

CONTRACT #1
RFS # 330.02-03913
FA # NA
Edison # 37024

**Department of Economic and
Community Development**

VENDOR:
IBT Partners Limited



Department of Economic and Community Development

William F. Hagerty
Commissioner

Bill Haslam
Governor

To: Ms. Leni Chick, Contract and Audit Coordinator, Fiscal Review Committee

From: Department of Economic and Community Development

Date: November 22, 2013

Re: Request for approval of contract amendment one with IBT Partners

Please consider the enclosed request for an amendment to contract # 37024 with IBT Partners. This contract for export trade development services for the United Kingdom was procured via RFP in late 2012 and was effective beginning January 28, 2013. The original contract was written as a one-year contract with an option to renew in one-year increments for a total contract period of up to three years. The maximum liability of the contract for three years was funded in the original contract. This amendment would represent the exercise of the first one-year renewal period. In addition, ECD has negotiated a lower annual and monthly cost with the contractor for a total contract savings of \$193,800. Therefore, ECD respectfully requests approval of this contract amendment by the Fiscal Review Committee.

If you have any further questions, please contact Summer Carr at 615-253-1944 or summer.carr@tn.gov.

Attachments:

- Supplemental Documentation Required for Fiscal Review Committee
- Original Edison Contract
- Non-Competitive Amendment Request—Draft (submitted to CPO for approval)
- Proposed Contract Amendment—Draft

Supplemental Documentation Required for
Fiscal Review Committee

| | | | | | |
|--|------------------------------------|------------------------------------|------------------|-----------|----|
| *Contact Name: | Summer Carr | *Contact Phone: | 615-253-1944 | | |
| *Original Contract Number: | 37024 | *Original RFS Number: | 33002-03913 | | |
| Edison Contract Number: (if applicable) | 37024 | Edison RFS Number: (if applicable) | 33002-03913 | | |
| *Original Contract Begin Date: | January 28, 2013 | *Current End Date: | January 27, 2014 | | |
| Current Request Amendment Number: (if applicable) | 1 | | | | |
| Proposed Amendment Effective Date: (if applicable) | January 24, 2014 | | | | |
| *Department Submitting: | Economic and Community Development | | | | |
| *Division: | Business Development | | | | |
| *Date Submitted: | 11/8/2013 | | | | |
| *Submitted Within Sixty (60) days: | Yes | | | | |
| <i>If not, explain:</i> | | | | | |
| *Contract Vendor Name: | IBT Partners | | | | |
| *Current Maximum Liability: | \$478,800 | | | | |
| *Current Contract Allocation by Fiscal Year: (as Shown on Most Current Fully Executed Contract Summary Sheet) | | | | | |
| FY: 2013 | FY: 14 | FY: 15 | FY: 16 | FY | FY |
| \$79,800 | \$ 159,000 | \$ 159,000 | \$ 79,800 | \$ | \$ |
| *Current Total Expenditures by Fiscal Year of Contract: (attach backup documentation from STARS or FDAS report) | | | | | |
| FY: 2013 | FY: | FY: | FY: | FY | FY |
| \$ 79,800 | \$13,300 | \$ | \$ | \$ | \$ |
| IF Contract Allocation has been greater than Contract Expenditures, please give the reasons and explain where surplus funds were spent: | | n/a | | | |
| IF surplus funds have been carried forward, please give the reasons and provide the authority for the carry forward provision: | | n/a | | | |
| IF Contract Expenditures exceeded Contract Allocation, please give the reasons and explain how funding was acquired to pay the overage: | | n/a | | | |
| *Contract Funding | State: | n/a | Federal: | \$478,800 | |

Supplemental Documentation Required for
Fiscal Review Committee

| | | | | |
|--|--|--|---------------|--|
| Source/Amount: | | | | |
| Interdepartmental: | | | <i>Other:</i> | |
| If "other" please define: | | | | |
| Dates of All Previous Amendments or Revisions: <i>(if applicable)</i> | | Brief Description of Actions in Previous Amendments or Revisions: <i>(if applicable)</i> | | |
| No previous amendments | | No previous amendments | | |
| | | | | |
| Method of Original Award: <i>(if applicable)</i> | | RFP – Scored as Follows: Technical Proposal 40% of total score, Cost 30%, Oral Presentation 15%, Minimum Qualifications 15% | | |
| *What were the projected costs of the service for the entire term of the contract prior to contract award? | | \$720,000 | | |

Supplemental Documentation Required for Fiscal Review Committee

For all new non-competitive contracts and any contract amendment that changes Sections A or C.3. of the original or previously amended contract document, provide estimates based on information provided the Department by the vendor for determination of contract maximum liability. Add rows as necessary to provide all information requested.

If it is determined that the question is not applicable to your contract document attach detailed explanation as to why that determination was made.

ECD RESPONSE: This amendment is an exercise of the renewal option for one year (found in section B.2. of the original contract) as well as a reduction of approximately 40 percent in monthly/annual cost for the services performed by the contractor.

Planned expenditures by fiscal year by deliverable. Add rows as necessary to indicate all estimated contract expenditures.

| Deliverable description: | FY: 13 | FY: 14 | FY: 15 | FY: 16 | FY: |
|--------------------------|----------|-----------|-----------|--------|-----|
| Monthly consultant fee | \$79,800 | \$159,000 | \$159,000 | 79,800 | |
| | | | | | |
| | | | | | |

Proposed savings to be realized per fiscal year by entering into this contract. If amendment to an existing contract, please indicate the proposed savings to be realized by the amendment. Add rows as necessary to define all potential savings per deliverable.

| Deliverable description: | FY: 13 | FY: 14 | FY: 15 | FY: 16 | FY: |
|--------------------------|--------|----------|----------|----------|-----|
| Monthly consultant fee | \$0 | \$64,000 | \$64,000 | \$32,300 | |
| | | | | | |
| | | | | | |

Comparison of cost per fiscal year of obtaining this service through the proposed contract or amendment vs. other options. List other options available (including other vendors), cost of other options, and source of information for comparison of other options (e.g. catalog, Web site). Add rows as necessary to indicate price differentials between contract deliverables.

ECD RESPONSE: Contract Award Recommendation Table from RFP is attached to this sheet. The award recommendation table shows the scores received by each vendor based on several factors, including qualifications (55% of total score), oral presentation (15% of total score), and cost (30% of total score).

Supplemental Documentation Required for
Fiscal Review Committee

| | | | | | |
|--|-----|-----|-----|-----|-----|
| Proposed Vendor Cost: (name of vendor) | FY: | FY: | FY: | FY: | FY: |
| | | | | | |
| Other Vendor Cost: (name of vendor) | FY: | FY: | FY: | FY: | FY: |
| | | | | | |
| Other Vendor Cost: (name of vendor) | FY: | FY: | FY: | FY: | FY: |
| | | | | | |

Supplemental Documentation Required for
Fiscal Review Committee

CONTRACT AWARD RECOMMENDATION

| EVALUATION CATEGORY | MAXIMUM POINTS POSSIBLE | IBT | STC | Fraser | PA Consulting | Santiva |
|---|-------------------------|--------------|--------------|--------------|---------------|--------------|
| General Qualifications & Experience (RFP Attachment 6.2, Section B) | 15 | 15 | 15 | 15 | 15 | 15 |
| Technical Qualifications, Experience & Approach (RFP Attachment 6.2, Section C) | 40 | 34.67 | 21.33 | 21.94 | 29.94 | 19.03 |
| Oral Presentation (RFP Attachment 6.2, Section D) | 15 | 14.54 | 8.00 | 8.04 | 10.59 | 7.13 |
| Cost Proposal (RFP Attachment 6.3) | 30 | 24.06 | 16.20 | 30 | 15.38 | 14.55 |
| Totals | 100 | 88.27 | 60.53 | 74.98 | 70.91 | 55.71 |

Based on the scores provided by the evaluation team for RFP# 33002-72613, I recommend the contract be awarded to IBT Partners.

RFP Coordinator

Date

Non-Competitive Amendment Request

NOT required for a contract with a federal, Tennessee, or Tennessee local government entity or a grant.

Route a completed request, as one file in PDF format, via e-mail attachment sent to: AgSprs.Agsprs@state.tn.us

(Handwritten initials)

APPROVED
Michael F. Perry (Signature)
COMMISSIONER OF FINANCE & ADMINISTRATION *CPD*

| | | |
|---|--|-----------------------------------|
| Request Tracking # | 33002-03913 | |
| 1. Procuring Agency | Department of Economic and Community Development | |
| 2. Contractor | IBT Partners | |
| 3. Contract # | 37024 | |
| 4. Proposed Amendment # | 1 | |
| 5. Edison ID # | 161513 | |
| 6. Contract Begin Date | | 1/28/13 |
| 7. Current Contract End Date <i>- with ALL options to extend exercised</i> | | 1/27/16 |
| 8. Proposed Contract End Date <i>- with ALL options to extend exercised</i> | | 1/27/16 |
| 9. Current Maximum Contract Cost <i>- with ALL options to extend exercised</i> | | \$ 478,800.00 |
| 10. Proposed Maximum Contract Cost <i>- with ALL options to extend exercised</i> | | \$ 285,000.00 |
| 11. Office for Information Resources Endorsement <i>- information technology service (N/A to THDA)</i> | <input checked="" type="checkbox"/> Not Applicable | <input type="checkbox"/> Attached |
| 12. eHealth Initiative Support <i>- health-related professional, pharmaceutical, laboratory, or imaging</i> | <input checked="" type="checkbox"/> Not Applicable | <input type="checkbox"/> Attached |
| 13. Human Resources Support <i>- state employee training service</i> | <input checked="" type="checkbox"/> Not Applicable | <input type="checkbox"/> Attached |
| 14. Explanation Need for the Proposed Amendment | | |
| <p>In late 2012, ECD competitively procured export trade development services for the United Kingdom via a Request for Proposals. The Contractor scored highest on the RFP score matrix and was subsequently awarded the contract.</p> <p>The services provided by the Contractor are funded through a State Trade and Export Promotion ("STEP") grant from the federal government and the amount of the grant funds are limited. Despite obtaining the highest score on the RFP score matrix, which weights cost as 30% of the total score, the Contractor's cost proposal was higher than that of other proposers</p> | | |

| | |
|--|--|
| Request Tracking # | |
| <p>(\$13,300 per month/ \$159,600 per year). Therefore, ECD has undertaken negotiations with the Contractor to decrease the monthly and annual cost of the contract while still providing the valuable services the department has procured. The Contractor and ECD have agreed to a new monthly cost of \$7,916.67 (annual cost of \$95,000). In exchange for this decrease in the contract maximum liability, the Contractor will not be providing incidental online services. Because these services were not part of the core services outlined in the Scope of Services of the contract, ECD believes it will continue to receive the same high quality of services it procured via the RFP process while providing a better value for the State of Tennessee and federal government.</p> <p>In addition, this amendment will exercise the first of two one-year extension options in the contract, extending ECD's agreement with the Contractor until January 27, 2015.</p> | |
| <p>15. Name & Address of the Contractor's Principal Owner(s) <i>- NOT required for a TN state education institution</i></p> <p>John Worthington, Director IBT Partners Limited 60 Moorgate, London, EC2R 6EL, UK</p> | |
| <p>16. Evidence Contractor's Experience & Length Of Experience Providing the Service</p> <p>The Contractor has been in business for over 10 years and has been performing export trade development services for various entities in the United Kingdom for over 8 years. The Contractor has an experienced team of 12 professionals with experience in the export trade development business. The Contractor is well-respected in the industry and has earned a reputation for producing high-quality results for its high-profile clients.</p> | |
| <p>17. Efforts to Identify Reasonable, Competitive, Procurement Alternatives</p> <p>ECD has a pre-existing contract with the Contractor that was procured competitively through the Request for Proposals process. The Central Procurement Office, Department of Finance and Administration and the Comptroller approved the contract that resulted from that process.</p> | |
| <p>18. Justification – <i>specifically explain why non-competitive negotiation is in the best interest of the state</i></p> <p>ECD has a pre-existing contract with the Contractor that was procured competitively through the Request for Proposals process. This amendment will decrease the monthly cost and maximum liability of the contract. This amendment has been agreed to by both the Contractor and ECD and is in the best interest of the state because the contractor will continue to provide a high quality of services at a decreased cost.</p> | |
| <p>Agency Head Signature and Date – <i>MUST be signed by the ACTUAL agency head as detailed on the current Signature Certification. Signature by an authorized signatory is acceptable only in documented exigent circumstances</i></p>  | |

**AMENDMENT 1
OF CONTRACT 37024**

This Amendment is made and entered by and between the State of Tennessee, Department of Economic and Community Development, hereinafter referred to as the "State" and IBT Partners Limited, hereinafter referred to as the "Contractor." It is mutually understood and agreed by and between said, undersigned contracting parties that the subject contract is hereby amended as follows:

1. Contract section B.1. is deleted in its entirety and replaced with the following:
 - B.1. This Contract shall be effective for the period beginning January 28, 2013, and ending on January 27, 2015. The Contractor hereby acknowledges and affirms that the State shall have no obligation for services rendered by the Contractor that were not performed within this specified contract period.

2. Contract section C.1. is deleted in its entirety and replaced with the following:
 - C.1. Maximum Liability. In no event shall the maximum liability of the State under this Contract exceed Two Hundred Eighty-Five Thousand Dollars and No/100 (\$285,000.00). The payment rates in section C.3 shall constitute the entire compensation due the Contractor for all service and Contractor obligations hereunder regardless of the difficulty, materials or equipment required. The payment rates include, but are not limited to, all applicable taxes, fees, overheads, and all other direct and indirect costs incurred or to be incurred by the Contractor.

The Contractor is not entitled to be paid the maximum liability for any period under the Contract or any extensions of the Contract for work not requested by the State. The maximum liability represents available funds for payment to the Contractor and does not guarantee payment of any such funds to the Contractor under this Contract unless the State requests work and the Contractor performs said work. In which case, the Contractor shall be paid in accordance with the payment rates detailed in section C.3. The State is under no obligation to request work from the Contractor in any specific dollar amounts or to request any work at all from the Contractor during any period of this Contract.

3. Contract section C.3. is deleted in its entirety and replaced with the following:
 - C.3. Payment Methodology. The Contractor shall be compensated based on the payment rates herein for units of service authorized by the State in a total amount not to exceed the Contract Maximum Liability established in section C.1.
 - a. The Contractor's compensation shall be contingent upon the satisfactory completion of units, milestones or increments of service defined in Section A.
 - b. The Contractor shall be compensated for said units, milestones or increments of service based upon the following payment rates:

| Service Description | Amount (per compensable increment) |
|------------------------|--|
| Monthly Consultant Fee | \$ 7,916.67 (maximum liability of \$95,000.00 per 12 month period) |

Required Approvals. The State is not bound by this Amendment 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).

Amendment Effective Date. The revisions set forth herein shall be effective January 24, 2013. All other terms and conditions of this Contract not expressly amended herein shall remain in full force and effect.

IN WITNESS WHEREOF,

IBT PARTNERS LIMITED:

SIGNATURE

DATE

PRINTED NAME AND TITLE OF SIGNATORY (above)

DEPARTMENT OF ECONOMIC AND COMMUNITY DEVELOPMENT:

WILLIAM F. HAGERTY, COMMISSIONER

DATE



CONTRACT

(fee-for-service contract with an individual, business, non-profit, or governmental entity of another state)

| | | | |
|---|------------------------------|---|-----------------------------------|
| Begin Date 1/28/2013 | End Date 1/27/2014 | Agency Tracking # 33002-03913 | Edison Record ID 37024 |
| Contractor Legal Entity Name IBT Partners Limited | | | Edison Vendor ID 161513 |

Service Caption (one line only)
International Marketing UK Export – STEP

| | |
|---|---------------|
| Subrecipient or Vendor <input type="checkbox"/> Subrecipient <input checked="" type="checkbox"/> Vendor | CFDA # |
|---|---------------|

| Funding — | | | | | |
|---------------|-------|---------------------|-------------------|-------|-----------------------|
| FY | State | Federal | Interdepartmental | Other | TOTAL Contract Amount |
| 2013 | | \$79,800.00 | | | \$79,800.00 |
| 2014 | | \$159,000.00 | | | \$159,000.00 |
| 2015 | | \$159,000.00 | | | \$159,000.00 |
| 2016 | | \$79,800.00 | | | \$79,800.00 |
| TOTAL: | | \$478,800.00 | | | \$478,800.00 |

American Recovery and Reinvestment Act (ARRA) Funding: YES NO

Ownership/Control

African American
 Asian
 Hispanic
 Native American
 Female
 Person w/Disability
 Small Business
 Government
 NOT Minority/Disadvantaged
 Other:

Selection Method & Process Summary (mark the correct response to confirm the associated summary)

RFP The procurement process was completed in accordance with the approved RFP document and associated regulations.
 Competitive Negotiation The predefined, competitive, impartial, negotiation process was completed in accordance with the associated, approved procedures and evaluation criteria.
 Alternative Competitive Method The predefined, competitive, impartial, procurement process was completed in accordance with the associated, approved procedures and evaluation criteria.
 Non-Competitive Negotiation The non-competitive contractor selection was completed as approved, and the procurement process included a negotiation of best possible terms & price.
 Other The contractor selection was directed by law, court order, settlement agreement, or resulted from the state making the same agreement with all interested parties or all parties in a predetermined "class."

| | |
|--|--------------|
| Budget Officer Confirmation: There is a balance in the appropriation from which obligations hereunder are required to be paid that is not already encumbered to pay other obligations.  6/24/13 | OCR USE - FA |
| | Contract # |

| | | |
|-------------------------------|---------------------------------------|-------------------|
| Speed Chart (optional) | Account Code (optional) 708 | Contract # |
|-------------------------------|---------------------------------------|-------------------|



10-3-11 RFP

**CONTRACT
BETWEEN THE STATE OF TENNESSEE, DEPARTMENT OF
ECONOMIC AND COMMUNITY DEVELOPMENT AND
IBT PARTNERS LIMITED**

This Contract, by and between the State of Tennessee, Department of Economic and Community Development, hereinafter referred to as the "State" and IBT Partners Limited, hereinafter referred to as the "Contractor," is for the provision of International Marketing, as further defined in the "SCOPE OF SERVICES."

The Contractor is Limited Liability Company.
Contractor Federal Employer Identification, Social Security, or Edison Registration ID # 161513
Contractor Place of Incorporation or Organization: United Kingdom.

A. SCOPE OF SERVICES:

- A.1. This performance-based contract will be reimbursed upon successful performance of Outputs described in the following with approximate time allocations in parentheses after each Output:
- a. Export Promotion Services (70%)
 - b. Promoting Tennessee Universities (15%)
 - c. Visiting Tennessee (5%)
 - d. Collaborating with Other International ECD Representatives (5%)
 - e. Other Duties (3%)
 - f. Reporting (2%)
- A.2. Contractor will perform the following with respect to A.1.a. Export Promotion Services:
- a. Matchmaking Services
 - Identify best distribution channels in the United Kingdom for Tennessee industries, companies and products. Maintain records of qualified agents, brokers, wholesalers, dealers, distributors and other buyers, retailers and Export Management Companies (EMCs).
 - b. Market Intelligence
 - (1) Provide clients with foreign market information (country or region-specific) for the United Kingdom, including suggestions and basic guidance for Market Entry Strategy, Market Development Strategy, Product Adaptation, Modification and Compliance.
 - (2) Develop and maintain statistics and records known within industry circles that include:
 - i. Profiles of our targeted industries for United Kingdom and secondary markets



- ii. Basic overview of an industry
 - iii. Main companies in an industry
 - iv. Database of known members and buyers in the industry.
 - v. Specific opportunities for Tennessee companies.
- (3) Identify trade leads and trade shows of interest to Tennessee companies.
 - (4) Identify trade leads and trade shows of interest to Tennessee companies.))
 - (5) Collaborate when necessary with the US Commercial Services office in the U.S. Embassy in the United Kingdom.
 - (6) Provide other resources and referrals in United Kingdom for information on: i. Entry regulations/controls/tariffs/duties, etc. and ii. Political, legal, social, and cultural peculiarities affecting market opportunities.
- c Trade Event Program Administration })
- (1) Trade Shows: Assist with participation in up to three (3) international trade shows. Participation could be in the form of a Tennessee pavilion with multiple companies, individual company participation, or representing client companies at a trade show. Most trade shows and missions will be related to ECD's targeted industries. In consultation with the Contractor, ECD will determine which events to support.
 - (2) Trade Missions: Assist with outbound and inbound groups of business people in a targeted sector traveling on an itinerary designed to promote Tennessee exports by arranging business matchmaking activities.
 - (3) Trade Shows and Trade Missions may include:
 - i. On-site planning, budgeting and implementation support of Trade Shows and Missions in line with overall project management in Nashville. Direct costs for shows, such as floor space, display equipment, etc. will be paid directly by ECD and/or participating Tennessee companies.
 - ii. Attending above-referenced Trade Shows and Trade Mission. Travel costs in United Kingdom for the Contractor relating to Trade Shows will be paid by TNTrade.
 - iii. Assisting ECD with post Trade Show and Trade Mission follow-up, including assessments of the Trade Show and/or Trade Mission and follow-up with participants.
 - iv. Maintaining a database of industry-specific trade events.
 - v. Utilizing trade events as means of gathering competitive market and industry leads, to be maintained in database outlining services provided in this section.
 - vi. Other specific events identified by ECD .



10-3-11 RFF

- A.3. Contractor will perform the following with respect to A.1.b. Promoting Tennessee Universities:))
- a. Contractor will establish ties between Tennessee Universities and United Kingdom Universities
 - b. Contractor will facilitate recruiting programs to attract United Kingdom students to Tennessee Universities
 - c. Work closely with ECD program managers, senior leadership to secure investment, and Regional Office Directors. ✓
- A.4. Contractor will perform the following with respect to A.1.c. Visiting Tennessee:
- a. Attend Governor's Conference each year and visit Tennessee for at least one additional trip.
 - b. Activities during the Tennessee visits may include:
 - (1) Improving relationships Tennessee export companies
 - (2) Assessing needs of Tennessee export companies.
 - (3) Meeting with ECD Regional Office Directors.
 - (4) Establishing ties with other business service providers, such as distributors, trade representatives, etc. ✓
- A.5. Contractor will perform the following with respect to A.1.d. Collaborating with Other International ECD Representatives: Contractor will work closely with other International ECD Representatives in order to promote a collaborative international export promotion strategy. ✓
- A.6. Contractor will perform the following with respect to A.1.e. Other Duties:
- a. Perform other duties as requested to include:
 - (1) Assisting Tennessee official visitors as directed.
 - (2) Performing other duties as requested by the assigned Contract representative or Managing Director for International Trade.
 - (3) Notifying Contract representative of any contacts, inquiries or requests from the media or elected public officials.
 - b. In providing the above services, the Contractor will maintain regular communication with the assigned International Business Liaison Officer or appropriate Nashville-based program managers and will maintain and deliver information to ECD's CRM database ✓
- A.7. Contractor will perform the following with respect to A.1.f. Reporting:
- a. Communicate with ECD through correspondence with international business liaison officer
 - b. Provide ECD with a Monthly Activity Report for the previous month, due on the first working day of each month. The Monthly Activity Report will include: ✓
 - (1) Performance Measures ✓



10-1-12 RFP

- (2) Status Report of Service Requests or Projects
- (3) Actual and projected assisted investments as a result of the CONTRACTOR'S involvement, including investment amount and projected number of Tennessee employees hired
- (4) Database of targeted contacts or customers in United Kingdom and Tennessee

- c. Be available for a regular bi-weekly 30-minute phone meeting with ECD.
- d. Provide ECD with an annual updated list of existing non-confidential public sector clients represented by July 31 with quarterly updates of any changes during contract period.
- e. The Contractor shall not enter into a contract with any other entity ECD feels may create a conflict of interest on the part of the Contractor or where a conflict may adversely affect Contractor's performance for ECD. ECD reserves the right to terminate the contract if a significant conflict of interest exists.
- f. Contractor to provide ECD with an Annual Report of activities by June 30.
- g. Contractor to acknowledge receipt of emails sent by ECD staff within two (2) business days.
- h. Contractor to access and report information regularly to the ECD database. Access and use of ECD data is restricted to work done under the contract and cannot be used or shared for any other purposes.

B. CONTRACT PERIOD:

- B.1. This Contract shall be effective for the period beginning January 28, 2013, and ending on January 27, 2014. The Contractor hereby acknowledges and affirms that the State shall have no obligation for services rendered by the Contractor that were not performed within this specified contract period.
- B.2. Term Extension. The State reserves the right to extend this Contract for an additional period or periods of time representing increments of no more than one year and a total contract term of no more than three (3) years, provided that such an extension of the contract term is effected prior to the current, contract expiration date by means of a contract amendment. If a term extension necessitates additional funding beyond that which was included in the original Contract, an increase of the State's maximum liability will also be effected through contract amendment, and shall be based upon payment rates provided in the original Contract.

C. PAYMENT TERMS AND CONDITIONS:

- C.1. Maximum Liability. In no event shall the maximum liability of the State under this Contract exceed Four Hundred Seventy-Eight Thousand Eight Hundred Dollars and no/100 (\$478,800.00). The payment rates in section C.3 shall constitute the entire compensation due the Contractor for all service and Contractor obligations hereunder regardless of the difficulty, materials or equipment required. The payment rates include, but are not limited to, all applicable taxes, fees, overheads, and all other direct and indirect costs incurred or to be incurred by the Contractor.

The Contractor is not entitled to be paid the maximum liability for any period under the Contract or any extensions of the Contract for work not requested by the State. The maximum liability represents available funds for payment to the Contractor and does not guarantee payment of any



such funds to the Contractor under this Contract unless the State requests work and the Contractor performs said work. In which case, the Contractor shall be paid in accordance with the payment rates detailed in section C.3. The State is under no obligation to request work from the Contractor in any specific dollar amounts or to request any work at all from the Contractor during any period of this Contract.

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

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

- a. The Contractor's compensation shall be contingent upon the satisfactory completion of units, milestones or increments of service defined in Section A.
- b. The Contractor shall be compensated for said units, milestones or increments of service based upon the following payment rates:

| Service Description | Amount (per compensable increment) |
|------------------------|---------------------------------------|
| Monthly Consultant Fee | \$ 13,300.00/month |

C.4. Travel Compensation. The Contractor shall not be compensated or reimbursed for travel, meals, or lodging.

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

Department of Economic & Community Development
Attn: Assistant Commissioner of International Division
312 Rosa L. Parks Ave., 11th Floor
Nashville, TN 37243-1102

a. Each invoice shall clearly and accurately detail all of the following required information (calculations must be extended and totaled correctly):

- (1) Invoice Number (assigned by the Contractor);
- (2) Invoice Date;
- (3) Contract Number (assigned by the State);
- (4) Customer Account Name: Department of Economic and Community Development, International Division;
- (5) Customer Account Number (assigned by the Contractor to the above-referenced Customer);
- (6) Contractor Name;
- (7) Contractor Federal Employer Identification, Social Security, or Tennessee Edison Registration ID Number Referenced in Preamble of this Contract;
- (8) Contractor Contact for Invoice Questions (name, phone, and/or fax);
- (9) Contractor Remittance Address;
- (10) Description of Delivered Service;
- (11) Complete Itemization of Charges, which shall detail the following:



- i. Service or Milestone Description (including name & title as applicable) of each service invoiced;
 - ii. Number of Completed Units, Increments, Hours, or Days as applicable of each service invoiced;
 - iii. Applicable Payment Rate (as stipulated in Section C.3.) of each service invoiced;
 - iv. Amount Due by Service; and,
 - v. Total Amount Due for the invoice period.
 - b. The Contractor understands and agrees that an invoice under this Contract shall:
 - (1) Include only charges for service described in Contract Section A and in accordance with payment terms and conditions set forth in Contract Section C;
 - (2) Only be submitted for completed service and shall not include any charge for future work;
 - (3) Not include sales tax or shipping charges; and
 - (4) Initiate the timeframe for payment (and any discounts) only when the State is in receipt of the invoice, and the invoice meets the minimum requirements of this section C.5.
- C.6. Payment of Invoice. A payment by the State shall not prejudice the State's right to object to or question any payment, invoice, or matter in relation thereto. A payment by the State shall not be construed as acceptance of any part of the work or service provided or as approval of any amount invoiced.
- C.7. Invoice Reductions. The Contractor's invoice shall be subject to reduction for amounts included in any invoice or payment theretofore made which are determined by the State, on the basis of audits conducted in accordance with the terms of this Contract, not to constitute proper remuneration for compensable services.
- C.8. Deductions. The State reserves the right to deduct from amounts, which are or shall become due and payable to the Contractor under this or any contract between the Contractor and the State of Tennessee any amounts, which are or shall become due and payable to the State of Tennessee by the Contractor.
- C.9. Prerequisite Documentation. The Contractor shall not invoice the State under this Contract until the State has received the following documentation properly completed.
- a. The Contractor shall complete, sign, and present to the State an "Authorization Agreement for Automatic Deposit (ACH Credits) Form" provided by the State. By doing so, the Contractor acknowledges and agrees that, once said form is received by the State, all payments to the Contractor, under this or any other contract the Contractor has with the State of Tennessee shall be made by Automated Clearing House (ACH).
 - b. The Contractor 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 Contractor's Federal Employer Identification Number or Tennessee Edison Registration ID referenced in this Contract.

D. STANDARD TERMS AND CONDITIONS:

- D.1. Required Approvals. The State is not bound by this Contract until it is signed by the contract parties and approved by 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. This Contract may be modified only by a written amendment signed by all parties hereto and approved by both the officials who approved the base contract and,



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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 Contract without cause for any reason. Said termination shall not be deemed a breach of contract by the State. The State shall give the Contractor at least thirty (30) days written notice before the effective termination date. The Contractor shall be entitled to compensation for satisfactory, authorized service completed as of the termination date, but in no event shall the State be liable to the Contractor for compensation for any service which has not been rendered. Upon such termination, the Contractor shall have no right to any actual general, special, incidental, consequential, or any other damages whatsoever of any description or amount.
- D.4. Termination for Cause. If the Contractor fails to properly perform its obligations under this Contract in a timely or proper manner, or if the Contractor violates any terms of this Contract, the State shall have the right to immediately terminate the Contract and withhold payments in excess of fair compensation for completed services. Notwithstanding the above, the Contractor shall not be relieved of liability to the State for damages sustained by virtue of any breach of this Contract by the Contractor.
- D.5. Subcontracting. The Contractor shall not assign this Contract or enter into a subcontract for any of the services performed under this Contract without obtaining the prior written approval of the State. If such subcontracts are approved by the State, each shall contain, at a minimum, sections of this Contract below pertaining to "Conflicts of Interest," "Nondiscrimination," and "Records" (as identified by the section headings). Notwithstanding any use of approved subcontractors, the Contractor shall be the prime contractor and shall be responsible for all work performed.
- D.6. Conflicts of Interest. The Contractor warrants that no part of the total Contract Amount shall be paid directly or indirectly to an employee or official of the State of Tennessee as wages, compensation, or gifts in exchange for acting as an officer, agent, employee, subcontractor, or consultant to the Contractor in connection with any work contemplated or performed relative to this Contract. The Contractor acknowledges, understands, and agrees that this Contract shall be null and void if the Contractor is, or within the past six months has been, an employee of the State of Tennessee or if the Contractor is an entity in which a controlling interest is held by an individual who is, or within the past six months has been, an employee of the State of Tennessee.
- D.7. Records. The Contractor shall maintain documentation for all charges under this Contract. The books, records, and documents of the Contractor, 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, the Comptroller of the Treasury, or their duly appointed representatives. The financial statements shall be prepared in accordance with generally accepted accounting principles.
- D.8. Prohibition of Illegal Immigrants. The requirements of *Tennessee Code Annotated, Section 12-4-124, et seq.*, addressing the use of illegal immigrants in the performance of any Contract to supply goods or services to the state of Tennessee, shall be a material provision of this Contract, a breach of which shall be grounds for monetary and other penalties, up to and including termination of this Contract.
- a. The Contractor hereby attests, certifies, warrants, and assures that the Contractor shall not knowingly utilize the services of an illegal immigrant in the performance of this Contract and shall not knowingly utilize the services of any subcontractor who will utilize the services of an illegal immigrant in the performance of this Contract. The Contractor shall reaffirm this attestation, in writing, by submitting to the State a completed and signed copy of the document at Attachment 1, hereto, semi-annually during the period of this Contract. Such attestations shall be maintained by the Contractor and made available to state officials upon



request.

- b. Prior to the use of any subcontractor in the performance of this Contract, and semi-annually thereafter, during the period of this Contract, the Contractor shall obtain and retain a current, written attestation that the subcontractor shall not knowingly utilize the services of an illegal immigrant to perform work relative to this Contract and shall not knowingly utilize the services of any subcontractor who will utilize the services of an illegal immigrant to perform work relative to this Contract. Attestations obtained from such subcontractors shall be maintained by the Contractor and made available to state officials upon request. /
- c. The Contractor shall maintain records for all personnel used in the performance of this Contract. Said records shall be subject to review and random inspection at any reasonable time upon reasonable notice by the State. /
- d. The Contractor understands and agrees that failure to comply with this section will be subject to the sanctions of *Tennessee Code Annotated*, Section 12-4-124, *et seq.* for acts or omissions occurring after its effective date. This law requires the Commissioner of Finance and Administration to prohibit a contractor from contracting with, or submitting an offer, proposal, or bid to contract with the State of Tennessee to supply goods or services for a period of one year after a contractor is discovered to have knowingly used the services of illegal immigrants during the performance of this Contract. /
- e. For purposes of this Contract, "illegal immigrant" shall be defined as any person who is not either a United States citizen, a Lawful Permanent Resident, or a person whose physical presence in the United States is authorized or allowed by the federal Department of Homeland Security and who, under federal immigration laws and/or regulations, is authorized to be employed in the U.S. or is otherwise authorized to provide services under the Contract. /
- D.9. Prevailing Wage Rates. All 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.10. Monitoring. The Contractor's activities conducted and records maintained pursuant to this Contract shall be subject to monitoring and evaluation by the State, the Comptroller of the Treasury, or their duly appointed representatives. /
- D.11. Progress Reports. The Contractor shall submit brief, periodic, progress reports to the State as requested. /
- D.12. Strict Performance. Failure by any party to this Contract to insist in any one or more cases upon the strict performance of any of the terms, covenants, conditions, or provisions of this Contract shall not be construed as a waiver or relinquishment of any such term, covenant, condition, or provision. No term or condition of this Contract shall be held to be waived, modified, or deleted except by a written amendment signed by the parties hereto. /
- D.13. Independent Contractor. The parties hereto, in the performance of this Contract, shall not act as employees, partners, joint ventures, or associates of one another. It is expressly acknowledged by the parties hereto that such parties are independent contracting entities and that nothing in this Contract shall be construed to create an employer/employee relationship or to allow either to exercise control or direction over the manner or method by which the other transacts its business affairs or provides its usual services. The employees or agents of one party shall not be deemed or construed to be the employees or agents of the other party for any purpose whatsoever. The Contractor, 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 Contractor's employees, and to pay all applicable taxes incident to this Contract. /



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- D.14. State Liability. The State shall have no liability except as specifically provided in this Contract. ✓
- D.15. Force Majeure. The obligations of the parties to this 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.16. State and Federal Compliance. The Contractor shall comply with all applicable State and Federal laws and regulations in the performance of this Contract. ✓
- D.17. Governing Law. This Contract shall be governed by and construed in accordance with the laws of the State of Tennessee. The Contractor 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 Contract. The Contractor 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.18. Completeness. This 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 Contract supersedes any and all prior understandings, representations, negotiations, and agreements between the parties relating hereto, whether written or oral. ✓
- D.19. Severability. If any terms and conditions of this Contract are held to be invalid or unenforceable as a matter of law, the other terms and conditions hereof shall not be affected thereby and shall remain in full force and effect. To this end, the terms and conditions of this Contract are declared severable. ✓
- D.20. Headings. Section headings of this Contract are for reference purposes only and shall not be construed as part of this Contract. ✓

E. SPECIAL TERMS AND CONDITIONS:

- E.1. Conflicting Terms and Conditions. Should any of these special terms and conditions conflict with any other terms and conditions of this Contract, these special terms and conditions shall control. ✓
- E.2. Communications and Contacts. All instructions, notices, consents, demands, or other communications required or contemplated by this Contract shall be in writing and shall be made by certified, first class mail, return receipt requested and postage prepaid, by overnight courier service with an asset tracking system, or by EMAIL 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:

Samar Ali
312 Rosa L. Parks Avenue, 27th Floor
Nashville, TN 37243-1102
Telephone: (615) 741-1888
Fax Number: (615) 741-7306
E-mail: samar.ali@tn.gov ✓

The Contractor:

John Worthington
IBT Partners Limited
60 Moorgate, London, EC2R 6EL, UK ✓



Telephone: + 33 (1) 5688.2900
Fax Number: N/A
jw@ibtpartners.com

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

- E.3. Subject to Funds Availability. The Contract is subject to the appropriation and availability of State and/or Federal funds. In the event that the funds are not appropriated or are otherwise unavailable, the State reserves the right to terminate the Contract upon written notice to the Contractor. Said termination shall not be deemed a breach of Contract by the State. Upon receipt of the written notice, the Contractor shall cease all work associated with the Contract. Should such an event occur the Contractor shall be entitled to compensation for all satisfactory and authorized services completed as of the termination date. Upon such termination, the Contractor shall have no right to recover from the State any actual, general, special, incidental, consequential, or any other damages whatsoever of any description or amount.
- E.4. Tennessee Consolidated Retirement System. The Contractor acknowledges and understands that, subject to statutory exceptions contained in *Tennessee Code Annotated*, Section 8-36-801, et. seq., the law governing the Tennessee Consolidated Retirement System (TCRS), provides that if a retired member of TCRS, or of any superseded system administered by TCRS, or of any local retirement fund established pursuant to *Tennessee Code Annotated*, Title 8, Chapter 35, Part 3 accepts state employment, the member's retirement allowance is suspended during the period of the employment. Accordingly and notwithstanding any provision of this Contract to the contrary, the Contractor agrees that if it is later determined that the true nature of the working relationship between the Contractor and the State under this Contract is that of "employee/employer" and not that of an independent contractor, the Contractor, if a retired member of TCRS, may be required to repay to TCRS the amount of retirement benefits the Contractor received from TCRS during the period of this Contract.
- E.5. State Furnished Property. The Contractor shall be responsible for the correct use, maintenance, and protection of all articles of nonexpendable, tangible, personal property furnished by the State for the Contractor's temporary use under this Contract. Upon termination of this Contract, all property furnished shall be returned to the State in good order and condition as when received, reasonable use and wear thereof excepted. Should the property be destroyed, lost, or stolen, the Contractor shall be responsible to the State for the residual value of the property at the time of loss.
- E.6. Incorporation of Additional Documents. Each of the following documents is included as a part of this Contract by reference. In the event of a discrepancy or ambiguity regarding the Contractor's duties, responsibilities, and performance under this Contract, these items shall govern in order of precedence below.
- a. this Contract document with any attachments or exhibits (excluding the items listed as subsections b through e., below);
 - b. any clarifications of or addenda to the Contractor's Proposal seeking this Contract;
 - c. the State solicitation, as may be amended, requesting proposals in competition for this Contract;
 - d. any technical specifications provided to proposers during the procurement process to award this Contract;
 - e. the Contractor's proposal seeking this Contract.



11-8-11-955

IN WITNESS WHEREOF,

IBT PARTNERS LIMITED:

John Worthington 21st June 2013
CONTRACTOR SIGNATURE DATE

JOHN WORTHINGTON, DIRECTOR.
PRINTED NAME AND TITLE OF CONTRACTOR SIGNATORY

DEPARTMENT OF ECONOMIC AND COMMUNITY DEVELOPMENT:

William F. Hagerty 6-21-13
WILLIAM F. HAGERTY, COMMISSIONER DATE

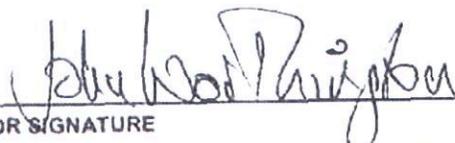


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ATTACHMENT 1

ATTESTATION RE PERSONNEL USED IN CONTRACT PERFORMANCE

| | |
|--|-------------------|
| SUBJECT CONTRACT NUMBER: | RFPA# 33002-22613 |
| CONTRACTOR LEGAL ENTITY NAME: | JBT PARTNERS LTD. |
| FEDERAL EMPLOYER IDENTIFICATION NUMBER: (or Social Security Number) | nil |

The Contractor, identified above, does hereby attest, certify, warrant, and assure that the Contractor shall not knowingly utilize the services of an illegal immigrant in the performance of this Contract and shall not knowingly utilize the services of any subcontractor who will utilize the services of an illegal immigrant in the performance of this Contract.



CONTRACTOR SIGNATURE

NOTICE: This attestation MUST be signed by an individual empowered to contractually bind the Contractor. If said individual is not the chief executive or president, this document shall attach evidence showing the individual's authority to contractually bind the Contractor

JOHN NORTHINGTON. DIRECTOR.

PRINTED NAME AND TITLE OF SIGNATORY

21st June 2013

DATE OF ATTESTATION