

CONTRACT #17
RFS # 335.01-12094
FA # 12-36020
Edison # 27239

**Department of Commerce and
Insurance
Fire Prevention**

VENDOR:
R. Rutherford, P.C.



STATE OF TENNESSEE
DEPARTMENT OF COMMERCE AND INSURANCE
500 JAMES ROBERTSON PARKWAY
DAVY CROCKETT TOWER
NASHVILLE, TENNESSEE 37243
615-532-3589

February 6, 2014

Ms. Leni Chick
Fiscal Review Committee
8th Floor Rachel Jackson Building
Nashville, Tennessee 37243

Re: Non-competitive Contract Amendments to Increase Maximum Liability
Special Deputy Electrical Inspectors

Dear Ms. Chick:

Attached for review and approval of the Fiscal Review Committee pursuant to Tenn. Code Ann. §4-56-107 are fourteen (14) amendments to existing contracts between the Department of Commerce and Insurance (the "Department") and Deputy Electrical Inspectors ("DEI's") to perform inspections of electrical wiring installations. The Commissioner of Commerce and Insurance is authorized to appoint any person acting through a professional corporation to perform electrical inspection services pursuant to Tenn. Code Ann. § 68-102-143(a)(1) before electric service is connected to a business or construction on a permanent basis. In accordance with Tenn. Code Ann. § 68-102-143(a)(3), the Commissioner is required "to ensure that electrical inspection services are available throughout the [S]tate on a timely basis."

We believe that the amendments to increase maximum liability of each of these contracts can be justified based on an increase in the number of electrical inspections each DEI is requested to perform, the limited number of individuals qualified as DEI's, and the importance of conducting the inspections in a timely manner.¹ The volume of work assigned to some DEI's has increased simply due to improved economic activity in the service areas to which the DEI is assigned. In other cases, the disability, illness, death, resignation of some DEI's has resulted in a need to shift the work to others in the designated inspection territory. Attached is a table summarizing the reason for which approval of each amendment increasing maximum liability is requested.

¹ Tenn. Code Ann. § 68-102-143(a)(3) (A) provides that inspections are considered "timely" when performed within three (3) working days of the request.

Letter to Ms. Leni Chick
February 6, 2014
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Please note that DEI's are compensated by receiving eighty-five percent (85%) of the amount of the fees set by statute which are collected for the permits from the individuals or entities requesting inspections, with the remaining fifteen percent (15%) retained by the Department to cover administrative costs associated with the electrical inspection program. The proposed increase in maximum liability for each of the DEI's is based on an estimate of the amount of work each DEI will be asked to perform through the end of the current contract period, June 30, 2016, and the corresponding inspection fees each DEI is expected to collect during such period.

I have attached the Supplemental Documentation required for review by the Fiscal Review Committee, Edison printouts related to payments made under each contract, the amendments and Amendment Requests applicable to each DEI contract approved by the Central Procurement Office, and the original contracts.

Please advise if you have any questions or need any additional information.

Respectfully,



Dan Birdwell
Assistant General Counsel

Attachment

cc: Gary West, Assistant Commissioner for Fire Prevention
Joseph Underwood, Chief Counsel for Fire Prevention
Gary Farley, Director, Contract Inspection Services, Electrical & Residential Codes and
State Fire Marshal's Office

Contracts submitted to Fiscal Review Committee for Review and Approval

| Edison ID | Vendor Name | Details |
|------------------|--|--|
| 27967 | Bill Harrington Electrical Inspections, PC | Contractor is performing a greater volume of work due to increased business and construction activity in the geographical inspection territory to which he is assigned. |
| 26954 | Dan R Wilson Electrical Inspections, P.C. | Contractor has been assigned a service are which includes commercial business facilities, including Wacker Chemie AG, Whirlpool, and several Volkswagen parts supplier businesses. |
| 26977 | Dewayne Dotson, Inspector, PC | Contractor is performing a greater volume of work due to increased business and construction activity. |
| 26988 | Doug Turnbull Electrical Inspecting PC | Contractor has assumed responsibility for an additional geographical inspection territory. |
| 27073 | JL Jacobs, PC | Contactore is performing a greater volume of work due to increased business or construction activity. |
| 27031 | LampLighter Electrical Inspections PC | Contactore has performed a greater volume of work due to increased business or construction activity. |
| 27289 | Lowell's Electrical Inspection, PC | Contractor has assumed additional responsibility for inspections in a larger geographic geographical inspection territory with more commercial properties. |
| 26691 | Michael Taylor Electrical Inspector, PC | Contactore is performing a greater volume of work due to increased construction or business activity. |
| 27071 | Peek Electrical Inspector PC | Contactore is performing a greater volume of work due to increased business or construction activity. |
| 27239 | R Rutherford PC | Contactore is performing a greater volume of work due to increased business or construction activity. |
| 26938 | Sammy Catlett PC | Contractor has assumed responsibility for a geographical inspection territory of another DEI who is in poor health. |
| 27078 | T.J. Hesson Electrical Services, PC | Contractor has assumed responsibility for a geographical inspection territory of a DEI who has retired. |
| 27076 | Tracy Barnett PC | Contractor is performing a greater volume of work due to increase in construction in Spring Hill, Columbia, and Brentwood areas. |
| 27299 | WF Maddux PC | Contractor is performing a greater volume of work due to increase in construction in Spring Hill, Columbia, and Brentwood areas. |

Supplemental Documentation Required for
Fiscal Review Committee

| | | | | | |
|---|------------------------|----------|---|--------------|----------|
| *Contact Name: | Dan Birdwell | | *Contact Phone: | 615-532-3589 | |
| *Original Contract Number: | FA1236020 | | *Original RFS Number: | 33501-12094 | |
| Edison Contract Number: <i>(if applicable)</i> | 27239 | | Edison RFS Number: <i>(if applicable)</i> | N/A | |
| *Original Contract Begin Date: | 7/1/2011 | | *Current End Date: | 6/30/2016 | |
| Current Request Amendment Number: <i>(if applicable)</i> | 1 | | | | |
| Proposed Amendment Effective Date: <i>(if applicable)</i> | April 21, 2014 | | | | |
| *Department Submitting: | Commerce and Insurance | | | | |
| *Division: | Fire Prevention | | | | |
| *Date Submitted: | February 6, 2014 | | | | |
| *Submitted Within Sixty (60) days: | Yes | | | | |
| <i>If not, explain:</i> | | | | | |
| *Contract Vendor Name: | R Rutherford PC | | | | |
| *Current Maximum Liability: | \$357,000 | | | | |
| *Current Contract Allocation by Fiscal Year: <i>(as Shown on Most Current Fully Executed Contract Summary Sheet)</i> | | | | | |
| FY:2011 | FY:2012 | FY:2013 | FY:2014 | FY2015 | FY2016 |
| \$ | \$71,400 | \$71,400 | \$71,400 | \$71,400 | \$71,400 |
| *Current Total Expenditures by Fiscal Year of Contract: <i>(attach backup documentation from STARS or FDAS report)</i> | | | | | |
| FY:2011 | FY:2012 | FY:2013 | FY:2014 | FY2015 | FY2016 |
| \$0 | \$82,896 | \$87,708 | \$ N/A | \$ N/A | \$ N/A |
| IF Contract Allocation has been greater than Contract Expenditures, please give the reasons and explain where surplus funds were spent: | | | | | |
| IF surplus funds have been carried forward, please give the reasons and provide the authority for the carry forward provision: | | | | | |
| IF Contract Expenditures exceeded Contract Allocation, please give the reasons and explain how funding was acquired to pay the overage: | | | | | |
| *Contract Funding | State: | 100% | Federal: | | |

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> | |
| | | | |
| | | | |
| Method of Original Award: <i>(if applicable)</i> | | Alternative Procurement Method (APM) | |
| *What were the projected costs of the service for the entire term of the contract prior to contract award? | | No more than \$875,000.00 per contract. | |

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.

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

| Deliverable description: | FY: | FY: | FY: | FY: | FY: |
|--------------------------|-----|-----|-----|-----|-----|
| | | | | | |
| | | | | | |
| | | | | | |

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: | FY: | FY: | FY: | FY: |
|--------------------------|-----|-----|-----|-----|-----|
| | | | | | |
| | | | | | |
| | | | | | |

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.

| | | | | | |
|--|-----|-----|-----|-----|-----|
| 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: |
| | | | | | |

| Total P: 62.00 | | | | | | | | | | | | |
|----------------|----------|---------|------------|-----------------|-----------|------------|------------|--------------|-----------------|----------------|--------|---------|
| Unit | Voucher | Invoice | Remt Vndr | Name | Gross Amt | Reference | Pymnt Date | Recon Status | Reconciled Date | Warrant Amount | Method | Message |
| 33501 | 00022711 | 1117646 | 0000011281 | R Rutherford Pc | 3820.750 | 0000910951 | 7/20/2011 | REC | 7/20/2011 | 3820.750 | EFT | |
| 33501 | 00022927 | 1118136 | 0000011281 | R Rutherford Pc | 3587.850 | 0000918470 | 7/28/2011 | REC | 7/28/2011 | 3587.850 | EFT | |
| 33501 | 00023396 | 1118489 | 0000011281 | R Rutherford Pc | 3625.250 | 0000944881 | 8/16/2011 | REC | 8/16/2011 | 3625.250 | EFT | |
| 33501 | 00024009 | 1118663 | 0000011281 | R Rutherford Pc | 4913.850 | 0000964395 | 9/1/2011 | REC | 9/1/2011 | 4913.850 | EFT | |
| 33501 | 00024366 | 1119140 | 0000011281 | R Rutherford Pc | 4140.350 | 0000978390 | 9/14/2011 | REC | 9/14/2011 | 4140.350 | EFT | |
| 33501 | 00024780 | 1119441 | 0000011281 | R Rutherford Pc | 3981.400 | 0000999480 | 9/30/2011 | REC | 9/30/2011 | 3981.400 | EFT | |
| 33501 | 00025295 | 1119797 | 0000011281 | R Rutherford Pc | 4130.150 | 0001017266 | 10/13/2011 | REC | 10/13/2011 | 4130.150 | EFT | |
| 33501 | 00025721 | 1120216 | 0000011281 | R Rutherford Pc | 3995.000 | 0001040749 | 10/31/2011 | REC | 10/31/2011 | 3995.000 | EFT | |
| 33501 | 00026105 | 1120540 | 0000011281 | R Rutherford Pc | 3417.850 | 0001066501 | 11/18/2011 | REC | 11/18/2011 | 3417.850 | EFT | |
| 33501 | 00026384 | 1120779 | 0000011281 | R Rutherford Pc | 5287.850 | 0001075891 | 11/29/2011 | REC | 11/29/2011 | 5287.850 | EFT | |
| 33501 | 00026878 | 1121096 | 0000011281 | R Rutherford Pc | 4093.600 | 0001097157 | 12/14/2011 | REC | 12/14/2011 | 4093.600 | EFT | |
| 33501 | 00027264 | 1121496 | 0000011281 | R Rutherford Pc | 4043.450 | 0001116495 | 12/29/2011 | REC | 12/29/2011 | 4043.450 | EFT | |
| 33501 | 00027576 | 1121847 | 0000011281 | R Rutherford Pc | 3902.350 | 0001137361 | 1/13/2012 | REC | 1/13/2012 | 3902.350 | EFT | |
| 33501 | 00028041 | 1122382 | 0000011281 | R Rutherford Pc | 3714.500 | 0001156691 | 1/31/2012 | REC | 1/31/2012 | 3714.500 | EFT | |
| 33501 | 00028517 | 1122436 | 0000011281 | R Rutherford Pc | 3915.100 | 0001179011 | 2/15/2012 | REC | 2/15/2012 | 3915.100 | EFT | |
| 33501 | 00029050 | 1123058 | 0000011281 | R Rutherford Pc | 3478.200 | 0001194256 | 2/29/2012 | REC | 2/29/2012 | 3478.200 | EFT | |
| 33501 | 00029413 | 1123085 | 0000011281 | R Rutherford Pc | 3626.950 | 0001215959 | 3/14/2012 | REC | 3/14/2012 | 3626.950 | EFT | |
| 33501 | 00029700 | 1123547 | 0000011281 | R Rutherford Pc | 3032.800 | 0001232431 | 3/28/2012 | REC | 3/28/2012 | 3032.800 | EFT | |
| 33501 | 00030130 | 1123814 | 0000011281 | R Rutherford Pc | 3056.600 | 000020532 | 4/16/2012 | REC | 4/16/2012 | 3056.600 | EFT | |
| 33501 | 00030708 | 1124408 | 0000011281 | R Rutherford Pc | 3179.000 | 0000037680 | 4/30/2012 | REC | 4/30/2012 | 3179.000 | EFT | |
| 33501 | 00031361 | 1124826 | 0000011281 | R Rutherford Pc | 3101.650 | 0000059128 | 5/15/2012 | REC | 5/15/2012 | 3101.650 | EFT | |
| 33501 | 00031729 | 1125183 | 0000011281 | R Rutherford Pc | 3252.950 | 0000080864 | 5/31/2012 | REC | 5/31/2012 | 3252.950 | EFT | |
| 33501 | 00032338 | 1125323 | 0000011281 | R Rutherford Pc | 3435.700 | 0000106404 | 6/15/2012 | REC | 6/15/2012 | 3435.700 | EFT | |
| 33501 | 00032912 | 1125661 | 0000011281 | R Rutherford Pc | 3571.700 | 0000124586 | 6/29/2012 | REC | 6/29/2012 | 3571.700 | EFT | |
| 33501 | 00033159 | 1125980 | 0000011281 | R Rutherford Pc | 3630.350 | 0000145832 | 7/13/2012 | REC | 7/13/2012 | 3630.350 | EFT | |
| 33501 | 00033474 | 1126415 | 0000011281 | R Rutherford Pc | 3567.450 | 0000164041 | 7/30/2012 | REC | 7/30/2012 | 3567.450 | EFT | |
| 33501 | 00033961 | 1126588 | 0000011281 | R Rutherford Pc | 3756.150 | 0000189656 | 8/15/2012 | REC | 8/15/2012 | 3756.150 | EFT | |
| 33501 | 00034528 | 1127188 | 0000011281 | R Rutherford Pc | 3439.950 | 0000204267 | 8/29/2012 | REC | 8/29/2012 | 3439.950 | EFT | |
| 33501 | 00034926 | 1127409 | 0000011281 | R Rutherford Pc | 3241.050 | 0000227748 | 9/14/2012 | REC | 9/14/2012 | 3241.050 | EFT | |
| 33501 | 00035340 | 1127802 | 0000011281 | R Rutherford Pc | 3439.100 | 0000248125 | 10/1/2012 | REC | 10/1/2012 | 3439.100 | EFT | |
| 33501 | 00035746 | 1128098 | 0000011281 | R Rutherford Pc | 3767.200 | 0000269623 | 10/15/2012 | REC | 10/15/2012 | 3767.200 | EFT | |
| 33501 | 00036239 | 1128467 | 0000011281 | R Rutherford Pc | 5208.800 | 0000289464 | 10/31/2012 | REC | 10/31/2012 | 5208.800 | EFT | |
| 33501 | 00036732 | 1128799 | 0000011281 | R Rutherford Pc | 3962.700 | 0000307972 | 11/15/2012 | REC | 11/15/2012 | 3962.700 | EFT | |
| 33501 | 00037037 | 1129265 | 0000011281 | R Rutherford Pc | 5327.800 | 0000329246 | 11/30/2012 | REC | 11/30/2012 | 5327.800 | EFT | |
| 33501 | 00037494 | 1129435 | 0000011281 | R Rutherford Pc | 4857.750 | 0000352290 | 12/14/2012 | REC | 12/14/2012 | 4857.750 | EFT | |
| 33501 | 00037930 | 1129941 | 0000011281 | R Rutherford Pc | 3360.900 | 0000368725 | 12/31/2012 | REC | 12/31/2012 | 3360.900 | EFT | |
| 33501 | 00038208 | 1130184 | 0000011281 | R Rutherford Pc | 3475.650 | 0000389444 | 1/15/2013 | REC | 1/15/2013 | 3475.650 | EFT | |
| 33501 | 00038743 | 1130447 | 0000011281 | R Rutherford Pc | 3390.650 | 0000408181 | 1/31/2013 | REC | 1/31/2013 | 3390.650 | EFT | |
| 33501 | 00039116 | 1130781 | 0000011281 | R Rutherford Pc | 3082.100 | 0000432600 | 2/15/2013 | REC | 2/15/2013 | 3082.100 | EFT | |

| Unit | Voucher | Invoice | Remit Vndr | Name | Gross Amt | Reference | Pymnt Date | Recon Status | Reconcled Date | Warrant Amount | Method | Message |
|-------|----------|---------|------------|-----------------|-----------|------------|------------|--------------|----------------|----------------|--------|---------|
| 33501 | 00039784 | 1131195 | 0000011281 | R Rutherford Pc | 3126.300 | 0000445585 | 2/28/2013 | REC | 2/28/2013 | 3126.300 | EFT | |
| 33501 | 00040180 | 1131673 | 0000011281 | R Rutherford Pc | 3067.650 | 0000472640 | 3/15/2013 | REC | 3/15/2013 | 3067.650 | EFT | |
| 33501 | 00040667 | 1131868 | 0000011281 | R Rutherford Pc | 3139.900 | 0000488439 | 3/28/2013 | REC | 3/28/2013 | 3139.900 | EFT | |
| 33501 | 00041150 | 1132257 | 0000011281 | R Rutherford Pc | 2958.850 | 0000513776 | 4/15/2013 | REC | 4/15/2013 | 2958.850 | EFT | |
| 33501 | 00041768 | 1132580 | 0000011281 | R Rutherford Pc | 2986.050 | 0000531829 | 4/30/2013 | REC | 4/30/2013 | 2986.050 | EFT | |
| 33501 | 00042265 | 1133139 | 0000011281 | R Rutherford Pc | 6066.450 | 0000557254 | 5/15/2013 | REC | 5/15/2013 | 6066.450 | EFT | |
| 33501 | 00042589 | 1133409 | 0000011281 | R Rutherford Pc | 3382.150 | 0000574512 | 5/31/2013 | REC | 5/31/2013 | 3382.150 | EFT | |
| 33501 | 00043050 | 1133754 | 0000011281 | R Rutherford Pc | 3086.350 | 0000599404 | 6/14/2013 | REC | 6/14/2013 | 3086.350 | EFT | |
| 33501 | 00043604 | 1134182 | 0000011281 | R Rutherford Pc | 2386.800 | 0000618692 | 6/28/2013 | REC | 6/28/2013 | 2386.800 | EFT | |
| 33501 | 00043931 | 1134558 | 0000011281 | R Rutherford Pc | 5659.300 | 0000642079 | 7/15/2013 | REC | 7/15/2013 | 5659.300 | EFT | |
| 33501 | 00044259 | 1134751 | 0000011281 | R Rutherford Pc | 3221.500 | 0000662966 | 7/31/2013 | REC | 7/31/2013 | 3221.500 | EFT | |
| 33501 | 00044912 | 1135406 | 0000011281 | R Rutherford Pc | 3012.400 | 0000686254 | 8/15/2013 | REC | 8/15/2013 | 3012.400 | EFT | |
| 33501 | 00045480 | 1135722 | 0000011281 | R Rutherford Pc | 4380.900 | 0000703757 | 8/30/2013 | REC | 8/30/2013 | 4380.900 | EFT | |
| 33501 | 00045877 | 1135999 | 0000011281 | R Rutherford Pc | 3338.800 | 0000725581 | 9/13/2013 | REC | 9/13/2013 | 3338.800 | EFT | |
| 33501 | 00046230 | 1136461 | 0000011281 | R Rutherford Pc | 6545.000 | 0000743758 | 9/30/2013 | REC | 9/30/2013 | 6545.000 | EFT | |
| 33501 | 00046692 | 1136784 | 0000011281 | R Rutherford Pc | 3070.200 | 0000761921 | 10/15/2013 | REC | 10/15/2013 | 3070.200 | EFT | |
| 33501 | 00047184 | 1137161 | 0000011281 | R Rutherford Pc | 3152.650 | 0000787886 | 10/31/2013 | REC | 10/31/2013 | 3152.650 | EFT | |
| 33501 | 00047621 | 1137306 | 0000011281 | R Rutherford Pc | 3581.050 | 0000813093 | 11/15/2013 | REC | 11/15/2013 | 3581.050 | EFT | |
| 33501 | 00048002 | 1137639 | 0000011281 | R Rutherford Pc | 4345.200 | 0000827210 | 11/27/2013 | REC | 11/27/2013 | 4345.200 | EFT | |
| 33501 | 00048364 | 1138101 | 0000011281 | R Rutherford Pc | 3544.500 | 0000848500 | 12/13/2013 | UNR | 12/13/2013 | 3544.500 | EFT | |
| 33501 | 00048894 | 1138399 | 0000011281 | R Rutherford Pc | 3970.350 | 0000868727 | 12/30/2013 | UNR | 12/30/2013 | 3970.350 | EFT | |
| 33501 | 00049249 | 1138776 | 0000011281 | R Rutherford Pc | 3228.300 | 0000887801 | 1/15/2014 | UNR | | 3228.300 | EFT | |
| 33501 | 00049631 | 1139329 | 0000011281 | R Rutherford Pc | 3795.250 | 0000912760 | 1/31/2014 | UNR | | 3795.250 | EFT | |

Amendment Request

Route a completed request, as one file in PDF format, via e-mail attachment sent to: AgSDRS.AgsDRS@tn.gov

(1cc)

APPROVED
Michael J. Perry / PDP
 1/31/14
 CHIEF PROCUREMENT OFFICER DATE

| | | |
|---|--|-----------------------------------|
| Request Tracking # | 33501-142559 | |
| 1. Procuring Agency | Department of Commerce and Insurance | |
| 2. Contractor | R Rutherford PC | |
| 3. Contract # | FA1236020 | |
| 4. Proposed Amendment # | 1 | |
| 5. Edlson ID # | 27239 | |
| 6. Contract Begin Date | | 7/1/2011 |
| 7. Current Contract End Date - with ALL options to extend exercised | | 6/30/2016 |
| 8. Proposed Contract End Date - with ALL options to extend exercised | | 6/30/2016 |
| 9. Current Maximum Contract Cost - with ALL options to extend exercised | | \$357,000 |
| 10. Proposed Maximum Contract Cost - with ALL options to extend exercised | | \$530,604 |
| 11. Office for Information Resources Pre-Approval Endorsement Request - information technology service (N/A to THDA) | <input checked="" type="checkbox"/> Not Applicable | <input type="checkbox"/> Attached |
| 12. eHealth Pre-Approval Endorsement Request - health-related professional, pharmaceutical, laboratory, or imaging | <input checked="" type="checkbox"/> Not Applicable | <input type="checkbox"/> Attached |
| 13. Human Resources Pre-Approval Endorsement Request - state employee training service | <input checked="" type="checkbox"/> Not Applicable | <input type="checkbox"/> Attached |

| | |
|---|--------------|
| Request Tracking # | 33501-142659 |
| <p>14. Explanation Need for the Proposed Amendment</p> <p>The proposed amendment is required because the current contractor, R Rutherford PC, has been requested to perform a greater volume of work than was anticipated when the initial contract was entered due to termination and/or resignation of other deputy electrical inspectors in the service area(s) where such work is performed.</p> <p>In order for the Contractor to continue to perform services required by the Division of Fire Prevention, it is necessary to increase the maximum liability of the subject contract from \$357,000 to \$530,604.</p> <p>Please note that the Contractor provides electrical inspection services to remote and rural areas of the state which do not have a large pool of qualified individuals that meet the eligibility requirements of this service. The number of individuals qualified to perform the work required is very limited.</p> <p>The proposed change in maximum liability is based on a revised estimate of the work that the Contractor will be required to perform in order to ensure continuity of services (continued electrical inspections) on behalf of the State. The Department has estimated the amount required to be approximately \$120,000 per year for each of the next two (2) fiscal years. (The current contract term ends June 30, 2016.)</p> | |
| <p>15. Name & Address of the Contractor's Principal Owner(s) <i>- NOT required for a TN state education Institution</i></p> <p>R Rutherford PC 525 Cherokee Mountain Road Jonesborough, TN 37659 423-926-7235</p> | |
| <p>16. Evidence Contractor's Experience & Length Of Experience Providing the Goods or Services</p> <p>The Contractor has served as a deputy electrical inspector for more than three (3) years, during which time the quality of services performed has been excellent.</p> | |
| <p>17. Efforts to Identify Reasonable, Competitive, Procurement Alternatives</p> <p>Please note that competitive procurement is not feasible, since electrical inspection permit fees are currently specified by law, Tenn. Code Ann. T.C.A. § 68-102-143(b)(2), rather than by competitive bid. The Department retains fifteen percent (15%) of the fees charged for costs associated with the administration of the electrical inspection program, and the inspectors receive eighty-five percent (85%) of the total fee assessed.</p> | |
| <p>18. Justification</p> <p>Pursuant to Tenn. Code Ann. § 68-102-143(b)(2), deputy electrical inspectors are required to possess: (1) a high school diploma or GED certificate; (2) practical experience consisting of at least five (5) years in electrical installation or inspection; and, (3) proof of having passed a nationally recognized certification examination in both (a) electrical one- and two-family dwellings and (b) electrical general.</p> <p>As stated above, the number of potential contractors who meet the qualification the Department requires is small. In this regard, please note that the Department is required by law to perform inspections of electrical installations within three working days of the date the request is made," and it also requires to contractor "through the inspector's professional corporate to provide electrical inspection services." (See T.C.A. § 68-102-143.)</p> | |

| | |
|---|--------------|
| Request Tracking # | 33501-142559 |
| 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 circumstances</i> | |
| <p><i>Julie Mox McPeak</i> <i>1-24-14</i> <i>RLW</i></p> | |

**AMENDMENT ONE
OF CONTRACT FA1236020**

This Amendment is made and entered by and between the State of Tennessee, Department of Commerce and Insurance, hereinafter referred to as the "State" and R Rutherford PC, 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 C.1. Maximum Liability 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 five hundred thirty thousand six hundred four dollars and no cents (\$530,604). This amount shall constitute the entire compensation due the Contractor for the Service and all of the Contractor's obligations hereunder regardless of the difficulty, materials or equipment required. The Contract amount includes, but is not limited to, all applicable taxes, fees, overhead, profit, 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.

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 April 21, 2014. All other terms and conditions of this Contract not expressly amended herein shall remain in full force and effect.

IN WITNESS WHEREOF,

R RUTHERFORD PC:

SIGNATURE

DATE

PRINTED NAME AND TITLE OF SIGNATORY (above)

DEPARTMENT OF COMMERCE AND INSURANCE:

JULIE MIX MCPEAK, COMMISSIONER

DATE



CONTRACT

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

| | | | |
|---|------------------------|--------------------------------------|---------------------------|
| Begin Date 07/01/2011 | End Date 06/30/2016 | Agency Tracking # 33501 - 12094 | Edison Record ID 27239 |
| Contractor Legal Entity Name R. RUTHERFORD, P.C. | | | Edison Vendor ID 11281 |
| Sub recipient or Vendor <input type="checkbox"/> Subrecipient <input checked="" type="checkbox"/> Vendor | CFDA # | FEIN or SSN (optional) 20-5357736 | |

Service Caption (one line only)
Electrical inspections services.

| FY | State | Federal | Interdepartmental | Other | TOTAL Contract Amount |
|---------------|-------|---------|-------------------|---------------------|-----------------------|
| 2012 | | | | \$71,400.00 | \$71,400.00 |
| 2013 | | | | \$71,400.00 | \$71,400.00 |
| 2014 | | | | \$71,400.00 | \$71,400.00 |
| 2015 | | | | \$71,400.00 | \$71,400.00 |
| 2016 | | | | \$71,400.00 | \$71,400.00 |
| TOTAL: | | | | \$357,000.00 | \$357,000.00 |

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)

| | |
|--|--|
| <input type="checkbox"/> RFP | The procurement process was completed in accordance with the approved RFP document and associated regulations. |
| <input type="checkbox"/> Competitive Negotiation | The predefined, competitive, impartial, negotiation process was completed in accordance with the associated, approved procedures and evaluation criteria. |
| <input checked="" type="checkbox"/> Alternative Competitive Method | The predefined, competitive, impartial, procurement process was completed in accordance with the associated, approved procedures and evaluation criteria. |
| <input type="checkbox"/> Non-Competitive Negotiation | The non-competitive contractor selection was completed as approved, and the procurement process included a negotiation of best possible terms & price. |
| <input type="checkbox"/> 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.

OCR USE - FA

FA1236020

| | |
|------------|--------------------------|
| Speed Code | Account Code 70803000 |
|------------|--------------------------|

**CONTRACT
BETWEEN THE STATE OF TENNESSEE,
DEPARTMENT OF COMMERCE AND INSURANCE
AND
R. RUTHERFORD PC**

This Contract, by and between the State of Tennessee, Department of Commerce and Insurance, hereinafter referred to as the "State" and R. Rutherford PC, hereinafter referred to as the "Contractor," is for the provision of inspection of electrical installations in accordance with all applicable statutes (including Tenn. Code Ann. § 68-102-143), rules, and instructions of the Commissioner of the Department of Commerce and Insurance or her agents, as further defined in the "SCOPE OF SERVICES."

The Contractor is a professional corporation.
Contractor Federal Employer Identification, Social Security, or Edison Registration ID # 20-5357736
Contractor Place of Incorporation or Organization: Tennessee

The Commissioner of Commerce and Insurance desires to appoint Roy G. Rutherford, acting through his or her professional corporation pursuant to Tenn. Code Ann. § 48-101-601, as a Deputy Electrical Inspector to perform services, through his or her professional corporation, pursuant to authority vested in her by Tenn. Code Ann. § 68-102-143. Therefore, in consideration of the mutual promises herein contained the parties have agreed and do hereby enter into the contract according to the provisions set out herein.

A. SCOPE OF SERVICES:

- A.1. The Contractor shall provide all service and deliverables as required, described, and detailed herein and shall meet all service and delivery timelines as specified by this Contract.
- A.2.a. The Deputy Electrical Inspector, acting through his or her professional corporation pursuant to Tenn. Code Ann. § 48-101-601, such corporation being the Contractor, agrees to accept the above appointment and to perform the following services:
 - A.2.b. The Deputy Electrical Inspector, acting through his or her professional corporation pursuant to Tenn. Code Ann. § 48-101-601, such corporation being the Contractor, shall conduct inspections of electrical installations in accordance with all applicable statutes (including but not limited to Tenn. Code Ann. § 68-102-143), rules and regulations of the State of Tennessee, and instructions of the Commissioner of Commerce and Insurance, or her agents.
 - A.2.c. In conformity with Tenn. Code Ann. § 68-102-143, the Deputy Electrical Inspector, acting through his or her professional corporation pursuant to Tenn. Code Ann. § 48-101-601, such corporation being the Contractor, shall conduct inspections within three (3) working days of when the request is made to the inspector.
 - A.2.d. The Deputy Electrical Inspector, acting through his or her professional corporation pursuant to Tenn. Code Ann. § 48-101-601, such corporation being the Contractor, shall possess and maintain service for a properly functioning cellular phone with the capability for texting, emailing, or other similar technology approved by the Department which allows for the receiving of automated calls.
- A.3. The Deputy Electrical Inspector, acting through his or her professional corporation pursuant to Tenn. Code Ann. § 48-101-601, such corporation being the Contractor, shall take whatever action is necessary to maintain, as current, the two required electrical certifications through the International Association of Electrical Inspectors, the International Code Council, or any such accrediting organization as the Commissioner of the Department of Commerce and Insurance shall designate.
- A.4. Monies for electrical permits shall not be collected by the Deputy Electrical Inspector, acting through his or her professional corporation pursuant to Tenn. Code Ann. § 48-101-601, such



corporation being the Contractor, but by independent issue agents under separate agreements with the State.

- A.5. The Deputy Electrical Inspector, acting through his or her professional corporation pursuant to Tenn. Code Ann. § 48-101-601, such corporation being the Contractor, shall not conduct inspections on any installations made by the Deputy Electrical Inspector or any of his or her immediate family. If the Deputy Electrical Inspector, acting through his or her professional corporation pursuant to Tenn. Code Ann. § 48-101-601, such corporation being the Contractor, conducts any inspections on installations made by the Deputy Electrical Inspector or a member of the Deputy Electrical Inspector's immediate family, the same shall be cause for the State of Tennessee to immediately terminate this Contract upon written notification to the Deputy Electrical Inspector, acting through his or her professional corporation pursuant to Tenn. Code Ann. § 48-101-601, such corporation being the Contractor. The Deputy Electrical Inspector, acting through his or her professional corporation pursuant to Tenn. Code Ann. § 48-101-601, such corporation being the Contractor, shall sign a "Disclosure of Interests" agreement with the State. (See Attachment A)
- A.6. The Deputy Electrical Inspector, acting through his or her professional corporation pursuant to Tenn. Code Ann. § 48-101-601, such corporation being the Contractor, shall submit to the Department of Commerce and Insurance, every two weeks, reports of inspections performed and/or documentation directly related to such inspections and other reports as may be required. All inspections performed must be submitted within thirty (30) days from the day of inspection.

B. CONTRACT PERIOD:

This Contract shall be effective for the period beginning July 1, 2011, and ending on June 30, 2016. The Contractor hereby acknowledges and affirms that the State shall have no obligation for services rendered by the Contractor which were not performed within this specified contract period.

C. PAYMENT TERMS AND CONDITIONS:

- C.1. Maximum Liability. In no event shall the maximum liability of the State under this Contract exceed three hundred fifty-seven thousand dollars (\$357,000.00). 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.

- 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 payment rates equal to the fee amounts detailed in *Tennessee Code Annotated*, § 68-102-143 (as may be amended from time to time) reduced by fifteen percent (15%) retained by the State and held as expendable receipts for the maintenance and administration of the Electrical Inspection Program.
- C.4. Travel Compensation. The Contractor shall not be compensated or reimbursed for travel, meals, or lodging.
- C.5. Payment Requirements. The completion of all of the following shall constitute an invoice by the Contractor and result in remuneration by the State:
- a. the Deputy Electrical Inspector, acting through his or her professional corporation pursuant to *Tennessee Code Annotated*, § 48-101-601, such corporation being the Contractor has completed, signed, and submitted to the state a "Substitute W-9 Form" (the taxpayer identification number contained in the substitute W-9 submitted to the State shall agree to the Federal Employer Identification Number or Social Security Number referenced in this Contract for the Contractor);
 - b. the independent issue agent has submitted the amount collected for and a copy of a permit sold;
 - c. the Deputy Electrical Inspector, acting through his or her professional corporation pursuant to *Tennessee Code Annotated*, § 48-101-601, such corporation being the Contractor has performed the inspections corresponding to a permit sold (and referenced in section C.5.a above) and has completed and submitted to the State all required reports;
 - d. the State has entered data relevant to the foregoing into its Electrical Inspection Permit System; and
 - e. the State's Electrical Inspection Permit System has calculated the appropriate payment amount and the amount to be retained by the state from the total remitted to the State permit sold.
- C.6. Payment by the State. Payment by the State shall not prejudice the State's right to object to or question any matter in relation thereto. Such payment by the State shall neither be construed as acceptance of any part of the work or service provided nor as an approval of any of the amounts owed the Contractor.
- C.7. Reductions. Payment to the Contractor shall be subject to reduction for amounts included in any 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, 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. Nondiscrimination. The Contractor 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 Contract or in the employment practices of the Contractor 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



Contractor shall, upon request, show proof of such nondiscrimination and shall post in conspicuous places, available to all employees and applicants, notices of nondiscrimination.

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 B, 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. 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.10. 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.11. 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.12. Progress Reports. The Contractor shall submit brief, periodic, progress reports to the State as requested.
- D.13. 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.14. Independent Contractor. The parties hereto, in the performance of this 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 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.
- D.15. State Liability. The State shall have no liability except as specifically provided in this Contract.
- D.16. 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.17. State and Federal Compliance. The Contractor shall comply with all applicable State and Federal laws and regulations in the performance of this Contract.
- D.18. 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 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.
- D.19. 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.20. 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.21. 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:

Joseph Underwood, Assistant General Counsel
Department of Commerce and Insurance
500 James Robertson Parkway
Davy Crockett Tower, 5th Floor
Nashville, Tennessee 37243
Joseph.Underwood@tn.gov
Telephone # (615) 741-3899
FAX # (615) 532-7645

The Contractor:

Roy G. Rutherford
R. Rutherford PC
525 Cherokee Mountain Road
Jonesborough, Tennessee 37659
Email Address: n/a
Telephone # (423) 926-7235
FAX # (423) 926-6119

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. Public Accountability. If the Contractor is subject to *Tennessee Code Annotated*, Title 8, Chapter 4, Part 4 or if this Contract involves the provision of services to citizens by the Contractor on behalf of the State, the Contractor agrees to establish a system through which recipients of services may present grievances about the operation of the service program, and the Contractor shall display in a prominent place, located near the passageway through which the public enters in order to receive services pursuant to this Contract, 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

- E.7. Environmental Tobacco Smoke. Pursuant to the provisions of the federal "Pro-Children Act of 1994" and the Tennessee "Children's Act for Clean Indoor Air of 1995," the Contractor shall prohibit smoking of tobacco products within any indoor premises in which services are provided pursuant to this Contract to individuals under the age of eighteen (18) years. The Contractor shall post "no smoking" signs in appropriate, permanent sites within such premises. This prohibition shall be applicable during all hours, not just the hours in which children are present. Violators of the prohibition may be subject to civil penalties and fines. This prohibition shall apply to and be made part of any subcontract related to this Contract.
- E.8. Lobbying. The Contractor 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 Contractor shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.
 - c. The Contractor 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*.
- E.9. Debarment and Suspension. The Contractor certifies, to the best of its knowledge and belief, that it, its current and future principals, its current and future subcontractors and their principals:



- a. are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions by any federal or state department or agency;
- b. have not within a three (3) year period preceding this Contract been convicted of, or had a civil judgment rendered against them from commission of fraud, or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (federal, state, or local) transaction or grant under a public transaction; violation of federal or state antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification, or destruction of records, making false statements, or receiving stolen property;
- c. are not presently indicted or otherwise criminally or civilly charged by a government entity (federal, state, or local) with commission of any of the offenses detailed in section b. of this certification; and
- d. have not within a three (3) year period preceding this Contract had one or more public transactions (federal, state, or local) terminated for cause or default.

The Contractor shall provide immediate written notice to the State if at any time it learns that there was an earlier failure to disclose information or that due to changed circumstances, its principals or the principals of its subcontractors are excluded or disqualified.

E.10. Hold Harmless. The Contractor agrees to indemnify and hold harmless the State of Tennessee as well as its The Contractor agrees to indemnify and hold harmless the State of Tennessee as well as its officers, agents, and employees from and against any and all claims, liabilities, losses, and causes of action which may arise, accrue, or result to any person, firm, corporation, or other entity which may be injured or damaged as a result of acts, omissions, or negligence on the part of the Contractor, its employees, or any person acting for or on its or their behalf relating to this Contract. The Contractor further agrees it shall be liable for the reasonable cost of attorneys for the State in the event such service is necessitated to enforce the terms of this Contract or otherwise enforce the obligations of the Contractor to the State.

In the event of any such suit or claim, the Contractor shall give the State immediate notice thereof and shall provide all assistance required by the State in the State's defense. The State shall give the Contractor written notice of any such claim or suit, and the Contractor shall have full right and obligation to conduct the Contractor's own defense thereof. Nothing contained herein shall be deemed to accord to the Contractor, through its attorney(s), the right to represent the State of Tennessee in any legal matter, such rights being governed by *Tennessee Code Annotated*, Section 8-6-106.

E.11. Electrical Checklist. The Contractor shall complete an Electrical Checklist (Attachment C) for every inspection performed. These records 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.

IN WITNESS WHEREOF,

R. Rutherford PC:

Roy Rutherford
CONTRACTOR SIGNATURE

2-7-11
DATE



Roy Ruthenford . Roy Ruthenford
PRINTED NAME AND TITLE OF CONTRACTOR SIGNATORY (above)

DEPARTMENT OF COMMERCE AND INSURANCE:

Julie Mix McPeak / J 6/24/11
JULIE MIX MCPEAK, COMMISSIONER DATE



Attachment A

Disclosure of Interests

I hereby submit the following information as being complete and accurate, to the best of my knowledge:

A. Do you have any relatives who engage in electrical work in any area where you would be doing the electrical inspections?

NO: YES: _____ (If yes, explain in detail below)

B. Do you perform electrical work that is required to be inspected under Tennessee State Statutes?

NO: _____ YES: (If yes, explain in detail below)

Inspected By Another Inspector

Subject: Disclosure of Interests

C. Do you own, or have any interest in any company, firm, or business of any sort, that performs any electrical work that is required to be inspected under Tennessee State Statutes?

NO: YES: _____ (If yes, explain in detail below)

D. Additional Comments:

E. Are additional sheets attached? NO YES _____

I hereby certify that the above information is complete and accurate to the best of my knowledge. I will notify the Assistant Commissioner for Fire Prevention, in writing, if any of the above information changes.

Signature: Ray Rutledge, Deputy Electrical Inspector ID Number 6629

Date: 6-7-11



ATTACHMENT B

ATTESTATION RE PERSONNEL USED IN CONTRACT PERFORMANCE

| | |
|--|------------------|
| SUBJECT CONTRACT NUMBER: | |
| CONTRACTOR LEGAL ENTITY NAME: | R. Rutherford PC |
| FEDERAL EMPLOYER IDENTIFICATION NUMBER: (or Social Security Number) | 20-5357736 |

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.

Roy Rutherford

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.

Roy Rutherford President

PRINTED NAME AND TITLE OF SIGNATORY

6-7-11

DATE OF ATTESTATION



Attachment C

Electrical Checklist

Check all that apply and attach to your copy of inspection form. Please retain for your records.

- 1. Check for proper size of service conductors and conduit.
- 2. Check for approved proper type conductors.
- 3. Check for properly identified grounded conductor.
- 4. Ensure grounding conductor and electrode is present.
- 5. Check service clearance over roof (flat and 4/12 pitch).
- 6. Check height of meter base from grade.
- 7. Check for properly mounted equipment, cables and conduit.
- 8. Check for shorts and open circuits when possible.
- 9. Check for locknuts, bushings and connectors.
- 10. Check for proper over current protection.
- 11. Visually spot check for tightness.
- 12. Check height of main switch and proper clearance adjacent to enclosure.
- 13. Ensure that panel directory is complete.
- 14. Ensure service panel is listed for use and proper breakers are installed per panel information.
- 15. Check for box fill.
- 16. Check for spacing of receptacles in rooms.
- 17. Ensure that all enclosures and devices are properly grounded.
- 18. Visually spot check devices for proper installation and polarity.
- 19. Ensure that fixtures are listed and installed in accordance with the manufacturer's installation instructions.
- 20. Check electric water heater installation including relief valve.
- 21. Check all wire for proper protection from mechanical injury.
- 22. Check for smoke detectors as required.
- 23. Check grounding to metallic water systems.
- 24. Perform other visual and/or mechanical checks as deemed necessary.