

**RESOLUTION**

**WHEREAS**, Rutherford County has received a contract from the Tennessee Department of Transportation in the amount of Thirty Three Thousand Seven Hundred Eighty Five Dollars (\$33,785.00), for the removal of litter on certain State highways within Rutherford County.

**THEREFORE BE IT RESOLVED** by the Rutherford County Board of Commissioners that the County Mayor and all other appropriate officials of Rutherford County, Tennessee be, and are hereby authorized, to execute a contract with the Tennessee Department of Transportation for the period of July 1, 2015 through June 30, 2016, a copy of the same being attached hereto as "Exhibit 1" and incorporated herein by reference as if set forth herein at length verbatim, for the removal of litter on certain State highways within Rutherford County in the amount of Thirty Three Thousand Seven Hundred Eighty Five Dollars (\$33,785.00).

**RESOLVED** this 11<sup>th</sup> day of June, 2015.

RUTHERFORD COUNTY, TN

BY: \_\_\_\_\_  
ERNEST G. BURGESS, Chairman

**ATTEST:**

\_\_\_\_\_  
LISA CROWELL, County Clerk

**STATE OF TENNESSEE**  
**DEPARTMENT OF TRANSPORTATION**  
**CONTRACT – COUNTY OF RUTHERFORD**

**PROJECT NO. TBD**

**CONTRACT NO. - CMA1653**

**FISCAL YEAR - 2015-2016**

**CONTRACT  
BETWEEN THE STATE OF TENNESSEE,  
DEPARTMENT OF TRANSPORTATION  
AND  
COUNTY OF RUTHERFORD**

This Contract, by and between the State of Tennessee, Department of Transportation, hereinafter referred to as the "Department" and **COUNTY OF RUTHERFORD**, hereinafter referred to as the "Agency" is for the provision of a **special agreement for litter removal on State Routes**, as further defined in the "SCOPE OF SERVICES."

Contract #:1653

**A. SCOPE OF SERVICES:**

- A.1. The Agency shall provide all service and deliverables as required, described, and detailed herein and shall meet all service and delivery timelines as specified by this Contract.
- A.2. Tenn. Code Ann. § 54-16-106 provides that the highway authorities of the state, counties, cities, and town are authorized to enter into agreements with each other respecting the improvement and maintenance of controlled-access facilities, defined by Tenn. Code Ann. § 54-16-101 as a highway or street specially designed for through traffic, and over, from or to which owners or occupants of abutting land or other persons have no right or easement of access from abutting properties.
- A.3. Tenn. Code Ann. § 54-5-139 provides that the Department may enter into a contract with a qualified county to perform maintenance activities upon the rights-of-way of state highways located outside of municipalities and metropolitan governments; and, that the reimbursement shall be on an actual cost basis.
- A.4. The Department is hereby contracting with the Agency for the improvements and maintenance specified in Attachment, "Exhibit A" titled "Guidelines Covering Maintenance of State Highways through a County," attached and incorporated hereto as part of this Contract.

**B. CONTRACT PERIOD:**

This Contract shall be effective for the period beginning **July 1, 2015** and ending on **June 30, 2016**. The Agency hereby acknowledges and affirms that the Department shall have no obligation for services rendered by the Agency which were not performed within this specified contract period.

**C. PAYMENT TERMS AND CONDITIONS:**

- C.1. Maximum Liability. In no event shall the maximum liability of the Department under this Contract exceed **Thirty Three Thousand, Seven Hundred Eighty Five Dollars, ( \$ 33,785.00)**. The payment rates in Section C.3 shall constitute the entire compensation due the Agency for all service and Agency obligations hereunder regardless of the difficulty, materials or equipment required. The payment rates include, but are not limited to, all applicable taxes, fees, overheads, and all other direct and indirect costs incurred or to be incurred by the Agency.

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

- C.2. Compensation Firm. The payment rates and the maximum liability of the Department under this Contract are firm for the duration of the Contract and are not subject to escalation for any reason unless amended.
- C.3. Payment Methodology. The Agency shall be compensated based on the payment rates herein for units of service authorized by the Department in a total amount not to exceed the Contract Maximum Liability established in Section C.1.
- a. The Agency's compensation shall be contingent upon the satisfactory completion of units, milestones, or increments of service defined in Section A.
  - b. The Agency shall be compensated for said units, milestones, or increments of service based upon the payment rates provided in Attachments "Exhibit A" titled "Guidelines Covering Maintenance of State Highways through a County," attached and incorporated hereto as part of this Contract.
- C.4. Travel Compensation. The Agency shall not be compensated or reimbursed for travel, meals, or lodging.
- C.5. Invoice Requirements. The Agency shall invoice the Department only for completed increments of service and for the amount stipulated in Section C.3, above, and present said sworn invoices within the time specified in Section C.6 below and no more often than monthly, with all necessary supporting documentation, to:

**TN Department of Transportation  
2099 Fayetteville Hwy  
Belfast, TN 37019**

- a. Each invoice shall clearly and accurately detail at a minimum all of the following required information (calculations must be extended and totaled correctly).
  - (1) Invoice Number (assigned by the Agency);
  - (2) Invoice Date;
  - (3) Contract Number (assigned by the Department);
  - (4) Customer Account Name: Tennessee Department of Transportation, Maintenance Division;
  - (5) Customer Account Number (assigned by the Agency to the above-referenced Customer);
  - (6) Agency Name;
  - (7) Agency Tennessee Edison Registration ID Number;
  - (8) Agency Contact for Invoice Questions (name, phone, and/or fax);
  - (9) Agency Remittance Address;
  - (10) Description of Delivered Service that shall detail the work performed by activity, including the quantified units of measure as identified in the Attachments, and work location that corresponds to the request for reimbursement of each activity submitted;
  - (11) Complete Itemization of Charges, which shall detail the following:
    - i. Service or Milestone Description (including name & title as applicable) of each service invoiced,
    - ii. Number of Completed Units of Measure as applicable for each service invoiced, as provided in Exhibit A,
    - iii. Applicable Payment Rate (as stipulated in Section C.3.) of each service invoiced,
    - iv. Amount Due by Service, and
    - v. Total Amount Due for the invoice period; and
  - (12) Any further information requested by the Department.

- b. The Agency understands and agrees that an invoice under this Contract shall:
- (1) include only charges for service described in Contract Section A and Exhibit A, and in accordance with payment terms and conditions set forth in Contract Section C;
  - (2) only be submitted for completed service and shall not include any charge for future work;
  - (3) not include sales tax or shipping charges; and
  - (4) initiate the timeframe for payment only when the Department is in receipt of the invoice, and the invoice meets the minimum requirements of this Section C.5.

C.6. Timely Invoice. The amount(s) per compensable increment (detailed in Section C.3) shall be contingent upon the Department's receipt of an invoice (as required in Section C.5.) for said service(s) within sixty (60) days after the end of the calendar month in which the service(s) were rendered. At the sole discretion of the Department, the amount per compensable increment of any service for which the Department receives an invoice later than prescribed herein shall be subject to a reduction in amount of up to 100%. In the case of an untimely invoice, before any payment will be considered by the Department, the Agency must submit a written request regarding the untimely invoice, which shall detail the reason the invoice is untimely as well as the Agency's plan for submitting all future invoices no later than prescribed herein, and it must be signed by an individual empowered to bind the Agency to this Contract.

C.7. Payment of Invoice. A payment by the Department shall not prejudice the Department's right to object to or question any payment, invoice, or matter in relation thereto. A payment by the Department shall not be construed as acceptance of any part of the work or service provided or as approval of any amount invoiced.

C.8. Invoice Reductions. The Agency's invoice shall be subject to reduction for amounts included in any invoice or payment theretofore made which are determined by the Department, on the basis of audits conducted in accordance with the terms of this Contract, not to constitute proper remuneration for compensable services.

C.9. Deductions. The Department reserves the right to deduct from amounts, which are or shall become due and payable to the Agency under this or any contract between the Agency and the State of Tennessee any amounts, which are or shall become due and payable to the State of Tennessee by the Agency.

C.10. Prerequisite Documentation. The Agency shall not invoice the Department under this Contract until the Department has received the following documentation properly completed.

- a. The Agency shall complete, sign, and present to the Department an "Authorization Agreement for Automatic Deposit (ACH Credits) Form" provided by the Department. By doing so, the Agency acknowledges and agrees that, once said form is received by the Department, all payments to the Agency, under this or any other contract the Agency has with the State of Tennessee shall be made by Automated Clearing House (ACH).
- b. The Agency shall complete, sign, and present to the Department a "Substitute W-9 Form" provided by the Department. The taxpayer identification number detailed by said form must agree with the Agency's Federal Employer Identification Number or Tennessee Edison Registration ID referenced in this Contract.

**D. STANDARD TERMS AND CONDITIONS:**

D.1. Required Approvals. The Department is not bound by this Contract until it is signed by the contract parties.

D.2. Modification and Amendment. This Contract may be modified only by a written amendment signed by all parties hereto and approved by both the officials who approved the base contract

and, depending upon the specifics of the contract as amended, any additional officials required by Tennessee laws and regulations.

- D.3. Termination for Convenience. The Department may terminate this Contract without cause for any reason. Said termination shall not be deemed a breach of contract by the Department. The Department shall give the Agency at least thirty (30) days written notice before the effective termination date. The Agency shall be entitled to compensation for satisfactory, authorized service completed as of the termination date, but in no event shall the Department be liable to the Agency for compensation for any service which has not been rendered. Upon such termination, the Agency shall have no right to any actual general, special, incidental, consequential, or any other damages whatsoever of any description or amount.
- D.4. Termination for Cause. If the Agency fails to properly perform its obligations under this Contract in a timely or proper manner, or if the Agency violates any terms of this Contract, the Department shall have the right to immediately terminate the Contract and withhold payments in excess of fair compensation for completed services. Notwithstanding the above, the Agency shall not be relieved of liability to the Department for damages sustained by virtue of any breach of this Contract by the Agency.
- D.5. Subcontracting. The Agency shall not assign this Contract or enter into a subcontract for any of the services performed under this Contract without obtaining the prior written approval of the Department. If such subcontracts are approved by the Department, each shall contain, at a minimum, sections of this Contract pertaining to "Conflicts of Interest," "Nondiscrimination," "Records," "Monitoring," and "State and Federal Requirements," (as identified by the section headings). Notwithstanding any use of approved subcontractors, the Agency shall be the prime contractor and shall be responsible for all work performed.
- D.6. Conflicts of Interest. The Agency warrants that no part of the total Contract amount shall be paid directly or indirectly to an employee or official of the State of Tennessee as wages, compensation, or gifts in exchange for acting as an officer, agent, employee, subcontractor, or consultant to the Agency in connection with any work contemplated or performed relative to this Contract.
- D.7. Nondiscrimination. The Agency hereby agrees, warrants, and assures that no person shall be excluded from participation in, be denied benefits of, or be otherwise subjected to discrimination in the performance of this Contract or in the employment practices of the Agency on the grounds of handicap or disability, age, race, color, religion, sex, national origin, or any other classification protected by Federal, Tennessee State constitutional, or statutory law. The Agency shall, upon request, show proof of such nondiscrimination and shall post in conspicuous places, available to all employees and applicants, notices of nondiscrimination.
- D.8. Records. The Agency shall maintain documentation for all charges under this Contract. The books, records, and documents of the Agency, insofar as they relate to work performed or money received under this Contract, shall be maintained for a period of three (3) full years from the date of the final payment and shall be subject to audit at any reasonable time and upon reasonable notice by the Department, the Comptroller of the Treasury, or their duly appointed representatives. The financial statements shall be prepared in accordance with generally accepted accounting principles.
- D.9. Monitoring. The Agency's activities conducted and records maintained pursuant to this Contract shall be subject to monitoring and evaluation by the Department, the Comptroller of the Treasury, or their duly appointed representatives.
- D.10. Progress Reports. The Agency shall submit brief, periodic, progress reports to the Department as requested.
- D.11. Strict Performance. Failure by any party to this Contract to insist in any one or more cases upon the strict performance of any of the terms, covenants, conditions, or provisions of this Contract shall not be construed as a waiver or relinquishment of any such term, covenant, condition, or

provision. No term or condition of this Contract shall be held to be waived, modified, or deleted except by a written amendment signed by the parties hereto.

- D.12. Independent Contractor. The parties hereto, in the performance of this Contract, shall not act as employees, partners, joint venturers, or associates of one another. It is expressly acknowledged by the parties hereto that such parties are independent contracting entities and that nothing in this Contract shall be construed to create a employer/employee relationship or to allow either to exercise control or direction over the manner or method by which the other transacts its business affairs or provides its usual services. The employees or agents of one party shall not be deemed or construed to be the employees or agents of the other party for any purpose whatsoever.

The Agency, being a Tennessee governmental entity, is governed by the provisions of the Tennessee Government Tort Liability Act, *Tennessee Code Annotated*, Sections 29-20-101 *et seq.*, for causes of action sounding in tort. Further, no contract provision requiring a Tennessee political entity to indemnify or hold harmless the Department beyond the liability imposed by law is enforceable because it appropriates public money and nullifies governmental immunity without the authorization of the General Assembly.

- D.13. Department Liability. The Department shall have no liability except as specifically provided in this Contract. The Department does not assume any liability for damages caused to persons or property by reason of the Agency performance of this Contract, The Department assumes no liability for injury to any person or employees of the Agency performing work under this Contract.
- D.14. Force Majeure. The obligations of the parties to this Contract are subject to prevention by causes beyond the parties' control that could not be avoided by the exercise of due care including, but not limited to, natural disasters, riots, wars, epidemics, or any other similar cause.
- D.15. State and Federal Compliance. The Agency shall comply with all applicable State and Federal laws and regulations in the performance of this Contract.
- D.16. Governing Law. This Contract shall be governed by and construed in accordance with the laws of the State of Tennessee. The Agency agrees that it will be subject to the exclusive jurisdiction of the courts of the State of Tennessee in actions that may arise under this Contract. The Agency acknowledges and agrees that any rights or claims against the State of Tennessee or its employees hereunder, and any remedies arising therefrom, shall be subject to and limited to those rights and remedies, if any, available under *Tennessee Code Annotated*, Sections 9-8-101 through 9-8-407.
- D.17. Completeness. This Contract is complete and contains the entire understanding between the parties relating to the subject matter contained herein, including all the terms and conditions of the parties' agreement. This Contract supersedes any and all prior understandings, representations, negotiations, and agreements between the parties relating hereto, whether written or oral.
- D.18. Severability. If any terms and conditions of this Contract are held to be invalid or unenforceable as a matter of law, the other terms and conditions hereof shall not be affected thereby and shall remain in full force and effect. To this end, the terms and conditions of this Contract are declared severable.
- D.19. Headings. Section headings of this Contract are for reference purposes only and shall not be construed as part of this Contract.

**E. SPECIAL TERMS AND CONDITIONS:**

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

E.2. Communications and Contacts. All instructions, notices, consents, demands, or other communications required or contemplated by this Contract shall be in writing and shall be made

by certified, first class mail, return receipt requested and postage prepaid, by overnight courier service with an asset tracking system, or by EMAIL or facsimile transmission with recipient confirmation. Any such communications, regardless of method of transmission, shall be addressed to the respective party at the appropriate mailing address, facsimile number, or EMAIL address as set forth below or to that of such other party or address, as may be hereafter specified by written notice.

The Department:

**Lee Bogle, TDOT Operations District Supervisor**  
**State of Tennessee Department of Transportation**  
**2099 Fayetteville Hwy, Belfast 37019**  
**ernest.bogle@tn.gov**  
**Telephone # 931.276.2219**  
**Fax # 931.276.2333**

The Agency:

**Benard Salandy, Superintendent**  
**Rutherford County Correctional Work Center**  
**1720 South Church Street**  
**Murfreesboro, TN 37130**  
**Telephone # 615.898.7847**  
**Fax # 615.898.7837**

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

- E.3. Subject to Funds Availability. The Contract is subject to the appropriation and availability of State of Tennessee and/or Federal funds. In the event that the funds are not appropriated or are otherwise unavailable, the Department reserves the right to terminate the Contract upon written notice to the Agency. Said termination shall not be deemed a breach of Contract by the Department. Upon receipt of the written notice, the Agency shall cease all work associated with the Contract. Should such an event occur, the Agency shall be entitled to compensation for all satisfactory and authorized services completed as of the termination date. Upon such termination, the Agency shall have no right to recover from the Department any actual, general, special, incidental, consequential, or any other damages whatsoever of any description or amount.
- E.4. MUTCD. In accordance with Tenn. Code Ann. 54-5-108, the Agency shall conform to and act in accordance with the current edition of the Manual on Uniform Traffic Control Devices (MUTCD) as adopted by rules of the Department. Particularly, the Agency shall sign work-zones associated with this Contract in accordance with the aforesaid MUTCD.
- E. 5. Maintenance. Nothing contained in this Contract shall change the maintenance obligations governed by the laws of the State of Tennessee, it being the intent of this Contract not to enlarge the present maintenance obligations of the Department.

IN WITNESS WHEREOF,

COUNTY OF RUTHERFORD:

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AGENCY SIGNATURE

DATE

---

PRINTED NAME AND TITLE OF AGENCY SIGNATORY (above)

APPROVED AS TO FORM AND LEGALITY

---

AGENCY ATTORNEY SIGNATURE

DATE

STATE OF TENNESSEE DEPARTMENT OF TRANSPORTATION:

---

JOHN SCHROER, COMMISSIONER

DATE

APPROVED AS TO FORM AND LEGALITY

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DEPARTMENT GENERAL COUNSEL

GUIDELINES COVERING MAINTENANCE  
OF STATE HIGHWAYS THROUGH RUTHERFORD COUNTY

The following items where applicable are eligible for reimbursement by the Department to the Agency under the Standard Maintenance Agreement:

<b>Activity</b>	<b>Maintenance Work Type</b>	<b>Unit Of Measure</b>
441	Litter Removal	Roadway Miles

Litter Removal Work shall consist of removal of litter from the entire highway rights-of-way where accessible (fence to fence where applicable), including shoulders and excluding the travel lanes on interstate and state routes as detailed below.

**INVENTORY OF ELIGIBLE LITTER REMOVAL FOR THE MAINTENANCE  
OF STATE HIGHWAYS THROUGH RUTHERFORD COUNTY**

The following Table itemizes the eligible length of litter removal in linear miles which will be maintained by the Agency under the terms of this contract. The Department agrees to reimburse said Agency in the amount actually expended for litter removal, not to exceed the number of cycles and the price per linear mile as detailed below.

**Rutherford Co. - Litter**

Calculated Maximum Reimbursement (Litter): \$ 33,785.00

<b>Litter Inventory Worksheet</b>										
Route Number	Roadway Type	Beginning Termini (LM)	Ending Termini (LM)	Segment Length (mi.)	Litter Pass Miles Per Segment	Segment Total Litter (mi.)	Price per Litter Mile	Number of Litter Cycles	Contract Segment Total Litter (mi.)	Contract Segment Total Litter (\$)
SR 1	2A	Murfreesboro City Limits	Cannon Co. Line	10.84	1	10.84	\$ 46.50	6	65.04	3024.36
SR 10	1G	Bedford Co. Line	Murfreesboro City Limits	10.59	1	10.59	\$ 46.50	6	63.54	2954.61
SR 10	1B	Murfreesboro City Limits	Wilson Co. Line	7.95	1	7.95	\$ 46.50	6	47.7	2218.05
SR 11	1C	Williamson Co. Line	Williamson Co. Line	2.57	1	2.57	\$ 46.50	6	15.42	717.03
SR 16	1C	Williamson Co. Line	Bedford Co. Line	6.52	1	6.52	\$ 46.50	6	39.12	1819.08
SR 96	1C	Williamson Co. Line	Murfreesboro City Limits	9.12	1	9.12	\$ 46.50	6	54.72	2544.48
SR 96	1C	Murfreesboro City Limits	Cannon Co. Line	13.94	1	13.94	\$ 46.50	6	83.64	3889.26
SR 2	1C	Murfreesboro City Limits	Coffee Co. Line	15.02	1	15.02	\$ 46.50	4	60.08	2793.72
SR 99	1C	Marshall Co. Line	JCT SR 16	2.33	1	2.33	\$ 46.50	4	9.32	433.38
SR 99	1B	JCT SR 16	Murfreesboro City Limits	16.19	1	16.19	\$ 46.50	4	64.76	3011.34
SR 99	1B	Murfreesboro City Limits	Cannon Co. Line	11.4	1	11.4	\$ 46.50	4	45.6	2120.4
SR 102	1B	SR 96	Smyrna City Limits	7.38	1	7.38	\$ 46.50	4	29.52	1372.68
SR 266	1B	Smyrna City Limits	SR 96	13.57	1	13.57	\$ 46.50	4	54.28	2524.02
SR 266	1B	SR 96	Wilson Co. Line	3.03	1	3.03	\$ 46.50	4	12.12	563.58
SR 268	1C	Murfreesboro City Limits	SR 96	1.38	1	1.38	\$ 46.50	4	5.52	256.68
SR 269	1A	SR 11	SR 16	2.64	1	2.64	\$ 46.50	4	10.56	491.04
SR 269	1B	SR 99	SR 10	9.9	1	9.9	\$ 46.50	4	39.6	1841.4
SR 269	1B	SR 10	Bedford Co. Line	6.5	1	6.5	\$ 46.50	4	26	1209
<b>Total Contract Litter (mi.):</b>									<b>726.54</b>	<b>\$ 33,784.11</b>