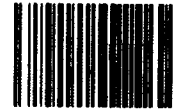




DIVISION OF FINANCE



To: Honorable Mayor Paul A. Young

From: Kristie Hardy, Purchasing Agent



DOCU-SIGN

Date: May 22, 2024

Subject: Contract # 41137 - TT of F MURFREESBORO, INC

Please find attached the above referenced contract for the Mayor's signature. This document does not require City Council approval.

Purpose: Fy'24 Contract to Procure 1 Transit 250 Low Roof Cargo Van per State #209/ Auto PO #80356 for Fleet Mgmt Dept of General Services Division. Term: Execution til 12/31/2024.
Amount: \$ 54,848.10 Est Total Cost.

Type: New

Type Amount: \$

Financial Commitment: The total cost for this agreement is \$54,848.10.

M/WBE Participation Goal: 0.00%

M/WBE Participation Commitment: 0.00%

SBE-Only Bid: N/A

Contracting Authority: By Home Rule Amendment 1852, Section 14, BE IT FURTHER ORDAINED, That the power to contract (other than by franchise agreements) shall remain with the Mayor.

After approval, please return all documents to the Purchasing Department for further processing.

Should you have any questions, please advise.

Attachment



FY 24

PURCHASING

New Contract Agreement Checklist

NEW!

Division: GS

Reg #: _____

RFQ #: _____

PO / Contract #: # 41137

Staff & Date: (WA)

Negotiated Contract	YES	NO	N/A
RFP Required	✓		
Scoring Criteria attached	✓		
Purchasing has original proposals	✓		
Check award recommendation information	✓		
Check scope of services	✓		
Check term of contract/extension clauses	✓		
Check and enter Not To Exceed amount	✓		
Check contract amount	✓		
Check source of funds/POETA	✓		
Check insurance requirements	✓		
Have you received tax exempt ruling letter from IRS or Memphis Shelby County Business Tac Receipt/License		✓	
Copy of license & establish date – Shelby County 222-3059		✓	
Check Signatures	✓		
Copy of insurance/endorsement to clerk	✓		
Tabs inserted into packet	✓		

Term: Exec til 12/31/24

Estimate /NTE (circle one): \$ 54,848.10 TC

Previous Encum Amt: N/A

Description for Processing: " to Buy (1) Cargo Van "
for GS

SECTION 1

COO Memo

EBO Goal Sheet

ORACLE – Business Classification Printout

OBDC Registry Printout

SAM Printout



Paul A. Young
MAYOR

- Reviewed by OBDC
- Approved by OBDC
- Exemption

General Services Division

Reason Statewide Contract
 Sig/Date [Signature] 4/11/24

Memo

TO: Paul Young, Mayor

FROM: Melvin Jamerson, Director – General Services Division *[Signature]*

VIA: Antonio M. Adams, Sr. Esq., Chief Operations Officer

DATE: April 11, 2024

SUBJECT: COO Memo – Negotiated contract for One (1) Transit 250 Low Roof Cargo Van

Brief / Memo

1. Statement of Opportunity

Provide General Services – Fleet Management with One (1) Transit 250 Low Roof Cargo Van.

2. Prior General Services Action

General Services – Fleet Management is seeking to execute a negotiated contract with TT of Murfreesboro to procure One (1) Transit 250 Low Roof Cargo Van via Statewide Contract SWC# 209, Vehicle Contract #80356, for the estimated amount of \$54,848.10.

3. EBO Participation

The EBO Participation for this purchase is 0%. *Statewide contract purchase.*

4. COO Action

The COO is requested to advise the Mayor to approve the negotiated contract with TT of Murfreesboro.

CITY OF MEMPHIS
INTEROFFICE MEMO
Goods, Supplies & Non-Professional Services*

To: Office of Business Diversity & Compliance
From: Russell Heaston
Project Name: FY24 CIP - Request for Vehicles - Blanket Approval
Date: 10/10/23
Subject: EBO Goals

Division: GS
Project Number: _____

BID DATE:

<u>NAME</u>	<u>ESTIMATED AMOUNT</u>	<u>PERCENT</u>	<u>FIRMS M</u>	<u>FIRMS W</u>
Goods & Supplies	\$9,985,175.43	0.00%		
Non-Professional Services		0.00%		
 TOTAL ESTIMATE	 \$9,985,175.43			

*statewide contract
= no availability -*

RECOMMENDED TOTAL MBE GOAL OF: _____ %

RECOMMENDED TOTAL WBE GOAL OF: _____ %

OR

RECOMMENDED TOTAL COMBINED M/WBE GOAL OF: 0 %

APPROVED: *Zanderia Davidson* Date: 10/20/23
Zanderia Davidson, Interim Director OBDC or Designee

APPROVED: *K Hardy* Date: 10/23/23
Kristie Hardy, Purchasing Agent or Designee

APPROVED: *Jennifer Sink* Date: 10/23/23
Jennifer Sink, Chief Legal Officer/City Attorney or Designee
M. Samuel Fletcher, Interim Chief

*Not for use when project includes construction

5/22/24, 10:20 AM

SAM.gov | Search

An official website of the United States government [Here's how you know](#)



Home Search Data Bank Data Services Help

Search

All Words e.g. 1606N020Q02

 **Please Sign In:** You must sign in to your SAM.gov account to search Entities, Responsibility/Qualification and the Disaster Response Registry

[Sign in](#)

Select Domain
Entity Information

- All Entity Information
- Entities
- Disaster Response Registry
- Responsibility / Qualification
- Exclusions

Filter By

Keyword Search

For more information on how to use our keyword search, visit our [help page](#)

Simple Search

Search Editor

- Any Words
- All Words
- Exact Phrase

e.g. 123456789, Smith Corp
"it of murfreeboro" x

Entity

Location

Zip Code

e.g. 20001

State / Territory

Select State / Territory

Tennessee x

City

Select State (Optional)

Select City

Country

Select Country

Status

- Active
- Inactive



No matches found

Your search did not return any results for active records.

Would you like to include inactive records in your search results?

Search inactive

Go back

5/22/24, 10:19 AM

The City of Memphis > Minority and Women's Business Enterprise (M/WBE) - Contract Compliance System

[Show directory information and instructions](#)

Search Parameters

[Edit Parameters](#) | [Clear Parameters](#)

CERTIFICATIONS

Minority Business Enterprise (MBE)
Small Business Enterprise (SBE)
Women Business Enterprise (WBE)

BUSINESS NAME/DBA

TT OF F MURFREESBORO

Search Results

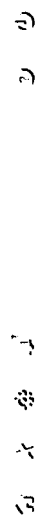
0 firms with 0 certifications found

Your search parameters did not return any matches. Click **Edit Parameters**, modify the information in the fields above and click **Search Again**

5/22/24, 10:19 AM



Business Classification



Update TT of F MURFREESBORO, INC - 166264: Business Classification

Certification

Last Certified By
05/22/2024

- Minority Owned
- Service-disabled Veteran Owned
- Small Business
- Veteran Owned
- Woman Owned
- Women-owned small business eligible under the WOSB program

Applicable	Minority Type	Certificate Number	Certifying Agency	Expiration Date	Status
<input type="checkbox"/>					Cancel
<input type="checkbox"/>					Sign
<input type="checkbox"/>					Sign
<input type="checkbox"/>					Sign
<input type="checkbox"/>					Sign

Cancel Sign

SECTION 2

B & C

BID TAB (If Required)

JUSTIFICATION LETTERS

- Award Not to Low Bidder Memo
- Sole/Single Source
- Back Dated Memo's
- Resolutions
- Etc

P1

City of Memphis

BID AND CONTRACT AGENDA SHEET



FY 24

Original

1. Division: General Services Date: 5/9/2024
 Division Contact Person: Adrian Powell/Bryan Wiswall Phone #: 901-636-7503
 Print Name

2. Contractor: TT OF F MURFREESBORO Address: 1550 NW BROAD ST
 City/State/ Zip Code: MURFREESBORO, TN 37129

Contractor's Contact Name: JOHN HAMBY Contractor's Email Address: jhamby@ttoffmurfreesboro.com

3. BID REJECTION:

For purchase/construction of _____

Explanation of rejection _____

Request to Re-advertise _____

4. CONTRACT AWARD RECOMMENDATION: RFQ/RFP # _____ Vendor # 166264

Check Box: Law Best* Only Negotiated

Contract Amount: \$54,848.10 estimated amount

Purpose: TRANSIT 250 LOW ROOF CARGO VAN

Special Instructions: _____

*Justification for rejection of low bids attached. (Attach a copy of bid tabulation)

5. CHANGE ORDER/AMENDMENT/ENCUMBRANCE/FINAL PAYMENT: Contract# # 41137 Expiration: 12/31/24

For: _____

Special Instructions: _____

6. Submit Invoices to:

Dept. Contact Person: Adrian Powell Address: 2961 Julius Lewis

City/State/Zip Code: Memphis, TN 38118

Extension	Original Contract Amount	<u>\$54,848.10</u>	Final Payment Due:	_____
Change Order	Previous C. O. Total	_____	Retainage:	\$ _____
Finally Close Contract	Prev. Amend./Encum. Toll	_____		
Transfer to PO	C. O. #	_____	Attached	_____
Amendment				
<input checked="" type="checkbox"/> Encumber	Encumbrance Amount	<u>\$ 54,848.10</u>		
<input type="checkbox"/> Unencumber				
	Adjusted Contract Amount	<u>\$8.00</u>		

COST & SOURCE OF FUNDS

Type	Line #	Fund	Serv. Ctr	Account #	Project #	Task #	Award #	Amount
(1)		0400	202201	059500	GS0224A	1	11009	\$54,848.10
(2)								
(3)								
(4)								
(5)								
(6)								

Appropriating Resolution Attached: Other Attachments:

CHECKED & APPROVED BY: Eric Hunter Date: 5/9/24
 Service Center Approval

Director, OADC Approval: _____ Date: 5/14/24
 Chief Administrative Officer: Antonio Adams Date: 5/31/2024

City Engineer: _____ Date: _____
 Contract Analyst-Print: (Signature)
 Purchasing Agent/Purchasing Supervisor: (Signature) Date: 5/23/24

FUNDING/PURCHASING APPROVAL:
 Funds are available.
 Funds to be appropriated/transferred.

SECTION 3

Business License (If Required Insurance

- Certificate of Insurance
- Additional Insured Endorsements
- Insurance Waivers
- Insurance Waiver Request



CERTIFICATE OF GARAGE INSURANCE

Exps: 6/29/24

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.

DATE (MM/DD/YYYY)
3/29/2024

IMPORTANT: If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must have ADDITIONAL INSURED provisions or be endorsed. If SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

PRODUCER The Liberty Company Insurance Brokers Lic #0D79853 5955 De Soto Ave, Ste 250 Woodland Hills CA 91367		CONTRACT NAME: Lady Rivera PHONE (A/C, No, Ext): (888)918-3960 FAX (A/C, No): EMAIL ADDRESS: lady.rivera@libertycompany.com	
INSURED TT of F. Murfreesboro, Inc. ✓ Ford of Murfreesboro 1550 N.W. Broad Street Murfreesboro, TN 37129		INSURER(S) AFFORDING COVERAGE	
		INSURER A: Starr Indemnity & Liability Company	NAIC # 38318
		INSURER B: National Fire & Marine Insurance Company	20079
		INSURER C: Starr Specialty Insurance Company	18109
		INSURER D:	
		INSURER E:	
		INSURER F:	

COVERAGES PROD / CUSTOMER ID: 00233565 **CERTIFICATE #:** CL243100695 **REVISION #:**

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

TRK LTR	TYPE OF INSURANCE	ADCK INSD	INSUR YVD	POLICY NUMBER	POLICY EFF (MMDDYYYY)	POLICY EXP (MMDDYYYY)	LIMITS
A	<input checked="" type="checkbox"/> GARAGE LIABILITY <input type="checkbox"/> ANY AUTO OWNED AUTOS ONLY <input type="checkbox"/> HIRED AUTOS ONLY <input type="checkbox"/> NON-OWNED AUTOS USED IN GARAGE BUSINESS	X		1000 692458241	04/01/2024	04/01/2025	AUTO ONLY (Ea accident) \$ 2,000,000 OTHER THAN AUTO ONLY EA ACCIDENT \$ 2,000,000 AGGREGATE \$ 4,000,000
A	<input type="checkbox"/> GARAGE KEEPERS LIABILITY <input checked="" type="checkbox"/> LEGAL LIABILITY <input checked="" type="checkbox"/> DIRECT BASIS <input checked="" type="checkbox"/> PRIMARY <input type="checkbox"/> EXCESS <input checked="" type="checkbox"/> COMMERCIAL GENERAL LIABILITY ✓ <input type="checkbox"/> CLAIMS-MADE <input checked="" type="checkbox"/> OCCUR			1000 692458241	04/01/2024	04/01/2025	<input checked="" type="checkbox"/> COMP / OTC SPECIFIED PERILS LOC \$ 2,500,000 <input checked="" type="checkbox"/> COLLISION LOC \$ 2,500,000 EACH OCCURRENCE \$ 2,000,000 DAMAGE TO RENTED PREMISES (Ea occurrence) \$ 300,000 MED EXP (Any one person) \$ 10,000 PERSONAL & ADV INJURY \$ 2,000,000 GENERAL AGGREGATE \$ 4,000,000 PRODUCTS - COMP/OP AGG \$ 4,000,000 Employee Ben. Ea. EE \$ 1,000,000
B	<input checked="" type="checkbox"/> UMBRELLA LIAB ✓ <input type="checkbox"/> EXCESS LIAB <input type="checkbox"/> DED <input checked="" type="checkbox"/> RETENTION \$ 25,000			42-UMO-320644-03	04/01/2024	04/01/2025	<input checked="" type="checkbox"/> OCCUR CLAIMS-MADE EACH OCCURRENCE \$ 10,000,000 AGGREGATE \$ 10,000,000
C	<input checked="" type="checkbox"/> WORKERS COMPENSATION AND EMPLOYERS' LIABILITY <input type="checkbox"/> ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH) If yes, describe under REMARKS below	Y/N	N/A	100 0004572	04/01/2024	04/01/2025	<input checked="" type="checkbox"/> PER STATUTE <input type="checkbox"/> OTHER E.L. EACH ACCIDENT \$ 1,000,000 E.L. DISEASE - EA EMPLOYEE \$ 1,000,000 E.L. DISEASE - POLICY LIMIT \$ 1,000,000
C	<input type="checkbox"/> WORKERS COMPENSATION			100 0003578 & 100 0003579	04/01/2024	04/01/2025	EACH ACCIDENT \$ 1,000,000 DISEASE EA EE \$ 1,000,000 DISEASE POL U \$ 1,000,000

REMARKS (ACORD 101, Additional Remarks Schedule, may be attached if more space is required)
 City of Memphis, its officials, agents, employees and representatives are Additional Insureds on the General Liability, if required by written contract, with respect to the Operations of the Named Insured. A Waiver of Subrogation on the General Liability and Workers' Compensation in favor of City of Memphis, its officials, agents, employees and representative, if required by written contract. 10 day notice of cancellation will be sent for nonpayment of premium

CERTIFICATE HOLDER City of Memphis Attn: Risk Management 170 N. Main St., 5th Floor Memphis, TN 38103	CANCELLATION SHOULD ANY OF THE ABOVE-DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS. AUTHORIZED REPRESENTATIVE Risk Ag...
--	--

CGI/ Auto/
Storage

POLICY NUMBER: 1000692458241 ✓

COMMERCIAL AUTO
CA 04 44 10 13

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

WAIVER OF TRANSFER OF RIGHTS OF RECOVERY AGAINST OTHERS TO US (WAIVER OF SUBROGATION)

This endorsement modifies insurance provided under the following:

AUTO DEALERS COVERAGE FORM
BUSINESS AUTO COVERAGE FORM
MOTOR CARRIER COVERAGE FORM

With respect to coverage provided by this endorsement, the provisions of the Coverage Form apply unless modified by the endorsement.

This endorsement changes the policy effective on the inception date of the policy unless another date is indicated below.

<p>Named Insured: Automotive Management Services Inc (AMSI)</p> <p>Endorsement Effective Date: 04/01/2024</p>

SCHEDULE

<p>Name(s) Of Person(s) Or Organization(s):</p> <p>Where required by Written Contract</p>
--

Information required to complete this Schedule, if not shown above, will be shown in the Declarations.

The Transfer Of Rights Of Recovery Against Others To Us condition does not apply to the person(s) or organization(s) shown in the Schedule, but only to the extent that subrogation is waived prior to the "accident" or the "loss" under a contract with that person or organization.

COMMERCIAL AUTO
SICA-1063 09 22

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

**LESSOR – ADDITIONAL INSURED AND LOSS PAYEE – BLANKET
AMENDATORY ENDORSEMENT**

Policy Number: 1000692458241

Effective Date: 4/1/2024

Named Insured: Automotive Management Services

This endorsement modifies the insurance coverage form(s) listed below that have been purchased by you and evidenced as such on the Declarations page. Please read the endorsement and respective policy(ies) carefully.

BUSINESS AUTO COVERAGE FORM
MOTOR CARRIER COVERAGE FORM
AUTO DEALERS COVERAGE FORM

SCHEDULE

Additional Insured (Lessor):	All lessor(s) for whom coverage is required by written contract or agreement
-------------------------------------	--

A. Coverage

1. Any "leased auto" will be considered a covered "auto" you own and not a covered "auto" you hire or borrow.
2. For any "leased auto," the **Who Is An Insured** provision under **Covered Autos Liability Coverage** is changed to include as an "insured" the lessor named in the Schedule. However, the lessor is an "insured" only for "bodily injury" or "property damage" resulting from the acts or omissions by:
 - a. You;
 - b. Any of your "employees" or agents; or
 - c. Any person, except the lessor or any "employee" or agent of the lessor, operating a "leased auto" with the permission of any of the above.
3. The coverage provided under this endorsement applies to any "leased auto" until the expiration date of the applicable written contract or agreement when the lessor or his or her agent takes possession of the "leased auto," whichever occurs first.

B. Loss Payable Clause

1. We will pay, as interest may appear, you and the lessor described in this endorsement for "loss" to a "leased auto."
2. The insurance covers the interest of the lessor unless the "loss" results from fraudulent acts or omissions on your part.
3. If we make any payment to the lessor and the lessor has rights to recover damages from another, those rights are transferred to us. The lessor must do everything necessary to secure our rights and must do nothing after "loss" to impair them.

C. Notice of Cancellation

1. If we cancel the Policy, we will mail notice to the lessor in accordance with the Cancellation Common Policy Condition.
2. If you cancel the Policy, we will mail notice to the lessor.

D. Additional Definition

"Leased auto" means an "auto" leased or rented to you, including any substitute, replacement or extra "auto" needed to meet seasonal or other needs, under a leasing or rental agreement that requires you to provide direct primary insurance for the lessor.

All other terms and conditions of this Policy remain unchanged.

SECTION 4

Sourcing Contract

- Signature Page
- Contract
- Bid Response
- RFQ & Specifications

Negotiated Contract

- Contract (to include exhibits)

Amendment/Extension/Change

- Amendment/Extension/Change Order Document

41137

CITY OF MEMPHIS STANDARD CONTRACT FOR GOODS AND / OR SERVICES

PARTIES TO THE AGREEMENT. This Agreement is made and entered as of the date of execution by and between Ford of Murfreesboro ("Contractor") and the City of Memphis, a municipal corporation of the State of Tennessee ("City").

WITNESSETH

WHEREAS, City, by and through its Division of General Services has the need for One (1) Transit 250 Low Roof Cargo Van as listed in Exhibit A; and

WHEREAS, Contractor has the knowledge and expertise to provide such goods/services; and

WHEREAS, the parties desire to enter into an agreement setting forth the terms and conditions under which Contractor shall provide said goods/services;

NOW THEREFORE, for and in consideration of the mutual promises and covenants contained herein and for other good and valuable consideration, the parties hereby agree as follows:

PAYMENT TERMS AND CONDITIONS

DESCRIPTION OF GOODS / SCOPE OF SERVICES. The goods / services to be provided in connection with this Agreement will include, but not be limited to, those items listed, if applicable, in the Request for Quote (RFQ)/Request for Proposal (RFP) and Contractor's response thereto, which are incorporated herein by reference and, if applicable, Exhibit A – Specifications & Quotations, as outlined in the State Contract SWC209, Contract #80356 (Exhibit B) attached hereto and incorporated herein as if stated verbatim. Said goods / services shall be provided in accordance with the applicable terms and conditions set forth, if applicable, in City solicitation, and it is understood and agreed among the parties that in the event of a variance between the terms and conditions of this Agreement and any amendment hereto and the terms and conditions contained, if applicable either in the solicitation document or the response thereto, the order of precedence shall be as follows: (1) This Agreement; (2) Contractor's response, if applicable; (3) City's solicitation, if applicable.

TERM. This Agreement shall not be binding upon the parties until it has been signed first by Contractor and then by the authorized representatives of City in accordance with applicable ordinances, laws and regulations.

The Initial Term of this Agreement shall commence beginning upon date of execution and shall end on the earlier of December 31, 2024 or until all goods/services herein have been provided to City ("Initial Term"), subject to the availability and appropriation of funds to finance the same and the successful operation of the program.

Eligible costs authorized by City and incurred after the Initial Term begins, but prior to the execution of this Agreement, shall be paid under this Agreement.

INVOICES. Contractor shall submit original invoices, or copies of original invoices certified as such by Contractor, on Contractor's letterhead and in form and substance acceptable by City and with all necessary supporting documentation, to City. Contractor shall invoice in duplicate, if requested. The invoice shall describe the goods (the items sold) or services provided, list the price per unit, reflect any applicable terms of payment, and show the contract number to which it relates. Unless the contract number is shown on the invoice, it may be returned to Contractor. Invoices shall be submitted to: Division of General Services, Office of Fleet Management, 2981 Julius Lewis Drive; Memphis, Tennessee 38118; Attn: Adrian Powell, and via email to: adrian.powell@memphistn.gov.

COMPENSATION. Unless City has good faith and reasonable objections to Contractor's invoice(s), City shall compensate Contractor, based on invoices submitted by Contractor in accordance with the terms of this Agreement, the sum total estimated to be \$54,848.10 (the "Fee") per year during the Initial Term of the Agreement, which shall include all reimbursable expenses/cost. City shall use its best efforts to remit payment based on Contractor's invoice within thirty (30) days after receipt of accurate invoice and approval by City. City is not obligated to pay, and may withhold from payment, any amounts City has in dispute with Contractor based on Contractor's non-performance/delivery, unsatisfactory performance/delivery or negligent performance/delivery of any services or goods hereunder.

City reserves the right to review all Charges billed and incurred on a monthly basis.

COMPENSATION FOR CORRECTIONS. No compensation shall be due or payable to Contractor pursuant to this Agreement for any of the goods delivered or services performed by Contractor to correct goods delivered or services performed, when such corrections are required as a direct result of negligence by Contractor to properly fulfill any of its obligations herein.

TRAVEL EXPENSES. Where travel expenses are otherwise allowed and payable herein, such travel expenses shall be in accordance with City's Travel Policy and Procedures, as may be amended from time to time. This includes advance written travel authorization, submission of travel claims, documentation requirements, and reimbursement rates. No travel advances will be made by City.

TAX PAYMENTS. City of Memphis is exempt from federal excise, state and local taxes on all purchases and upon request will issue tax exemption certificates to Contractor. Contractor shall be solely responsible and liable for any taxes and business license fees assessed or imposed by any government having jurisdiction over the services and/or goods to be provided herein.

PAYMENT DOES NOT IMPLY ACCEPTANCE OF GOOD/SERVICE. The payment of an invoice shall not prejudice City's right to object to or question any invoice or matter in relation thereto. Such payment by City shall neither be construed as acceptance of the good/service nor as final approval of any of the costs invoiced therein, and City's payment shall not relieve Contractor from its obligation to replace or correct any good/service that do not conform to this Agreement,

even if the unsatisfactory character of such good/service may have been apparent or detected at the time such payment was made. Good/service, data or components that do not conform to the requirements of this Agreement shall be rejected by City and replaced by Contractor, without delay or additional cost to City.

If Contractor receives payment from City for good/service or reimbursement(s) that is later disallowed or rejected by City (or another governmental entity on the basis of audit or monitoring), Contractor shall promptly refund the disallowed amount to City upon City's request. At its option, City may offset the amount disallowed from any payment due to Contractor under this Agreement or any other agreement.

FINAL CONTRACT INVOICE. Contractor shall submit to City a final contract invoice within 45 calendar days from the termination date of the Agreement, for any goods/services provided pursuant to this Agreement. Contractor further acknowledges and agrees City will not be responsible for any Contractor invoices, pertaining to this Agreement, submitted to City after the final contract invoice. Contractor shall close out its accounting records at the end of the Agreement period in such a manner that reimbursable expenditures and revenue collections, related to this Agreement, are NOT carried forward.

GENERAL TERMS AND CONDITIONS

AMENDMENT. This Agreement may be modified or amended only by a written amendment executed by all parties hereto and approved by the appropriate City officials in accordance with applicable laws and regulations.

ASSIGNMENT, SUBCONTRACTING, or TRANSFER. Contractor shall not subcontract, assign, delegate or transfer all or part of its rights, responsibilities, or interest under this Agreement without the prior written consent of City. Any purported assignment, transfer, or delegation in violation of this Section shall be voidable by City. No subcontracting, assignment, delegation or transfer shall relieve Contractor from performance of its duties hereunder; neither shall City be responsible for the fulfillment of Contractor's obligations to its transferors or subcontractors. Upon request of City, the subcontracting, assigning, delegating or transferring party shall provide all documents evidencing the transfer. At any time, City may, in its sole discretion, revoke its prior approval of a subcontractor and direct Contractor to replace such subcontractor or perform the services that were being performed by such Contractor itself if City finds in its reasonable judgment that (i) such subcontractor's performance is materially deficient or otherwise unacceptable to City; (ii) good faith doubts exist concerning the subcontractor's ability to render future performance because of changes in the subcontractor's ownership, management, financial condition, or otherwise; or (iii) there have been one (1) or more material misrepresentations by or concerning the subcontractor. City reserves the right to terminate the Agreement if Contractor, in whole or in part, is acquired by another entity during the term of this Agreement. In the event Contractor is allowed to sublet any part of the Agreement, Contractor shall be as fully responsible to City for the acts and omissions of the subcontractor and the subcontractor's employees, as Contractor is responsible for the acts and omissions of Contractor's own employees.

ASSIGNS. See **SUCCESSORS.**

AUDITS. See **RECORDS.**

BOYCOTT OF ISRAEL. In connection with Tennessee Code Annotated Section 12-4-119, Contractor certifies that it is not currently engaged in nor will it engage in a boycott of Israel. For this purpose, a "boycott of Israel" shall mean engaging in refusals to deal, terminating business activities, or other commercial actions that are intended to limit commercial relations with Israel, or companies doing business in or with Israel or authorized by, licensed by, or organized under the laws of the State of Israel to do business, or persons or entities doing business in Israel, when such actions are taken (i) in compliance with, or adherence to, calls for a boycott of Israel, or (ii) in a manner that discriminates on the basis of nationality, national origin, religion, or other unreasonable basis, and is not based on a valid business reason. This provision is not applicable to contracts with a value less than \$250,000 or to companies with less than 10 employees.

CITY FACILITIES. Except to the extent otherwise approved by City in its sole discretion, Contractor shall use any and all items provided by City for the sole and exclusive purpose of providing the services or for delivery of goods described in this Agreement. Use of City facilities by Contractor does not constitute a leasehold interest in favor of Contractor or Contractor's customers.

Contractor shall use any and all items provided by City in an efficient manner. To the extent that Contractor utilizes such items provided by City in any manner that unnecessarily increases facility costs or other costs incurred by City, City reserves the right to set-off the excess costs of such practices. Contractor shall be responsible for any damage to any and all item(s) provided by City resulting from the abuse, misuse, or neglect of Contractor, its employees and subcontractors or other failure to comply with its obligations respecting such items provided by City.

Contractor, its employees and agents shall keep any and all items provided by City in good order, not commit or permit waste or damage to such items, and not use such items for any unlawful purpose. Contractor shall act and comply with City's standard policies and procedures as made available to Contractor regarding access to and use of such City-provided items, including procedures for the physical security of City facilities.

Contractor shall permit City and its agents and representatives to enter into those portions of City facilities occupied by Contractor staff at any time to perform facilities-related services.

Contractor shall not make any improvements or changes involving structural, mechanical or electrical alterations to City facilities without City's prior written approval. Any improvements to City facilities will become the property of City.

When City facilities are no longer required for performance of the services described in Exhibit A, Contractor shall return such facilities to City in substantially the same condition as when Contractor began use of such facilities, subject to reasonable wear and tear.

CITY LIABILITY. City shall have no liability except as specifically provided in this Agreement.

City, by execution of this Agreement, assumes no liability for damages caused to persons or property by reason of Contractor providing goods or services herein or for injury to any employee, agent or subcontractor of the Contractor performing under this Agreement.

CITY'S RIGHT TO WITHHOLD CERTAIN AMOUNTS AND MAKE APPLICATION THEREOF. If evidence is produced before the final settlement of all or any balances that Contractor has failed to pay subcontractors, laborers employed on its work, or failed to pay for materials used therein, or if City has reason to suspect the same, City may withhold such balances and upon evidence satisfactory to City as to the amount due for such goods, labor, and materials, City, acting as the agent of Contractor, may settle and pay for the same and charge the amounts to Contractor and deduct the same from the said balance or balances.

COMPANY'S/CONTRACTOR'S PERSONNEL. (This paragraph/section is applicable only to purchase of services contracts). Contractor certifies that it presently has adequate qualified personnel to perform all services required under this Agreement and that all services performed under this Agreement shall be supervised by Contractor. Contractor will make its personnel aware of and cause them to comply with City's policies that have been made known to Contractor while performing pursuant to this Agreement. Contractor further certifies that all of its employees assigned to perform any services hereunder shall have such knowledge and experience as required to perform the duties assigned to them. Any employee of Contractor who, in the opinion of City, is incompetent, whose conduct becomes detrimental to the services, or whom City deems to be unsatisfactory for any reason, shall immediately be removed from association with the services hereunder per City's request. Upon such request, Contractor shall use all reasonable efforts to promptly replace such employee(s) with substitute employee(s) having appropriate skills and training. Contractor is responsible for the acts or omissions of its personnel under or relating to this Agreement.

Contractor shall be solely liable and responsible for providing all employee compensation and benefits to, or on behalf of, all persons performing services pursuant to this Agreement. City shall have no liability or responsibility for the payment of any salaries, wages, unemployment benefits, health, welfare and disability benefits, federal and local taxes, or other compensation, benefits or taxes for any personnel provided on behalf of Contractor. In addition, Contractor shall be solely liable and responsible for any and all workers' compensation benefits to any person as a result of injuries arising from or connected with any services performed by or on behalf of Contractor pursuant to this Agreement.

CONFIDENTIALITY. Subject to the open records laws of the State of Tennessee, while performing under this Agreement, the parties may gain access to proprietary and/or confidential information that, if disclosed to third parties, may be damaging to each other. The parties agree not to disclose such information to third parties and shall take all reasonable steps to prevent unauthorized access to any of each other's confidential and proprietary information. Such information shall include, but shall not be limited to, materials considered to be confidential information as a matter of law (e.g., personnel records), and shall also include (i) all materials in any form developed or created by each party related to funding and financial and business information; (ii) all information owned, possessed or used by a party, which is communicated to, learned, developed or otherwise acquired by that party in the performance of this Agreement; (iii)

the terms, conditions and pricing contained herein; and (iv) any other information that has been advised by a party is confidential, privileged or proprietary. Confidential information, as used in this Agreement, shall not include (i) information in a party's possession prior to disclosure; (ii) information generally available to the public or that becomes available to the public through a source other than a party under this Agreement, or (iii) information that was rightfully obtained by a party from a third party who is under no obligation of confidentiality to either party to this Agreement with respect to such information. Each party agrees that it will accept and hold confidential information obtained from each other in confidence at all times during and after termination of this Agreement. A party shall neither use nor disclose such information, except as provided in this Agreement or as required by law, without the prior written permission of affected party.

Subject to the open record laws of the State of Tennessee, each party acknowledges and agrees that a breach of this section may cause the affected party irreparable injury and damage; therefore, each party expressly agrees that the affected party shall be entitled to seek injunctive or other equitable relief in any court of competent jurisdiction to prevent or otherwise restrain a breach of this Agreement. Each party agrees that it will disclose confidential information only to those employees who have a right and need to know, and shall require its employees, agents, and subcontractors to comply with the requirements of this provision and the requirements of the provisions herein titled "Public Statements" and "Rights in Data."

CONFLICT OF INTEREST. Neither party shall engage in any conduct or activity in the performance of this Agreement that constitutes a conflict of interest under applicable federal, state or local laws, rules and regulations. Contractor covenants that it has no public or private interest, and shall not acquire any interest, directly or indirectly, which would conflict in any manner with the performance required under this Agreement, and Contractor covenants that no gratuities, in the form of entertainment, gifts, or otherwise, were offered or given by Contractor or any agent or representative of Contractor, to any officer, official, agent or employee of City, in an effort to secure the Agreement or favorable treatment with respect to any determinations concerning the performance of the Agreement. Contractor warrants that no part of the total contract amount provided herein shall be paid directly or indirectly to any officer or employee of City as wages, compensation, or gifts in exchange for acting as officer, agent, employee, subcontractor or consultant to Contractor in connection with anything contemplated or performed relative to this Agreement. For breach or violation of this provision, City shall have the right to recover or withhold the full amount of such gratuities.

COUNTERPARTS. This Agreement may be signed in multiple counterparts and/or counterpart signature pages, each of which shall be deemed an original, and all of which when taken together shall constitute one and the same instrument.

COVENANT AGAINST CONTINGENT FEES. Contractor warrants that it has not employed or retained any company or person other than a *bona fide* employee working solely for Contractor, to solicit or secure this Agreement, and that it has not paid or agreed to pay any company or person, other than a *bona fide* employee working solely for Contractor any fee, commission, percentage, brokerage fee, gift, or any other consideration contingent upon or resulting from the award or making of this Agreement. For breach or violation of this provision/warranty, City shall have the right to recover the full amount of such fee, commission, percentage, brokerage fee, gift, or other

consideration.

DEBARRED OR SUSPENDED ENTITIES. By signing this Agreement, Contractor certifies that it is not presently listed by any federal agency as debarred, suspended, or proposed for debarment from any federal contract activity. If during the term of this Agreement this information changes, Contractor shall notify City without delay. Such notice shall contain all relevant particulars of any debarment, suspension, or proposed debarment.

DESCRIPTION OF GOODS / SCOPE OF SERVICES. See **SCOPE OF SERVICES.**

DISPUTE RESOLUTION. In the event of any dispute, controversy, or claim arising out of or relating to this Agreement or the breach thereof, the parties agree that they shall first use their best efforts in an attempt to settle the dispute through negotiations involving themselves or their representatives as they each deem appropriate. Any dispute concerning a question of fact in connection with this Agreement between Contractor and City shall be referred in successive order for resolution, first to City's Purchasing Agent, second to City's Chief Legal Officer/City Attorney, and thirdly to the Mayor of the City of Memphis, whose decision regarding City's position as to the same shall be final.

DRAFTER. This Agreement is the result of arm's-length negotiations between the parties and shall be construed to have been drafted by all parties such that any ambiguities in this Agreement shall not be construed against either party.

DUE DILIGENCE AND NON-RELIANCE. Contractor represents, warrants and covenants that it has had opportunity to conduct, and has conducted, due diligence with respect to this Agreement, and all other items and conditions it deems necessary to conclude this Agreement, and Contractor represents, warrants and covenants that it has not relied upon any written or oral statement of City or its employees, directors, officers, consultants, attorneys or any elected or appointed officials in executing this Agreement.

EMPLOYMENT OF CITY WORKERS. Contractor shall not engage, on a full-time, part-time or any other basis during the term of this Agreement, any professional or technical personnel who are or have been at any time during the term of this Agreement in the employment of City.

EMPLOYMENT OF ILLEGAL IMMIGRANTS. Contractor hereby certifies to comply with all applicable federal and state laws prohibiting the employment of individuals not legally authorized to work in the United States. Contractor shall not knowingly (i) utilize the services of illegal immigrants; or (ii) utilize the services of any subcontractor who will utilize the services of illegal immigrants in the performance of the contract. In the event Contractor fails to comply with any and all local, state and federal laws prohibiting the employment of individuals not legally authorized to work in the United States, this Agreement may be canceled, terminated or suspended in whole or in part by City, and Contractor may be prohibited from contracting to supply goods and/or services to City for a period of one (1) year from the date of discovery of the usage of illegal immigrant services in the performance of a contract with City.

ENTIRE AGREEMENT. This Agreement, together with all exhibits, attachments, and

addendums hereto (if applicable), constitutes the full and final understanding of the parties with respect to the subject matter hereof and supersedes and replaces any and all prior or contemporaneous agreements or understandings, whether written or oral, express or implied, between the parties with respect to the subject matter of the Agreement.

FORCE MAJEURE. Neither City nor Contractor shall be deemed in default hereunder, nor shall either be responsible for any delay, interruption, or cessation in the performance of its obligations under this Agreement where such failure of performance is the result of any *force majeure* event, including, but not limited to, acts of God, riots, wars, strikes, epidemics, acts, governmental authorities or acts of nature or other similar cause beyond its control. Both shall put forward its best efforts to mitigate any delay, interruption, or cessation in the performance of its obligations under this Agreement related to said *force majeure* event.

GENERAL COMPLIANCE WITH LAWS. If required, Contractor certifies that it is qualified or will take steps necessary to qualify to do business in the State of Tennessee and that it will take such action as, from time to time, may be necessary to remain so qualified and shall obtain, at its own expense, all licenses, permits, insurance, and governmental approvals, if any, necessary to the performance of its obligations under this Agreement. Such permits and licenses will be made available to City upon request.

Contractor is assumed to be familiar with and agrees that at all times it will observe and comply with all applicable federal, state, and local laws, ordinances, and regulations in any manner affecting this Agreement. The preceding shall include, but is not limited to, compliance with all Equal Employment Opportunity laws, the Fair Labor Standards Act, Occupational Safety and Health Administration (OSHA) requirements, and the Americans with Disabilities Act (ADA). Contractor shall promptly notify City of any conflict discovered between the Agreement and any applicable laws, rules, regulations, and/or permits and licenses, and await resolution of the conflict.

GOVERNING LAW. The terms and conditions of this Agreement shall be construed in accordance with and governed by the laws of the State of Tennessee. All actions, whether sounding in contract or in tort, relating to the validity, construction, interpretation and enforcement of this Agreement shall be instituted and litigated in the courts of the State of Tennessee, located in Shelby County, Tennessee, without regard to conflicts of laws principles. In accordance herewith, the parties to this Agreement submit to the jurisdiction of the courts of the State of Tennessee located in Shelby County, Tennessee.

HEADINGS. Titles, articles, and/or section headings to the provisions herein are for reference purposes only and will be disregarded completely in the interpretation and validity of this Agreement or any of its terms.

HOLD HARMLESS. See **INDEMNIFICATION.**

INCORPORATION OF "WHEREAS" CLAUSES. The foregoing "WHEREAS" clauses are hereby incorporated into this Agreement and made a part hereof.

INDEMNIFICATION. Contractor shall indemnify, defend, save and hold harmless City and its