

RESOLUTION NO. \_\_\_\_\_

A RESOLUTION AUTHORIZING THE MAYOR TO EXECUTE, ON BEHALF OF THE CITY OF CHATTANOOGA, A MEMORANDUM OF UNDERSTANDING AND OTHER AGREEMENTS WITH THE CITY OF CHATTANOOGA, STATE OF TENNESSEE, DEPARTMENT OF ECONOMIC AND COMMUNITY DEVELOPMENT, THE INDUSTRIAL DEVELOPMENT BOARD OF THE CITY OF CHATTANOOGA, VOLKSWAGEN GROUP OF AMERICA CHATTANOOGA OPERATIONS, LLC, AND/OR AGENCIES OF ANY OF THE FOREGOING RELATIVE TO THE VOLKSWAGEN GROUP OF AMERICA CHATTANOOGA OPERATIONS, LLC CROSSBLUE PROJECT.

---

BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF CHATTANOOGA, TENNESSEE, That the Mayor be and is hereby authorized to execute, on behalf of the City of Chattanooga, a Memorandum of Understanding and other agreements with the City of Chattanooga, State of Tennessee, Department of Economic and Community Development, the Industrial Development Board of the City of Chattanooga, Volkswagen Group of America Chattanooga Operations, LLC, and/or agencies of any of the foregoing relative to the Volkswagen Group of America Chattanooga Operations, LLC CrossBlue Project.

ADOPTED: \_\_\_\_\_, 2014

/mem

**MEMORANDUM OF UNDERSTANDING**

**BY AND AMONG**

**VOLKSWAGEN GROUP OF AMERICA CHATTANOOGA OPERATIONS, LLC,**

**THE INDUSTRIAL DEVELOPMENT BOARD  
OF THE CITY OF CHATTANOOGA,**

**AND**

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

**DATED AS OF: JULY 14, 2014**

## MEMORANDUM OF UNDERSTANDING

THIS MEMORANDUM OF UNDERSTANDING (this "Agreement") is hereby made and entered into as of the 14<sup>th</sup> day of July, 2014 (the "Effective Date"), by and among Volkswagen Group of America Chattanooga Operations, LLC, a Tennessee limited liability company (the "Company"), the Industrial Development Board of the City of Chattanooga (the "Development Authority"), and the Department of Economic and Community Development, a department of the State of Tennessee (the "State") (the State, the Development Authority, and the Company, collectively, the "Parties").

### RECITALS

**WHEREAS**, the Company's sole automobile manufacturing and assembly facility (the "Facility") in the U.S. is located at the Enterprise South Industrial Park in Chattanooga, Tennessee, which consists of approximately one thousand three hundred forty (1,340) acres (the "Project Site");

**WHEREAS**, the Company intends to make the Project Site the premiere location for its U.S. operations and name the facility the National Research & Development and Planning Center of VWGoA (the "Center" or the "Name," as appropriate) and use the Name in its press releases associated with the Project Site, its signage, and its marketing materials;

**WHEREAS**, the Company is expanding its Facility at the Project Site, which will result in the installation of a new automobile production and the Center (the "Expansion");

**WHEREAS**, the Expansion will require the Company to make a total capital investment of approximately \$600,000,000 in the State and will require the Company to hire 2,000 additional employees;

**WHEREAS**, the State, subject to the conditions of Section 3.1., intends to provide to the Development Authority economic development incentives consisting of reimbursement-based grants for certain costs associated with the Expansion summarized in Section 3.2. and more particularly described in grant contracts, which shall be substantially similar to Attachment A and Attachment B;

**WHEREAS**, the Development Authority, in accordance with its statutory purposes, will utilize the grants to assist the Company with the Expansion; and

**WHEREAS**, the Parties are desirous of setting forth the proposals and respective commitments of the State, the Development Authority, and the Company in a valid, binding, and enforceable agreement, as more fully described herein, which shall, on the Effective Date, become legally binding obligations of the Parties.

**NOW, THEREFORE**, upon and in consideration of the respective promises and covenants contained herein and for other good and valuable consideration, the receipt, adequacy, and sufficiency of which are hereby acknowledged, the Parties hereto agree as follows:

**ARTICLE I – CONDITIONS PRECEDENT**

- 1.1. **Conditions Precedent**. The obligations of the State, the Company, and the Development Authority are subject to the satisfaction of each of the following conditions:
- a. approval of this Agreement by the Board of Directors of the Company’s parent entity, Volkswagen Group of America, Inc. no later than July 14, 2014;
  - b. execution of this Agreement by the Company no later than July 14, 2014;
  - c. execution of this Agreement by the Development Authority no later than July 1, 2014; and
  - d. execution of a Memorandum of Understanding with Hamilton County, The City of Chattanooga, and the Development Authority governing the terms of a local incentive grant to the IDB for use by the Company in the amount of Fifty-two Million Five Hundred Thousand and No/100 Dollars (\$52,500,000) no later than July 1, 2014.

If the conditions above are not satisfied, this Agreement shall be terminated and deemed null and void.

**ARTICLE II – CAPITALIZED TERMS**

Capitalized terms utilized herein shall have the meanings ascribed thereto in this Article II of the Agreement, unless the meanings of such terms have been otherwise specified in a different context. For purposes of this Agreement:

- 2.1. “**Adjusted Facility Development Award Amount**” has the meaning assigned to such term in Section 6.1.
- 2.2. “**Agreement**” has the meaning assigned to such term in the preamble hereto.
- 2.3. “**Assumption Agreement**” has the meaning assigned to such term in Section 7.2.
- 2.4. “**Baseline Jobs**” means Full-Time Positions existing immediately prior to the Start Date.
- 2.5. “**Baseline Report**” has the meaning assigned to such term in Section 5.1.
- 2.6. “**Committed Jobs**” has the meaning assigned to such term in Section 4.1.
- 2.7. “**Company**” has the meaning assigned to such term in the preamble hereto.
- 2.8. “**Development Authority**” has the meaning assigned to such term in the preamble hereto.

- 2.9. “Effective Date” has the meaning assigned to such term in the preamble hereto.
- 2.10. “End Date” means the date that is eight years following the Start Date. All references to the End Date shall include any extensions granted herein.
- 2.11. “Expansion” has the meaning assigned to such term in the recitals hereto.
- 2.12. “Facility” has the meaning assigned to such term in the recitals hereto.
- 2.13. “Facility Development Award” has the meaning assigned to such term in Section 3.1.(a).
- 2.14. “Facility Development Award Amount” has the meaning assigned to such term in Section 3.1.(a).
- 2.15. “Force Majeure” means any of the following events that directly impact the Company’s ability to meet the Performance Requirement: flood, earthquake, storm, lightning, fire, or other Acts of God; sabotage or terrorism.
- 2.16. “Full-Time Contract Position” means a Full-Time Position that is held by an individual on a contract basis, whether directly with the Company or through a third-party contracting service.
- 2.17. “Full-Time Employee Position” means a Full-Time Position that is held by an individual directly employed by the Company.
- 2.18. “Full-Time Position” means a job requiring a minimum of thirty-seven and one-half (37.5) hours of an individual’s time each week during normal operations at the Project Site or at the Center (in the event that the Center is located off the Project Site but within the City of Chattanooga) and that is held for a minimum of twenty-six weeks in a calendar year.
- 2.19. “Incentive Awards” has the meaning assigned to such term in Section 3.2.
- 2.20. “Interim Date” means an annual anniversary of the Start Date. All references to an Interim Date shall include any extensions granted herein.
- 2.21. “Net Jobs” means the cumulative total of New Jobs adjusted against reductions, if any, in Full-Time Positions previously reported in accordance with Article IV of this Agreement, whether such positions were reported as Baseline Jobs or New Jobs.
- 2.22. “Net Jobs (Average)” has the meaning assigned to such term in Section 4.2.
- 2.23. “New Jobs” means Full-Time Positions that are created and filled during the period beginning on the Start Date and ending on the End Date. The term “New Jobs” shall not

include positions created as a result of a merger, acquisition, or other business combination unless such positions are new positions in the State of Tennessee.

- 2.24. “Notification Letter” has the meaning assigned to such term in Section 6.2.
- 2.25. “Parties” has the meaning assigned to such term in the preamble hereto.
- 2.26. “Performance Percentage” has the meaning assigned to such term in Section 4.2.
- 2.27. “Performance Report” has the meaning assigned to such term in Section 5.2.
- 2.28. “Performance Requirement” has the meaning assigned to such term in Section 4.1.
- 2.29. “Project Site” has the meaning assigned to such term in the recitals hereto.
- 2.30. “Protest Letter” has the meaning assigned to such term in Section 6.2.
- 2.31. “Repayment Amount” has the meaning assigned to such term in Section 6.1.
- 2.32. “Start Date” means the Effective Date of this Agreement.
- 2.33. “State” has the meaning assigned to such term in the preamble hereto.
- 2.34. “Successor Company” has the meaning assigned to such term in Section 7.2.
- 2.35. “Training Award” has the meaning assigned to such term in Section 3.1.(b).

### **ARTICLE III – STATE AND DEVELOPMENT AUTHORITY COMMITMENTS**

- 3.1. Incentive Awards. Subject to (i) an appropriation, on or before July 1, 2015, from the Tennessee General Assembly, which shall be introduced in the General Assembly and supported with the best efforts of the State, in an amount sufficient to fund the Incentive Awards, and (ii) approval of the Incentive Awards by the State Funding Board and the State Building Commission, if required, and (iii) approval of the grant agreements by the appropriate authorities, the State shall provide to the Development Authority the following incentives:
  - (a) Facility Development. A grant to the Development Authority to be used by the Development Authority to reimburse costs associated with site development and preparation, infrastructure, production equipment acquisition and installation, and facility construction for the project described in Section 3.2 (the “Facility Development Award”) in an amount up to One Hundred Sixty Five Million Seven Hundred Seventy Eight Thousand and No/100 Dollars (\$165,778,000.00) (the “Facility Development Award Amount”). The State anticipates that the Facility Development Award shall be applicable toward the costs set forth on **Exhibit A**

hereto (the "Facility Development Award Items"). In the event that funds remain after completion of the Facility Development Award Items, the State and the Development Authority may agree to reimburse the Company for expenses related to other items so long as the expenses are otherwise eligible for reimbursement under the grant agreement.

- (b) Training. A FastTrack Training grant payable directly to the Company for training individuals for Full-Time Employee Positions (the "Training Award") in an amount up to Twelve Million and No/100 Dollars (\$12,000,000.00). The amount of job training assistance per Full-Time Employee Position shall not exceed Twelve Thousand and No/100 Dollars (\$12,000.00). The Company shall be eligible for reimbursement of fifty percent of the cost of training per job for the first three (3) months of employment, and the remaining fifty percent (50%) upon twenty four (24) months of employment. Documentation and payroll information for each job filled must be furnished in order to be eligible for reimbursement.

3.2. Project Description. The Development Authority and the Company shall use the Facility Development Award and the Training Award (collectively, the "Incentive Awards") to implement the Expansion, which is more particularly described in the Expansion Project Schedule attached hereto as **Exhibit B**.

3.3. Performance and Payment of Facility Development Award.

- (a) Facility Development Award Items Performance. The Facility Development Award shall be applied to the Facility Development Award Items in the following manner:

- i. Contracts by the Company. The Development Authority and the State agree that the Company may contract directly with contractors and vendors for the performance of the Facility Development Award Items payable with the Facility Development Award. Such contracts shall be procured pursuant to the competitive bidding process as described on **Exhibit C**. The Parties agree that **Exhibit C** reflects the State's competitive bidding process

- ii. Contracts by the Development Authority. In the event that the Company does not contract directly with contractors or vendors for the performance of any Facility Development Award Items, the Development Authority may let contracts with contractors and vendors under the competitive bid process. The Company will submit a request for proposal to the Development Authority for each such item to be performed. The Development Authority shall agree to a bid schedule and firm dates for completion of each item with detailed milestones including, but not limited to, award, start construction, hand-over for installation, utilities functional dates, and final delivery/handover for each item. The Development Authority shall submit such items for bidding using the Company's detailed

descriptions, specifications and requirements for each item (including design/build, lump sum or unit price contract and such other factors as are considered material), which shall be binding upon the contractor. Contractors shall be bound by the timing set forth in the bid package and financial penalties shall be imposed upon such contractors for failure to meet the contract date commitments. Any bidding process administered by the Development Authority shall follow the procedures detailed in **Exhibit D** and shall be subject to the competitive bidding requirements of the State.

iii. Bidding Process Generally. Regardless of whether the Facility Development Award Items are performed pursuant to the process described in Section 3.3(a)(i) or Section 3.3(a)(ii) above, the bidding process shall conform to **Exhibit C**.

(b) Facility Development Award Items Funding. The Facility Development Award Items shall be reimbursed or paid by the Development Authority, up to the amount of the Facility Development Award, in the following manner:

i. Reimbursement for Contracts by the Company. With respect to such Facility Development Award Items for which the Company performs or contracts directly, the Company or its vendors/contractors, as applicable, will submit a "Request for Payment" to the Development Authority for payment of such items. The Development Authority shall reimburse the Company for such expenses incurred by the Company in the performance of the Facility Development Award Items with funds received by the Development Authority from the Facility Development Award using the reimbursement procedure described on **Exhibit E**, until the amount of the Facility Development Award has been expended. Such payment shall be made by the Development Authority within forty-five (45) days following receipt of such funds from the State. The State and Development Authority agree that expenses incurred by the Company in the performance of Facility Development Award Items shall be considered eligible for reimbursement subject to the terms of the grant agreement from the Start Date until such time as the Facility Development Award is fully expended consistent with the reimbursement procedure described on **Exhibit E**.

ii. Payment for Contracts by the Development Authority. In the event that the Development Authority must contract for the performance of any Facility Development Award Items, contractors must submit a Request for Payment for work performed to the Development Authority for approval. This Request for Payment must be accompanied by supporting documentation which demonstrates to the satisfaction of the State and the Development Authority that the expenditures for which reimbursement is sought were incurred and such other documentation as is deemed necessary by the State and the Development Authority to establish that the reimbursement will be

for costs reasonably incurred for work related to such items. The Development Authority shall ensure that the Company has the right to inspect the financial books and records of the contractors with respect to the work performed. The Development Authority shall pay the amount specified in approved Requests for Payment directly to the contractor for work related to approved items using the reimbursement procedure described on **Exhibit E**. Such payment shall be made by the Development Authority within forty-five (45) days following receipt of a Request for Payment.

- iii. Development Authority Meetings. The Development Authority shall provide notice to a designated Company representative of each Development Authority meeting at which the Development Authority will address any matter related to the Facility Development Award Items, providing a description, in reasonable detail, of each item to be addressed, and will solicit involvement and input from the Company in addressing each such item. To the extent that the Development Authority is responsible for completion of any Facility Development Award Items, the Development Authority shall ensure that each such item is performed in a timely manner, consistent with the time frame provided by the Company.

#### **ARTICLE IV – COMPANY COMMITMENTS**

- 4.1. Company Commitment. As consideration for the Facility Development Award, the Company shall create Two Thousand (2,000) Net Jobs (“Committed Jobs”) between the Start Date and the End Date (the “Performance Requirement”). For purposes of determining compliance with the Performance Requirement, Net Jobs may include up to, but not more than 650 (six hundred fifty) Full Time Contract Positions.
- 4.2. The State may, in its sole discretion, extend the End Date (and, if applicable, the interim reporting periods required by Section 5.2.) due to an event of Force Majeure for a period corresponding to the delay caused by such Force Majeure event. However, an extension of any Interim Date or the End Date shall be for a term no longer than one year following the original Interim or End Date.
- 4.3. Compliance with the Performance Requirement. Pursuant to Section 5.2., the State shall, on an annual basis, obtain from the Company the number of New Jobs and Net Jobs as of each Interim Date during the period commencing on the Start Date and ending on the End Date (and, if the End Date is extended pursuant to Section 4.2., on a stub period basis for the period ending on the End Date). As of the End Date, the number of Net Jobs as of the sixth, seventh, and eighth Interim Dates shall be added together and divided by three to determine the average number of Net Jobs (“Net Jobs (Average)”). In accordance with the formula on Item 3 of **Exhibit F**, the Net Jobs (Average) shall be divided by the number of Committed Jobs to determine the performance percentage (the “Performance Percentage”) as of the End Date. The Company shall be deemed in compliance with the Performance

Requirement if the Performance Percentage is equal to or greater than eighty percent (80%). The Company's failure to be in compliance with the Performance Requirement as of the End Date shall result in the reimbursement of all or a portion of the Facility Development Award Amount that has been received by the Development Authority in accordance with Section 6.1.

4.4. Tax Incentives. The Company hereby covenants to the State that it will forego the tax incentives listed below to the extent that they are directly attributable to the 2,000 New Jobs created or the \$600,000 million in capital invested by the Company in connection with the Expansion:

- (a) The Headquarters Facility credit provided by T.C.A. §67-6-224;
- (b) The Industrial Machinery Tax Credit provided by T.C.A. §67-4-2009(3);
- (c) The Job Tax Credit provided by T.C.A. §67-4-2109(b)(1);
- (d) The Super Job Tax Credit provided by T.C.A. §67-4-2109(b)(2); and
- (e) The Qualified Headquarters Facility Relocation Expense Credit provided by T.C.A. §67-4-2109(g).

The above covenant by the Company shall have no effect on any of the above credits earned by the Company pursuant to that certain Memorandum of Understanding by and among the Parties to this Agreement and certain other entities of the State and its local governments executed March 2, 2009 and dated effective as of July 15, 2008 (the "Original MOU"). In the event that the Expansion results in the creation of New Jobs or the capital investment contemplated herein, the Company shall exclude 2,000 New Jobs and the \$600 million of such capital investment from the computation of any minimum thresholds required in order to qualify for tax credits with respect to tax periods beginning on or after the date the Expansion commences.

#### ARTICLE V – REPORTING REQUIREMENTS

5.1. Baseline Report. On or before the 60<sup>th</sup> day following the Effective Date (or such later date as shall have been approved by the State), the Company shall deliver to the State a report substantially similar to **Exhibit G** (the "Baseline Report") that provides the number of Baseline Jobs as of the Start Date with separate totals for Full-Time Employee Positions and Full-Time Contract Positions. The Baseline Report shall include appropriate back-up data for the Baseline Jobs reported. Back-up data shall provide reasonable assurance that information provided to the State pursuant to this Agreement is true and correct in all material respects.

5.2. Performance Reports. On or before the 60<sup>th</sup> day (or such later date as shall have been approved by the State) following each Interim Date, the Company shall deliver to the State

a report substantially similar to **Exhibit H** (a “Performance Report”) that provides the number of New Jobs and Net Jobs existing as of the Interim Date applicable to such report. Each Performance Report shall provide separate totals for Full-Time Employee Positions and Full-Time Contract Positions. Performance Reports shall be signed by a duly authorized representative of the Company and will certify the number of New Jobs and Net Jobs as of the Interim Date applicable to such Performance Report. The Performance Reports shall include appropriate back-up data for the New Jobs and Net Jobs reported. Back-up data shall provide reasonable assurance that information provided to the State pursuant to this Agreement is true and correct in all material respects.

## ARTICLE VI – DEFAULT

- 6.1. Events of Default and Repayment Amount. In the event that (i) the Company fails to satisfy the Performance Requirement as of the End Date pursuant to Article III, (ii) the Company fails to provide the Baseline Report or all of the Performance Reports required pursuant to Sections 5.1. and 5.2. or the supporting documentation applicable to such Baseline Report or Performance Reports on or before the due date established in Sections 5.1. and 5.2. (or otherwise approved by the State pursuant to Section 4.2.); provided, however, that the Company shall have first been given notice of such failure to provide the Baseline Report or any such Performance Report or supporting documentation thereto, and a thirty (30) day opportunity to thereafter provide such Baseline Report or support, Performance Report, or supporting documentation, or (iii) the Company ceases to operate or fails to complete the Project described in Section 3.2. between the Start Date and the End Date, the Company shall repay directly to the State all (in the case of an event of default identified in Sections 6.1.(ii) or 6.1.(iii) above) or a portion of the Facility Development Award Amount that has been received by the Development Authority (in the case of an event of default identified in Section 6.1.(i) above) (in each case, the “Repayment Amount”). For purposes of events of default under Section 6.1.(i), the Repayment Amount shall be determined by (A) multiplying the Facility Development Award Amount by the Performance Percentage, then (B) subtracting the resulting number (the “Adjusted Facility Development Award Amount”) from the Facility Development Award Amount that has been received by the Development Authority. The Company shall repay to the State the difference between the Facility Development Award Amount that has been received by the Development Authority and the Adjusted Facility Development Award Amount as shown on **Exhibit I**.
- 6.2. Notification and Repayment. In the event the Company has failed to meet the Performance Requirement or has otherwise defaulted as described in Sections 6.1.(ii) or 6.1.(iii) of this Agreement, the State shall deliver written notice (a “Notification Letter”) to the Development Authority and the Company of such failure or default that will include a summary of the basis of the State’s claim and shall include a demand that the Company pay the State the Repayment Amount (in which case such Notification Letter shall include the State’s determination of the Repayment Amount).

No later than forty-five (45) days after the date of its receipt of a Notification Letter in which the State demands such repayment, the Company shall submit the Repayment Amount to the State. Any portion of the Repayment Amount that remains unpaid after the end of such forty-five (45) day period shall accrue interest from and after such period at the rate provided under T.C.A. §47-14-105 plus 200 basis points, and should the Company fail to remit the Repayment Amount to the State, the State shall have the right to seek any and all remedies available to it through its administrative processes or to seek remedies available at law or equity. Notwithstanding the foregoing, if the Company believes that the State has improperly demanded payment of the Repayment Amount (either in whole or in part), the Company shall have the right to remit the Repayment Amount demanded by the State pursuant to the State's Notification Letter under protest, in which case (i) the Company shall provide to the State a written explanation of the nature of the protest (the "Protest Letter"); (ii) the Repayment Amount paid by the Company shall not be subject to interest as described in this Section 5.2. if paid within the forty-five (45) day period described above; and (iii) the Company shall not be deemed to have waived any rights or defenses with respect to the Facility Development Award Amount or the Repayment Amount (including, without limitation, any rights or defenses the Company may have under this Agreement or the Grant Contract with respect to the Facility Development Award); provided, however, that the Company shall not be entitled to file a claim against the State with respect to funds repaid pursuant to this Section 6.2. after the first anniversary of the date on which the Company receives the Notification Letter pursuant to which the Company shall have repaid such funds. Further, any such claim against the State shall be made to the Tennessee Claims Commission in accordance with Title 9, Chapter 8 of the Tennessee Code Annotated and shall be limited to disputes relating to matters described in the Protest Letter.

## **ARTICLE VII - MISCELLANEOUS**

- 7.1. **Records.** The Company shall maintain documentation regarding the reporting requirements of Sections 5.1. and 5.2. for the latter of (i) three years following the End Date or (ii) one year after the resolution of any claim against the State filed pursuant to Section 6.2. The documentation shall be subject to audit by the State or its duly appointed representative at any reasonable time and upon reasonable notice. In the event that any audit conducted pursuant to this Section 7.1. reveals that the Company has inaccurately calculated or reported the number of Net Jobs consistent with the intent of this Agreement, the State may adjust the number of Net Jobs as reported by the Company to a number of Net Jobs consistent with the intent of this Agreement and adjust the Performance Percentage and Repayment Amount accordingly.
- 7.2. **Change of Control.** Change of Control is defined as (i) a reorganization, merger, consolidation or other transaction that will result in the transfer of ownership of more than 50% of the Company's shares, unless such transfer of ownership is to an affiliated entity of the Company; or (ii) the liquidation or dissolution of the Company or sale of substantially all of the Company's assets unless such asset sale is to an affiliated entity of the Company.

In the event of a Change of Control that occurs during the period between the Start Date and the End Date, (A) the Company must notify the State of such Change of Control promptly following the approval of the Change of Control pursuant to corporate, partnership, limited liability company, or other similar proceedings applicable to the Change of Control event and (B) either the new owner or other successor entity resulting from the Change of Control (the "Successor Company") following the completion of the applicable transaction must assume the obligations contained in this Agreement by executing an assumption agreement in a form acceptable in all reasonable respects to the State (the "Assumption Agreement"). However, if the Company continues as a legal entity after a Change of Control, the Company and the Successor Company shall be jointly and severally liable for the obligations contained in this Agreement. In lieu of executing an Assumption Agreement, the Company or the Successor Company may elect to pay the State the Facility Development Award Amount that has been received by the Development Authority pursuant to the Grant Contract.

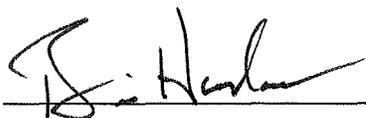
- 7.3. Governing Law. This Agreement shall be governed by and construed in accordance with the laws of the State of Tennessee. The Company agrees that it will be subject to the exclusive jurisdiction of the courts of the State of Tennessee in actions that may arise under this Agreement. The Company acknowledges and agrees that any rights or claims against the State of Tennessee or its employees hereunder, and any remedies arising therefrom, shall be subject to and limited to those rights and remedies, if any, available under *Tennessee Code Annotated*, Sections 9-8-101 through 9-8-407.
- 7.4. Exhibits. The Exhibits and Attachment hereto attached will be construed to be a part of this Agreement by such reference or other mention at each point at which such reference or other mention occurs, in the same manner and with the same effect as if each Exhibit and Attachment were set forth in full and at length every time it is referred to or otherwise mentioned. In the event of a discrepancy or ambiguity regarding the grant of funds from the State to the Development Authority under the grant contracts, the terms of the grant contracts shall govern.
- 7.5. Severability. If any one or more of the provisions contained herein will for any reason be held by any court of competent jurisdiction to be invalid, illegal, or unenforceable in any respect, such invalidity, illegality, or unenforceability will not affect any other provision hereof, and this Agreement will be construed as if such invalid, illegal, or unenforceable provision had never been contained herein.
- 7.6. Authorized Signatures. Each of the individuals executing this Agreement represents that they are authorized to execute this Agreement on behalf of their respective entities.
- 7.7. Execution in Counterparts. This Agreement may be executed in any number of counterparts and by different parties in separate counterparts. Each counterpart when so executed shall be deemed to be an original and all of which together shall constitute one and the same Agreement.

- 7.8. Original Memorandum of Understanding. Nothing herein shall be deemed to invalidate, limit, lessen, restrict, modify, or supersede the terms of that certain Memorandum of Understanding by and among the Parties to this Agreement and certain other entities of the State and local governments therein, executed March 2, 2009 and dated effective as of July 15, 2008.

[Signature Page Follows]

**IN WITNESS WHEREOF**, the Parties have hereunto set their signatures the day and year first written above.

**State of Tennessee**

By: 

Title: Bill Haslam, Governor

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

**Volkswagen Group of America  
Chattanooga Operations, LLC**

By: \_\_\_\_\_

Title: \_\_\_\_\_

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

**The Industrial Development Board  
of the City of Chattanooga, Tennessee**

By: \_\_\_\_\_

Title: \_\_\_\_\_

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

**IN WITNESS WHEREOF**, the Parties have hereunto set their signatures the day and year first written above.

**State of Tennessee**

**Volkswagen Group of America  
Chattanooga Operations, LLC**

By: \_\_\_\_\_

By: \_\_\_\_\_

Title: Bill Haslam, Governor

Title: \_\_\_\_\_

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

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

**The Industrial Development Board  
of the City of Chattanooga, Tennessee**

By: James A. Miller

Title: Vice-Chairman

Date: June 30, 2014

## **EXHIBIT A**

### **Facility Development Award Items**

Items to be included but not limited to:

#### **Infrastructure I**

Site & Construction Provision – Access / Temporary Facilities  
Major Underground Additions and Environmental Control Provisions  
Infrastructure Capacity Increases including Mechanical and Electrical Equipment  
Paint Shop Mechanical and Electrical Capacity Increase  
Production & Logistics Building Major Additions including preparatory work  
Assembly Finish Building Extension and Related Infrastructure  
Technical Center Pilot Program Extension and Rework of Interior Spaces

#### **Infrastructure II**

Product Delivery Hub (Port) – Rail Lines / Finished Car Storage Yard  
Inbound Logistics Structure – Roads / Rear Dock Preparation / Rail Lines  
Quality Test Track – Product Improvement Facility

#### **Manufacturing Equipment**

Body Shop Equipment – Robots / Fixtures / Integration  
Paint Shop Equipment – Paint Specific Structure / Integration  
Assembly Shop Equipment – Automation / Fixtures / Integration  
Conveyor Implementation – Steel Structure / Automation / Integration

#### **Research and Development Center**

Office Structures / Tool Room / Laboratory Equipment

# EXHIBIT B

## Expansion Project Schedule

BSUV - Project Overview VW416  
 Chaffanoogo NAR  
 Construction Implementation  
 incl. Equipment and Infrastructure



VERTRAULICH  
 nur zum internen Gebrauch

ID	Name	Start	Finish	Duration	Gantt Chart											
					2014	2015	2016	2017	2018	2019	2020	2021	2022	2023	2024	2025
1	BSUV Project Overview P	2014-01-01	2025-12-31	3112	[Gantt bar spanning from 2014 to 2025]											
2	Project Milestones	2014-01-01	2025-12-31	3112	[Gantt bar spanning from 2014 to 2025]											
3	...	...	...	...	[Gantt bar spanning from 2014 to 2025]											
4	...	...	...	...	[Gantt bar spanning from 2014 to 2025]											
5	...	...	...	...	[Gantt bar spanning from 2014 to 2025]											
6	...	...	...	...	[Gantt bar spanning from 2014 to 2025]											
7	...	...	...	...	[Gantt bar spanning from 2014 to 2025]											
8	...	...	...	...	[Gantt bar spanning from 2014 to 2025]											
9	...	...	...	...	[Gantt bar spanning from 2014 to 2025]											
10	...	...	...	...	[Gantt bar spanning from 2014 to 2025]											
11	...	...	...	...	[Gantt bar spanning from 2014 to 2025]											
12	...	...	...	...	[Gantt bar spanning from 2014 to 2025]											
13	...	...	...	...	[Gantt bar spanning from 2014 to 2025]											
14	...	...	...	...	[Gantt bar spanning from 2014 to 2025]											
15	...	...	...	...	[Gantt bar spanning from 2014 to 2025]											
16	...	...	...	...	[Gantt bar spanning from 2014 to 2025]											
17	...	...	...	...	[Gantt bar spanning from 2014 to 2025]											
18	...	...	...	...	[Gantt bar spanning from 2014 to 2025]											
19	...	...	...	...	[Gantt bar spanning from 2014 to 2025]											
20	...	...	...	...	[Gantt bar spanning from 2014 to 2025]											
21	...	...	...	...	[Gantt bar spanning from 2014 to 2025]											
22	...	...	...	...	[Gantt bar spanning from 2014 to 2025]											
23	...	...	...	...	[Gantt bar spanning from 2014 to 2025]											
24	...	...	...	...	[Gantt bar spanning from 2014 to 2025]											
25	...	...	...	...	[Gantt bar spanning from 2014 to 2025]											
26	...	...	...	...	[Gantt bar spanning from 2014 to 2025]											
27	...	...	...	...	[Gantt bar spanning from 2014 to 2025]											
28	...	...	...	...	[Gantt bar spanning from 2014 to 2025]											
29	...	...	...	...	[Gantt bar spanning from 2014 to 2025]											
30	...	...	...	...	[Gantt bar spanning from 2014 to 2025]											
31	...	...	...	...	[Gantt bar spanning from 2014 to 2025]											
32	...	...	...	...	[Gantt bar spanning from 2014 to 2025]											
33	...	...	...	...	[Gantt bar spanning from 2014 to 2025]											
34	...	...	...	...	[Gantt bar spanning from 2014 to 2025]											
35	...	...	...	...	[Gantt bar spanning from 2014 to 2025]											
36	...	...	...	...	[Gantt bar spanning from 2014 to 2025]											
37	...	...	...	...	[Gantt bar spanning from 2014 to 2025]											
38	...	...	...	...	[Gantt bar spanning from 2014 to 2025]											
39	...	...	...	...	[Gantt bar spanning from 2014 to 2025]											
40	...	...	...	...	[Gantt bar spanning from 2014 to 2025]											
41	...	...	...	...	[Gantt bar spanning from 2014 to 2025]											
42	...	...	...	...	[Gantt bar spanning from 2014 to 2025]											
43	...	...	...	...	[Gantt bar spanning from 2014 to 2025]											
44	...	...	...	...	[Gantt bar spanning from 2014 to 2025]											
45	...	...	...	...	[Gantt bar spanning from 2014 to 2025]											
46	...	...	...	...	[Gantt bar spanning from 2014 to 2025]											
47	...	...	...	...	[Gantt bar spanning from 2014 to 2025]											
48	...	...	...	...	[Gantt bar spanning from 2014 to 2025]											
49	...	...	...	...	[Gantt bar spanning from 2014 to 2025]											
50	...	...	...	...	[Gantt bar spanning from 2014 to 2025]											
51	...	...	...	...	[Gantt bar spanning from 2014 to 2025]											
52	...	...	...	...	[Gantt bar spanning from 2014 to 2025]											
53	...	...	...	...	[Gantt bar spanning from 2014 to 2025]											
54	...	...	...	...	[Gantt bar spanning from 2014 to 2025]											
55	...	...	...	...	[Gantt bar spanning from 2014 to 2025]											
56	...	...	...	...	[Gantt bar spanning from 2014 to 2025]											
57	...	...	...	...	[Gantt bar spanning from 2014 to 2025]											
58	...	...	...	...	[Gantt bar spanning from 2014 to 2025]											
59	...	...	...	...	[Gantt bar spanning from 2014 to 2025]											
60	...	...	...	...	[Gantt bar spanning from 2014 to 2025]											

## **EXHIBIT C**

### **Competitive Bid Process**

The Parties will use the following competitive bid process. The competitive bid process falls generally into four phases. The first phase relates to the maintenance of a pool of generally qualified bidders. The other three phases relate to the bidding of a specific contract for the Facility Development Award Items.

#### **Phase I – Pre-Qualification**

The Company will establish criteria to become a “Supplier” for the Company. Such criteria will be published on the Company’s procurement website and will include such items as the prospective bidder’s:

- licensure/bonding amount
- work history including size of recent projects completed as well as overall annual business volume
- size of workforce
- proximity to the Project

The list of items above is not comprehensive and nothing shall preclude the Company from including any other items it may reasonably deem necessary.

The Company will determine, and publish on its procurement website, whether prospective bidders must meet all parts of the criteria established by the Company, or alternatively, achieve a pre-determined number of points based on a pre-determined scoring system.

Any prospective bidder that meets the criteria will be made a Supplier.

The Company will maintain a list of Suppliers. This list will be reviewed periodically to remove entities that no longer meet the previously published criteria for being a Supplier. Any entity removed from this list will be notified of the removal and given an opportunity to apply again to become a Supplier.

The Company may directly contact the list of Suppliers to inform them of Requests for Proposals for Facility Development Award Items.

## Phase II – Qualification

The Company will develop a “Request for Proposal” for a contract for Facility Development Award Items as well as a “Notice of Proposal” for the contract.

The Notice of Proposal will include basic information about the Facility Development Award Items being put out to bid as well as the name and contact information of a person who can provide any information reasonably necessary to enable an entity to begin Phase I of the competitive bid process.

The Notice of Proposal will be made publicly available through publication on the Company’s procurement website, through publication in a major-market newspaper such as the *Chattanooga Times Free-Press*, or through another method mutually agreed-upon by the Company and the State.

The Request for Proposal will contain the detailed specifications and requirements necessary for a Supplier to submit a complete bid for that Request for Proposal as well as the criteria that will be used to make a decision on which Suppliers become “Qualified Bidders” for that Request for Proposal.

The Request for Proposal will specify whether prospective Qualified Bidders must meet all parts of the criteria established, whether prospective Qualified Bidders must achieve a pre-determined number of points based on a pre-determined scoring system, or whether the top pre-determined number or percentage of bids will be taken. Suppliers that meet the criteria will be listed as Qualified Bidders for that Request for Proposal.

The contracting party may contact a Supplier that submitted a bid if the contracting party believes that the bid was erroneous in some aspect (for example, the Supplier misunderstood the specifications or had a typographical error in the bid).

Entities that submit valid bids shall be Qualified Bidders.

Value engineering will not be prohibited so long as it does not alter the criteria under which bidders were previously scored.

## Phase III – Cost-Factor Analysis

The bids submitted by Qualified Bidders will be evaluated based upon the technical merits of their bid and the bid’s proposed cost for the Facility Development Award Items. The contracting party will weigh the analysis not more than 70% on the technical merits and not less than 30% on the cost. This analysis and scoring will be conducted by the contracting party and decisions and scores are in the contracting party’s discretion.

The contracting party will determine, and publish in the Request for Proposal, whether the contracting party will take the top pre-determined number or percentage of Qualified Bidders or alternatively, the contracting party can determine that it will take all Qualified Bidders who

achieve a pre-determined number of points based on a pre-determined scoring system. Those Qualified Bidders meeting the pre-determined conditions will be selected to become “Final Bidders” for that Request for Proposal.

Phase IV – Best Offer/Cost Engineering

The contracting party will negotiate with Final Bidders for their best-and-final offers. The contracting party shall not place Final Bidders in direct competition with each other through the disclosure of another Final Bidder’s price.

In addition, regardless of the contracting party, the process for the procurement of professional services outlined in T.C.A. § 12-4-107 shall be followed by the contracting party.

## EXHIBIT D

### **The Development Authority's Competitive Bid Process**

The Parties will use the following competitive bid process. The competitive bid process falls generally into four phases. The first phase relates to the maintenance of a pool of generally qualified bidders. The other three phases relate to the bidding of a specific contract for the Facility Development Award Items.

#### Phase I – Pre-Qualification

The Company will establish criteria to become a “Supplier” for the Company. Such criteria will be published on the Development Authority’s procurement website and will include such items as the prospective bidder’s:

- licensure/bonding amount
- work history including size of recent projects completed as well as overall annual business volume
- size of workforce
- proximity to the Project

The list of items above is not comprehensive and nothing shall preclude the Company from including any other items it may reasonably deem necessary.

The Company will determine, and the Development Authority will publish on its procurement website, whether prospective bidders must meet all parts of the criteria established by the Company, or alternatively, achieve a pre-determined number of points based on a pre-determined scoring system.

Any prospective bidder that meets the criteria will be made a Supplier.

The Company and Development Authority will maintain a combined list of Suppliers. This list will be reviewed periodically to remove entities that no longer meet the previously published criteria for being a Supplier. Any entity removed from this list will be notified of the removal and given an opportunity to apply again to become a Supplier.

The Company and Development Authority may directly contact the list of Suppliers to inform them of Requests for Proposals for Facility Development Award Items.

## Phase II – Qualification

The Company will develop a “Request for Proposal” for a contract for Facility Development Award Items as well as a “Notice of Proposal” for the contract. These documents will be used by the Development Authority in the procurement of such contracts.

The Notice of Proposal will include basic information about the Facility Development Award Items being put out to bid as well as the name and contact information of a person who can provide any information reasonably necessary to enable an entity to begin Phase I of the competitive bid process.

The Notice of Proposal will be made publicly available through publication on the Development Authority’s procurement website, through publication in a major-market newspaper such as the *Chattanooga Times Free-Press*, or through another method mutually agreed-upon by the Development Authority and the State.

The Request for Proposal will contain the detailed specifications and requirements necessary for a Supplier to submit a complete bid for that Request for Proposal as well as the criteria that will be used to make a decision on which Suppliers become “Qualified Bidders” for that Request for Proposal.

The Request for Proposal will specify whether prospective Qualified Bidders must meet all parts of the criteria established, whether prospective Qualified Bidders must achieve a pre-determined number of points based on a pre-determined scoring system, or whether the top pre-determined number or percentage of bids will be taken. Suppliers that meet the criteria will be listed as Qualified Bidders for that Request for Proposal.

The contracting party may contact a Supplier that submitted a bid if the contracting party believes that the bid was erroneous in some aspect (for example, the Supplier misunderstood the specifications or had a typographical error in the bid).

Entities that submit valid bids shall be Qualified Bidders.

Value engineering will not be prohibited so long as it does not alter the criteria under which bidders were previously scored.

## Phase III – Cost-Factor Analysis

The bids submitted by Qualified Bidders will be evaluated based upon the technical merits of their bid and the bid’s proposed cost for the Facility Development Award Items. The contracting party will weigh the analysis not more than 70% on the technical merits and not less than 30% on the cost. This analysis and scoring will be conducted by the contracting party and decisions and scores are in the contracting party’s discretion. The contracting party shall apply a best value methodology consistent with the published policies of the City of Chattanooga. Best value includes certain goals regarding the use of minority and women owned businesses on the project.

The contracting party will determine, and publish in the Request for Proposal, whether the contracting party will take the top pre-determined number or percentage of Qualified Bidders or

alternatively, the contracting party can determine that it will take all Qualified Bidders who achieve a pre-determined number of points based on a pre-determined scoring system. Those Qualified Bidders meeting the pre-determined conditions will be selected to become "Final Bidders" for that Request for Proposal.

Phase IV – Best Offer/Cost Engineering

The contracting party will negotiate with Final Bidders for their best-and-final offers. The contracting party shall not place Final Bidders in direct competition with each other through the disclosure of another Final Bidder's price.

In addition, regardless of the contracting party, the process for the procurement of professional services outlined in T.C.A. § 12-4-107 shall be followed by the contracting party.

## EXHIBIT E

### **Reimbursement Process**

If appropriated by the Tennessee General Assembly and approved by all applicable parties, the Facility Development Award shall be funded by the State using the proceeds from taxable bonds authorized by legislative appropriation. These proceeds shall be made available to the Development Authority no later than August 1, 2015. Because work must begin prior to the effective date of the legislative appropriation and the grant agreement (the "Funding Date"), the Parties have agreed that the contracting entity can begin incurring expenses related to the performance of the Facility Development Award Items as of the Start Date and that such expenses, if otherwise approved, will be eligible for reimbursement pursuant to this Exhibit E and Section 3.3 of the Agreement.

#### *Option 1: The Company Reimbursed by the Development Authority*

Once the work, or any measurable portion contemplated by the contract, authorized through the competitive bid process outlined in Exhibit C, has been completed, and the Funding Date has passed, the Company shall pay its vendors and/or contractors and submit to the Development Authority a Request for Payment along with the Supporting Documentation received from any vendor or contractor.

Upon receipt, the Development Authority shall review the Request for Payment. If it determines that the work performed constitutes Facility Development Award Items, and funds are available, the Development Authority shall reimburse the Company promptly and forward the Request for Payment and the Supporting Documentation to the State for the State's records. If funds are not available to the Development Authority when the Request for Payment is received by the Development Authority, then the Development Authority shall forward the Request for Payment to the State. Pursuant to the Tennessee Prompt Payment Act, the State shall promptly review the Request for Payment and if it determines that the work performed constitutes Facility Development Award Items, pay funds equal to the amount shown on the Request for Payment to the Development Authority whereupon the Development Authority shall reimburse the Company for the amount of the Request for Payment.

#### *Option 2: Development Authority Billed Directly*

Once the work, or any measurable portion contemplated by the contract, authorized through the competitive bid process outlined in Exhibit C, is completed, and the Funding Date has passed, the vendor or contractor shall submit to the Development Authority a Request for Payment, see Attachment C, copies of any invoices from the vendors and/or contractors and any other records of the work completed (collectively the "Supporting Documentation") reasonably necessary for the Development Authority and the State to determine if the work constitutes Facility Development Award Items.

Upon receipt, the Development Authority shall review the Request for Payment. If it determines that the work performed constitutes Facility Development Award Items, and funds are available,

the Development Authority shall pay the vendor or contractor promptly and forward the Request for Payment to the State for the State's records. If funds are not available to the Development Authority when the Request for Payment is received, then the Development Authority shall submit it to the State. Pursuant to the Tennessee Prompt Payment Act, the State shall promptly review the Request for Payment and if it determines that the work performed constitutes Facility Development Award Items, pay funds equal to the amount of the Request for Payment to the Development Authority whereupon the Development Authority shall pay the vendor or contractor for the amount of the Request for Payment.

**EXHIBIT F**

**Performance Percentage Calculation**

For purposes of determining compliance with the Performance Requirement, the Performance Percentage shall be calculated in accordance with Section 4.2. and as illustrated below.

**1. Committed Jobs pursuant to Section 4.2.**

Committed Jobs \_\_\_\_\_

**2. Net Jobs Created**

<u>Sixth Interim Performance Report</u>	<u>Seventh Interim Performance Report</u>	<u>Eighth Interim Performance Report</u>
---	---	--

Net Jobs	_____	_____	_____
----------	-------	-------	-------

$$\frac{\text{Total Net Jobs (6th Interim + 7<sup>th</sup> Interim + 8<sup>th</sup> Interim Date)}}{3} = \text{Net Jobs (Average)}$$

**3. Performance Percentage**

$$\frac{\text{Net Jobs (Average)}}{\text{Committed Jobs}} = \text{_____ \% (Performance Percentage)}$$

**EXHIBIT G**

**Baseline Report**

Development Authority: \_\_\_\_\_

Company: \_\_\_\_\_

Grant Number: \_\_\_\_\_

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

Unless the State agrees to an extension, this report must be submitted to the State no later than 60 days following the Effective Date of the Agreement among the State, the Development Authority and the Company.

Please attach supporting documentation for each Baseline Job existing within the company and each affiliate as of the Start Date.

<b>[insert date]:</b>	<b>Baseline Jobs: Full-Time Employee Positions</b>	<b>Baseline Jobs: Full-Time Contract Positions</b>
[Company]		
[Affiliate (if applicable)]		

I hereby certify that each Baseline Job listed above complies with the definition provided in Section 2.4 of the Agreement and that all information contained in this Baseline Report is true and accurate. I understand that the information provided in this Baseline Report will be used to determine the number of Net Jobs.

**Volkswagen Group of America Chattanooga Operations, LLC**

By: \_\_\_\_\_

Title: \_\_\_\_\_

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

**EXHIBIT H**  
**Performance Report**

Development Authority: \_\_\_\_\_  
 Company: \_\_\_\_\_  
 Grant Number: \_\_\_\_\_  
 Date: \_\_\_\_\_

Check the applicable reporting period:

6<sup>th</sup> Interim  7<sup>th</sup> Interim  8<sup>th</sup> Interim

Unless the State agrees to an extension, this report must be submitted to the State no later than 60 days following each Interim Date for the period commencing on the sixth anniversary of the Start Date under the Agreement and ending on the End Date. New Jobs and Net Jobs shall be calculated according to Section 4.2. of the Agreement.

Please attach supporting documentation for each New Job and Net Job created by the company and each affiliate.

<b>[insert date]:</b>	<b>New Jobs: Full-Time Employee Positions (Reporting Period)</b>	<b>Net Jobs: Full-Time Employee Positions (Cumulative)</b>
[Company]		
[Affiliate (if applicable)]		

<b>[insert date]:</b>	<b>New Jobs: Full-Time Contract Positions (Reporting Period)</b>	<b>Net Jobs: Full-Time Contract Positions (Cumulative)</b>
[Company]		
[Affiliate (if applicable)]		

I hereby certify that each New Job and Net Job listed above complies with the definitions provided in Article II of the Agreement and that all information contained in this Performance Report is true and accurate.

**Volkswagen Group of America Chattanooga Operations, LLC**

By: \_\_\_\_\_

Title: \_\_\_\_\_

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

## **EXHIBIT I**

### **Repayment Amount Calculation**

(Required only if Performance Percentage is less than 80%)

#### **STEP 1**

Facility Development Award Amount \* Performance Percentage = Adjusted Facility Development Award Amount

#### **STEP 2**

Facility Development Award Amount - Adjusted Facility Development Award Amount = Repayment Amount

#### **Example A – Repayment Required**

A \$1,500,000 Facility Development Award to retrofit a building was part of Company A's consideration to locate in Tennessee. As part of the deal, Company A committed to create 800 Net Jobs. At the End Date, Company A created an average of 528 Net Jobs.

- Facility Development Award Amount = \$1,500,000
- Commitment = 800 Net Jobs
- Net Jobs (Average) created = 528 (66% actual Performance Percentage)
- Adjusted Facility Development Award Amount = \$990,000
- \$1,500,000 - \$990,000 = \$510,000
- Repayment Amount = \$510,000 (34% of Facility Development Award Amount)

#### **Example B – No Repayment Necessary**

A \$500,000 Facility Development Award to retrofit a building was part of Company B's consideration to locate in Tennessee. As part of the deal, Company B committed to create 600 Net Jobs. At the End Date, Company B created an average of 498 Net Jobs.

- Facility Development Award Amount \$500,000
- Commitment = 600 Net Jobs
- Net Jobs (Average) created = 498 (83% actual Performance Percentage)
- No repayment required

**ATTACHMENT A**

**Grant Contract**

**GRANT CONTRACT  
BETWEEN THE STATE OF TENNESSEE,  
DEPARTMENT OF ECONOMIC AND COMMUNITY DEVELOPMENT  
AND  
GRANTEE NAME**

Whereas, *Tennessee Code Annotated*, Section 4-3-703, provides that it is the function of the Department of Economic and Community Development to coordinate development services to communities, businesses and industries in the state;

And, *Tennessee Code Annotated*, Section 4-3-706(a), provides that it is the function of the Department of Economic and Community Development to stimulate the creation of new jobs and income through services to business and industry;

This Grant Contract, by and between the State of Tennessee, Department of Economic and Community Development, hereinafter referred to as the "State" and Grantee Legal Entity Name, hereinafter referred to as the "Grantee," is for the provision of employee instruction/training and associated expenses in support of the Grantee's commitment to maintain and increase jobs and income in Tennessee, as further defined in the "SCOPE OF SERVICES."

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

Grantee Place of Incorporation or Organization: State of Incorporation

Grantee Edison Vendor ID#: Edison ID

**A. SCOPE OF SERVICES:**

- A.1. The Grantee shall maintain and increase jobs and income in Tennessee by:
- a. providing and paying all approved expenses associated with on-the-job and classroom instruction/training of new and existing employees; and
  - b. committing to [increase, upgrade and/or maintain] the number of employees within the State of Tennessee.
- A.2. The Grantee will [create/upgrade/maintain] the following number of positions: \_\_\_\_\_.
- A.3. The Grantee shall provide the State with a final end-of-project report along with submission of final invoice. This report shall include: actual number of jobs [created/upgraded/maintained] throughout the duration of the grant as well as number of employees benefiting from training. This report must be submitted to and accepted by the State prior to final reimbursement of applicable expenses submitted in final invoice.

**B. GRANT CONTRACT TERM:**

This Grant Contract shall be effective for the period commencing on Start Date and ending on End Date. The State shall have no obligation for services rendered by the Grantee which are not performed within the specified period.

**C. PAYMENT TERMS AND CONDITIONS:**

- C.1. Maximum Liability. In no event shall the maximum liability of the State under this Grant Contract exceed WRITTEN DOLLAR AMOUNT and No/100 (\$ Contract Amount). The Grant Budget, attached and incorporated herein as a part of this Grant Contract as Attachment 1, shall constitute the maximum amount due the Grantee for the service and all of the Grantee's obligations hereunder. The Grant Budget line-items include, but are not limited to, all applicable taxes, fees, overhead, and all other direct and indirect costs incurred or to be incurred by the Grantee.

- C.2. Compensation Firm. The maximum liability of the State is not subject to escalation for any reason unless amended. The Grant Budget amounts are firm for the duration of the Grant Contract and are not subject to escalation for any reason unless amended, except as provided in Section C.6.
- C.3. Payment Methodology. The Grantee shall be reimbursed for job-based training expenses at a rate of WRITTEN DOLLAR AMOUNT and No/100 (\$\_\_\_\_\_) per job, not to exceed the maximum liability in Section C.1, as detailed in Attachment 1, Grant Budget. Upon progress toward the completion of the work, as described in Section A of this Grant Contract, the Grantee shall submit invoices prior to any reimbursement of allowable costs. The Grantee shall be eligible for reimbursement of fifty percent of the cost of training per job for the first 90 days of employment, and the remaining fifty percent upon 24 months of employment. Documentation and payroll information for each job filled must be furnished in order to be eligible for reimbursement.
- C.4. Travel Compensation. Reimbursement to the Grantee for travel, meals, or lodging shall be subject to amounts and limitations specified in the "State Comprehensive Travel Regulations," as they are amended from time to time and shall be contingent upon and limited by the Grant Budget funding for said reimbursement.
- C.5. Invoice Requirements. The Grantee shall invoice the State no more often than monthly, with all necessary supporting documentation, to:

TN Department of Economic & Community Development, Fast Track Job Training Assistance Program ,312 Rosa L. Parks Ave., 26th Floor, Wm. R. Snodgrass TN Tower, Nashville, TN 37243-1102

- a. Each invoice shall clearly and accurately (all calculations must be extended and totaled correctly) detail the following required information.
- (1) Invoice/Reference Number (assigned by the Grantee);
  - (2) Invoice Date;
  - (3) Invoice Period (period to which the reimbursement request is applicable);
  - (4) Grant Contract Number (assigned by the State to this Grant Contract);
  - (5) Account Name: Department of Economic and Community Development, Fast Track Job Training Assistance Program;
  - (6) Account/Grantor Number (uniquely assigned by the Grantee to the above-referenced Account Name);
  - (7) Grantee Name;
  - (8) Grantee Federal Employer Identification, Social Security, or Tennessee Edison Registration ID Number Referenced in Preamble of this Grant Contract;
  - (9) Grantee Remittance Address;
  - (10) Grantee Contact for invoice questions (name, phone, and/or fax);
  - (11) Itemization of Reimbursement Requested for the Invoice Period, it must detail, at minimum, the following:
    - i. The amount requested by Grant Budget Line-Item (including any travel expenditure reimbursement requested and for which documentation and receipts, as required by "State Comprehensive Travel Regulations, " are attached to the invoice;
    - ii. The amount reimbursed by Grant Budget Line-Item to Date;
    - iii. The total amount reimbursed under the Grant Contract to date;
    - iv. The total amount requested (all line-items) for the Invoice Period.
- b. The Grantee understands and agrees to all of the following.

- (1) An invoice under this Grant contract shall include only reimbursement requests for actual, reasonable, and necessary expenditures required in the delivery of service described by this Grant Contract and shall be subject to the Grant Budget and any other provision of this Grant Contract relating to allowable reimbursements.
- (2) An invoice under this Grant Contract shall not include any reimbursement request for future expenditures.
- (3) An invoice under this Grant Contract shall initiate the timeframe for reimbursement only when the State is in receipt of the invoice, and the invoice meets the minimum requirements of this section C.5.

C.6. Budget Line-items. Expenditures, reimbursements, and payments under this Grant Contract shall adhere to the Grant Budget. The Grantee may vary from a Grant Budget line-item amount by up to one percent (20%) of the line-item amount, provided that any increase is off-set by an equal reduction of other line-item amount(s) such that the net result of variances shall not increase the total Grant Contract amount detailed by the Grant Budget. Any increase in the Grant Budget, grand total amounts shall require an amendment of this Grant Contract.

C.7. Disbursement Reconciliation and Close Out. The Grantee shall submit any final invoice and a grant disbursement reconciliation report within sixty (60) days of the Grant Contract end date and in form and substance acceptable to the State.

- a. If total disbursements by the State pursuant to this Grant Contract exceed the amounts permitted by the section C, payment terms and conditions of this Grant Contract, the Grantee shall refund the difference to the State. The Grantee shall submit said refund with the final grant disbursement reconciliation report.
- b. The State shall not be responsible for the payment of any invoice submitted to the state after the grant disbursement reconciliation report. The State will not deem any Grantee costs submitted for reimbursement after the grant disbursement reconciliation report to be allowable and reimbursable by the State, and such invoices will NOT be paid.
- c. The Grantee's failure to provide a final grant disbursement reconciliation report to the state as required shall result in the Grantee being deemed ineligible for reimbursement under this Grant Contract, and the Grantee shall be required to refund any and all payments by the state pursuant to this Grant Contract.
- d. The Grantee must close out its accounting records at the end of the contract period in such a way that reimbursable expenditures and revenue collections are NOT carried forward.

C.8. Indirect Cost. Should the Grantee request reimbursement for indirect cost, the Grantee must submit to the State a copy of the indirect cost rate approved by the cognizant federal agency and the State. The Grantee will be reimbursed for indirect cost in accordance with the approved indirect cost rate and amounts and limitations specified in the attached Grant Budget. Once the Grantee makes an election and treats a given cost as direct or indirect, it must apply that treatment consistently and may not change during the contract period. Any changes in the approved indirect cost rate must have prior approval of the cognizant federal agency and the State. If the indirect cost rate is provisional during the period of this agreement, once the rate becomes final, the Grantee agrees to remit any overpayment of funds to the State, and subject to the availability of funds the State agrees to remit any underpayment to the Grantee.

C.9. Cost Allocation. If any part of the costs to be reimbursed under this Grant Contract are joint costs involving allocation to more than one program or activity, such costs shall be allocated and reported in accordance with the provisions of Department of Finance and Administration Policy Statement 03 or any amendments or revisions made to this policy statement during the contract period.

- C.10. Payment of Invoice. A payment by the State shall not prejudice the State's right to object to or question any reimbursement, invoice, or matter in relation thereto. A payment by the State shall not be construed as acceptance of any part of the work or service provided or as approval of any amount as an allowable cost.
- C.11. Unallowable Costs. Any amounts payable to the Grantee shall be subject to reduction for amounts included in any invoice or payment theretofore made, which are determined by the State, on the basis of audits or monitoring conducted in accordance with the terms of this Grant Contract, not to constitute allowable costs.
- C.12. Deductions. The State reserves the right to deduct from amounts, which are or shall become due and payable to the Grantee under this or any contract between the Grantee and the State of Tennessee any amounts, which are or shall become due and payable to the State of Tennessee by the Grantee.
- C.13. Prerequisite Documentation. The Grantee shall not invoice the State under this Grant Contract until the State has received the following documentation properly completed.
- a. The Grantee shall complete, sign, and present to the State an "Authorization Agreement for Automatic Deposit (ACH Credits) Form" provided by the State. By doing so, the Grantee acknowledges and agrees that, once said form is received by the State, all payments to the Grantee, under this or any other contract the Grantee has with the State of Tennessee shall be made by Automated Clearing House (ACH).
  - b. The Grantee shall complete, sign, and present to the State a "Substitute W-9 Form" provided by the State. The taxpayer identification number detailed by said form must agree with the Federal Employer Identification Number or Social Security Number referenced in this Grant Contract or the Grantee's Tennessee Edison Registration.

**D. STANDARD TERMS AND CONDITIONS:**

- D.1. Required Approvals. The State is not bound by this Grant Contract until it is signed by the contract parties and approved by appropriate officials in accordance with applicable Tennessee laws and regulations (depending upon the specifics of this contract, said officials may include, but are not limited to, the Commissioner of Finance and Administration, the Commissioner of Human Resources, and the Comptroller of the Treasury).
- D.2. Modification and Amendment. Except as specifically provided herein, this Grant Contract may be modified only by a written amendment signed by all parties hereto and approved by both the officials who approved the base contract and, depending upon the specifics of the contract as amended, any additional officials required by Tennessee laws and regulations (said officials may include, but are not limited to, the Commissioner of Finance and Administration, the Commissioner of Human Resources, and the Comptroller of the Treasury).
- D.3. Termination for Convenience. The State may terminate this Grant Contract without cause for any reason. Said termination shall not be deemed a breach of contract by the State. The State shall give the Grantee at least thirty (30) days written notice before the effective termination date. The Grantee shall be entitled to compensation for authorized expenditures and satisfactory services completed as of the termination date, but in no event shall the State be liable to the Grantee for compensation for any service which has not been rendered. The final decision as to the amount, for which the State is liable, shall be determined by the State. Should the State exercise this provision, the Grantee shall not have any right to any actual general, special, incidental, consequential, or any other damages whatsoever of any description or amount.
- D.4. Termination for Cause. If the Grantee fails to properly perform its obligations under this Grant Contract in a timely or proper manner, or if the Grantee violates any terms of this Grant Contract, the State shall have the right to immediately terminate the Grant Contract and withhold payments in excess of fair compensation for completed services. Notwithstanding the above, the Grantee

shall not be relieved of liability to the State for damages sustained by virtue of any breach of this Grant Contract by the Grantee.

- D.5. Subcontracting. The Grantee shall not assign this Grant Contract or enter into a subcontract for any of the services performed under this Grant Contract without obtaining the prior written approval of the State. If such subcontracts are approved by the State, each shall contain, at a minimum, sections of this contract pertaining to "Conflicts of Interest," "Lobbying," "Nondiscrimination," "Public Accountability," "Public Notice," and "Records" (as identified by the section headings). Notwithstanding any use of approved subcontractors, the Grantee shall be the prime contractor and shall be responsible for all work performed.
- D.6. Conflicts of Interest. The Grantee warrants that no part of the total Grant Amount shall be paid directly or indirectly to an employee or official of the State of Tennessee as wages, compensation, or gifts in exchange for acting as an officer, agent, employee, subcontractor, or consultant to the Grantee in connection with any work contemplated or performed relative to this Grant Contract.

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

- D.7. Lobbying. The Grantee certifies, to the best of its knowledge and belief, that:
- a. No federally appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of an agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any federal contract, grant, loan, or cooperative agreement.
  - b. If any funds other than federally appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this contract, grant, loan, or cooperative agreement, the Grantee shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.
  - c. The Grantee shall require that the language of this certification be included in the award documents for all sub-awards at all tiers (including subcontracts, sub-grants, and contracts under grants, loans, and cooperative agreements) and that all subrecipients shall certify and disclose accordingly.

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into and is a prerequisite for making or entering into this transaction imposed by section 1352, title 31, *U.S. Code*.

- D.8. Nondiscrimination. The Grantee hereby agrees, warrants, and assures that no person shall be excluded from participation in, be denied benefits of, or be otherwise subjected to discrimination in the performance of this Grant Contract or in the employment practices of the Grantee on the grounds of handicap or disability, age, race, color, religion, sex, national origin, or any other classification protected by Federal, Tennessee State constitutional, or statutory law. The Grantee shall, upon request, show proof of such nondiscrimination and shall post in conspicuous places, available to all employees and applicants, notices of nondiscrimination.
- D.9. Public Accountability. If the Grantee is subject to *Tennessee Code Annotated*, Title 8, Chapter 4, Part 4, or if this Grant Contract involves the provision of services to citizens by the Grantee on

behalf of the State, the Grantee agrees to establish a system through which recipients of services may present grievances about the operation of the service program, and the Grantee shall display in a prominent place, located near the passageway through which the public enters in order to receive Grant supported services, a sign at least twelve inches (12") in height and eighteen inches (18") in width stating:

NOTICE: THIS AGENCY IS A RECIPIENT OF TAXPAYER FUNDING. IF YOU OBSERVE AN AGENCY DIRECTOR OR EMPLOYEE ENGAGING IN ANY ACTIVITY WHICH YOU CONSIDER TO BE ILLEGAL, IMPROPER, OR WASTEFUL, PLEASE CALL THE STATE COMPTROLLER'S TOLL-FREE HOTLINE: 1-800-232-5454

- D.10. Public Notice. All notices, informational pamphlets, press releases, research reports, signs, and similar public notices prepared and released by the Grantee shall include the statement, "This project is funded under an agreement with the State of Tennessee." Any such notices by the Grantee shall be approved by the State.
- D.11. Licensure. The Grantee and its employees and all sub-grantees shall be licensed pursuant to all applicable federal, state, and local laws, ordinances, rules, and regulations and shall upon request provide proof of all licenses.
- D.12. Records. The Grantee (and any approved subcontractor) shall maintain documentation for all charges under this Contract. The books, records, and documents of the Grantee (and any approved subcontractor), insofar as they relate to work performed or money received under this Contract, shall be maintained for a period of three (3) full years from the date of the final payment and shall be subject to audit at any reasonable time and upon reasonable notice by the state agency, the Comptroller of the Treasury, or duly appointed representatives. The records of not-for-profit entities shall be maintained in accordance with the *Accounting and Financial Reporting for Not-for-Profit Recipients of Grant Funds in Tennessee*, published by the Tennessee Comptroller of the Treasury and found at <http://www.comptroller1.state.tn.us/ma/finreptmanual.asp>. The records for local governments shall be maintained in accordance with the *Internal Control and Compliance Manual for Tennessee Municipalities*, published by the Tennessee Comptroller of the Treasury and found at <http://www.comptroller1.state.tn.us/ma/citymanual.asp> and in accordance with GFOA's publication, *Governmental Accounting, Auditing and Financial Reporting*.
- D.13. Prevailing Wage Rates. All grants and contracts for construction, erection, or demolition or to install goods or materials that involve the expenditure of any funds derived from the State require compliance with the prevailing wage laws as provided in *Tennessee Code Annotated*, Section 12-4-401 *et seq.*
- D.14. Monitoring. The Grantee's activities conducted and records maintained pursuant to this Grant Contract shall be subject to monitoring and evaluation by the State, the Comptroller of the Treasury, or their duly appointed representatives.
- D.15. Progress Reports. The Grantee shall submit brief, periodic, progress reports to the State as requested.
- D.16. Annual Report and Audit. The Grantee shall prepare and submit, within nine (9) months after the close of the reporting period, an annual report of its activities funded under this Grant Contract to the commissioner or head of the Granting agency, the Tennessee Comptroller of the Treasury, and the Commissioner of Finance and Administration. The annual report for any Grantee that receives five hundred thousand dollars (\$500,000) or more in aggregate federal and state funding for all its programs shall include audited financial statements. All books of account and financial records shall be subject to annual audit by the Tennessee Comptroller of the Treasury or the Comptroller's duly appointed representative. When an audit is required, the Grantee may, with the prior approval of the Comptroller, engage a licensed independent public accountant to perform the audit. The audit contract between the Grantee and the licensed independent public accountant shall be on a contract form prescribed by the Tennessee Comptroller of the Treasury. Any such audit shall be performed in accordance with generally accepted government auditing

standards, the provisions of OMB Circular A-133, if applicable, and the *Audit Manual for Governmental Units and Recipients of Grant Funds* published by the Tennessee Comptroller of the Treasury. The Grantee shall be responsible for reimbursement of the cost of the audit prepared by the Tennessee Comptroller of the Treasury, and payment of fees for the audit prepared by the licensed independent public accountant. Payment of the audit fees of the licensed independent public accountant by the Grantee shall be subject to the provisions relating to such fees contained in the prescribed contract form noted above. Copies of such audits shall be provided to the designated cognizant state agency, the State Granting Department, the Tennessee Comptroller of the Treasury, and the Department of Finance and Administration and shall be made available to the public.

- D.17. Procurement. If other terms of this Grant Contract allow reimbursement for the cost of goods, materials, supplies, equipment, and/or contracted services, such procurement(s) shall be made on a competitive basis, including the use of competitive bidding procedures, where practical. The Grantee shall maintain documentation for the basis of each procurement for which reimbursement is paid pursuant to this Grant Contract. In each instance where it is determined that use of a competitive procurement method is not practical, supporting documentation shall include a written justification for such decision and non-competitive procurement. Further, and notwithstanding the foregoing, if such reimbursement is to be made with funds derived wholly or partially from federal sources, the determination of cost shall be governed by and reimbursement shall be subject to the Grantee's compliance with applicable federal procurement requirements.

The Grantee shall obtain prior approval from the State before purchasing any equipment under this Grant Contract.

- D.18. Strict Performance. Failure by any party to this Grant Contract to insist in any one or more cases upon the strict performance of any of the terms, covenants, conditions, or provisions of this agreement shall not be construed as a waiver or relinquishment of any such term, covenant, condition, or provision. No term or condition of this Grant Contract shall be held to be waived, modified, or deleted except by a written amendment signed by the parties hereto.

- D.19. Independent Contractor. The parties hereto, in the performance of this Grant Contract, shall not act as employees, partners, joint venturers, or associates of one another. It is expressly acknowledged by the parties hereto that such parties are independent contracting entities and that nothing in this Grant Contract shall be construed to create an employer/employee relationship or to allow either to exercise control or direction over the manner or method by which the other transacts its business affairs or provides its usual services. The employees or agents of one party shall not be deemed or construed to be the employees or agents of the other party for any purpose whatsoever.

The Grantee, being an independent contractor and not an employee of the State, agrees to carry adequate public liability and other appropriate forms of insurance, including adequate public liability and other appropriate forms of insurance on the Grantee's employees, and to pay all applicable taxes incident to this Grant Contract.

- D.20. State Liability. The State shall have no liability except as specifically provided in this Grant Contract.
- D.21. Force Majeure. The obligations of the parties to this Grant Contract are subject to prevention by causes beyond the parties' control that could not be avoided by the exercise of due care including, but not limited to, natural disasters, riots, wars, epidemics, or any other similar cause.
- D.22. State and Federal Compliance. The Grantee shall comply with all applicable state and federal laws and regulations in the performance of this Grant Contract.
- D.23. Governing Law. This Grant Contract shall be governed by and construed in accordance with the laws of the State of Tennessee. The Grantee agrees that it will be subject to the exclusive jurisdiction of the courts of the State of Tennessee in actions that may arise under this Grant Contract. The Grantee acknowledges and agrees that any rights or claims against the State of

Tennessee or its employees hereunder, and any remedies arising there from, shall be subject to and limited to those rights and remedies, if any, available under *Tennessee Code Annotated*, Sections 9-8-101 through 9-8-407.

- D.24. Completeness. This Grant Contract is complete and contains the entire understanding between the parties relating to the subject matter contained herein, including all the terms and conditions of the parties' agreement. This Grant Contract supersedes any and all prior understandings, representations, negotiations, and agreements between the parties relating hereto, whether written or oral.
- D.25. Severability. If any terms and conditions of this Grant Contract are held to be invalid or unenforceable as a matter of law, the other terms and conditions hereof shall not be affected thereby and shall remain in full force and effect. To this end, the terms and conditions of this Grant Contract are declared severable.
- D.26. Headings. Section headings are for reference purposes only and shall not be construed as part of this Grant Contract.

**E. SPECIAL TERMS AND CONDITIONS:**

- E.1. Conflicting Terms and Conditions. Should any of these special terms and conditions conflict with any other terms and conditions of this Grant Contract, these special terms and conditions shall control.
- E.2. Communications and Contacts. All instructions, notices, consents, demands, or other communications required or contemplated by this Grant Contract shall be in writing and shall be made by certified, first class mail, return receipt requested and postage prepaid, by overnight courier service with an asset tracking system, or by EMAIL or facsimile transmission with recipient confirmation. Any such communications, regardless of method of transmission, shall be addressed to the respective party at the appropriate mailing address, facsimile number, or EMAIL address as set forth below or to that of such other party or address, as may be hereafter specified by written notice.

The State:

Philip Trauernicht, Senior Advisor  
Business Development  
Department of Economic and Community Development  
312 Rosa L. Parks Avenue, 27th Floor, Wm. R. Snodgrass/Tennessee Tower  
Nashville, TN 37243-1102  
EMAIL: [philip.trauernicht@tn.gov](mailto:philip.trauernicht@tn.gov)  
Telephone: 615.253.1903

The Grantee:

Grantee Contact Name & Title  
Grantee Name  
Address  
Email Address  
Telephone # Number  
FAX # Number

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

- E.3. Subject to Funds Availability. The Grant Contract is subject to the appropriation and availability of State and/or Federal funds. In the event that the funds are not appropriated or are otherwise

unavailable, the State reserves the right to terminate the Grant Contract upon written notice to the Grantee. Said termination shall not be deemed a breach of contract by the State. Upon receipt of the written notice, the Grantee shall cease all work associated with the Grant Contract. Should such an event occur, the Grantee shall be entitled to compensation for all satisfactory and authorized services completed as of the termination date. Upon such termination, the Grantee shall have no right to recover from the State any actual, general, special, incidental, consequential, or any other damages whatsoever of any description or amount.

- E.4. Tennessee Department of Revenue Registration. The Grantee shall be registered with the Department of Revenue for the collection of Tennessee sales and use tax. This registration requirement is a material requirement of this Contract.
  
- E.5. Charges to Service Recipients Prohibited. The Grantee shall not collect any amount in the form of fees or reimbursements from the recipients of any service provided pursuant to this Grant Contract.
  
- E.6. No Equipment Acquisition. This Grant Contract does not involve the acquisition and disposition of equipment acquired with funds provided under this Grant Contract.

**IN WITNESS WHEREOF:**

**GRANTEE LEGAL ENTITY NAME:**

---

**GRANTEE SIGNATURE**

**DATE**

---

**PRINTED NAME AND TITLE OF GRANTEE SIGNATORY (above)**

**DEPARTMENT OF ECONOMIC AND COMMUNITY DEVELOPMENT:**

---

**WILLIAM F. HAGERTY, COMMISSIONER**

**DATE**

## ATTACHMENT 1

## GRANT BUDGET

(BUDGET PAGE 1)

<b>GRANTEE:</b>	<b>COMPANY NAME</b>		
<b>COUNTY:</b>	<b>COUNTY</b>		
<b>LOCATION:</b>	<b>ADDRESS, CITY, STATE, ZIP CODE</b>		
<b>PROGRAM:</b>	<b>FASTTRACK JOB TRAINING ASSISTANCE PROGRAM</b>		
<b>NUMBER OF JOBS:</b>	New Hires	Upgrades	Retained
<b>REIMBURSEMENT:</b>	\$ _____ /per job		
<b>APPLICABLE PERIOD: The grant budget line-item amounts below shall be applicable only to expense incurred during the period beginning Start Date and ending End Date.</b>			
<b>REIMBURSABLE EXPENSE LINE-ITEMS BY CATEGORY</b> (for newly hired employees, employees in upgraded positions, and employees to be retained through instruction)			<b>GRANT AMOUNT</b>
<b>Job-Based Training Expenses</b> (Calculated based on Section C.3. Payment Methodology.)			\$0.00
<b>Travel Expenses: Instruction/Training Related *</b> (Airfare documentation MUST include traveler, destination, dates of travel and cost of ticket and hotel receipts MUST be furnished.)			\$0.00
<b>Instructional Expenses for Selected Job Titles</b> (Trainee and Instructor Information MUST be furnished.)			\$0.00
<b>Vendor Expenses/Training Related</b> (Invoice and Trainee Information MUST be furnished.)			\$0.00
<b>Training Aids/Materials Expenses</b> (Invoice or Detail of In-house production cost.)			\$0.00
<b>Training Coordinator/Developer Expenses</b> (Proof of Salary MUST be furnished.)			\$0.00
<b>Training Curriculum/Development Expenses</b> (Invoice MUST be furnished.)			\$0.00
<b>Training Classroom/Facility Rental Expenses</b> (Invoice MUST be furnished.)			\$0.00
<b>GRAND TOTAL</b>			<b>\$0.00</b>

\* NOTE: All reimbursable travel expense will be subject to the "State Comprehensive Travel Regulations" (posted on the Internet at: [tennessee.gov/finance/act/policy8.pdf](http://tennessee.gov/finance/act/policy8.pdf)) provided that it shall not exceed this Grant Budget line-item amount.

**ATTACHMENT B**

**Grant Contract**

GRANT CONTRACT  
BETWEEN THE STATE OF TENNESSEE,  
DEPARTMENT OF GENERAL SERVICES  
FOR  
DEPARTMENT OF ECONOMIC AND COMMUNITY DEVELOPMENT  
AND

[REDACTED]  
SBC Project No. [REDACTED]

This Grant Contract, by and between the State of Tennessee, Department of General Services for Department of Economic and Community Development hereinafter referred to as the "State" and [REDACTED], hereinafter referred to as the "Grantee," is for the provision of [REDACTED], as further defined in the "SCOPE OF SERVICES" included as Attachment "A" to this Contract.

The Grantee is [REDACTED]  
Grantee Place of Incorporation or Organization: [REDACTED]  
Grantee Edison Vendor ID # [REDACTED]

**A. SCOPE OF SERVICES:**

- A.1 The Grantee shall provide all service and deliverables as required, described, and detailed herein and shall meet all service and delivery timelines as specified by this Grant Contract.
- A.2 The Scope of Services is set forth in the Grant Budget (Attachment A) which is incorporated into this Grant Contract by reference. The Grantee agrees to perform the scope of work in accordance with the estimated cost (Grant Budget Line Items) and source of funding and made a part of this Contract (see Attachment A).

**B. CONTRACT PERIOD:**

This Grant Contract shall be effective for the period beginning Date, 2014, and ending on Date, 2019. The Grantee hereby acknowledges and affirms that the State shall have no obligation for Grantee services or expenditures that were not completed within this specified contract period. The Grant Contract Period may be extended by written agreement consistent with the requirements of paragraph D.2 of this Contract.

**C. PAYMENT TERMS AND CONDITIONS:**

- C.1 Maximum Liability. In no event shall the maximum liability of the State under this Grant Contract exceed [REDACTED] (\$ [REDACTED]). The Grant Budget, attached and incorporated hereto as Attachment A, shall constitute the maximum amount due the Grantee for all service and Grantee obligations hereunder. The Grant Budget line-items include, but are not limited to, all applicable taxes, fees, overhead, and all other direct and indirect costs incurred or to be incurred by the Grantee.
- C.2 Compensation Firm. The maximum liability of the State is not subject to escalation for any reason unless amended. The Grant Budget amounts are firm for the duration of the Grant Contract and are not subject to escalation for any reason unless amended, except as provided in section C.6.
- C.3 Payment Methodology. The Grantee shall be reimbursed for actual, reasonable, and necessary costs based upon the Grant Budget, not to exceed the maximum liability established in section C.1. Upon progress toward the completion of the work, as described in section A of this Grant Contract, the Grantee shall submit invoices prior to any reimbursement of allowable costs.
- C.4 Travel Compensation. Reimbursement to the Grantee for travel, meals, or lodging shall be subject to amounts and limitations specified in the "State Comprehensive Travel Regulations," as they are amended from time to time, and shall be contingent upon and limited by the Grant Budget funding for said reimbursement.

C.5 Invoice Requirements. The Grantee shall invoice the State no more often than monthly, with all necessary supporting documentation using Attachment B, Reimbursement Request Routing Form, and present such to:

State of Tennessee  
Department of Economic and Community Development  
ATTN: Summer Carr, Director of Contracts  
William R. Snodgrass Tennessee Tower  
312 Rosa L. Parks Avenue, 27<sup>th</sup> Floor  
Nashville, Tennessee 37243

- a. Each invoice shall clearly and accurately detail all of the following required information (calculations must be extended and totaled correctly).
- (1) Invoice/Reference Number (assigned by the Grantee).
  - (2) Invoice Date.
  - (3) Invoice Period (to which the reimbursement request is applicable).
  - (4) Grant Contract Number SBC Project No. [REDACTED]
  - (5) Grantor: Department of General Services for Department of Economic and Community Development.
  - (6) Grantor Number (assigned by the Grantee to the above-referenced Grantor).
  - (7) Grantee Name.
  - (8) Grantee Tennessee Edison Registration ID Number Referenced in Preamble of this Grant Contract.
  - (9) Grantee Remittance Address.
  - (10) Grantee Contact for Invoice Questions (name, phone, and/or fax).
  - (11) Itemization of Reimbursement Requested for the Invoice Period— it must detail, at minimum, all of the following:
    - i. The amount requested by Grant Budget line-item (including any travel expenditure reimbursement requested and for which documentation and receipts, as required by "State Comprehensive Travel Regulations," are attached to the invoice).
    - ii. The amount reimbursed by Grant Budget line-item to date.
    - iii. The total amount reimbursed under the Grant Contract to date.
    - iv. The total amount requested (all line-items) for the Invoice Period.
- b. The Grantee understands and agrees to all of the following.
- (1) An invoice under this Grant Contract shall include only reimbursement requests for actual, reasonable, and necessary expenditures required in the delivery of service described by this Grant Contract and shall be subject to the Grant Budget and any other provision of this Grant Contract relating to allowable reimbursements.
  - (2) An invoice under this Grant Contract shall not include any reimbursement request for future expenditures.
  - (3) An invoice under this Grant Contract shall initiate the timeframe for reimbursement only when the State is in receipt of the invoice, and the invoice meets the minimum requirements of this section C.5.

C.6 Budget Line-items. Expenditures, reimbursements, and payments under this Grant Contract shall adhere to the Grant Budget. The Grantee may vary from a Grant Budget line-item amount by up to twenty-five percent (25%) of the line-item amount, provided that any increase is off-set by an equal reduction of other line-item amount(s) such that the net result of variances shall not increase the total Grant Contract amount detailed by the Grant Budget. Any increase in the Grant Budget, grand total amounts shall require an amendment of this Grant Contract.

C.7 Disbursement Reconciliation and Close Out. The Grantee shall submit any final invoice and a grant disbursement reconciliation report within sixty (60) days of the Grant Contract end date and in form and substance acceptable to the State.

- a. If total disbursements by the State pursuant to this Grant Contract exceed the amounts permitted by the section C, payment terms and conditions of this Grant Contract, the Grantee shall refund the difference to the State. The Grantee shall submit said refund with the final grant disbursement reconciliation report.
  - b. The State shall not be responsible for the payment of any invoice submitted to the state after the grant disbursement reconciliation report. The State will not deem any Grantee costs submitted for reimbursement after the grant disbursement reconciliation report to be allowable and reimbursable by the State, and such invoices will NOT be paid.
  - c. The Grantee's failure to provide a final grant disbursement reconciliation report to the State as required shall result in the Grantee being deemed ineligible for reimbursement under this Grant Contract, and the Grantee shall be required to refund any and all payments by the State pursuant to this Grant Contract.
  - d. The Grantee must close out its accounting records at the end of the contract period in such a way that reimbursable expenditures and revenue collections are NOT carried forward.
- C.8 Payment of Invoice. A payment by the State shall not prejudice the State's right to object to or question any reimbursement, invoice, or matter in relation thereto. A payment by the State shall not be construed as acceptance of any part of the work or service provided or as approval of any amount as an allowable cost.
- C.9 Unallowable Costs. Any amounts payable to the Grantee shall be subject to reduction for amounts included in any invoice or payment theretofore made, which are determined by the State, on the basis of audits or monitoring conducted in accordance with the terms of this Grant Contract, not to constitute allowable costs. See Attachment C for a listing of typically unallowable cost reimbursements.
- C.10 Deductions. The State reserves the right to deduct from amounts, which are or shall become due and payable to the Grantee under this or any contract between the Grantee and the State of Tennessee any amounts, which are or shall become due and payable to the State of Tennessee by the Grantee.
- C.11 Prerequisite Documentation. The Grantee shall not invoice the State under this Grant Contract until the State has received the following documentation properly completed.
- a. The Grantee shall complete, sign, and present to the State an "Authorization Agreement for Automatic Deposit (ACH Credits) Form" provided by the State. By doing so, the Grantee acknowledges and agrees that, once said form is received by the State, all payments to the Grantee, under this or any other contract the Grantee has with the State of Tennessee shall be made by Automated Clearing House (ACH).
  - b. The Grantee shall complete, sign, and present to the State a "Substitute W-9 Form" provided by the State. The taxpayer identification number detailed by said form must agree with the Federal Employer Identification Number or Social Security Number referenced in this Grant Contract or the Grantee's Tennessee Edison Registration.

**D. STANDARD TERMS AND CONDITIONS:**

- D.1 Required Approvals. The State is not bound by this Grant Contract until it is signed by the contract parties and approved by appropriate officials in accordance with applicable Tennessee laws and regulations (depending upon the specifics of this contract, said officials may include, but are not limited to, Office of the State Architect, the Commissioner of General Services, the Comptroller of the Treasury, and the Office of the Attorney General).
- a. All Contracts for the improvement of real property or demolition of any building or structure on real property involving the expenditure of any funds derived from the State concerning this project or projects shall require approval of the plans for such work by the State Building Commission as required by TCA 4-15-101, et. seq.



- c. The Grantee shall use its best efforts to amend any existing contracts to include the provisions of Section D.1.b and Section D.5, including the provisions referenced in D.5.
- d. The responsibilities for reviews and approvals of all grant reimbursement requests are as stipulated below:
  - (1) Grantee – For certification of review and approval of proposed reimbursement request for conformance with Grant requirements; and that proposed reimbursement request is confirmed with actual work completed to date.
  - (2) State – Department of Economic and Community Development - For review and approval of expectations established under the terms of the Grant Contract including review of the documentation submitted in support of the Grantee's request (% completion).
  - (3) State – Office of the State Architect - For review and approval for compliance with State Building Commission policy as required by TCA 4-15-101, et. seq., prevailing wage laws as provided in TCA 12-4-401, and reimbursement compliance.
  - (4) State – Office of Business and Finance - For review and approval of proposed reimbursement requests for adequacy of supporting documentation and compliance with project budget.
- e. The Grantee is responsible for providing project construction oversight, specifically as it relates to the allowable reimbursement items per Attachment A. Project construction oversight shall be provided by an individual, or individuals, with a Bachelor's Degree in Architecture, Engineering or related field and five years of professional experience in the degree field is preferred. Individuals must also have four years experience in the construction field.

D.2 Modification and Amendment. Except as specifically provided herein, this Grant Contract may be modified only by a written amendment signed by all parties hereto and approved by both the officials who approved the base contract and, depending upon the specifics of the contract as amended, any additional officials required by Tennessee laws and regulations (said officials may include, but are not limited to, the Office of the State Architect, the Commissioner of General Services, the Comptroller of the Treasury, and the Office of the Attorney General).

D.3 Termination for Convenience. The State may terminate this Grant Contract without cause for any reason. Said termination shall not be deemed a breach of contract by the State. The State shall give the Grantee at least thirty (30) days written notice before the effective termination date. The Grantee shall be entitled to compensation for authorized expenditures and satisfactory services completed as of the termination date, but in no event shall the State be liable to the Grantee for compensation for any service which has not been rendered. The final decision as to the amount, for which the State is liable, shall be determined by the State. Should the State exercise this provision, the Grantee shall not have any right to any actual general, special, incidental, consequential, or any other damages whatsoever of any description or amount.

D.4 Termination for Cause. If the Grantee fails to properly perform its obligations under this Grant Contract in a timely or proper manner, or if the Grantee violates any terms of this Grant Contract, the State shall have the right to immediately terminate the Grant Contract and withhold payments in excess of fair compensation for completed services. Notwithstanding the above, the Grantee shall not be relieved of liability to the State for damages sustained by virtue of any breach of this Grant Contract by the Grantee.

D.5 Subcontracting. The Grantee shall not assign this Grant Contract or enter into a subcontract for any of the services performed under this Grant Contract without obtaining the prior written approval of the State. If such subcontracts are approved by the State, each shall contain, at a minimum, sections of this contract pertaining to "Conflicts of Interest," "Lobbying,"



"Nondiscrimination," "Public Accountability," "Public Notice," and "Records" (as identified by the section headings). Notwithstanding any use of approved subcontractors, the Grantee shall be the prime contractor and shall be responsible for all work performed.

- D.6 Conflicts of Interest. The Grantee warrants that no part of the total Grant Amount shall be paid directly or indirectly to an employee or official of the State of Tennessee as wages, compensation, or gifts in exchange for acting as an officer, agent, employee, subcontractor, or consultant to the Grantee in connection with any work contemplated or performed relative to this Grant Contract.

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

- D.7 Lobbying. The Grantee certifies, to the best of its knowledge and belief, that:

- a. No federally appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of an agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any federal contract, grant, loan, or cooperative agreement.
- b. If any funds other than federally appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this contract, grant, loan, or cooperative agreement, the Grantee shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.
- c. The Grantee shall require that the language of this certification be included in the award documents for all sub-awards at all tiers (including subcontracts, sub-grants, and contracts under grants, loans, and cooperative agreements) and that all subrecipients shall certify and disclose accordingly.

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into and is a prerequisite for making or entering into this transaction imposed by section 1352, title 31, *U.S. Code*.

- D.8 Nondiscrimination. The Grantee hereby agrees, warrants, and assures that no person shall be excluded from participation in, be denied benefits of, or be otherwise subjected to discrimination in the performance of this Grant Contract or in the employment practices of the Grantee on the grounds of handicap or disability, age, race, color, religion, sex, national origin, or any other classification protected by Federal, Tennessee State constitutional, or statutory law. The Grantee shall, upon request, show proof of such nondiscrimination and shall post in conspicuous places, available to all employees and applicants, notices of nondiscrimination.

- D.9 Public Accountability. If the Grantee is subject to *Tennessee Code Annotated*, Title 8, Chapter 4, Part 4, or if this Grant Contract involves the provision of services to citizens by the Grantee on behalf of the State, the Grantee agrees to establish a system through which recipients of services may present grievances about the operation of the service program, and the Grantee shall display in a prominent place, located near the passageway through which the public enters in order to receive Grant supported services, a sign at least twelve inches (12") in height and eighteen inches (18") in width stating:

NOTICE: THIS AGENCY IS A RECIPIENT OF TAXPAYER FUNDING. IF YOU OBSERVE AN AGENCY DIRECTOR OR EMPLOYEE ENGAGING IN ANY ACTIVITY WHICH YOU CONSIDER TO BE ILLEGAL, IMPROPER, OR WASTEFUL, PLEASE CALL THE STATE COMPTROLLER'S TOLL-FREE HOTLINE: 1-800-232-5454

- D.10 Public Notice. All notices, informational pamphlets, press releases, research reports, signs, and similar public notices prepared and released by the Grantee shall include the statement, "This

project is funded under an agreement with the State of Tennessee.” Any such notices by the Grantee shall be approved by the State.

- D.11 Licensure. The Grantee and its employees and all sub-grantees shall be licensed pursuant to all applicable federal, state, and local laws, ordinances, rules, and regulations and shall upon request provide proof of all licenses.
- D.12 Records. The Grantee (and any approved subcontractor) shall maintain documentation for all charges under this Contract. The books, records, and documents of the Grantee (and any approved subcontractor), insofar as they relate to work performed or money received under this Contract, shall be maintained for a period of three (3) full years from the date of the final payment and shall be subject to audit at any reasonable time and upon reasonable notice by the state agency, the Comptroller of the Treasury, or duly appointed representatives. The records of not-for-profit entities shall be maintained in accordance with the *Accounting and Financial Reporting for Not-for-Profit Recipients of Grant Funds in Tennessee*, published by the Tennessee Comptroller of the Treasury and found at <http://www.comptroller1.state.tn.us/ma/finreptmanual.asp>. The records for local governments shall be maintained in accordance with the *Internal Control and Compliance Manual for Tennessee Municipalities*, published by the Tennessee Comptroller of the Treasury and found at <http://www.comptroller1.state.tn.us/ma/citymanual.asp> and in accordance with GFOA's publication, *Governmental Accounting, Auditing and Financial Reporting*.
- D.13 Prevailing Highway Wage Rates. In the event it is determined by the State that the provisions of the Prevailing Wage Act for State Highway Construction Projects, T.C.A. 12-4-4-1, et. seq., applies to this Project, then Grantee shall be required and agrees to pay the prevailing wage required by said Act.
- D.14 Monitoring. The Grantee's activities conducted and records maintained pursuant to this Grant Contract shall be subject to monitoring and evaluation by the State, the Comptroller of the Treasury, or their duly appointed representatives.
- D.15 Progress Reports. The Grantee shall submit brief, periodic, progress reports to the State as requested.
- D.16 Annual Report and Audit. The Grantee shall prepare and submit, within nine (9) months after the close of the reporting period, an annual report of its activities funded under this Grant Contract to the commissioner or head of the Granting agency, the Tennessee Comptroller of the Treasury, and the Commissioner of Finance and Administration. The annual report for any Grantee that receives five hundred thousand dollars (\$500,000) or more in aggregate federal and state funding for all its programs shall include audited financial statements. All books of account and financial records shall be subject to annual audit by the Tennessee Comptroller of the Treasury or the Comptroller's duly appointed representative. When an audit is required, the Grantee may, with the prior approval of the Comptroller, engage a licensed independent public accountant to perform the audit. The audit contract between the Grantee and the licensed independent public accountant shall be on a contract form prescribed by the Tennessee Comptroller of the Treasury. Any such audit shall be performed in accordance with generally accepted government auditing standards, the provisions of OMB Circular A-133, if applicable, and the *Audit Manual for Governmental Units and Recipients of Grant Funds* published by the Tennessee Comptroller of the Treasury. The Grantee shall be responsible for reimbursement of the cost of the audit prepared by the Tennessee Comptroller of the Treasury, and payment of fees for the audit prepared by the licensed independent public accountant. Payment of the audit fees of the licensed independent public accountant by the Grantee shall be subject to the provisions relating to such fees contained in the prescribed contract form noted above. Copies of such audits shall be provided to the designated cognizant state agency, the State Granting Department, the Tennessee Comptroller of the Treasury, and the Department of Finance and Administration and shall be made available to the public.
- D.17 Procurement. If other terms of this Grant Contract allow reimbursement for the cost of goods, materials, supplies, equipment, and/or contracted services, such procurement(s) shall be made on a competitive basis, including the use of competitive bidding procedures, where practical. The Grantee shall maintain documentation for the basis of each procurement for which reimbursement is paid pursuant to this Grant Contract. In each instance where it is determined that use of a competitive procurement method is not practical, supporting documentation shall

include a written justification for such decision and non-competitive procurement. Further, and notwithstanding the foregoing, if such reimbursement is to be made with funds derived wholly or partially from federal sources, the determination of cost shall be governed by and reimbursement shall be subject to the Grantee's compliance with applicable federal procurement requirements.

The Grantee shall obtain prior approval from the State before purchasing any equipment under this Grant Contract.

D.18 Strict Performance. Failure by any party to this Grant Contract to insist in any one or more cases upon the strict performance of any of the terms, covenants, conditions, or provisions of this agreement shall not be construed as a waiver or relinquishment of any such term, covenant, condition, or provision. No term or condition of this Grant Contract shall be held to be waived, modified, or deleted except by a written amendment signed by the parties hereto.

D.19 Independent Contractor. The parties hereto, in the performance of this Grant Contract, shall not act as employees, partners, joint venturers, or associates of one another. It is expressly acknowledged by the parties hereto that such parties are independent contracting entities and that nothing in this Grant Contract shall be construed to create an employer/employee relationship or to allow either to exercise control or direction over the manner or method by which the other transacts its business affairs or provides its usual services. The employees or agents of one party shall not be deemed or construed to be the employees or agents of the other party for any purpose whatsoever.

The Grantee, being an independent contractor and not an employee of the State, agrees to carry adequate public liability and other appropriate forms of insurance, including adequate public liability and other appropriate forms of insurance on the Grantee's employees, and to pay all applicable taxes incident to this Grant Contract.

D.20 State Liability. The State shall have no liability except as specifically provided in this Grant Contract.

D.21 Force Majeure. The obligations of the parties to this Grant Contract are subject to prevention by causes beyond the parties' control that could not be avoided by the exercise of due care including, but not limited to, natural disasters, riots, wars, epidemics, or any other similar cause.

D.22 State and Federal Compliance. The Grantee shall comply with all applicable state and federal laws and regulations in the performance of this Grant Contract.

D.23 Governing Law. This Grant Contract shall be governed by and construed in accordance with the laws of the State of Tennessee. The Grantee agrees that it will be subject to the exclusive jurisdiction of the courts of the State of Tennessee in actions that may arise under this Grant Contract. The Grantee acknowledges and agrees that any rights or claims against the State of Tennessee or its employees hereunder, and any remedies arising there from, shall be subject to and limited to those rights and remedies, if any, available under *Tennessee Code Annotated*, Sections 9-8-101 through 9-8-407.

D.24 Completeness. This Grant Contract is complete and contains the entire understanding between the parties relating to the subject matter contained herein, including all the terms and conditions of the parties' agreement. This Grant Contract supersedes any and all prior understandings, representations, negotiations, and agreements between the parties relating hereto, whether written or oral.

D.25 Severability. If any terms and conditions of this Grant Contract are held to be invalid or unenforceable as a matter of law, the other terms and conditions hereof shall not be affected thereby and shall remain in full force and effect. To this end, the terms and conditions of this Grant Contract are declared severable.

D.26 Headings. Section headings are for reference purposes only and shall not be construed as part of this Grant Contract.

**E. SPECIAL TERMS AND CONDITIONS:**

E.1 Conflicting Terms and Conditions. Should any of these special terms and conditions conflict with any other terms and conditions of this Grant Contract, these special terms and conditions shall control.

E.2 Communications and Contacts. All instructions, notices, consents, demands, or other communications required or contemplated by this Grant Contract shall be in writing and shall be made by certified, first class mail, return receipt requested and postage prepaid, by overnight courier service with an asset tracking system, or by EMAIL or facsimile transmission with recipient confirmation. Any such communications, regardless of method of transmission, shall be addressed to the respective party at the appropriate mailing address, facsimile number, or EMAIL address as set forth below or to that of such other party or address, as may be hereafter specified by written notice.

The State:

Summer Carr, Director of Contracts  
Department of Economic and Community Development  
312 Rosa L. Parks Avenue, 27<sup>th</sup> Floor  
Nashville, Tennessee 37243  
Summer.Carr@tn.gov  
Telephone (615) 253-1944  
FAX (615) 741-7306

The Grantee:

Grantee Contact Name & Title

[REDACTED]

Telephone [REDACTED]

FAX [REDACTED]

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

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

E.4 Insurance. The Grantee shall carry adequate liability and other appropriate forms of insurance.

a. The Grantee shall maintain, at minimum, the following insurance coverage:

- (1) Workers' Compensation/ Employers' Liability (including all states coverage) with a limit not less than the relevant statutory amount or one million dollars (\$1,000,000) per occurrence for employers' liability whichever is greater.
- (2) Comprehensive Commercial General Liability (including personal injury & property damage, premises/operations, independent contractor, contractual liability and completed operations/products) with a bodily injury/property damage combined single limit not less than one million dollars (\$1,000,000) per occurrence and two million dollars (\$2,000,000) aggregate.
- (3) Automobile Coverage (including owned, leased, hired, and non-owned vehicles) with a bodily injury/property damage combined single limit not less than one million dollars (\$1,000,000) per occurrence.
- (4) Professional Malpractice Liability with a limit of not less than one million dollars (\$1,000,000) per claim and two million dollars (\$2,000,000) aggregate.

b. At any time State may require the Grantee to provide a valid Certificate of Insurance detailing Coverage Description; Insurance Company & Policy Number; Exceptions and Exclusions; Policy Effective Date; Policy Expiration Date; Limit(s) of Liability; and Name and Address of Insured. Failure to provide required evidence of insurance coverage shall be a material breach of this Grant Contract.

SBC Project No. [REDACTED]

This instrument may be executed in one or more counterparts. It shall be fully executed when each party whose signature is required has signed at least one (1) counterpart, even though no one (1) counterpart contains the signatures of all parties to this instrument. Electronic, scanned or facsimile signatures shall have the same force and effect as original signatures.

**IN WITNESS WHEREOF:**

[REDACTED]

\_\_\_\_\_  
Grantee Signatory, Grantee Title

DATE: \_\_\_\_\_

**STATE OF TENNESSEE,**

**OFFICE OF THE STATE ARCHITECT:**

\_\_\_\_\_  
Peter L. Heimbach, Jr., State Architect

DATE: \_\_\_\_\_

**DEPARTMENT OF GENERAL SERVICES:**

\_\_\_\_\_  
Robert E. Oglesby, Commissioner

DATE: \_\_\_\_\_

**APPROVED AS TO COMPLIANCE WITH POLICY AND STATUTE:**

\_\_\_\_\_  
Justin P. Wilson, Comptroller of the Treasury

DATE: \_\_\_\_\_

**APPROVED AS TO COMPLIANCE WITH FORM AND LEGALITY:**

\_\_\_\_\_  
Robert E. Cooper, Jr., Attorney General and Reporter

DATE: \_\_\_\_\_

[REDACTED]

**ATTACHMENT A  
SCOPE OF SERVICES**

Description of Work	Estimate of Cost	Grantee Participation	State of Tennessee Grant
<b>GRAND TOTAL</b>	\$ -	\$ -	\$ -

**ATTACHMENT "B"**  
**REIMBURSEMENT REQUEST ROUTING FORM**

<b>GRANTEE:</b>	[REDACTED]
<b>PROJECT:</b>	[REDACTED]
<b>SBC PROJECT NO:</b>	[REDACTED]

The attached reimbursement request has been reviewed for approval by the following parties for their respective responsibilities:

- GRANTEE:** I hereby certify that I have reviewed this proposed reimbursement request, that it conforms with Grant requirements, and that proposed reimbursement request is based on actual work completed to date.

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Date

- STATE OF TENNESSEE ECONOMIC AND COMMUNITY DEVELOPMENT (ECD):** For review and approval of expectations established under the terms of the Grant Contract. This includes review of (i) the progress of the project (% completion); (ii) timing and number of jobs created; and (iii) the amount of company and community investment.

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Date

- OFFICE OF THE STATE ARCHITECT:** For review and approval for compliance with State Building Commission policy as required by TCA 4-15-101, et.seq., prevailing wage laws as provided in TCA 12-4-401, and reimbursement compliance.

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Date

- OFFICE OF BUSINESS AND FINANCE:** For review and approval of proposed reimbursement requests for adequacy of supporting documentation and compliance with project budget.

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Date

**ATTACHMENT "C"**  
**LIST OF UNALLOWABLE COSTS**

<b>Unallowable Costs</b>
The Grantee's invoice shall be subject to reduction for amounts included in any invoice or payment theretofore made which are determined by the State, on the basis of audits or monitoring conducted in accordance with the terms of this Grant, not to constitute allowable costs. The following items are examples of costs that are not allowable within the terms of the grant award. This list is not comprehensive as other items submitted may be deemed unallowable after further evaluation.
Advertising & Public Relations
Alcoholic Beverages
Audit Services
Bad Debts
Communication Costs
Donations & Contributions
Entertainment costs
Fines & Penalties
Food or beverage items not associated with a meal exception, per travel policy
Goods or Services for Personal Use
Housing & Personal Living Expenses
Indirect costs
Insurance & Indemnification
Interest, Fund Raising & Investment
Lobbying
Memberships, Subscriptions, & Professional Activities
Minor equipment
Other Direct Costs including expenses such as educational materials, promotional items, supplies, minor equipment, and services not requiring contractual agreements, acquired or consumed for purposes of the grant.
Personnel costs - only the direct compensation for salaries and fringe benefits of grantee employees hired expressly for the grant and for the time and effort spent on grant related activities.
Printing and duplication
Purchase of office furnishings and fixtures
Recruiting Costs
Relocation Costs
Rentals of space and equipment
Routine and/or existing grantee expenditures, or activities that constitute general expenses required to carry out overall grantee responsibilities
Selling & Marketing
Supplies
Training
Transportation of property

**ATTACHMENT C**

**Request for Payment**