonably possible, and shall be attended by at least one representative each of Owner, Designer, and Contractor, in order to evaluate outstanding corrections needed pursuant to the one-year correction period required by Paragraph 12.2.

-----**ARTICLE 13**-----  
**TERMINATION OR SUSPENSION OF THE CONTRACT**

**14.1 Termination by Owner**

**14.1.1** If Contractor is adjudged bankrupt, or makes general assignment for benefit of creditors, enters receivership, persistently or repeatedly refuses or fails to supply enough properly skilled workmen or proper materials, or fails to promptly pay subcontractors or for materials or labor, or persistently disregards laws, ordinances, rules, regulations or orders of authorities having jurisdiction, or otherwise substantially violates provisions of the Contract Documents, then Owner, upon certification by Designer of sufficient cause, without prejudice to any right or remedy, may upon seven days' written notice to Contractor, terminate employment of Contractor, taking possession of site and materials, equipment, tools, consumed labor, construction equipment, and machinery thereon owned by Contractor, and may finish Work by whatever method Owner deems expedient. In such case the Contractor shall not be entitled to receive further payment until Work is finished.

**14.1.2** If unpaid balance of Contract Sum exceeds costs of finishing Work, including Designer's additional services made necessary thereby, such excess shall be paid to Contractor. If costs exceed the unpaid balance, Contractor shall pay difference to Owner. The amount to be paid to Contractor or to Owner, as case may be, shall be certified by Designer, upon application. This obligation for payment shall survive termination of Contract.

**14.2 Termination by Contractor**

If Designer fails to issue a Certificate for Payment for a period of thirty days through no fault of Contractor, or if Owner fails to make payment thereon for a period of forty five days, Contractor may, upon ten days additional notice in writing to Owner and Designer, terminate the Contract and recover from Owner payment for Work executed and for proven losses sustained upon materials, equipment, tools, construction equipment, machinery, and reasonable overhead, profit and costs normally allowed in Article 7.

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**END OF DOCUMENT**

## SECTION 011000 - SUMMARY

### PART 1 - GENERAL

#### 1.1 RELATED DOCUMENTS

- A. Drawings and general provisions of the Contract, including General and Supplementary Conditions and other Division 01 Specification Sections, apply to this Section.

#### 1.2 SUMMARY

- A. Roof Replacement of the Hale Stadium Press Box, on Tennessee State University Campus, Nashville, Tennessee.
- B. This Section includes the following:
  - 1. Work covered by the Contract Documents.
  - 2. Type of the Contract.
  - 3. Work phases.
  - 4. Work under other contracts.
  - 5. Products ordered in advance.
  - 6. Owner-furnished products.
  - 7. Use of premises.
  - 8. Owner's occupancy requirements.
  - 9. Work restrictions.
  - 10. Specification formats and conventions.

#### 1.3 WORK COVERED BY CONTRACT DOCUMENTS

- A. Project Identification: Hale Stadium Renovation Roof Replacement  
SBC Project No. 166/001-02-2011
- B. Owner: Tennessee State University
- C. The Work includes the furnishing of all labor, equipment, materials, tools, machinery, utilities, transportation, insurance, taxes, superintendence, coordination, and miscellaneous services required for the construction and completion of the Work, whether temporary or permanent and whether or not to be finally incorporated into the Work.

1.4 TYPE OF CONTRACT

- A. Project will be constructed under a single prime contract.

1.5 WORK SEQUENCING

- A. All Work at Hale Stadium shall be carried out during the following dates ONLY:
  - 1. Work to begin immediately after notice to proceed with completion prior to August 15, 2012.

1.6 WORK UNDER OTHER CONTRACTS

- A. General: Cooperate fully with separate contractors so work on those contracts may be carried out smoothly, without interfering with or delaying work under this Contract. Coordinate the Work of this Contract with work performed under separate contracts.

1.7 USE OF PREMISES

- A. General: Contractor shall have limited use of premises for construction operations as indicated on Drawings by the Contract limits.
- B. Use of Site: Limit use of premises to work in areas within the Contract limits indicated. Do not disturb portions of Project site beyond areas in which the Work is indicated.
  - 1. Owner Occupancy: Allow for Owner occupancy of Project site and use by the public.
  - 2. Driveways and Entrances: Keep driveways, loading areas, and entrances serving premises clear and available to Owner, Owner's employees, and emergency vehicles at all times. Do not use these areas for parking or storage of materials.
    - a. Schedule deliveries to minimize use of driveways and entrances.
    - b. Schedule deliveries to minimize space and time requirements for storage of materials and equipment on-site.
- C. Use of Existing Building: Maintain existing building in a weather tight condition throughout construction period. Repair damage caused by construction operations. Protect building and its occupants during construction period.

1.8 OWNER'S OCCUPANCY REQUIREMENTS

- A. Owner Occupancy: Owner will occupy site and existing building during entire construction period. Cooperate with Owner during construction operations to minimize conflicts and facilitate Owner usage. Perform the Work so as not to interfere with Owner's day-to-day operations. Maintain existing exits.
  - 1. Maintain access to existing walkways, corridors, and other adjacent occupied or used facilities. Do not close or obstruct walkways, corridors, or other occupied or used facilities without written permission from Owner and authorities having jurisdiction.

2. Provide not less than 72 hours' notice to Owner of activities that will affect Owner's operations.
- B. Owner Occupancy of Completed Areas of Construction: Owner reserves the right to occupy and to place and install equipment in completed areas of building, before Substantial Completion, provided such occupancy does not interfere with completion of the Work. Such placement of equipment and partial occupancy shall not constitute acceptance of the total Work.
1. Obtain a Certificate of Occupancy from authorities having jurisdiction before Owner occupancy.
  2. Before partial Owner occupancy, mechanical and electrical systems shall be fully operational, and required tests and inspections shall be successfully completed. On occupancy, Owner will operate and maintain mechanical and electrical systems serving occupied portions of building.
  3. On occupancy, Owner will assume responsibility for maintenance and custodial service for occupied portions of building.

#### 1.9 WORK RESTRICTIONS

- A. On-Site Work Hours: Work shall be generally performed inside the existing building during normal business working hours of 8:00 a.m. to 5:00 p.m., Monday through Friday, except otherwise indicated.
1. Weekend Hours: Verify with Owner.
  2. Early Morning Hours: Verify with Owner.
  3. Hours for Utility Shutdowns: Verify with Owner.
  4. Hours for Noisy Activities: Verify with Owner.
- B. Existing Utility Interruptions: Do not interrupt utilities serving facilities occupied by Owner or others unless permitted under the following conditions and then only after arranging to provide temporary utility services according to requirements indicated:
1. Notify Owner not less than 72 hours in advance of proposed utility interruptions.
  2. Do not proceed with utility interruptions without Owner's written permission.

#### 1.10 SPECIFICATION FORMATS AND CONVENTIONS

- A. Specification Format: The Specifications are organized into Divisions and Sections using the 50-division format and CSI/CSC's "MasterFormat" numbering system.
1. Section Identification: The Specifications use Section numbers and titles to help cross-referencing in the Contract Documents. Sections in the Project Manual are in numeric sequence; however, the sequence is incomplete because all available Section numbers are not used. Consult the table of contents at the beginning of the Project Manual to determine numbers and names of Sections in the Contract Documents.
  2. Division 01: Sections in Division 01 govern the execution of the Work of all Sections in the Specifications.

- B. Specification Content: The Specifications use certain conventions for the style of language and the intended meaning of certain terms, words, and phrases when used in particular situations. These conventions are as follows:
1. Abbreviated Language: Language used in the Specifications and other Contract Documents is abbreviated. Words and meanings shall be interpreted as appropriate. Words implied, but not stated, shall be inferred as the sense requires. Singular words shall be interpreted as plural, and plural words shall be interpreted as singular where applicable as the context of the Contract Documents indicates.
  2. Imperative mood and streamlined language are generally used in the Specifications. Requirements expressed in the imperative mood are to be performed by Contractor. Occasionally, the indicative or subjunctive mood may be used in the Section Text for clarity to describe responsibilities that must be fulfilled indirectly by Contractor or by others when so noted.
    - a. The words "shall," "shall be," or "shall comply with," depending on the context, are implied where a colon (:) is used within a sentence or phrase.

PART 2 - PRODUCTS (Not Used)

PART 3 - EXECUTION (Not Used)

END OF SECTION 011000