

SPECIFICATIONS AND CONTRACT DOCUMENTS

FOR

**Underground Electric System
Facilities Locating and Marking Services**

**Murfreesboro Electric Department
205 North Walnut Street
Murfreesboro, TN, 37130**

May 2017

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Document 00003

DIVISIONS 0 and 1 - CONTRACT DOCUMENTS AND GENERAL REQUIREMENTS

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MURFREESBORO ELECTRIC DEPARTMENT
Murfreesboro, Tennessee
Underground Facility Location and Marking Services

INVITATION TO BIDDERS

Sealed Bids for supplying equipment, vehicles, supplies, and labor for the locating and marking of underground electric system facilities will be received by the MURFREESBORO ELECTRIC DEPARTMENT, at 205 North Walnut Street, Murfreesboro, TN, 37130 **until 4:00 PM local time Wednesday, May 24, 2017**, and immediately thereafter will be opened and publicly read.

The Murfreesboro Electric Department reserves the right to reject any or all bids and to waive any informalities or technicalities therein.

The Project consists of the location and marking of underground electric system facilities and coordination and management of locate requests issued by Murfreesboro Electric Department or the Tennessee One Call system in accordance with Underground Utilities Damage Prevention Act.

Currently, Locate Requests average approximately 450 per week.

Bids will be received for a single prime Contract. Bids shall be on a unit price basis.

The Issuing Office for the Bidding Documents is:

Murfreesboro Electric Department
205 North Walnut Street
Murfreesboro, TN, 37130

Prospective Bidders may examine the Bidding Documents at the Issuing Office on Mondays through Fridays between the hours of 8:00 am and 4:00 pm and may obtain copies of the Bidding Documents from the Issuing Office as described below.

Printed and/or electronic copies of the Bidding Documents may be obtained from the Issuing Office, during the hours indicated above, at no cost. The date that the Bidding Documents are transmitted by the Issuing Office will be considered the Bidder's date of receipt of the Bidding Documents. Partial sets of Bidding Documents will not be available from the Issuing Office. Owner will not be responsible for full or partial sets of Bidding Documents, including Addenda if any, obtained from sources other than the Issuing Office.

A **Mandatory Pre-Bid Conference** will be held at **2:00 PM** local time on **Wednesday, May 3, 2017**, at the Murfreesboro Electric Department, 205 North Walnut Street, Murfreesboro, TN, 37130. See Instructions to Bidders, Document 00200, for additional information regarding Conference attendance.

Each Bid shall be accompanied by a Certified Check on a solvent bank or a Bid Bond issued by a Surety Company licensed to operate in the State of Tennessee, in the amount of \$10,000, as a guarantee that if the Bid is accepted, the Bidder will enter into a contract and execute the Performance and Payment Bonds in the form and within the time specified.

The successful Bidder will be required to execute a Performance and Payment Bond, each in the amount of \$100,000 issued by a Surety Company licensed to operate in the State of Tennessee and shall be named in the current list of "Companies Holding Certificates of Authority as Acceptable Sureties on Federal Bonds and as Acceptable Reinsuring Companies" as published in Circular 570 (amended) by the Audit Staff Bureau of Accounts, U.S. Treasury Department.

Each Bidder shall be licensed for the type of business services proposed as required by the regulations of the State of Tennessee.

No Bidder may withdraw his Bid for a period of sixty (60) days after date of actual Bid opening, without Owner's consent.

By: PD Mynatt, General Manager
Murfreesboro Electric Department

+ + END OF ADVERTISEMENT FOR BIDS + +

INSTRUCTIONS TO BIDDERS

Document 00200

INTRODUCTION

Murfreesboro Electric Department (“MED” and/or “Owner”) is organized under a General Manager (“GM”) and a local municipal Power Board. MED is a major supplier of electricity services in Middle Tennessee with over 705 miles of power transmission and distribution lines, 12 substations, and several miles of fiber optics for internal utility communications. MED currently has a successful business servicing over 60,000 customers including the largest university in Tennessee, Middle Tennessee State University. Additionally, MED is one of the top 80 municipal electric departments in the United States and one of the top ten municipal electric departments in the Tennessee Valley Authority system.

The Murfreesboro Electric Department is accepting qualified Sealed Bids for labor, equipment and supplies for the location and marking of underground electric system facilities and coordination and management of locate requests issued by the Tennessee One Call system in accordance with Underground Utilities Damage Prevention Act, Tennessee Code Annotated (TCA) 65-31-101. Bids will be accepted from established, qualified Contractors that are experienced in location and marking of underground utility facilities.

The guidelines of the “Competitive Sealed Bid Purchases” section of the Murfreesboro Electric Department’s PROCUREMENT CODE will be followed. A complete copy of the Murfreesboro Electric Department PROCUREMENT CODE is available upon request.

Bids must be in strict compliance with these Instructions to Bidders. Failure to comply with any provisions of these Instructions to Bidders could result in disqualification. **If exceptions are taken, they must be clearly and plainly stated in the Bid Response Documents** before these documents will be accepted. Any exception could result in the disqualification of the Bidder’s Bid Documents. MED will not accept contracts submitted by Bidders. MED reserves the right to reject any and all Bids at its sole discretion.

Murfreesboro Electric Department is a governmental entity and cannot, under the laws of Tennessee: indemnify or hold a Bidder harmless; enter into binding arbitration; agree to submit to any jurisdiction outside the State of Tennessee; agree to confidentiality clauses that conflict with the Tennessee Public Records Act or the Open Meetings Act; or agree to any termination provisions that conflict with the MED specifications.

INSTRUCTIONS TO BIDDERS

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ARTICLE 1 – DEFINED TERMS

1.01 Terms used in these Instructions to Bidders have the meanings indicated in the General Conditions and Supplementary Conditions. Additional terms used in these Instructions to Bidders have the meanings indicated below:

A. The terms “Contractor” and “Bidder” are used interchangeably.

B. Issuing Office:

Murfreesboro Electric Department

205 North Walnut Street

Murfreesboro, Tennessee 37130

ARTICLE 2 – COPIES OF BID DOCUMENTS

2.01 Complete sets of the Bid Documents may be obtained from the Issuing Office in the number and format stated in the advertisement or Invitation for Bids.

2.02 Complete sets of Bid Documents shall be used in preparing Bids; Owner does not assume any responsibility for errors or misinterpretations resulting from the use of incomplete sets of Bid Documents.

2.03 Owner in making copies of Bid Documents available on the above terms, do so only for the purpose of obtaining Bids for the Work and do not authorize or confer a license for any other use.

ARTICLE 3 – QUALIFICATIONS OF BIDDERS

3.01 Each Bid must contain evidence of Bidder’s qualification to do business in the State of Tennessee and the City of Murfreesboro. The Bidder must process all business licenses (or other appropriate licenses) and permits applicable to the services proposed by Bidder.

3.02 To demonstrate Bidder’s qualifications to perform the Work, Bidder, **shall submit Document 00451, Qualifications Statement, with its Bid.** Evaluation of Bidder’s financial records may be required during the evaluation process. Bidder agrees to make the last twelve month financial records available for review at its office upon request.

3.03 No requirement in this Article 3 to submit information will prejudice the right of Owner to seek additional pertinent information regarding Bidder’s qualifications.

3.04 Bidder is advised to carefully review those portions of the Bid Form requiring Bidder’s representations and certifications.

ARTICLE 4 – SITE AND OTHER AREAS; EXISTING SITE CONDITIONS; EXAMINATION OF SITE; OWNER’S SAFETY PROGRAM; OTHER WORK AT THE SITE

4.01 *Site and Other Areas*

A. The actual “Work Assignments” or “Locate Requests” or “Tickets” or “Requests” may be located anywhere in the Murfreesboro Electric Department service area. By definition, the

Site includes rights-of-way, easements, and other public and private lands as may be designated.

4.02 *Existing Site Conditions*

A. Subsurface and Physical Conditions; Hazardous Environmental Conditions

1. Work involves the location of underground energized and de-energized MED electric facilities.

4.03 *Owner's Safety Program*

- A. Site visits and work at the Site may be governed by an Owner safety program. Owner's safety program is noted in the Supplementary Conditions.

ARTICLE 5 – BIDDER'S REPRESENTATIONS

5.01 It is the responsibility of each Bidder before submitting a Bid to:

- A. examine and carefully study the Bid Documents, and any data and reference items identified in the Bid Documents;
- B. become familiar with and satisfy itself as to all Laws and Regulations that may affect cost, progress, and performance of the Work;
- C. consider the information known to Bidder itself; information commonly known to contractors doing business in the locality of the Site; information and observations obtained from visits to the Site; the Bid Documents; with respect to the effect of such information, observations, and documents on (1) the cost, progress, and performance of the Work; (2) the means, methods, techniques, sequences, and procedures to be employed by Bidder; and (3) Bidder's safety precautions and programs;
- D. agree, based on the information and observations referred to in the preceding paragraph, that at the time of submitting its Bid no further examinations, investigations, explorations, tests, studies, or data are necessary for the determination of its Bid for performance of the Work at the price Bid and within the times required, and in accordance with the other terms and conditions of the Bid Documents;
- E. become aware of the general nature of the work that may be performed by Owner and others at the Site that relates to the Work as indicated in the Bid Documents;
- F. promptly give Owner written notice of all conflicts, errors, ambiguities, or discrepancies that Bidder discovers in the Bid Documents and confirm that the written resolution thereof by Owner is acceptable to Bidder;
- G. determine that the Bid Documents are generally sufficient to indicate and convey understanding of all terms and conditions for the performance and furnishing of the Work; and
- H. agree that the submission of a Bid will constitute an incontrovertible representation by Bidder that Bidder has complied with every requirement of this Article, that without exception the Bid and all prices in the Bid are premised upon performing and furnishing the Work required by the Bid Documents.

ARTICLE 6 – PRE-BID CONFERENCE

6.01 A **Mandatory Pre-Bid Conference** will be held at the time and location stated in the invitation or advertisement to Bid. Representatives of Owner will be present to discuss the Project. Bidders are encouraged to attend and participate in the conference. Owner will transmit to all prospective Bidders of record such Addenda as Owner considers necessary in response to questions arising at the conference. Oral statements may not be relied upon and will not be binding or legally effective.

6.02 MED, at its sole discretion, may waive all technicalities and/or formalities regarding the Mandatory Pre-Bid Conference including the requirement of mandatory attendance of the Pre-Bid Conference.

6.03 Persons with disabilities who need an accommodation to participate in the Pre-Bid Conference should contact:

Name: Philip Lim, P.E., Director of Engineering
Address: 205 North Walnut, Murfreesboro, TN 37130
Phone: 615.494.0424
Email: PLim@MedTN.com

as far in advance as possible but preferably at least five (5) working days before the date of the scheduled event. Persons who are deaf, hard of hearing, or have a speech impairment and who use specialized telephone equipment may contact:

Name: Philip Lim, P.E., Director of Engineering

through the Tennessee Relay Service. Information about this service is available at www.tn.gov/tra/topic/relay-center-services.

ARTICLE 7 – INTERPRETATIONS AND ADDENDA

7.01 All questions about the meaning or intent of the Bid Documents are to be submitted to Owner in writing via Email:

CSBforUGLocate@MEDTN.com

May 15, 2017 4:00 PM Deadline for questions regarding Bid Documents

May 16, 2017 4:00 PM Response to questions received. Response via Email to address of received question.

7.02 Interpretations or clarifications considered necessary by Owner in response to such questions will be issued by Addenda delivered to all parties recorded as having received the Bid Documents. Questions received after the above stated date may not be answered. Only questions answered by Addenda will be binding. Oral and other interpretations or clarifications will be without legal effect.

7.03 Addenda may be issued to clarify, correct, supplement, or change the Bid Documents.

ARTICLE 8 – BID SECURITY

- 8.01 A Bid must be accompanied by Bid security made payable to Owner in an amount of **\$10,000** in the form of a certified check, bank money order, or a Bid bond (on the form included in the Bid Documents) issued by a surety licensed and approved to operate in the State of Tennessee.
- 8.02 The Bid security of the apparent Successful Bidder will be retained until Owner awards the contract to such Bidder, and such Bidder has executed the Contract Documents, furnished the required contract security, and met the other conditions of the Notice of Award, whereupon the Bid security will be released. If the Successful Bidder fails to execute and deliver the Contract Documents and furnish the required contract security within 15 days after the Notice of Award, Owner may consider Bidder to be in default, annul the Notice of Award, and the Bid security of that Bidder will be forfeited. Such forfeiture shall be Owner's exclusive remedy if Bidder defaults.
- 8.03 The Bid security of other Bidders that Owner believes to have a reasonable chance of receiving the award may be retained by Owner until seven days after the Effective Date of the Contract, whereupon Bid security furnished by such Bidders will be released.
- 8.04 Bid security of other Bidders that Owner believes do not have a reasonable chance of receiving the award will be released within thirty (30) days after the Bid submittal date.

ARTICLE 9 – CONTRACT TIMES

- 9.01 The Contract is for three (3) calendar years with MED retaining the option for two (2), one (1) year extensions.

ARTICLE 10 – LIQUIDATED DAMAGES

- 10.01 NOT APPLICABLE

ARTICLE 11 – SUBSTITUTE AND "OR-EQUAL" ITEMS

- 11.01 NOT APPLICABLE

ARTICLE 12 – SUBCONTRACTORS, SUPPLIERS, AND OTHERS

- 12.01 The Contractor selected for this contract shall NOT subcontract any work related to this Contract. MED will be responsible for any additional contract work required for any Work Assignments.

ARTICLE 13 – PREPARATION OF BID

- 13.01 The Bid Form is included with the Bid Documents.
- A. All blanks on the Bid Form shall be completed in ink and the Bid Form signed in ink. Erasures or alterations shall be initialed in ink by the person signing the Bid Form. A Bid price shall be indicated for each section, Bid item, alternate, adjustment unit price item, and unit price item listed therein.

- 13.02 A Bid by a corporation shall be executed in the corporate name by a corporate officer (whose title must appear under the signature), accompanied by evidence of authority to sign. The corporate address and state of incorporation shall be shown.
- 13.03 A Bid by a limited liability company shall be executed in the name of the firm by a member or other authorized person and accompanied by evidence of authority to sign. The state of formation of the firm and the official address of the firm shall be shown.
- 13.04 A Bid by an individual shall show the Bidder's name and official address.
- 13.05 A Bid by a joint venture shall be executed by an authorized representative of each joint venture in the manner indicated on the Bid Form. The official address of the joint venture shall be shown.
- 13.06 All names shall be printed in ink below the signatures.
- 13.07 The Bid shall contain an acknowledgment of receipt of all Addenda, the numbers of which shall be filled in on the Bid Form.
- 13.08 Postal and e-mail addresses and telephone number for communications regarding the Bid shall be shown.
- 13.09 The Bid shall contain evidence of Bidder's authority and qualification to do business in the State of Tennessee.

ARTICLE 14 – BASIS OF BID

14.01 *Unit Price*

- A. Bidders shall submit a Bid on a unit price basis for each item of Work listed in the unit price section of the Bid Form.
- B. **The Bid unit prices and the quantity of units (hours) as shown in Article 19.04, D of this document will be used by Owner for Bid comparison/evaluation purposes only.**

ARTICLE 15 – SUBMITTAL OF BID

- 15.01 **The Original Bid Form (Document 00410) & five (5) copies of the Bid Form and Qualifications Statement (Document 00451), and other required documents as may be listed on the Bid Form** and Bid Security shall be submitted at the time and place indicated in the Advertisement or Invitation to Bidders.

BID ENVELOPE. The Bid shall be enclosed in an opaque sealed Bid Envelope separate from the postal/ mailing/ delivery service envelope when such delivery envelope is required. **Bid envelope shall be clearly marked "BID DOCUMENTS".**

- 15.02 Bids shall be addressed to:

General Manager - BID ENCLOSED
Murfreesboro Electric Department
205 North Walnut Street
Murfreesboro, TN 37130

- 15.03 Bids received after the date and time prescribed for the delivery of Bids, or not submitted at the correct location or in the designated manner, will not be accepted and will be returned to the Bidder unopened.

ARTICLE 16 – MODIFICATION AND WITHDRAWAL OF BID

- 16.01 A Bid may be withdrawn by an appropriate document duly executed in the same manner that a Bid must be executed and delivered to the place where Bids are to be submitted prior to the date and time for the opening of Bids. Upon receipt of such notice, the unopened Bid will be returned to the Bidder.
- 16.02 If a Bidder wishes to modify its Bid prior to Bid opening, Bidder must withdraw its initial Bid in the manner specified in Paragraph 16.01 and submit a new Bid prior to the date and time for the opening of Bids.
- 16.03 If within 24 hours after Bids are opened any Bidder files a duly signed written notice with Owner and promptly thereafter demonstrates to the reasonable satisfaction of Owner that there was a material and substantial mistake in the preparation of its Bid, that Bidder may withdraw its Bid, and the Bid security will be returned. Thereafter, if the Work is reopened for Sealed Bids, that Bidder will be disqualified from further Bid on the Work.

ARTICLE 17 – ACCEPTANCE OF BIDS

- 17.01 Bids will be accepted at the time and place indicated in the advertisement or Invitation to Bidders.

ARTICLE 18 – BIDS TO REMAIN SUBJECT TO ACCEPTANCE

- 18.01 All Bids will remain subject to acceptance for the period of time stated in the Bid Form, but Owner may, in its sole discretion, release any Bid and return the Bid security prior to the end of this period.

ARTICLE 19 – EVALUATION OF BIDS AND AWARD OF CONTRACT

- 19.01 Owner reserves the right to reject any or all Bids, including without limitation, nonconforming, nonresponsive, unbalanced, or conditional Bids. Owner will reject the Bid of any Bidder that Owner finds, after reasonable inquiry and evaluation, to not be responsible. If Bidder purports to add terms or conditions to its Bid, takes exception to any provision of the Bid Documents, or attempts to alter the contents of the Contract Documents for purposes of the Bid, then the Owner will reject the Bid as nonresponsive; provided that Owner also reserves the right to waive all minor informalities not involving price, time, or changes in the Work.
- 19.02 If Owner awards the contract for the Work, such award shall be based on the Evaluation Process described below.
- 19.03 Evaluation Committee
- A. The MED Evaluation Committee shall consist of the Director of Operations, Director of Safety, Director of Engineering, Chief Financial Officer, and General Manager. The Director of Engineering will be responsible for coordinating the review presentation and Bid documents.

- B. Any and all members of the Evaluation Committee may be represented by other individuals as designated by the General Manager.

19.04 Evaluation Process

- A. In evaluating Bids, Owner will consider whether or not the Bids comply with the prescribed requirements, and such alternates, unit prices, and other data, as may be requested in the Bid Form or prior to the Notice of Award.
- B. Each Bid will be evaluated by the Evaluation Committee to determine if it meets the minimum criteria and the degree to which the Bid is responsive to the requirements of this document. The **QUALIFICATIONS STATEMENT, Document 00451**, will provide much of the data for the Bid evaluation. MED reserves the right to visit the Bidder’s office to inspect facilities and meet key personnel. MED will provide 48 hour advance notice if such visit is required.
- C. The following criteria will be used to evaluate each Bid:

1. **BID DOCUMENTS** – Points will be awarded on completeness of the requested Bid Documents.
2. **BID COSTS** – Labor and Equipment – these are the rates each company will submit to MED on **BID FORM, Document 00410**. The Contract period will be for three years, with an option for two (2) one (1) year contract extensions. A total of FIVE years cost of labor and equipment will be determined for each Bidder as the basis of the Bid cost evaluation. Seventy (70) points will be awarded to the lowest cost Bidder. Points will be deducted from the remaining Bidders based on the Bidder’s cost percentage above the lowest Bid cost. For example, a Bid that is 10% higher than the lowest will be awarded $70 - (70 \times 10\%) = 63$ points.
3. **EXPERIENCE** –
 - a. Experience: Factors include current project experience, previous project experience, types of projects, years of experience, work force experience, and familiarity with power systems similar to MED.
 - b. Accuracy of Locates / Damage History: Factors include historical data regarding the number of locates where owners’ utility damage occurred, number of locates performed in the same time period, and total damage amount paid to utility Owners by the Contractor or contractor’s insurance company.
 - c. MED reserves the right to contact utilities identified in the **QUALIFICATIONS STATEMENT, Document 00451**, to receive a reference for the Bidder. MED also reserves the right to contact other utilities for which the Bidder has performed work outside of this list.

4. The Evaluation Committee shall award points for each contractor’s Bid based on the following formula:

a. BID DOCUMENTS:	5 points
b. BID COST:	70
c. EXPERIENCE:	
1) Experience (00451, Schedule A & B)	10

2) Locate Accuracy History	5
3) Proposed Field Crew Leader	10
	100
TOTAL POINTS:	100

5. The Evaluation Committee may request additional data from one or more of the Bidders receiving the higher evaluation point totals.
 6. The Evaluation Committee may request interviews with one or more of the Bidders receiving the higher evaluation point totals.
 7. The Bidder submitting the Bid that is in the best interests of the Murfreesboro Electric Department will be recommended to the MED Power Board.
 8. All Bidders will be notified of the Bidder selected for recommendation to the Power Board before the proposed Board Action.
 9. Protest and Challenge:
 - a. A protest by an aggrieved Bidder who is not selected will be heard by the Power Board if filed with the Board, through the Chief Financial Officer (CFO), within seven (7) days after the intended award is announced.
 - b. Any issue raised by the protesting party after the seven (7) day period shall not be considered as part of the protest. The Power Board may stay an award due to a pending protest without financial or other obligation to the Bidder recommended to the Board. The Power Board may adopt other rules and procedures applicable to a protest.
- D. The following Unit Price Item quantities, based on a typical **4 week time period**, will be used during the Bid evaluation process. These are **BID EVALUATION QUANTITIES ONLY – QUANTITIES ARE NOT GUARANTEED AS WORK ASSIGNMENTS (“Locate Requests”)**:

NORMAL WORKING HOURS ^a

- | | |
|---|---------------------|
| 1. Locate Tickets (Requests) | <u>1800</u> Tickets |
| 2. Hourly Rate (requires MED approval) ^b | <u>4</u> Hours |

AFTER HOURS ^c

- | | |
|---|-------------------|
| 3. “Call-Out” Locate Tickets (Requests) | <u>15</u> Tickets |
| 4. Hourly Rate (requires MED approval) ^b | <u>4</u> Hours |

^a “Normal Working Hours” means the hours of 7:00 am to 5:00 pm inclusive, local time every day, except Saturday, Sunday, and national and legal state holidays, and holidays observed by MED.

- b Hourly Rate: Rate per hour when requested and approved by MED. Hourly Rate is total amount to be billed to MED and includes all labor costs, benefits, statutory labor costs, and profit.
- c "After Hours" means all hours outside of Normal Working Hours. After Hours includes every day, and all day Saturday, Sunday, national and legal state holidays, and holidays observed by MED.

19.05 Owner may conduct such investigations as Owner deems necessary to establish the responsibility, qualifications, and financial ability of Bidders.

ARTICLE 20 – BONDS AND INSURANCE

20.01 The Contract and Supplementary Conditions, sets forth Owner's requirements as to performance and payment bonds and insurance. When the Successful Bidder delivers the Contract (executed by Successful Bidder) to Owner, it shall be accompanied by required bonds and insurance documentation.

ARTICLE 21 – SIGNING OF CONTRACT

21.01 When Owner issues a Notice of Award to the Successful Bidder, it shall be accompanied by the unexecuted counterparts of the Contract along with the other Contract Documents as identified in the Contract. Within 15 calendar days thereafter, Successful Bidder shall execute and deliver the required number of counterparts of the Contract (and any bonds and insurance documentation required to be delivered by the Contract Documents) to Owner. Within ten days thereafter, Owner shall deliver one fully executed counterpart of the Contract to Successful Bidder, together with printed and electronic copies of the Contract Documents.

ARTICLE 22 – SALES AND USE TAXES

22.01 Owner is exempt from sales and use taxes on services and equipment charges for this Contract.

ARTICLE 23 – CONTRACTS TO BE ASSIGNED

23.01 NOT APPLICABLE

END OF DOCUMENT

BID FORM

Document 00410

ARTICLE 1 – PROJECT IDENTIFICATION

1.01 UNDERGROUND FACILITY LOCATION AND MARKING SERVICES

1.02 Project consists of providing labor and equipment for the location and marking of MED electric system facilities, coordination with the Tennessee One Call system, and management of “Locate Request Tickets” within the Murfreesboro Electric Department service area.

ARTICLE 2 – BID RECIPIENT

2.01 This Bid is submitted to:

General Manager
Murfreesboro Electric Department
205 North Walnut Street
Murfreesboro, Tennessee 37130

2.02 The undersigned Bidder proposes and agrees, if this Bid is accepted, to enter into an Agreement with Owner in the form included in the Bid Documents to perform all Work as specified or indicated in the Bid Documents for the prices and within the times indicated in this Bid and in accordance with the other terms and conditions of the Bid Documents.

ARTICLE 3 – BIDDER’S ACKNOWLEDGEMENTS

3.01 Bidder accepts all of the terms and conditions of the Instructions to Bidders, including without limitation those dealing with the disposition of Bid security. This Bid will remain subject to acceptance for 120 days after Bid submittal date, or for such longer period of time that Bidder may agree to in writing upon request of Owner.

3.02 In submitting this Bid, Bidder represents that:

A. Bidder has examined and carefully studied the Bid Documents, and any data and reference items identified in the Bid Documents, and hereby acknowledges receipt of the following Addenda:

<u>Addendum No.</u>	<u>Addendum, Date</u>
_____	_____
_____	_____
_____	_____

B. Bidder understands Work of this Contract is based on individual Work Assignments (Locate Ticket Requests) related to the location and marking of MED underground electric system facilities. Skill level of crew personnel shall match the complexity of the Work Assignment in accordance with utility industry standard practice. Assignments shall be completed in an

efficient manner and in accordance with utility industry standard practices and Tennessee Code Annotated (TCA) 65-31-101, Underground Utility Damage Prevention Act. While the intent of this Contract is for the Bidder to provide a minimum Contractor staffing capacity of 1,800 Locate Request Tickets per month and appropriate ticket management capability, there is no guarantee of the number of Work Assignments/Locate Request Tickets or man-hours to be assigned or utilized by the Murfreesboro Electric Department via Tennessee One Call.

- C. Bidder understands “Normal Working Hours” means the hours of 7:00 am to 5:00 pm inclusive, local time, every day, except Saturday, Sunday, and national and legal state holidays, and holidays observed by MED.
- D. Bidder understands “After Hours” means all hours outside of Normal Working Hours. After Hours includes every day, and all day on Saturday, Sunday, national and legal state holidays, and holidays observed by MED.
- E. Bidder has had the opportunity to visit and review a representative sample of MED right-of-ways/easements, and become familiar with and satisfied itself as to the general, local, and Site conditions that may affect cost, progress, and performance of the Work.
- F. Bidder is familiar with and has satisfied itself as to all Laws and Regulations that may affect cost, progress, and performance of the Work.
- G. Bidder has considered the information known to Bidder itself; information commonly known to contractors doing business in the locality of the Site; information and observations obtained from visits to the MED facilities; the Bid Documents, with respect to the effect of such information, observations, and documents on (1) the cost, progress, and performance of the Work; (2) the means, methods, techniques, sequences, and procedures to be employed by Bidder; and (3) Bidder’s safety precautions and programs.
- H. Bidder agrees, based on the information and observations referred to in the preceding paragraph that no further examinations, investigations, or data are necessary for the determination of this Bid for performance of the Work at the price Bid and within the times required, and in accordance with the other terms and conditions of the Bid Documents.
- I. Bidder has given Owner written notice of all conflicts, errors, ambiguities, or discrepancies that Bidder has discovered in the Bid Documents, and confirms that the written resolution thereof by MED is acceptable to Bidder.
- J. The Bid Documents are generally sufficient to indicate and convey understanding of all terms and conditions for the performance and furnishing of the Work Assignments.
- K. The submission of this Bid constitutes an incontrovertible representation by Bidder that Bidder has complied with every requirement of this Article, and that without exception the Bid and all prices in the Bid are premised upon performing and furnishing the Work required by the Bid Documents.

ARTICLE 4 – BIDDER’S CERTIFICATION

4.01 Bidder certifies that:

- A. This Bid is genuine and not made in the interest of or on behalf of any undisclosed individual or entity and is not submitted in conformity with any collusive agreement or rules of any group, association, organization, or corporation;

- B. Bidder has not directly or indirectly induced or solicited any other Bidder to submit a false or sham Bid;
- C. Bidder has not solicited or induced any individual or entity to refrain from Bid; and
- D. Bidder has not engaged in corrupt, fraudulent, collusive, or coercive practices in competing for the Contract. For the purposes of this Paragraph:
 1. "corrupt practice" means the offering, giving, receiving, or soliciting of anything of value likely to influence the action of a public official in the Bid process;
 2. "fraudulent practice" means an intentional misrepresentation of facts made (a) to influence the Bid process to the detriment of Owner, (b) to establish Bid prices at artificial non-competitive levels, or (c) to deprive Owner of the benefits of free and open competition;
 3. "collusive practice" means a scheme or arrangement between two or more Bidders, with or without the knowledge of Owner, a purpose of which is to establish Bid prices at artificial, non-competitive levels; and
 4. "coercive practice" means harming or threatening to harm, directly or indirectly, persons or their property to influence their participation in the Bid process or affect the execution of the Contract.

ARTICLE 5 – BASIS OF BID

5.01 Bidder will complete the Work in accordance with the Contract Documents for the following Unit Prices (See also Article 4.01, B):

	YEAR 1	YEAR 2	YEAR 3
Normal Working Hours (Note 1)	Unit Price	Unit Price	Unit Price
Locate Ticket (Request)	\$ _____/ Ticket	\$ _____/ Ticket	\$ _____/ Ticket
Hourly Rate (Note 2)	\$ _____/ HR	\$ _____/ HR	\$ _____/ HR

	YEAR 1	YEAR 2	YEAR 3
After Hours (Note 3)	Unit Price	Unit Price	Unit Price
Locate Ticket (Request)	\$ _____/ Ticket	\$ _____/ Ticket	\$ _____/ Ticket
Hourly Rate (Note 2)	\$ _____/ HR	\$ _____/ HR	\$ _____/ HR

Locate Ticket (Request) Percentage increase from Year 3:

for Year 4 _____ (if applicable – at MED option)

for Year 5 _____ (if applicable – at MED option)

Hourly Labor Percentage increase from Year 3:

for Year 4 _____ (if applicable – at MED option)

for Year 5 _____ (if applicable – at MED option)

Note 1: “Normal Working Hours” means the hours of 7:00 am to 5:00 pm inclusive, local time every day, except Saturday, Sunday, and national and legal state holidays, and holidays observed by MED.

Note 2: Hourly Rate for Locate personnel when requested and approved by MED. This is the total amount to be billed to MED and includes all labor costs, benefits, statutory labor costs, transportation, locate equipment usage, profit, and any other costs associate with supplying Locate personnel.

Note 3: “After Hours” means all hours outside of Normal Working Hours. After Hours includes every day, and all day on Saturday, Sunday, national and legal state holidays, and holidays observed by MED.

ARTICLE 6 – TIME OF COMPLETION

6.01 The Contractor shall complete the Work Assignments / Locate Ticket Requests in an efficient and timely manner in the time period specified by the Underground Utility Damage Prevention Act, TCA 65-31-101 for each assignment type utilizing standard industry practices, appropriate personnel, and locate equipment.

ARTICLE 7 – ATTACHMENTS TO THIS BID

7.01 The following documents are submitted with and made a condition of this Bid:

- A. Required Bid security;
- B. **Qualification Statement (Document 00451) with supporting data** (this includes all data listed in the Bidder’s Qualification Statement under “REQUIRED ATTACHMENTS” after Article 13).
- C. Evidence of authority to do business in the State of Tennessee and the City of Murfreesboro;
- D. Non-Collusion Affidavit (Document 00450);
- E. Bidder’s Drug-Free Workplace Affidavit (Document 00822);

ARTICLE 8 – DEFINED TERMS

8.01 The terms used in this Bid with initial capital letters have the meanings stated in the Instructions to Bidders, the Contract, and the Supplementary Conditions.

ARTICLE 9 – BID SUBMITTAL - (ORIGINAL + 5 COPIES)

BIDDER: *[Indicate correct name of Bid entity]*

By:
[Signature] _____

[Printed name] _____
(If Bidder is a corporation, a limited liability company, a partnership, or a joint venture, attach evidence of authority to sign.)

Attest:
[Signature] _____

[Printed name] _____

Title: _____

Submittal Date: _____

Address for giving notices:

Telephone Number: _____

Fax Number: _____

Contact Name and e-mail address: _____

Bidder's License No.: _____
(where applicable)

End of Document

NON-COLLUSION AFFIDAVIT

Document 00450

STATE OF _____)

COUNTY OF _____)

Contractor makes oath that by its employment practices, it does not subscribe to any personnel policy which permits or allows for the promotion, demotion, employment, dismissal or laying off of any individual due to race, creed, color, national origin, religion, age, sex or handicap; and further that it will not discriminate against any individual due to race, creed, color, national origin, religion, age, sex or handicap.

Contractor further makes oath that, as of the date of this affidavit, neither the Mayor, any councilperson, employee of Murfreesboro Electric Department, or any other Government official is directly or indirectly interested in any contract for which compensation will be sought during the period of time covered by this affidavit. Contractor pledges that it will notify immediately the General Manager of the Murfreesboro Electric Department in writing should any information come to Contractor's attention indicating that any Government official has become either directly or indirectly interested in any contract for which compensation will be sought during the aforesaid period. Direct and indirect is defined in T.C.A. § 12-4-101.

Contractor furthermore declares that, as of the date of this affidavit, it has not given or donated, or promised to give or donate, directly or indirectly, to any official or employee of the Murfreesboro Electric Department, or to anyone else for its benefit, any sum of money or other thing of value for, aid or assistance in obtaining any contract under which compensation will be sought during the period covered by this affidavit. Contractor pledges that neither it nor any other officer or employee will give or donate, or promise to give or donate, directly or indirectly, to any official or employee of the Murfreesboro Electric Department, or anyone else for its benefit, any sum of money or other thing of value for aid or assistance in obtaining any contract for which compensation will be claimed during the aforesaid period.

Affiant makes oath that they are a duly appointed representative of the Contractor, with full authority to execute this affidavit on Contractor's behalf.

Company Name

Affiant's Signature

Title: _____

Sworn to and subscribed before me on this
_____ day of _____, _____.

Notary Public

My Commission expires: _____

QUALIFICATIONS STATEMENT

THE INFORMATION SUPPLIED IN THIS DOCUMENT IS CONFIDENTIAL TO THE EXTENT PERMITTED BY THE PUBLIC RECORDS ACT OF TENNESSEE (T.C.A. § 10-7-101, et seq.) and the OPEN MEETINGS ACT (T.C.A. § 8-44-101, et seq.)

1. SUBMITTED BY:

Official Name of Firm: _____

Address: _____

2. SUBMITTED TO:

Murfreesboro (Tennessee) Electric Department

3. SUBMITTED FOR:

Underground Electric System Facilities Locating and Marking Services

TYPE OF WORK:

Locating and marking underground electrical facilities, response to Locate Requests issued by Tennessee One-Call, and management of Locate Request Tickets.

4. CONTRACTOR'S CONTACT INFORMATION

Contact Person: _____

Title: _____

Phone: _____

Email: _____

5. AFFILIATED COMPANIES:

Name: _____

Address: _____

6. TYPE OF ORGANIZATION:

SOLE PROPRIETORSHIP

Name of Owner: _____
Doing Business As: _____
Date of Organization: _____

PARTNERSHIP

Date of Organization: _____
Type of Partnership: _____
Name of General Partner(s): _____

CORPORATION

State of Organization: _____
Date of Organization: _____
Executive Officers:
- President: _____
- Vice President(s): _____

- Treasurer: _____
- Secretary: _____

LIMITED LIABILITY COMPANY

State of Organization: _____
Date of Organization: _____
Members: _____

JOINT VENTURE

Sate of Organization: _____

Date of Organization: _____

Form of Organization: _____

Joint Venture Managing Partner

- Name: _____

- Address: _____

Joint Venture Managing Partner

- Name: _____

- Address: _____

Joint Venture Managing Partner

- Name: _____

- Address: _____

7. LICENSING

Jurisdiction: State of Tennessee

Type of License/Classification: _____

License Number: _____

Monetary Limit: _____

8. CERTIFICATIONS

CERTIFIED BY:

Disadvantage Business Enterprise: _____

Minority Business Enterprise: _____

Woman Owned Enterprise: _____
Small Business Enterprise: _____
Other (_____): _____

9. BONDING INFORMATION

Bonding Company: _____
Address: _____

Bonding Agent: _____
Address: _____

Contact Name: _____
Phone: _____
Aggregate Bonding Capacity: _____
Available Bonding Capacity as of date of this submittal: _____

10. FINANCIAL INFORMATION

Financial Institution: _____
Address: _____

Bidder is prepared to submit audited FINANCIAL STATEMENTS for each of the last 3 years.
[All items submitted to MED are subject to the PUBLIC RECORDS ACT OF TENNESSEE (T.C.A. § 10-7-101, et seq.) and the OPEN MEETINGS ACT (T.C.A. § 8-44-101, et seq.)]

11. UNDERGROUND FACILITIES LOCATING AND MARKING EXPERIENCE:

Current Experience:

List on **Schedule A** the five (5) largest projects for **Electric Utility Locate and Marking Services** (by annual Locate Requests) currently under contract (If Joint Venture list each participant's projects separately).

Previous Experience:

List on **Schedule B** all **Electric Utility** facility locating and marking type projects with locate request requirement **greater than 12,000 per year**, completed within the last 3 Years (If Joint Venture list each participant's projects separately).

Has firm listed in Section 1 ever failed to complete a facilities location and marking services contract awarded to it?

YES NO

If YES, attach as an Attachment details including Project Owner's contact information.

Has any Corporate Officer, Partner, Joint Venture participant or Proprietor ever failed to complete a facilities location and marking services contract awarded to them in their name or when acting as a principal of another entity?

YES NO

If YES, attach as an Attachment details including Project Owner's contact information.

Are there any pending disputes or litigation involving safety or damage to persons or property involving the firm listed in Section 1 or any of its officers (or any of its partners if a partnership or any of the individual entities if a joint venture), or have there been any judgments for same within the past five (5) years?

YES NO

If YES, attach as an Attachment details including Project Owner's contact information.

12. LOCATE ACCURACY HISTORY

Provide the Locate Request historical accuracy data as requested in the Table below. This information should be based on insurance claims or reimbursements to the utility for damage sustained to the facilities that were to be located by the Locate Request.

These are facility damage events traceable to incorrect, incomplete, or missing locate markings resulting in damage to the facilities. Damage to correctly marked facilities should not be included.

Data from Utilities listed in as references in Schedule A and Schedule B should be included. MED reserves the right to investigate historical locate accuracy.

Year	Number of Locates Performed (Column A)	Number of Locates with Excavation Damage (Column B)	Facility Damage Percent (Column B/A x 100)
2016			
2015			
2014			
2013			
2012			

13. Proposed MED Project Locate Crew Leader: _____

Provide the resume of the proposed Field Crew Leader for the MED Project. The Field Crew Leader should be the Contractor's senior locate technician and provide direction to the Contractor's technician crew.

I HEREBY CERTIFY THAT THE INFORMATION SUBMITTED HEREWITH, INCLUDING ANY ATTACHMENTS, IS TRUE TO THE BEST OF MY KNOWLEDGE AND BELIEF.

NAME OF ORGANIZATION: _____

BY: _____

TITLE: _____

DATED: _____

NOTARY ATTEST:

SUBSCRIBED AND SWORN TO BEFORE ME

THIS _____ DAY OF __, 20__

NOTARY PUBLIC - STATE OF _____

MY COMMISSION EXPIRES: _____

REQUIRED ATTACHMENTS

1. Schedule A (Current Experience).
2. Schedule B (Previous Experience).
3. Evidence of authority for individuals listed in Section 7 to bind organization to an agreement.
4. Resumes of officers and key individuals (including Safety Officer) of firm named in Section 1.
5. **Resume of Field Crew Leader to be assigned to the Murfreesboro Electric Department Project/Work Assignments.**
6. Additional items as pertinent.

SCHEDULE A

CURRENT EXPERIENCE - The five (5) largest Electric Utility Locating & Marking Projects (by annual Locate Requests)

Project Name and Required Man-Hours	Owner's Contact Person	Design Engineer	Contract Date	Type of Work	Status	Cost of Work
	Name: Address: Telephone:	Name: Company: Telephone:				
	Name: Address: Telephone:	Name: Company: Telephone:				
	Name: Address: Telephone:	Name: Company: Telephone:				
	Name: Address: Telephone:	Name: Company: Telephone:				
	Name: Address: Telephone:	Name: Address: Telephone:				

SCHEDULE B – PREVIOUS EXPERIENCE

Include all line underground facility location and marking projects with Locate Requests **greater than 12,000 per year**, completed within the last 3 Years.

Project Name	Owner's Contact Person	Design Engineer	Contract Date	Type of Work	Status	Cost of Work
	Name: Address: Telephone:	Name: Company: Telephone:				
	Name: Address: Telephone:	Name: Company: Telephone:				
	Name: Address: Telephone:	Name: Company: Telephone:				
	Name: Address: Telephone:	Name: Company: Telephone:				
	Name: Address: Telephone:	Name: Company: Telephone:				
	Name: Address: Telephone:	Name: Company: Telephone:				
	Name: Address: Telephone:	Name: Company: Telephone:				
	Name: Address: Telephone:	Name: Company: Telephone:				

**CONTRACT BETWEEN
MURFREESBORO ELECTRIC DEPARTMENT
AND**

**FOR
UNDERGROUND ELECTRIC SYSTEM FACILITIES LOCATE SERVICES**

Document 00521

This Contract is entered into on this [INSERT DATE], by and between **MURFREESBORO ELECTRIC DEPARTMENT**, a governmental entity under the laws of the State of Tennessee ("MED") and **[INSERT CONTRACTOR NAME]**, [INSERT TYPE OF ENTITY] of the State of [INSERT STATE] ("Contractor"). This contract consists of the following documents:

1. ***This Contract (pages 1 to 7, inclusive).***
2. ***Supplemental Conditions – Document 00800***
3. ***Performance bond***
4. ***Payment bond***
5. ***Specifications as listed in the table of contents of the Project Manual.***
6. ***Drawings/Maps (not attached but incorporated by reference) consisting of MED Underground Facilities Locations.***
7. ***Addenda.***
8. ***Bid Form, Document 00410 (pages 1 to 5, inclusive).***
9. ***Non-Collusion Affidavit, Document 00450***
10. ***Qualification Statement, Document 00451***
11. ***Confidential Disclosure Agreement 00540***
12. ***Drug Free Workplace Affidavit. Document 00822***
13. ***There are no Contract Documents other than those listed above***

In the event of conflicting provisions, all documents shall be construed according to the following priorities:

- ***Any properly executed amendment or change order to this contract (most recent with first priority)***
- ***This Contract***
- ***Invitation to Bid & Bid Specifications***
- ***Contractor's Bid Response***

1. **Duties and Responsibilities of Contractor.** Contractor agrees to provide **Labor and Equipment for the Location and Marking of MED Electric System Underground Facilities** as set forth in the Invitation to Bid, Bid Specification, and Contractor's Bid Response. These services includes coordination and communication with the Tennessee One Call System, Locate Request Ticket management, and associated record keeping in accordance with the Underground Utility Damage Prevention Act, Tennessee Code Annotated 65-31-101. In addition to the duties and responsibilities set forth in the above referenced documents, the Contractor:

- a) The Contractor is an Independent Contractor, under the Rules and Regulations promulgated by the Internal Revenue Service, and neither

Contractor nor any of its employees shall be deemed agents or employees of MED.

- b) Contractor is responsible for the safety of Contractor personnel and the general public in the immediate vicinity of the various Work Assignments.
- c) The intention of the Contract Documents is the Contractor shall provide all supervision, supplies, labor, transportation and equipment reasonably required for the proper execution of the Work.
- d) Establishment and execution of a comprehensive personnel safety program appropriate for the type of work involved with the various Work Assignments as may be required by the appropriate local, state, and federal agencies such as OSHA and TOSHA.
- e) Additional Contractor duties and responsibilities are specified in the **Supplementary Conditions, Document 00800**.

In order to induce Owner to enter into this Contract, Contractor makes the following representations:

- f) Contractor has examined and carefully studied the Contract Documents, and any data and reference items identified in the Contract Documents.
- g) Contractor has had the opportunity to visit and review a representative sample of MED right-of-ways/easements, and become familiar with and satisfied itself as to the general, local, and Site conditions that may affect cost, progress, and performance of the Work.
- h) Contractor is familiar with and has satisfied itself as to all Laws and Regulations that may affect cost, progress, and performance of the Work.
- i) Contractor has considered the information known to Contractor itself; information commonly known to contractors doing business in the locality of the MED electric system service area; information and observations obtained from visits to representative MED electric system facility locations; the Contract Documents; with respect to the effect of such information, observations, and documents on (1) the cost, progress, and performance of the Work; (2) the means, methods, techniques, sequences, and procedures to be employed by Contractor; and (3) Contractor's safety precautions and programs.
- j) Based on the information and observations referred to in the preceding paragraph, Contractor agrees that no further examinations, investigations, explorations, tests, studies, or data are necessary for the performance of the Work at the Contract Price, within the Contract Times, and in accordance with the other terms and conditions of the Contract.
- k) Contractor has given Owner written notice of all conflicts, errors, ambiguities, or discrepancies that Contractor has discovered in the Contract Documents, and the written resolution thereof by Owner is acceptable to Contractor.

- l) The Contract Documents are generally sufficient to indicate and convey understanding of all terms and conditions for performance and furnishing of the Work.

2. **Reserved.**

3. **Duties and Responsibilities of Murfreesboro Electric Department.**

In addition to the duties and responsibilities set forth in the above referenced documents, MED:

- a) Inform Tennessee One-Call System of Contractor's responsibilities for Locate Services
- b) Provide appropriate data, facilities maps, sketches, or drawings of MED electric system suitable to meet the requirements and/or limits of the various individual Work Assignments.
- c) All data supplied for the location of underground facilities will be in electronic format. Data will be updated on a monthly basis.
- d) Provide other information as may be requested and/or appropriate for the Contractor to execute the various Work Assignments.
- e) Additional MED duties and responsibilities are specified in the **Supplementary Conditions, Document 00800.**

4. **Term and Progress of the Work.** This Contract shall not be effective until approved by the MED and signed by all required parties.

- a) The Contract time is for a period of three (3) years (36 months) from the effective date as indicated above.
- b) On or before the end of the third (3rd) contract year, the Murfreesboro Electric Department has the option of authorizing and extending the Contract for a fourth (4th) year.
- c) On or before the end of the fourth (4th) contract year, the Murfreesboro Electric Department has the option of authorizing and extending the Contract for a fifth (5th) year.
- d) Additional Term and Progress of Work requirements are as specified in the **Supplementary Conditions, Document 00800.**

5. **Payment.** Payment will be made by MED based on work progress after services have been received, accepted, and properly invoiced. Once Contractor has submitted a monthly invoice, the MED will issue payment within thirty (30) days from submittal. The final payment shall be made only after Contractor has completely performed its duties under this

Contract and the work has been approved and accepted by MED. Supplementary Conditions, Document 00800, contains additional Payment information.

All amounts not paid when due shall bear interest at the rate of 3.0 percent per annum.

6. **Price.** The price for services rendered pursuant to this Contract shall be invoiced at the Unit Prices and charges fixed by the Contractor as per the attached Contractor's Bid Response (Document 00410).
7. **Termination—Breach.** In the event that any of the provisions of the Contract are violated by the Contractor, MED may serve written notice upon the Contractor of its intention to terminate the Contract, and unless within seventy-two (72) hours after the serving of such notice upon the Contractor such violation or delay shall cease and satisfactory arrangement for correction be made, MED may immediately terminate the Contract at any time after said seventy-two (72) hours. Such termination shall not relieve Contractor of any liability to MED for damages sustained by virtue of any breach by Contractor.
8. **Termination – Suspension of Work.**
 - 1) *Any unauthorized work stoppage due to any types of strike by the Contractor's labor force shall be grounds for immediate termination of this Contract by MED.*
 - 2) *During any period of work stoppage by the Contractor's labor force, MED reserves the right to have any and all Work Assignments performed by MED crews or crews from another Contractor or Contractors. MED reserves the right to terminate the Contract for any work stoppage for a period of more than two (2) weeks without permission from MED.*
9. **Termination—Notice.** MED may terminate this Contract at any time upon thirty (30) days written notice to Contractor. In that event, the Contractor shall be entitled to receive just and equitable compensation for any satisfactory authorized work completed as of the termination date.
10. **Compliance with Laws.** Contractor agrees to comply with any applicable federal, state, and local laws and regulations.
11. **Maintenance of Records.** Contractor shall maintain documentation for all charges associated with services provided pursuant to this Contract. The books, records, and documents of Contractor, insofar as they relate to work performed or money received under the Contract, shall be maintained for a period of three (3) full years from the date of final payment and will be subject to audit at any reasonable time and upon reasonable notice by MED or its duly appointed representatives. The records shall be maintained in accordance with generally accepted accounting principles.
12. **Modification of Contract.** This Contract may be modified only by written amendment executed by all parties and their signatories hereto. Depending upon the nature and amount of the amendment, the approval of the MED Power Board may be required. Minor modifications to the contract may be executed by signature of the MED General Manager.
13. **Partnership/Joint Venture.** Nothing herein shall in any way be construed or intended to create a partnership or joint venture between the parties or to create the relationship of

principal and agent between or among any of the parties. None of the parties hereto shall hold itself out in a manner contrary to the terms of this paragraph. No party shall become liable for any representation, act, or omission of any other party contrary to the terms of this paragraph.

14. **Waiver.** No waiver of any provision of this Contract shall affect the right of any party thereafter to enforce such provision or to exercise any right or remedy available to it in the event of any other default.
15. **Employment.** Contractor shall not subscribe to any personnel policy which permits or allows for the promotion, demotion, employment, dismissal or laying off of any individual due to race, creed, color, national origin, age, sex, veteran status, or any other status or class protected under federal or state law or which is in violation of applicable laws concerning the employment of individuals with disabilities.
16. **Non-Discrimination.** It is the policy of the MED not to discriminate on the basis of age, race, sex, color, national origin, veteran status, disability, or other status or class protected under federal or state law in its hiring and employment practices, or in admission to, access to, or operation of its programs, services, and activities. With regard to all aspects of this Contract, Contractor certifies and warrants it will comply with this policy.
17. **Indemnification and Hold Harmless.** Contractor shall indemnify and hold harmless MED, its officers, agents, and employees from:
 - a. Any claims, damages, costs and attorney fees for injuries or damages arising, in part or in whole, from the negligent or intentional acts or omissions of Contractor, its officers, employees and/or agents, including its sub or independent contractors, in connection with the performance of the contract, and,
 - b. Any claims, damages, penalties, costs and attorney fees arising from any failure of Contractor, its officers, employees and/or agents, including its sub or independent Contractors, to observe applicable laws, including, but not limited to, labor laws and minimum wage laws.

Contractor shall pay MED any expenses incurred as a result of Contractor's failure to fulfill any obligation in a professional and timely manner under this Contract.

18. **Insurance and Bonds.** The Contractor must maintain commercial general liability insurance for bodily injury and property damage, automobile liability insurance, and workers' compensation insurance as required by the State of Tennessee. Contractor shall name MED and the City of Murfreesboro as an additional insured on all liability insurance policies and shall provide the MED a copy of the endorsement. Contractor must notify MED within five (5) days if the insurance policy is renewed, cancelled, or altered in any manner and provide written documentation of such alteration.
 - a. Insurance requirements shall be as specified in the **Supplementary Conditions, Document 00800.**
 - b. Performance and Payment Bonds

Contractor shall furnish a Performance Bond and a Payment Bond each in the amounts specified in the **Supplementary Conditions, Document 00800**, as security for the faithful payment of Contractor's entire obligation under the Contract.

19. **Attorney Fees.** Contractor agrees that, in the event either party deems it necessary to take legal action to enforce any provision of the Contract, and in the event MED prevails, Contractor shall pay all expenses of such action including MED's attorney fees and costs at all stages of the litigation.
20. **Assignment—Consent Required.** The provisions of this Contract shall inure to the benefit of and shall be binding upon the respective successors and assignees of the parties hereto. Except for the rights of money due to Contractor under this Contract, neither this Contract nor any of the rights and obligations of Contractor hereunder shall be assigned or transferred in whole or in part without the prior written consent of MED. Any such assignment or transfer shall not release Contractor from its obligations hereunder. NOTICE OF ASSIGNMENT OF ANY RIGHTS TO MONEY DUE TO CONTRACTOR UNDER THIS CONTRACT MUST BE SENT TO THE ATTENTION OF: GENERAL MANAGER, MURFREESBORO ELECTRIC DEPARTMENT, POST OFFICE BOX 9, 205 NORTH WALNUT STREET, MURFREESBORO, TENNESSEE 37130-0009
21. **Entire Contract.** This Contract and all documents listed above, set forth the entire agreement between the parties with respect to the subject matter hereof and shall govern the respective duties and obligations of the parties and supersedes any and all prior or contemporaneous, written or oral negotiations, correspondence, understandings and agreements, between the parties respecting the subject matter of this Contract. No supplement, modification or amendment to this Contract shall be binding unless evidenced by a writing signed by the party against whom it is sought to be enforced. No waiver of any of the provisions of this Contract shall be deemed, or shall constitute, a waiver of any other provision, whether or not similar, nor shall any waiver constitute a continuing waiver. No waiver shall be binding unless executed in writing by the party making the waiver.
22. **Force Majeure.** No party shall have any liability to the other hereunder by reason of any delay or failure to perform any obligation or covenant if the delay or failure to perform is occasioned by *force majeure*, meaning any act of war, order of legal authority, act of nature, or other unavoidable causes not attributed to fault or negligence of Contractor.
23. **Governing Law.** The validity, construction and effect of this Contract and any and all extensions and/or modifications thereof shall be governed by the laws of the State of Tennessee. Tennessee law shall govern regardless of any language in any attachment or other document that the Contractor may provide.
24. **Venue.** Any action between the parties arising from this agreement shall be maintained in the courts for Rutherford County, Tennessee.
25. **Severability.** Should any provision of this Contract be declared to be invalid by any court of competent jurisdiction, such provision shall be severed and shall not affect the validity of the remaining provisions of this Contract.
26. **Notices.** Notices to MED including but not limited to notice of assignment of any rights to money due to Contractor under this Contract must be mailed or hand delivered to the

address below. Any notice to Contractor from the MED relative to any part of the Contract shall be considered delivered and the service thereof completed when said notice is posted by registered mail, to the said Contractor at its last given address or delivered in person to said Contractor or its authorized representative on the work.

a. Notices to MED shall be sent to:

Department: Murfreesboro Electric Department
Attention: General Manager
Address: Post Office Box 9
205 North Walnut Street
Murfreesboro, TN 37130

b. Notices to Contractor shall be sent to:

Contractor: [INSERT CORRECT INFORMATION]
Attention:
Address:

27. **Effective Date.** This Contract shall not be binding upon the parties until it has been signed first by the Contractor and then approved by the MED and signed. When it has been so signed, this Contract shall be effective as of the date first written above.

MURFREESBORO ELECTRIC DEPARTMENT CONTRACTOR

SAMPLE CONTRACT DO NOT SIGN

General Manager

By: _____
Its: _____

Approved as to form:

Craig Tindall, City Attorney

CONFIDENTIAL DISCLOSURE AGREEMENT

Document 00540

This Agreement is an Attachment to the Underground Facility Location and Marking Services Contract between _____ (hereinafter "Contractor") and the Murfreesboro Electric Department (hereinafter "MED").

WHEREAS MED possesses information and mapping relating to the MED electric system and fiber optic communications system facilities that is confidential and proprietary to MED (hereinafter "Confidential Information"); and

WHEREAS the Contractor is willing to receive disclosure of the Confidential Information pursuant to the terms of this Agreement for the purpose of providing services related to the Underground Facilities Location and Marking Services Contract (hereinafter "Contract");

NOW THEREFORE, in consideration for the mutual undertakings of the MED and the Contractor under this Agreement, the parties agree as follows:

1. **Disclosure.** MED agrees to disclose, and Contractor agrees to receive the Confidential Information.
2. **Confidentiality.**
 - 2.1 No Use. Contractor agrees not to use the Confidential Information in any way, except for the purpose of providing services related to the Contract.
 - 2.2 No Disclosure. Contractor agrees to use its best efforts to prevent and protect the Confidential Information, or any part thereof, from disclosure to any person other than Contractor's employees having a need for disclosure in connection with Contractor's authorized use of the Confidential Information.
 - 2.3 Protection of Secrecy. Contractor agrees to take all steps reasonably necessary to protect the secrecy of the Confidential Information, and to prevent the Confidential Information from falling into the public domain or into the possession of unauthorized persons.
3. **Limits on Confidential Information.** Confidential Information shall not be deemed proprietary and Contractor shall have no obligation with respect to such information where the information:
 - (a) was known to Contractor prior to receiving any of the Confidential Information from MED;
 - (b) has become publicly known through no wrongful act of Contractor;
 - (c) was received by Contractor without breach of this Agreement from a third party without restriction as to the use and disclosure of the information;
 - (d) was independently developed by Contractor without use of the Confidential Information;or

(e) was ordered to be publicly released by the requirement of a government agency.

- 4. **Ownership of Confidential Information.** Contractor agrees that all Confidential Information shall remain the property of MED, and that MED may use such Confidential Information for any purpose without obligation to Contractor. Nothing contained herein shall be construed as granting or implying any transfer of rights to Contractor in the Confidential Information, or any other intellectual property protecting or relating to the Confidential Information.
- 5. **Return of Confidential Information.** Contractor shall return all Confidential Information provided by MED at the conclusion or termination of the Contract.
- 6. **Term and Termination.** The obligations of this Agreement shall be continuing until the Confidential Information disclosed to Contractor is no longer confidential.
- 7. **Governing Law and Venue.** This Confidential Disclosure Agreement shall be governed and venue for any action between the parties shall be as stipulated in the Contract.
- 8. **Survival of Rights and Obligations.** This Agreement shall be binding upon, inure to the benefit of, and be enforceable by (a) MED, its successors, and assigns; and (b) Contractor, its successors and assigns.

IN WITNESS WHEREOF, the parties have executed this agreement effective as of the effective date of the Underground Facilities Location and Marking Services Contract between the parties.

MURFREESBORO ELECTRIC DEPARTMENT

CONTRACTOR

SAMPLE CONTRACT DO NOT SIGN

General Manager

By: _____

Its: _____

Approved as to form:

Craig Tindall, City Attorney

AFFIDAVIT OF CONTRACTOR

Document 00571

STATE OF)
) SS:
COUNTY OF)

_____, being duly sworn according to Law, deposes and says
(Name of Affiant)

that he is the _____ of _____,
(Title) (Name of Contractor)

Contractor, in a Underground Facilities Locate Services Contract entered into between the Contractor and Murfreesboro Electric Department, the Owner, for location and marking of MED underground electric system facilities, and that he is authorized to and does make this affidavit on behalf of said Contractor in order to induce the Owner to make payment to the Contractor, in accordance with the provisions of the said Locate Services Contract.

Affiant further says that all persons who have furnished labor in connection with the underground facilities locate services have been paid in full.

(Signature of Affiant)

Sworn to and subscribed before me this _____ day of _____, 20 _____.

(Notary Public)

My commission expires _____

END OF DOCUMENT

PERFORMANCE BOND

CONTRACTOR *(name and address):*

SURETY *(name and address of principal place of business):*

OWNER *(name and address):*

CONSTRUCTION CONTRACT

Effective Date of the Agreement:

Amount:

Description *(name and location):*

BOND

Bond Number:

Date *(not earlier than the Effective Date of the Agreement of the Construction Contract):*

Amount:

Modifications to this Bond Form: None See Paragraph 16

Surety and Contractor, intending to be legally bound hereby, subject to the terms set forth below, do each cause this Performance Bond to be duly executed by an authorized officer, agent, or representative.

CONTRACTOR AS PRINCIPAL

SURETY

Contractor's Name and Corporate Seal *(seal)*

Surety's Name and Corporate Seal *(seal)*

By: _____
Signature

By: _____
Signature *(attach power of attorney)*

Print Name

Print Name

Title

Title

Attest: _____
Signature

Attest: _____
Signature

Title

Title

Notes: (1) Provide supplemental execution by any additional parties, such as joint venturers. (2) Any singular reference to Contractor, Surety, Owner, or other party shall be considered plural where applicable.

1. The Contractor and Surety, jointly and severally, bind themselves, their heirs, executors, administrators, successors, and assigns to the Owner for the performance of the Construction Contract, which is incorporated herein by reference.

2. If the Contractor performs the Construction Contract, the Surety and the Contractor shall have no obligation under this Bond, except when applicable to participate in a conference as provided in Paragraph 3.

3. If there is no Owner Default under the Construction Contract, the Surety's obligation under this Bond shall arise after:

3.1 The Owner first provides notice to the Contractor and the Surety that the Owner is considering declaring a Contractor Default. Such notice shall indicate whether the Owner is requesting a conference among the Owner, Contractor, and Surety to discuss the Contractor's performance. If the Owner does not request a conference, the Surety may, within five (5) business days after receipt of the Owner's notice, request such a conference. If the Surety timely requests a conference, the Owner shall attend. Unless the Owner agrees otherwise, any conference requested under this Paragraph 3.1 shall be held within ten (10) business days of the Surety's receipt of the Owner's notice. If the Owner, the Contractor, and the Surety agree, the Contractor shall be allowed a reasonable time to perform the Construction Contract, but such an agreement shall not waive the Owner's right, if any, subsequently to declare a Contractor Default;

3.2 The Owner declares a Contractor Default, terminates the Construction Contract and notifies the Surety; and

3.3 The Owner has agreed to pay the Balance of the Contract Price in accordance with the terms of the Construction Contract to the Surety or to a contractor selected to perform the Construction Contract.

4. Failure on the part of the Owner to comply with the notice requirement in Paragraph 3.1 shall not constitute a failure to comply with a condition precedent to the Surety's obligations, or release the Surety from its obligations, except to the extent the Surety demonstrates actual prejudice.

5. When the Owner has satisfied the conditions of Paragraph 3, the Surety shall promptly and at the Surety's expense take one of the following actions:

5.1 Arrange for the Contractor, with the consent of the Owner, to perform and complete the Construction Contract;

5.2 Undertake to perform and complete the Construction Contract itself, through its agents or independent contractors;

5.3 Obtain bids or negotiated proposals from qualified contractors acceptable to the Owner for a contract for performance and completion of the Construction Contract, arrange for a contract to be prepared for execution by the Owner and a contractor selected with the Owners concurrence, to be secured with performance and payment bonds executed

by a qualified surety equivalent to the bonds issued on the Construction Contract, and pay to the Owner the amount of damages as described in Paragraph 7 in excess of the Balance of the Contract Price incurred by the Owner as a result of the Contractor Default; or

5.4 Waive its right to perform and complete, arrange for completion, or obtain a new contractor, and with reasonable promptness under the circumstances:

5.4.1 After investigation, determine the amount for which it may be liable to the Owner and, as soon as practicable after the amount is determined, make payment to the Owner; or

5.4.2 Deny liability in whole or in part and notify the Owner, citing the reasons for denial.

6. If the Surety does not proceed as provided in Paragraph 5 with reasonable promptness, the Surety shall be deemed to be in default on this Bond seven days after receipt of an additional written notice from the Owner to the Surety demanding that the Surety perform its obligations under this Bond, and the Owner shall be entitled to enforce any remedy available to the Owner. If the Surety proceeds as provided in Paragraph 5.4, and the Owner refuses the payment or the Surety has denied liability, in whole or in part, without further notice the Owner shall be entitled to enforce any remedy available to the Owner.

7. If the Surety elects to act under Paragraph 5.1, 5.2, or 5.3, then the responsibilities of the Surety to the Owner shall not be greater than those of the Contractor under the Construction Contract, and the responsibilities of the Owner to the Surety shall not be greater than those of the Owner under the Construction Contract. Subject to the commitment by the Owner to pay the Balance of the Contract Price, the Surety is obligated, without duplication for:

7.1 the responsibilities of the Contractor for correction of defective work and completion of the Construction Contract;

7.2 additional legal, design professional, and delay costs resulting from the Contractor's Default, and resulting from the actions or failure to act of the Surety under Paragraph 5; and

7.3 liquidated damages, or if no liquidated damages are specified in the Construction Contract, actual damages caused by delayed performance or non-performance of the Contractor.

8. If the Surety elects to act under Paragraph 5.1, 5.3, or 5.4, the Surety's liability is limited to the amount of this Bond.

9. The Surety shall not be liable to the Owner or others for obligations of the Contractor that are unrelated to the Construction Contract, and the Balance of the Contract Price shall not be reduced or set off on account of any such unrelated obligations. No right of action shall accrue on this Bond to any person or entity other than the Owner or its heirs, executors, administrators, successors, and assigns.

10. The Surety hereby waives notice of any change, including changes of time, to the Construction Contract or to related subcontracts, purchase orders, and other obligations.

11. Any proceeding, legal or equitable, under this Bond may be instituted in any court of competent jurisdiction in the location in which the work or part of the work is located and shall be instituted within two years after a declaration of Contractor Default or within two years after the Contractor ceased working or within two years after the Surety refuses or fails to perform its obligations under this Bond, whichever occurs first. If the provisions of this paragraph are void or prohibited by law, the minimum periods of limitations available to sureties as a defense in the jurisdiction of the suit shall be applicable.

12. Notice to the Surety, the Owner, or the Contractor shall be mailed or delivered to the address shown on the page on which their signature appears.

13. When this Bond has been furnished to comply with a statutory or other legal requirement in the location where the construction was to be performed, any provision in this Bond conflicting with said statutory or legal requirement shall be deemed deleted herefrom and provisions conforming to such statutory or other legal requirement shall be deemed incorporated herein. When so furnished, the intent is that this Bond shall be construed as a statutory bond and not as a common law bond.

14. Definitions

14.1 Balance of the Contract Price: The total amount payable by the Owner to the Contractor under the Construction Contract after all proper adjustments have been made including allowance for the Contractor for any amounts received or to be received by the Owner in settlement of insurance or other claims

for damages to which the Contractor is entitled, reduced by all valid and proper payments made to or on behalf of the Contractor under the Construction Contract.

14.2 Construction Contract: The agreement between the Owner and Contractor identified on the cover page, including all Contract Documents and changes made to the agreement and the Contract Documents.

14.3 Contractor Default: Failure of the Contractor, which has not been remedied or waived, to perform or otherwise to comply with a material term of the Construction Contract.

14.4 Owner Default: Failure of the Owner, which has not been remedied or waived, to pay the Contractor as required under the Construction Contract or to perform and complete or comply with the other material terms of the Construction Contract.

14.5 Contract Documents: All the documents that comprise the agreement between the Owner and Contractor.

15. If this Bond is issued for an agreement between a contractor and subcontractor, the term Contractor in this Bond shall be deemed to be Subcontractor and the term Owner shall be deemed to be Contractor.

16. Modifications to this Bond are as follows:

PAYMENT BOND

CONTRACTOR *(name and address)*:

SURETY *(name and address of principal place of business)*:

OWNER *(name and address)*:

CONSTRUCTION CONTRACT

Effective Date of the Agreement:

Amount:

Description *(name and location)*:

BOND

Bond Number:

Date *(not earlier than the Effective Date of the Agreement of the Construction Contract)*:

Amount:

Modifications to this Bond Form: None See Paragraph 18

Surety and Contractor, intending to be legally bound hereby, subject to the terms set forth below, do each cause this Payment Bond to be duly executed by an authorized officer, agent, or representative.

CONTRACTOR AS PRINCIPAL

SURETY

_____ *(seal)*

Contractor's Name and Corporate Seal

_____ *(seal)*

Surety's Name and Corporate Seal

By: _____

Signature

By: _____

Signature *(attach power of attorney)*

Print Name

Print Name

Title

Title

Attest: _____

Signature

Attest: _____

Signature

Title

Title

1. The Contractor and Surety, jointly and severally, bind themselves, their heirs, executors, administrators, successors, and assigns to the Owner to pay for labor, materials, and equipment furnished for use in the performance of the Construction Contract, which is incorporated herein by reference, subject to the following terms.
2. If the Contractor promptly makes payment of all sums due to Claimants, and defends, indemnifies, and holds harmless the Owner from claims, demands, liens, or suits by any person or entity seeking payment for labor, materials, or equipment furnished for use in the performance of the Construction Contract, then the Surety and the Contractor shall have no obligation under this Bond.
3. If there is no Owner Default under the Construction Contract, the Surety's obligation to the Owner under this Bond shall arise after the Owner has promptly notified the Contractor and the Surety (at the address described in Paragraph 13) of claims, demands, liens, or suits against the Owner or the Owner's property by any person or entity seeking payment for labor, materials, or equipment furnished for use in the performance of the Construction Contract, and tendered defense of such claims, demands, liens, or suits to the Contractor and the Surety.
4. When the Owner has satisfied the conditions in Paragraph 3, the Surety shall promptly and at the Surety's expense defend, indemnify, and hold harmless the Owner against a duly tendered claim, demand, lien, or suit.
5. The Surety's obligations to a Claimant under this Bond shall arise after the following:
 - 5.1 Claimants who do not have a direct contract with the Contractor,
 - 5.1.1 have furnished a written notice of non-payment to the Contractor, stating with substantial accuracy the amount claimed and the name of the party to whom the materials were, or equipment was, furnished or supplied or for whom the labor was done or performed, within ninety (90) days after having last performed labor or last furnished materials or equipment included in the Claim; and
 - 5.1.2 have sent a Claim to the Surety (at the address described in Paragraph 13).
 - 5.2 Claimants who are employed by or have a direct contract with the Contractor have sent a Claim to the Surety (at the address described in Paragraph 13).
6. If a notice of non-payment required by Paragraph 5.1.1 is given by the Owner to the Contractor, that is sufficient to satisfy a Claimant's obligation to furnish a written notice of non-payment under Paragraph 5.1.1.
7. When a Claimant has satisfied the conditions of Paragraph 5.1 or 5.2, whichever is applicable, the Surety shall promptly and at the Surety's expense take the following actions:
 - 7.1 Send an answer to the Claimant, with a copy to the Owner, within sixty (60) days after receipt of the Claim, stating the amounts that are undisputed and the basis for challenging any amounts that are disputed; and
 - 7.2 Pay or arrange for payment of any undisputed amounts.
 - 7.3 The Surety's failure to discharge its obligations under Paragraph 7.1 or 7.2 shall not be deemed to constitute a waiver of defenses the Surety or Contractor may have or acquire as to a Claim, except as to undisputed amounts for which the Surety and Claimant have reached agreement. If, however, the Surety fails to discharge its obligations under Paragraph 7.1 or 7.2, the Surety shall indemnify the Claimant for the reasonable attorney's fees the Claimant incurs thereafter to recover any sums found to be due and owing to the Claimant.
8. The Surety's total obligation shall not exceed the amount of this Bond, plus the amount of reasonable attorney's fees provided under Paragraph 7.3, and the amount of this Bond shall be credited for any payments made in good faith by the Surety.
9. Amounts owed by the Owner to the Contractor under the Construction Contract shall be used for the performance of the Construction Contract and to satisfy claims, if any, under any construction performance bond. By the Contractor furnishing and the Owner accepting this Bond, they agree that all funds earned by the Contractor in the performance of the Construction Contract are dedicated to satisfy obligations of the Contractor and Surety under this Bond, subject to the Owner's priority to use the funds for the completion of the work.
10. The Surety shall not be liable to the Owner, Claimants, or others for obligations of the Contractor that are unrelated to the Construction Contract. The Owner shall not be liable for the payment of any costs or expenses of any Claimant under this Bond, and shall have under this Bond no obligation to make payments to or give notice on behalf of Claimants, or otherwise have any obligations to Claimants under this Bond.
11. The Surety hereby waives notice of any change, including changes of time, to the Construction Contract or to related subcontracts, purchase orders, and other obligations.

12. No suit or action shall be commenced by a Claimant under this Bond other than in a court of competent jurisdiction in the state in which the project that is the subject of the Construction Contract is located or after the expiration of one year from the date (1) on which the Claimant sent a Claim to the Surety pursuant to Paragraph 5.1.2 or 5.2, or (2) on which the last labor or service was performed by anyone or the last materials or equipment were furnished by anyone under the Construction Contract, whichever of (1) or (2) first occurs. If the provisions of this paragraph are void or prohibited by law, the minimum period of limitation available to sureties as a defense in the jurisdiction of the suit shall be applicable.
13. Notice and Claims to the Surety, the Owner, or the Contractor shall be mailed or delivered to the address shown on the page on which their signature appears. Actual receipt of notice or Claims, however accomplished, shall be sufficient compliance as of the date received.
14. When this Bond has been furnished to comply with a statutory or other legal requirement in the location where the construction was to be performed, any provision in this Bond conflicting with said statutory or legal requirement shall be deemed deleted herefrom and provisions conforming to such statutory or other legal requirement shall be deemed incorporated herein. When so furnished, the intent is that this Bond shall be construed as a statutory bond and not as a common law bond.
15. Upon requests by any person or entity appearing to be a potential beneficiary of this Bond, the Contractor and Owner shall promptly furnish a copy of this Bond or shall permit a copy to be made.
16. **Definitions**
 - 16.1 **Claim:** A written statement by the Claimant including at a minimum:
 1. The name of the Claimant;
 2. The name of the person for whom the labor was done, or materials or equipment furnished;
 3. A copy of the agreement or purchase order pursuant to which labor, materials, or equipment was furnished for use in the performance of the Construction Contract;
 4. A brief description of the labor, materials, or equipment furnished;
 5. The date on which the Claimant last performed labor or last furnished materials or equipment for use in the performance of the Construction Contract;
 6. The total amount earned by the Claimant for labor, materials, or equipment furnished as of the date of the Claim;
 7. The total amount of previous payments received by the Claimant; and
 - 16.2 **Claimant:** An individual or entity having a direct contract with the Contractor or with a subcontractor of the Contractor to furnish labor, materials, or equipment for use in the performance of the Construction Contract. The term Claimant also includes any individual or entity that has rightfully asserted a claim under an applicable mechanic's lien or similar statute against the real property upon which the Project is located. The intent of this Bond shall be to include without limitation in the terms of "labor, materials, or equipment" that part of the water, gas, power, light, heat, oil, gasoline, telephone service, or rental equipment used in the Construction Contract, architectural and engineering services required for performance of the work of the Contractor and the Contractor's subcontractors, and all other items for which a mechanic's lien may be asserted in the jurisdiction where the labor, materials, or equipment were furnished.
 - 16.3 **Construction Contract:** The agreement between the Owner and Contractor identified on the cover page, including all Contract Documents and all changes made to the agreement and the Contract Documents.
 - 16.4 **Owner Default:** Failure of the Owner, which has not been remedied or waived, to pay the Contractor as required under the Construction Contract or to perform and complete or comply with the other material terms of the Construction Contract.
 - 16.5 **Contract Documents:** All the documents that comprise the agreement between the Owner and Contractor.
8. The total amount due and unpaid to the Claimant for labor, materials, or equipment furnished as of the date of the Claim.
17. If this Bond is issued for an agreement between a contractor and subcontractor, the term Contractor in this Bond shall be deemed to be Subcontractor and the term Owner shall be deemed to be Contractor.
18. Modifications to this Bond are as follows:

CERTIFICATES OF INSURANCE

Document 00620

Insurance Certificates shall be provided and inserted immediately following this page.

END OF DOCUMENT

SUPPLEMENTARY CONDITIONS

Document 00800

These Supplementary Conditions amend or supplement the Contract (Document 00521) and other provisions of the Contract Documents as indicated below. All provisions which are not so amended or supplemented remain in full force and effect.

PRELIMINARY MATTERS - DEFINITIONS AND TERMINOLOGY

- 1) In addition, the term "Work" shall mean all services that MED requires the Contractor perform in execution of the Contract for the locating and marking of electric system underground facilities and One Call ticket/request management. Where "Work" appears within this document, it shall be understood to include all necessary labor, equipment, supplies, transportation and supervision to complete the assignment required of the Contractor.
 - a. "After Hours" means all hours outside of "Normal Working Hours" as defined below. This includes all "Calendar days" including Saturday, Sunday, and national and legal state holidays, and holidays observed by MED.
 - b. "Calendar day" means a twenty-four (24) hour period beginning with the date and time that a notification to excavate or demolish is to begin, including Monday through Sunday and all holidays.
 - c. "Conflict" in the context of underground facilities means MED underground facilities located with the proposed excavation location.
 - d. "Damage" includes the substantial weakening of structural or lateral support of an underground utility, penetration or destruction of any protective coating, housing or other protective device of an underground utility, the partial or complete severance of an underground utility and rendering any underground utility inaccessible.
 - e. "Demolish" or "demolition" means any operation by which a structure or mass of material is wrecked, razed, rendered, moved or removed by means of any tools, equipment, or discharge of explosives.
 - f. "Design locate request" means a communication to the One-Call service in which a request for locating existing utility facilities for pre-design or advance planning purposes is made.
 - g. "Equipment" shall mean the vehicles, facility locating equipment, computers, electronic tablets, and other apparatus which are owned and operated by the Contractor and which are required to be maintained by the Contractor for the performance of the Work.

- h. "Excavate" or "excavation":
 - i. Means an operation for the purpose of the movement, placement, or removal of earth, rock, or other materials in or on the ground by use of mechanized equipment or by discharge of explosives, and includes augering, backfilling, blasting, boring, digging, ditching, drilling, grading, pile-driving, plowing-in, pulling-in, ripping, scraping, sub-soiling, trenching, and tunneling; and
 - ii. Does not include:
 - 1. Pavement milling or pavement repair that does not exceed the depth of the existing base stone and pavement;
 - 2. Routine railroad maintenance activities, including removal and replacement of base material up to twenty-four inches (24") below the flow line of the ditch or ground surface of the railroad right-of-way adjacent to the existing track structure if the work is conducted by railroad employees or railroad contractors and is carried out with reasonable care so as to protect any installed underground facilities placed in the railroad right-of-way by agreement with the railroad;
 - 3. Routine road maintenance activities; and
 - 4. The tilling of soil for agricultural purposes or the digging of holes for fence posts on private property in any area that is not located within a recorded easement of an operator or that is not located within one hundred feet (100') of the edge of the pavement of a street or highway.
- i. "Excavator" means any person who engages in activities described in subdivisions (i) and (ii) in the definition of "excavate" contained in this section.
- j. "Identifiable and locatable" or "locatable" facility is defined as a facility whose presence is known and can be located with "Reasonable Accuracy" using electromagnetic (receiver or receiver and transmitter) devices designed to respond to the presence of such underground facilities.
- k. "Identifiable, but Un-locatable" or "Un-locatable" facility is defined as a facility whose presence is known but which cannot be located with "Reasonable Accuracy" using electromagnetic (receiver or receiver and transmitter) devices designed to respond to the presence of such underground facilities.
- l. "Impending emergency" means circumstances potentially dangerous to life, health, property, the environment or the repair or restoration of service, which would likely develop into an emergency, as defined in UUDPA TCA § 65-31-109, if excavation is not initiated within seventy-two (72) hours.
- m. "Locate Request" or "Locate Ticket" or "Ticket" or "Request" or "Work Assignment" means the request for locating underground utility facilities issued by the Tennessee One-Call Service, similar agency, or MED.
- n. "Location" or "Work Site" or "Site" means the proposed area for which digging or excavating is scheduled within three (3) to ten (10) working days, such area not to exceed two thousand feet (2,000') in length.

- o. "Mechanized equipment" means equipment operated by means of mechanical power including trenchers, bulldozers, power shovels, augers, backhoes, scrapers, drills, cable and pipe plows and other equipment used for plowing-in or pulling-in cable or pipe.
- p. "NESC" shall refer to the National Electric Safety Code governing the MED system at the time the work is performed.
- q. "Normal Working Hours" means the hours of 7:00 am to 5:00 pm inclusive, local time on a "Working Day".
- r. "One-Call Service" or "Tennessee One-Call" or "One-Call" means a telephone notification service described in the UUDPA TCA § 65-31-107 that provides services to its members for the purposes of receiving and distributing notification regarding planned excavations or demolitions.
- s. "Operator" means the Murfreesboro Electric Department, or other person that owns or operates a utility.
- t. "Person" means any individual; any corporation, partnership, association, or any other entity organized under the laws of any state; any subdivision or instrumentality of a state; and any employee, agent, or legal representative thereof.
- u. "Proposed area of excavation" means a general surface location which excavators are to furnish to operators of underground utilities or to a One-Call Service as defined in UUDPA TCA § 65-31-106. The proposed area of excavation does not constitute a specified depth.
- v. "Reasonable Accuracy" means industry standard tolerances of properly calibrated industry standard passive and active facilities locator equipment and within the excavator safe zones established by the UUDPA.
- w. "Routine road maintenance activities":
 - i. Means activities carried out by or for those responsible for publicly-maintained roadways if the activities:
 - 1. Occur entirely within the right-of-way of a public road, street, or highway;
 - 2. Are carried out with reasonable care so as to protect any utility-owned facilities and laterals placed in the right-of-way;
 - 3. Are carried out within the limits of any original excavation on the traveled way, shoulders, or drainage ditches of a public road, street, or highway, and do not exceed eighteen inches (18") in depth below the flow line of the ditch or the grade existing prior to the activities; and
 - 4. If involving the replacement of existing structures at a depth greater than eighteen inches (18"), replace those existing structures in their previous locations and at their previous depths; and

- ii. Does not include work on a roadway done pursuant to a contract awarded by a state or local government through a bid process for which plan drawings have been developed in advance;
- x. "Utility":
- i. Means any line, system, or facility used for producing, storing, conveying, transmitting, or distributing communications, electricity, gas, petroleum, petroleum products, hazardous liquids, water, steam, sewerage, and other underground facilities; and
 - ii. Does not include any railroad or the Tennessee department of transportation;
- y. "UUDPA": means the Underground Utility Damage Prevention Act, Tennessee Code Annotated, § 65-31-101.
- z. "Week" means a calendar week of 7 days measured from midnight Friday to the next Friday midnight.
- aa. "Willful noncompliance" means the intentional refusal or failure to perform, or comply with, a duty created or imposed by UUDPA or by rules promulgated pursuant to UUDPA.
- bb. "Work Assignments" shall mean individual tasks, "locate requests", "locate tickets", "tickets" and/or "requests" as assigned to the Contractor for completion within the stated time period for each assignment. The Contractor is responsible for crew personnel and equipment selection, means and methods to complete the Work Assignment.
- cc. "Working day" means every day, except Saturday, Sunday, and national and legal state holidays, and holidays observed by MED. For purposes of measuring any period of time that requires notice under this chapter, a working day shall commence at the time the written notice or telephone call is received and shall expire at the same time on the next working day.
- 2) Materials or Work described in words that have a well-known or recognized technical or trade meaning shall, when used in the Specification, be so interpreted.
- 3) Personnel classifications and/or qualifications described in words that have a well-known or recognized electrical utility, industry, technical, or trade meaning shall, when used in the Contract Documents, be so interpreted.
- 4) Reference in the Contract Documents to standard specifications, manuals, reference standards, or codes of any technical society, organization, or association, or to Laws or Regulations, whether such reference be specific or by implication, shall mean the standard specification, manual, reference standard, code, or Laws or Regulations in effect at the time of the Work Assignment, except as may be otherwise specifically stated in the Work Assignment.

ARTICLE 1 – DUTIES AND RESPONSIBILITIES OF CONTRACTOR

- 1) Contractor shall execute CONFIDENTIAL DISCLOSURE AGREEMENT, Document 0540 with the execution of the Contract.
 - a) In summary:
 - No Use. Contractor agrees not to use the Confidential Information in any way, except for the purpose of providing services related to the Contract.
 - No Disclosure. Contractor agrees to use its best efforts to prevent and protect the Confidential Information, or any part thereof, from disclosure to any person other than Contractor's employees having a need for disclosure in connection with Contractor's authorized use of the Confidential Information.
 - Protection of Secrecy. Contractor agrees to take all steps reasonably necessary to protect the secrecy of the Confidential Information, and to prevent the Confidential Information from falling into the public domain or into the possession of unauthorized persons.
- 2) Contractor agrees to receive all excavation notices (Requests, Tickets), directed to MED from any source, including requests generated through the Tennessee One-Call Center.
- 3) Contractor shall respond to and complete all locate requests in accordance with UUDPA, Tennessee Code Annotated, § 65-31-101 and all other applicable Federal, State, and local rules, regulations, and laws. This includes Locates designated as "Impending Emergency" and/or "Emergency" as defined in these Contract Documents and the UUDPA.
- 4) When requested by MED, Contractor shall attend on-site meeting with MED, excavator, or other entity. These Contractor services will be performed at the stipulated hourly rate.
- 5) Contractor agrees to perform the Services as promptly as possible and within schedule and time limits listed in the UUDPA, and to electronically close out all locate requests accordingly.
- 6) Contractor shall designate a single point of contact between Contractor and Customer to serve as liaison for receipt and distribution of Customer's underground facility maps, and other administrative issues.
- 7) Contractor shall maintain records of all requests for a period of Three (3) years, from the date of receipt.
- 8) The Contractor shall check all dimensions shown on the underground facilities maps and drawings given to the Contractor by MED, and shall notify MED of any discrepancy between the plans and the conditions at the job site or any error or omission in maps or drawings, which he may discover in the course of the Work.

- 9) The Contractor shall employ only personnel who are competent to perform the locate services assigned to them and adequately trained and experienced in locating underground electrical facilities. Training shall be based on the National Utility Locating Contractors Association (NULCA) Standards for Locating Technicians. Upon request MED may require the Contractor to furnish proof of competence through a record of work history of all employees. Failure to provide proof shall result in immediate dismissal of said employee from the locate services contract.
- 10) The Contractor shall be aware of and comply with all MED and NESC rules pertaining to work adjacent to electrical equipment.
- 11) All vehicles provided by the Contractor to perform the work shall bear the Contractor's vehicle number and shall be well marked and identified with its company insignia or name that designate the vehicles as property of the Contractor. MED will furnish magnetic signs for each vehicle stating "MED Contract Crew" that must be displayed on the vehicle while working for MED.
- 12) The Contractor shall not subcontract or assign to others any Work, Work Assignment, or portion of Work Assignment related to this Contract.
- 13) The Contractor is responsible for all business taxes/permits as may be required by the local and/or state laws and regulations.
- 14) The Contractor represents and warrants that it is familiar with and will comply at his expense with all Federal, State, and Local laws and regulations that govern the health and safety of persons performing the services. The failure by the Contractor to abide in all respects by all Federal, State, and Local laws and regulations, shall be cause for immediate cancellation of this Contract by MED. The Contractor shall furnish satisfactory proof of such upon request to the Director of Engineering or MED Inspector that such licenses and permits have been obtained.
- 15) The Contractor shall be familiar with all the specifications and restrictions embodied in the latest rules and regulations of the following: MED Safety Program and National Electric Safety Code (NESC).
- 16) The Contractor shall be responsible for furnishing sufficient and adequate tools and equipment, including all personal safety clothing, and supplies for the work to be performed.
- 17) At termination of this Agreement, Contractor agrees to reasonably cooperate with MED to effect an orderly transition of these locate services to successor Contractor.
 - a. Contractor agrees to return to MED all materials supplied to Contractor as described in these Contract Documents in a timely manner.
 - b. Contractor agrees to provide MED with all Locate Requests that have been received for which services have not been performed as of the date of termination.

- 18) Responsibilities for damaged MED facilities:
- a. The **Contractor shall be responsible for all damage** to “identifiable and locatable” underground facilities resulting from excavation when:
 - i. MED underground facilities at the excavation location have not been marked or not marked within the time schedule stated in the UUDPA or these specifications.
 - ii. MED underground facilities at the excavation location have been incorrectly, unclearly, or not marked in accordance with industry standards.
 - b. The **Contractor shall NOT be responsible for any damage** to MED underground facilities resulting from excavation when:
 - i. MED furnished system maps and/or drawings are incorrect as to location and type of underground facilities.
 - ii. MED underground facilities at the proposed excavation location have been correctly and clearly marked in accordance with industry standards and these specifications.
 - iii. MED underground facilities are “**identifiable and un-locatable**” with standard electromagnetic locator devices (receiver and transmitter). Contractor shall immediately (within one (1) Working Day) notify MED of “un-locatable” facilities.
- 19) In order to minimize disputes regarding claims for damage caused to MED facilities, **Contractor shall photograph each Locate Request after marking the proposed excavation location**. All photographs, as may be necessary to document the site, shall contain necessary information to confirm location and indicate all markings. Photograph(s) shall be “geo-tagged” with location information/metadata.

In the event of damage to MED underground facilities, failure to provide photographs with necessary detail to confirm Locate Request markings and location shall be considered as “FAILURE TO MARK THE UNDERGROUND FACILITIES AS REQUIRED BY THESE CONTRACT DOCUMENTS”.

ARTICLE 2 - RESERVED

ARTICLE 3 - DUTIES AND RESPONSIBILITIES OF MURFREESBORO ELECTRIC DEPARTMENT

- 1) MED designated representative shall issue all communications to Contractor.
- 2) MED agrees to instruct the One-Call Center to transmit Requests involving MED’s underground facilities directly to Contractor.
- 3) No alleged oral agreement, admission, condemnation or inadvertent neglect on the part of MED will be taken as an excuse for Work not in accordance with the

Contract or Work Assignment. Verbal instructions contrary to the Specifications when received from employees of MED, other than the Director of Engineering or the MED Inspector, shall not be binding upon MED in case of dispute.

- 4) MED will furnish the necessary system maps and/or drawings ("materials") for to allow the Contractor to complete Locate Requests. Should it appear that underground facilities are not sufficiently detailed or explained in the system maps and/or drawings, the Contractor shall apply to MED for such further explanations as may be necessary.
 - a) All materials supplied and/or disclosed to Contractor shall remain the property of MED and shall be treated as described in the CONFIDENTIAL DISCLOSURE AGREEMENT, Document 00540.
 - b) All materials shall be used only in the performance of this Contract and may not be used for any other purpose without written permission from MED.
- 5) Visits to Site
 - a) MED may make visits to Locate Request sites as MED deems necessary in order to observe the quality and performance of the Contractor's executed Locate Requests. Based on information obtained during such visits and observations, MED, will determine, in general, if the Work is proceeding in accordance with the Contract Documents. MED's efforts will be directed toward providing a greater degree of confidence that the completed Locate Requests will conform generally to the Contract Documents.
 - b) Particularly, but without limitation, during or as a result of MED's visits or observations of Contractor's Work, MED will not supervise, direct, control, or have authority over or be responsible for Contractor's means, methods, techniques, sequences, or procedures of work, or the safety precautions and programs incident thereto, or for any failure of Contractor to comply with Laws and Regulations applicable to the performance of the Work.
- 6) Decisions on Requirements of Contract Documents and Acceptability of Work
 - a) MED, or designated representative, shall have sole responsibility of investigation of all damage to MED facilities.
 - b) MED will render decisions regarding the requirements of the Contract Documents, and judge the acceptability of the Work, pursuant to the specific procedures set forth herein. **Decisions for responsibility for damaged facilities shall be made by solely by MED.** Damage decisions will be guided by Contractor provided photographic information available or lack of photographic information as stipulated in these Contract Documents.
 - c) MED will notify Contractor of any damage to MED underground facilities within two (2) Working Days of discovering said damage. A meeting will be scheduled to review details of the damage and photographs of the excavation location show the MED facilities markings.

- 7) Murfreesboro Electric Department is a governmental entity and cannot, under the laws of Tennessee: indemnify or hold a Bidder harmless; enter into binding arbitration; agree to submit to any jurisdiction outside the State of Tennessee; agree to confidentiality clauses that conflict with the Tennessee Public Records Act or the Open Meetings Act; or agree to any termination provisions that conflict with MED specifications.

ARTICLE 4 - TERM AND PROGRESS OF THE WORK

- 1) The Contractor is responsible for actual Work periods (time of Work), in accordance with the locate request schedule per the UUDPA TCA § 65-31-101.

ARTICLE 5 - PAYMENT

- 1) Basis for Payments:
 - a) Payments on account of Unit Price Work will be based on the number of units completed during the pay period.
 - b) Payments shall be made on a monthly basis.
- 2) Contractor Submittals:
 - a) Contractor shall submit Locate Request totals on a weekly basis, to MED through its Director of Engineering.
- 3) Applications for Payments:
 - a) Applications for Payment (billing invoice) shall be based on complete weekly time periods to allow matching to submitted weekly Locate Requests. Invoices covering time periods less than full week periods will not be accepted.
 - b) At least 20 days before the date established in the Agreement for each progress payment (but not more often than once a month), Contractor shall submit to MED for review an Application for Payment filled out and signed by Contractor covering the Work completed, up to the nearest full week, as of the date of the Application and accompanied by such supporting documentation as is required by the Contract Documents.
 - c) Beginning with the second Application for Payment, each Application shall include an affidavit of Contractor stating that all previous progress payments received on account of the Work have been applied on account to discharge Contractor's legitimate obligations associated with prior Applications for Payment.
 - d) MED shall reserve the right to change the method of payment at any time during the Contract upon thirty days' notice to the Contractor.

- e) Upon request, the Contractor shall submit to the Director of Engineering an Affidavit of Payment to its technicians.
- 4) Review of Applications:
- a) MED will, within 10 days after receipt of each Application for Payment, including each re-submittal, either approve payment or return the Application to Contractor indicating in writing MED's reasons for refusing payment. In the latter case, Contractor may make the necessary corrections and resubmit the Application.
 - b) Neither MED's review of Contractor's Work for the purposes of making payments nor final payment, will impose responsibility on MED:
 - i) to supervise, direct, or control the Work, or
 - ii) for the means, methods, techniques, sequences, or procedures of construction, or the safety precautions and programs incident thereto, or
 - iii) for Contractor's failure to comply with Laws and Regulations applicable to Contractor's performance of the Work, or
 - iv) to make any examination to ascertain how or for what purposes Contractor has used the money paid on account of the Contract Price, or
 - v) to determine that title to any of the Work, materials, or equipment has passed to MED free and clear of any Liens.
- 5) MED will make reductions in payment (set-offs) necessary in MED's opinion to protect from loss because:
- a) the Work is defective, requiring correction or remarking;
 - b) the Contract Price has been reduced by Change Orders;
 - c) MED has been required to correct defective Work or has accepted defective Work;
 - d) MED has actual knowledge of the occurrence of any of the events that would constitute a default by Contractor and therefore justify termination for cause under the Contract Documents.
- 6) Payment Becomes Due:
- a) Ten days after presentation of the Application for Payment to MED, the amount recommended (subject to any MED set-offs) will become due, and when due will be paid by MED to Contractor. Payments not made within 30 days shall be subject to interest as provided in the Contract.
- 7) Reductions in Payment by MED:
- a) In addition to any reductions in payment (set-offs), MED is entitled to impose a set-off against payment based on any of the following:
 - i) claims have been made against MED on account of Contractor's conduct in the performance or furnishing of the Work, or MED has incurred costs,

- losses, or damages on account of Contractor's conduct in the performance or furnishing of the Work, including but not limited to claims, costs, losses, or damages from workplace injuries, adjacent property damage, non-compliance with Laws and Regulations, and patent infringement;
- ii) Contractor has failed to provide and maintain required bonds or insurance;
 - iii) an event that would constitute a default by Contractor and therefore justify a termination for cause has occurred;
 - iv) Liens have been filed in connection with the Work, except where Contractor has delivered a specific bond satisfactory to MED to secure the satisfaction and discharge of such Liens;
 - v) there are other items entitling MED to a set off against the amount recommended.
- b) If MED imposes any set-off against payment, MED will give Contractor immediate written notice stating the reasons for such action and the specific amount of the reduction, and promptly pay Contractor any amount remaining after deduction of the amount so withheld. MED shall promptly pay Contractor the amount so withheld, or any adjustment thereto agreed to by MED and Contractor, if Contractor remedies the reasons for such action. The reduction imposed shall be binding on Contractor unless it duly submits a Change Proposal contesting the reduction.
- c) Upon a subsequent determination that MED's refusal of payment was not justified, the amount wrongfully withheld shall be treated as an amount due and subject to interest as provided in the Contract.

8) Claims:

- a) If at any time during the course of the scope of work there are claims for damage for which MED might be alleged liable and which is chargeable to the Contractor, then upon thirty (30) days written notice by MED to the Contractor, MED shall have the right to retain out of any payment then due or thereafter to become due, an amount sufficient for complete indemnification against the claim. In the event, MED has already paid the Contractor or the balance remaining unpaid is insufficient to protect MED, the Contractor and the Contractor's surety shall be liable to MED for any loss sustained.
- b) The written notice to the Contractor shall provide sufficient detail to enable the Contractor to investigate the matter and respond to the MED Director of Engineering or his designee thirty (30) days from the date of the furnishing of said notice.
- c) All claims shall be referred initially to the MED Director of Engineering or designee to decide whether they are chargeable to the Contractor. An initial decision by the MED Inspector shall be required as a condition precedent to MED retention from payments due or to become due the Contractor for indemnification against the claims.

ARTICLE 6 - PRICE

MED is exempt from State, Sales and Use Taxes on materials, equipment, and labor to be incorporated into the Work. Said taxes shall not be included in the Contract Price.

ARTICLE 7 - TERMINATION - BREACH

- No Amendments

ARTICLE 8 - TERMINATION AND SUSPENSION OF WORK

- No Amendments

ARTICLE 9 - TERMINATION - NOTICE

- No Amendments

ARTICLE 10 - COMPLIANCE WITH LAWS

The Contractor shall remain in full compliance with the Underground Utility Damage Prevention Act, UUDPA, TCA § 65-31-101.

ARTICLE 11 - MAINTENANCE OF RECORDS

- No Amendments

ARTICLE 12 - MODIFICATION OF CONTRACT

- No Amendments

ARTICLE 13 - PARTNERSHIP/JOINT VENTURE

- No Amendments

ARTICLE 14 - WAIVER

- No Amendments

ARTICLE 15 - EMPLOYMENT

- No Amendments

ARTICLE 16 - NON-DISCRIMINATION

- No Amendments

ARTICLE 17 - INDEMNIFICATION AND HOLD HARMLESS

- No Amendments

ARTICLE 18 – INSURANCE AND BONDS

- 1) All insurance policies required by the Contractor shall name as Additional Insured:
 - a. **Murfreesboro Electric Department**
 - b. **City of Murfreesboro, Tennessee**

- 2) All required Bonds shall name as the "Owner":
 - a. **Murfreesboro Electric Department**
 - b. **City of Murfreesboro, Tennessee**

- 3) Insurance certificates for all insurance policies required by the Contractor shall be provided annually without specific request from the MED. Insurance certificates shall prominently indicate the names of the additional insured.

- 4) The Contractor shall provide copies of the Additional Insured endorsement annually without specific request from the MED.

- 5) All Policies shall include a waiver of subrogation against the MED.

- 6) Contractor’s Commercial General Liability insurance shall be on a Policy Basis.

- 7) Contractor’s Commercial General Liability insurance for Joint Ventures shall be written on a both Joint and Several Basis.

- 8) The limits of liability for the insurance shall provide coverage for not less than the following amounts or greater where required by Laws and Regulations:

a)	Workers’ Compensation, and related coverages:	
	State:	<u>Statutory</u>
	Federal, if applicable:	<u>Statutory</u>
	Bodily injury/disease aggregate	\$ <u>1,000,000</u>
b)	Contractor’s Commercial General Liability:	
	General Aggregate	\$ <u>2,000,000</u>
	Products - Completed Operations Aggregate	\$ <u>2,000,000</u>
	Personal and Advertising Injury	\$ <u>1,000,000</u>
c)	Automobile Liability :	
	Combined Single Limit of	\$ <u>1,000,000</u>

9)	Bonds:		
	a)	Performance Bond:	
		Performance Bond	\$ 100,000
		Payment Bond	\$ 100,000

ARTICLE 19 ATTORNEY FEES

- No Amendments

ARTICLE 20 ASSIGNMENT – CONSENT REQUIRED

- No Amendments

ARTICLE 21 ENTIRE CONTRACT

- No Amendments

ARTICLE 22 FORCE MAJEURE

- No Amendments

ARTICLE 23 GOVERNING LAW

- No Amendments

ARTICLE 24 VENUE

- No Amendments

ARTICLE 25 SEVERABILITY

- No Amendments

ARTICLE 26 NOTICES

- No Amendments

ARTICLE 27 EFFECTIVE DATE

- No Amendments

END OF DOCUMENT

DRUG-FREE WORKPLACE AFFIDAVIT

Document 00822

(must be attached to bid form upon submission)

STATE OF TENNESSEE
COUNTY OF _____)

DRUG-FREE WORKPLACE AFFIDAVIT
OF PRIME BIDDER

NOW COMES AFFIANT, who being duly sworn, deposes and says:

1. He/She is the principal officer for _____;
(insert name and address of bidding entity)

2. That the bidding entity has submitted a bid to:

Murfreesboro Electric Department
Murfreesboro, Tennessee

for the maintenance and construction of electric transmission and distribution system facilities at various locations within the MED service area.

3. That the bidding entity employs no less than five (5) employees;

4. That Affiant certifies that the bidding entity has in effect, at the time of submission of its bid to perform the construction referred to above, a drug-free workplace program that complies with §50-9-113, *Tennessee Code Annotated*;

5. That this affidavit is made on personal knowledge.

Further Affiant saith not.

Company Name

Affiant's Signature

Title: _____

Sworn to and subscribed before me on this
_____ day of _____, _____.

Notary Public

My Commission expires: _____

ADDENDA

Document 00900

1. INTERPRETATIONS - ADDENDA

- A. Interpretations and Addenda for questions concerning the meaning or intent of the Contract Documents and response of these will be made through the issuing of Addenda.
- B. All Addenda are incorporated, by reference, into the Contract. Failure of any Bidder or sub-bidder to receive any addenda shall not relieve the Bidder of any obligation with respect to his Bid.
- C. All Addenda and modifications to the Contract Documents shall be inserted and indexed numerically in this location behind this page and coordinated as instructed in each Addendum.

END OF DOCUMENT

**UNDERGROUND ELECTRIC FACILITIES
LOCATION AND MARKING
SECTION 02018**

PART 1. GENERAL

1.01 SECTION INCLUDES

- A. Location and marking of MED underground electric system facilities.
- B. Coordination and management of Locate Requests issued by the Tennessee One-Call system.
- C. Conformance with the Underground Utilities Damage Prevention Act (UUDPA), Tennessee Code Annotated – TCA § 65-31-101.

1.02 RELATED SECTIONS

- A. PROPOSAL DOCUMENTS, CONTRACT DOCUMENTS AND SUPPLEMENTARY CONDITIONS: These shall apply to all work included in this section.

1.03 REFERENCE DOCUMENTS

- A. Tennessee Code Annotated – (TCA) § 65-31-101, Underground Utilities Damage Prevention Act (UUDPA).
- B. Common Ground Alliance (CGA), Best Practices, Appendix B, Uniform Color Code & Marking Guidelines.

1.04 DEFINITIONS

- A. Definitions of terms used in this section shall be as described in the SUPPLEMENTARY CONDITIONS, Document 00800.

PART 2. PRODUCTS

2.01 FACILITY MARKING MATERIALS

- A. Marking paint, stakes, flags, and other marking materials shall be suitable for the purpose matching standard underground facility locating practices.
- B. Color of marking materials shall match APWA color code standards (ANSI Z735.1) for the facility type.
- C. MED Electric System Facilities shall be marked with “Safety Red” color code paint, stakes, flags, or other applicable marking materials.
- D. MED Fiber Optic System Facilities shall be marked with “Safety Alert Orange” color code paint, stakes, flags, or other applicable marking materials.

PART 3. EXECUTION

3.01 GENERAL

- A. Contractor shall respond to and complete all locate requests in accordance with the UUDPA and all other applicable Federal, State, and Local rules, regulations, and laws.
- B. Contractor shall perform the Services promptly and in accordance with the time schedules listed in the UUDPA.
- C. All Services shall be performed in a good and workman-like manner and in accordance with all applicable laws, regulations and ordinances, and shall comply with the latest revision of the locating procedures adopted and approved by the National Utility Locating Contractor's Association (NULCA).
- D. All conflicts shall be marked as described in the CGA Best Practices, Appendix B, Uniform Color Code & Marking Guidelines.
- E. Marking designations:
 - 1. MED Electric System facilities shall be marked in RED.
 - 2. "Locates" on the property of Middle Tennessee State University shall be marked in RED with "MED" noted prominently.
 - 3. MED Fiber Optic System Facilities shall be marked in ORANGE with "MED-FO" noted prominently.
 - 4. Where MED facility maps (existing and proposed map layers) and excavation site observation indicates no apparent conflict, Contractor shall mark "NO MED".
- F. Contractor shall use paint, flags, or stakes as necessary or as required by the proposed excavation site, to identify the location of MED's facilities. Such markings shall be placed at reasonable distances and adequately mark beginning and end point of facilities including duct banks, manholes, and vaults.
 - 1. "Excavation Site" or "Location" or "Work Site" or "Site" means the proposed area for which digging or excavating is scheduled within three (3) to ten (10) working days, such area not to exceed two thousand feet (2,000') in length.
 - 2. Maximum separation of markings along a continuous excavation line shall be 25 feet.
 - 3. Maximum separation of marking on long locates shall not exceed 100 feet with "MED" prominently noted in markings.
- G. Standard locating procedures shall use electromagnetic location equipment including receivers and transmitters to locate energized and de-energized electric facilities.

- H. Contractor shall, for each locate request, review the MED's underground facility maps, drawings, or other materials provided for the purpose and **physically observe each proposed excavation site** to determine if any conflict between the proposed excavation and MED's facilities exists.
- I. Contractor shall immediately contact MED should physical site observation reveal possible MED facilities that are not shown on MED underground facility maps or appear to different than indicated on the MED underground facility maps and/or drawings.
- J. Contractor shall not mark or otherwise provide information related to the depth of any underground facilities.
- K. In the event Contractor encounters any MED underground facilities that are "Identifiable, but Un-locatable", Contractor shall notify MED after having exhausted reasonable efforts to locate such facility with electromagnetic locator receiver or receiver with transmitter adjacent to or in contact with electric system facilities including cabinets, transformers, and similar equipment. MED will either schedule a time to assist Contractor in connecting the transmitter to electric facilities or complete said locates at no cost to Contractor.

If an on-site meeting to connect transmitter is scheduled, the Contractor's "second trip" to the site may be invoiced to MED as an additional "Locate Request".

- L. After marking of located facilities or marking "**NO MED**", Contractor shall photograph site and markings as necessary to adequately identify site location and all MED facility markings. Photographs may be of low resolution but shall be adequate to identify markings. Photographs shall be "geo-tagged" as to site location.

3.02 LOCATE REQUEST TICKET MANAGEMENT

- A. The Contractor shall provide complete Locate Request Ticket management services. Ticket management services shall comply with all aspects of TCA § 65-31-101, Underground Utility Damage Prevention Act.
- B. Contractor shall close out all locate requests within 24 hours of completing locate request. Close out of locate request shall be in the format, manner, and time schedule prescribed by UUDPA.
- C. Contractor shall add comments to Close-Out of Requests, as appropriate, to make note of any and all abnormalities and observations for the specific Locate Request.
- D. At the completion of the Locate Request, the Contractor shall send an email to the "requester" of the Locate with completion time and any notes/comments related to the Locate Request.
- E. Contractor shall provide website services to allow MED to review all Locate Tickets and progress of the Work.

END OF SECTION