TENNESSEE TECHNOLOGICAL UNIVERSITY
OFFICE OF BUSINESS SERVICES
FACILITIES AND BUSINESS SERVICES BUILDING
P.O. Box 5041, 220 W. 10th St.
Cookeville, TN 38505-0001
Phone (931) 372-3451 Fax (931) 372-3727
www.tntech.edu/purchasing

PURCHASE ORDER

PO Number: P0000690
Issue Date: 11/02/07
Page No: 1
Delivery Date: 

ISSUED TO: Earth-Born Contractors Inc
2370 Quinland Lake Rd Ste 100
Cookeville TN 38506-7518

SEND INVOICE IN DUPLICATE TO:

SHIPPING
220 W 10th St
Facilities
Cookeville TN 38505

BILLING
Tennessee Technological University
Business Office, Box 5037
Cookeville, Tennessee 38505-0001

Please supply the following items or services in accordance with terms of your quotation, to TENNESSEE TECHNOLOGICAL UNIVERSITY Cookeville, Tennessee. ALL DELIVERY CHARGES ARE TO BE PREPAID AND INCLUDED IN THE PRICES SHOWN UNLESS OTHERWISE INDICATED BELOW. Cash discounts, when authorized, will be computed from the date of delivery or from the date correct invoice is received, whichever is later.

<table>
<thead>
<tr>
<th>ITEM</th>
<th>QUANTITY</th>
<th>UNIT</th>
<th>DESCRIPTION</th>
<th>UNIT PRICE</th>
<th>EXTENSION</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>249,999.99</td>
<td>AT</td>
<td>Concrete Finishing Services</td>
<td>1.0000</td>
<td>249,999.99</td>
</tr>
</tbody>
</table>

Between Tennessee Technological University and Earth-Born Contractors, Inc from October 13, 2007, through October 12, 2008, with the option to renew in accordance to the terms and conditions of TTU Contract Number C16356.

Replaces TTU Contract C16356.

For Information Contact:
Mr. Bob Billingsley
(931) 372-3587

Mr. Don Shockley
9931) 372-3588

The terms and conditions printed on the reverse side of this purchase order and any duly authorized change orders shall be the sole terms and conditions that apply to this purchase and shall prevail over any subsequent terms and conditions set forth by the Vendor on invoices or in any other manner, unless otherwise expressly agreed to in writing by the University.

ACCOUNTING INFORMATION:

AUTHORIZED SIGNATURE: 

FOR TENNESSEE TECHNOLOGICAL UNIVERSITY
Please supply the following items or services in accordance with terms of your quotation, to TENNESSEE TECHNOLOGICAL UNIVERSITY Cookeville, Tennessee. ALL DELIVERY CHARGES ARE TO BE PREPAID AND INCLUDED IN THE PRICES SHOWN UNLESS OTHERWISE INDICATED BELOW. Cash discounts, when authorized, will be computed from the date of delivery or from the date correct invoice is received, whichever is later.

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</tr>
<tr>
<td>Hourly Rate - per hour for skilled labor (finisher / former)</td>
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<td>$28.50 / per hour</td>
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<td>- 1500 lbs. lift capability</td>
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<td>- 8 ft. digging depth x 24&quot; wide</td>
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ACCOUNTING INFORMATION:
TENNESSEE TECHNOLOGICAL UNIVERSITY  
OFFICE OF BUSINESS SERVICES  
FACILITIES AND BUSINESS SERVICES BUILDING  
P.O. Box 5041, 220 W. 10th St.  
Cookeville, TN 38505-0001  
Phone (931) 372-3491 Fax (931) 372-3727  
www.tntech.edu/purchasing

ISSUED TO: Earth-Born Contractors Inc  
2370 Quinland Lake Rd Ste 100  
Cookeville, TN 38506-7518

TENNESSEE TECHNOLOGICAL UNIVERSITY IS AN EQUAL OPPORTUNITY, NON-RACIALLY IDENTIFIABLE, EDUCATIONAL INSTITUTION THAT DOES NOT DISCRIMINATE AGAINST INDIVIDUALS WITH DISABILITIES.

<table>
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<tr>
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<th>DESCRIPTION</th>
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<tbody>
<tr>
<td>- Pavement breaker attachment</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>- 12 inch auger</td>
<td></td>
<td></td>
<td></td>
<td>$45.00</td>
<td>per hour</td>
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<tr>
<td>Hourly Rate - per hour for small dump truck or dump trailer (including operator as necessary).</td>
<td></td>
<td></td>
<td></td>
<td>$35.00</td>
<td>per hour</td>
</tr>
<tr>
<td>Load capacity - 6,000 lbs.</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>The maximum total liability of the University under this contract, inclusive of all renewals, shall not exceed $249,999.99.</td>
<td></td>
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</tr>
</tbody>
</table>

DISCOUNT: 0.00

TOTAL: 249,999.99

The terms and conditions printed on the reverse side of this purchase order and any duly authorized change orders shall be the sole terms and conditions that apply to this purchase and shall prevail over any subsequent terms and conditions set forth by the Vendor on invoices or in any other manner, unless otherwise expressly agreed to in writing by the University.
TO:  EARTH-BORN CONTRACTORS INC  
2370 QUINLAND LAKE ROAD 
SUITE 100 
COOKEVILLE TN 38506

SEND INVOICES IN DUPLICATE TO: 
Tennessee Technological University 
Business Office, Box 5037 
Cookeville, TN 38505-0001

(All invoices to reference order number listed above)

ORDER NO. C16356

ORDER DATE 10/11/06

CORRECTION DATE 01/31/07

FUNCTION No. Facilities

REQUISITION No. Concrete Finishing

ADDRESS SHIPMENT TO:

<table>
<thead>
<tr>
<th>ITEM NO.</th>
<th>QUANTITY</th>
<th>UNIT</th>
<th>DESCRIPTION OF ARTICLE</th>
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</table>

PLEASE DO NOT DUPLICATE ORDER!

To amend Contract Number C16356 as follows:

The maximum liability of the University under this contract inclusive of all renewals shall not exceed $249,999.99.

TENNESSEE TECHNOLOGICAL UNIVERSITY

[Signature]

Gaines Stimson, Vice President for Business and Fiscal Affairs
# CONTRACT ORDER

**TO:**
EARTH-BORN CONTRACTORS INC  
2370 QUINLAND LAKE ROAD  
SUITE 100  
COOKEVILLE TN 38506  
(931) 537-6611

**SEND INVOICES IN DUPLICATE TO:**
Tennessee Technological University  
Business Office, Box 5037  
Cookeville, TN 38505-0001

(All invoices to reference contract order number listed above)

**ADDRESS SHIPMENT TO:**
Mr. Bob Billingsley  
(931) 372-3587  
Mr. Don Shockley  
(931) 372-3588

**Contract Order Date:** 10/11/06  
**Payment Terms:** NET 30

**Department:** Facilities  
**Commodity/Service:** Concrete Finishing  
**Quotation Date:** 10/03/06  
**Delivery Date:**

<table>
<thead>
<tr>
<th>ITEM NO.</th>
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<tbody>
<tr>
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</tbody>
</table>

**DESCRIPTION OF ARTICLE**

**CONTRACT**

Between Tennessee Technological University and Earth-Born Contractors, Inc. from October 13, 2006, through October 12, 2007, in accordance with the attached agreement.

![Total: 249,999.99. Add as last sentence to C1]

**Web copy 2/1/07**

TENNESSEE TECHNOLOGICAL UNIVERSITY

[Signatures]

Claire Stinson, Vice President for Business and Fiscal Affairs
This Contract, by and between Tennessee Technological University, hereinafter referred to as the "University" and Earth-Born Contractors, Inc., hereinafter referred to as the "Contractor," is for the provision of Concrete Finishing, as further defined in the "SCOPE OF SERVICES."

The Contractor is a Corporation. The Contractor's address is: Earth-Born Contractors, Inc.; 2370 Quinland Lake Rd.; Suite 100; Cookeville, TN 38506. The Contractor's place of incorporation or organization is Tennessee.

A. SCOPE OF SERVICES:

A.1. To furnish the University demolition, concrete forming and concrete finishing work to be performed as requested on an "as needed basis". Work performed under this contract shall include, but not be limited to, the following:

- Demolition of retainer walls (not to exceed 10 feet in height) Note: Demolition not to include complete building demolition.
- Demolition of damaged sidewalks.
- Demolition of exterior concrete steps.
- Concrete forming
- Concrete finishing
- Other type concrete work as requested, i.e. saw cutting, edging, etc.

Work is to be performed on an hourly rate, with materials billed on a "cost plus 15%" basis by the Contractor. (Note: Cost is defined as Contractor's invoiced cost plus applicable taxes. The University reserves the right to examine the Contractor's invoice to confirm actual cost of product to Contractor.)

B. CONTRACT TERM:

B.1. Contract Term. This Contract shall be effective for the period commencing on October 13, 2006, and ending on October 12, 2007. The University shall have no obligation for services rendered by the Contractor which are not performed within the specified period.

B.2. Term Extension. The University reserves the right to extend this Contract for an additional period or periods of time representing increments of no more than one year and a total contract term of no more than four (4) years, provided that the University notifies the Contractor in writing of its intention to do so at least thirty (30) days prior to the Contract expiration date. An extension of the term of this Contract will be effected through an amendment to the Contract. If the extension of the Contract necessitates additional funding beyond that which was included in the original Contract, the increase in the University's maximum liability will also be effected through an amendment to the Contract and shall be based upon rates provided for in the original Contract.

C. PAYMENT TERMS AND CONDITIONS:

C.1. Maximum Liability. In no event shall the annual maximum liability of the University under this Contract exceed fifty thousand dollars ($50,000). The Service Rates in Section C.3 include, but are not limited to, all applicable taxes, fees, overheads, and all other direct and indirect costs incurred or to be incurred by the Contractor. The maximum liability
represents available funds for payment to the Contractor and does not guarantee payment of any such funds to the Contractor under this Contract unless the University requests work and the Contractor performs the work.

C.2. **Compensation Firm.** The Service Rates and the Maximum Liability of the University under this Contract are firm for the duration of the Contract and are not subject to escalation for any reason unless this Contract is amended.

C.3. **Payment Methodology.** The Contractor shall be compensated by the University based on the hourly rates herein for services authorized in a total amount not to exceed the Contract Maximum Liability established in Section C.1. The Contractor’s compensation shall be contingent upon the satisfactory completion of services. The Contractor shall be compensated based upon the following Service Rates:

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<td>$35.00 /per hour</td>
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The Contractor shall submit monthly invoices, in form and substance acceptable to the University with all of the necessary supporting documentation, prior to any payment. Such invoices shall be submitted for completed units of service or project milestones for the amount stipulated.

C.4. **Travel Compensation.** The Contractor shall not be compensated or reimbursed for travel, meals, or lodging. Labor rates bid are to include these expenses, as necessary.

C.5. **Payment of Invoice.** The payment of an invoice by the University shall not prejudice the University’s right to object to or question any invoice or matter in relation thereto. Such payment by the University shall neither be construed as acceptance of any part of the work or service provided nor as an approval of any of the amounts invoiced therein.

C.6. **Invoice Reductions.** The Contractor’s invoice shall be subject to reduction for amounts included in any invoice or payment theretofore made which are determined by the University, on the basis of audits conducted in accordance with the terms of this Contract, not to constitute proper remuneration for compensable services.

C.7. **Deductions.** The University reserves the right to deduct from amounts which are or shall become due and payable to the Contractor under this or any Contract between the Contractor and the University any amounts which are or shall become due and payable to the University by the Contractor.
D. **STANDARD TERMS AND CONDITIONS:**

D.1. **Required Approvals.** The University is not bound by this Contract until it is approved by the appropriate officials in accordance with applicable Tennessee laws and regulations as shown on the signature page of this Contract.

D.2. **Modification and Amendment.** This Contract may be modified only by a written amendment executed by all parties hereto and approved by the appropriate officials.

D.3. **Ethnicity.** This Contract shall not be executed until the Contractor has completed the Minority/Ethnicity Form.

D.4. **Termination for Convenience.** The University may terminate this Contract without cause for any reason. Termination under this Section D. 4 shall not be deemed a Breach of Contract by the University. The University shall give the Contractor at least sixty (60) days written notice before the effective termination date. The Contractor shall be entitled to receive compensation for satisfactory, authorized service completed as of the termination date, but in no event shall the University be liable to the Contractor for compensation for any service which has not been rendered. Upon such termination, the Contractor shall have no right to any actual general, special, incidental, consequential, or any other damages whatsoever of any description or amount.

D.5. **Termination for Cause.** If the Contractor fails to perform its obligations under this Contract in a timely or proper manner, or if the Contractor violates any term of this Contract, the University shall have the right to immediately terminate the Contract and withhold payments in excess of fair compensation for completed services; provided, however, University shall have the option to give Contractor written notice and a specified period of time in which to cure. Notwithstanding the above, the Contractor shall not be relieved of liability to the University for damages sustained by virtue of any breach of this Contract by the Contractor.

D.6. **Subcontracting.** The Contractor shall not assign this Contract or enter into a subcontract for any of the services performed under this Contract without obtaining the prior written approval of the University. If such subcontracts are approved by the University, they shall contain, at a minimum, sections of this Contract pertaining to “Conflicts of Interest” and “Nondiscrimination”. Notwithstanding any use of approved subcontractors, the Contractor shall be the prime contractor and shall be responsible for all work performed.

D.7. **Conflicts of Interest.** The Contractor warrants that no part of the total Contract amount shall be paid directly or indirectly to an employee or official of the State of Tennessee as wages, compensation, or gifts in exchange for acting as an officer, agent, employee, subcontractor, or consultant to the Contractor in connection with any work contemplated or performed relative to this Contract.

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

D.9. **Records.** The Contractor shall maintain documentation for all charges against the University under this Contract. The books, records, and documents of the Contractor,
insofar as they relate to work performed or money received under this Contract, shall be maintained for a period of three (3) full years from the date of the final payment and shall be subject to audit at any reasonable time and upon reasonable notice by the University, the Comptroller of the Treasury, or their duly appointed representatives. The financial statements shall be prepared in accordance with generally accepted accounting principles.

D.10. **Monitoring.** The Contractor's activities conducted and records maintained pursuant to this Contract shall be subject to monitoring and evaluation by the University, the Comptroller of the Treasury, or their duly appointed representatives.

D.11. **Progress Reports.** The Contractor shall submit brief, periodic progress reports to the University as requested.

D.12. **Strict Performance.** Failure by any party to this Contract to insist in any one or more cases upon the strict performance of any of the terms, covenants, conditions, or provisions of this Contract shall not be construed as a waiver or relinquishment of any such term, covenant, condition, or provision. No term or condition of this Contract shall be held to be waived, modified, or deleted except by a written amendment signed by the parties hereto.

D.13. **Independent Contractor.** The parties hereto, in the performance of this Contract, shall not act as employees, partners, joint ventures, or associates of one another. It is expressly acknowledged by the parties hereto that the parties are independent contracting entities and that nothing in this Contract shall be construed to create an employer/employee relationship or to allow either to exercise control or direction over the manner or method by which the other transacts its business affairs or provides its usual services. The employees or agents of one party shall not be deemed or construed to be the employees or agents of the other party for any purpose whatsoever.

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

D.14. **University Liability.** The University shall have no liability except as specifically provided in this Contract.

D.15. **Force Majeure.** The obligations of the parties to this Contract are subject to prevention by causes beyond the parties' control that could not be avoided by the exercise of due care including, but not limited to, acts of God, riots, wars, epidemics or any other similar cause.

D.16. **State and Federal Compliance.** The Contractor shall comply with all applicable State and Federal laws and regulations, including University policies and guidelines in the performance of this Contract.

D.17. **Governing Law.** This Contract shall be governed by and construed in accordance with the laws of the State of Tennessee. The Contractor agrees that it will be subject to the exclusive jurisdiction of the Tennessee Claims Commission in actions that may arise under this Contract. The Contractor acknowledges and agrees that any rights or claims against the University or its employees thereunder, 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.18. **Severability.** If any terms or 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. **ADDITIONAL TERMS AND CONDITIONS:**

E.1. **Communications and Contacts:**

The University:

Judy Hull
Director of Business Services
Tennessee Technological University
P.O. Box 5041
220 W. 10th Street
Cookeville, TN 38505
Phone Number: (931) 372-3491
Fax Number: (931) 372-3727
jmhull@tntech.edu

The Contractor:

Lance Rossie, President
Earth-Born Contractors, Inc.
2370 Quinland Lake Rd.
Suite 100
Cookeville, TN 38506
Phone Number: (931) 537-6611
Fax Number: (931) 537-9121

All instructions, notices, consents, demands, or other communications shall be sent in a manner that verifies proof of delivery. Any communication by facsimile transmission shall also be sent by United States mail on the same date as the facsimile transmission. All communications which relate to any changes to the Contract shall not be considered effective until agreed to, in writing, by both parties.

E.2. **Subject to Funds Availability.** The Contract is subject to the appropriation and availability of State and/or Federal funds. In the event that the funds are not appropriated or are otherwise unavailable, the University reserves the right to terminate the Contract upon written notice to the Contractor. Termination under this Section E.2 shall not be deemed a breach of Contract by the University. Upon receipt of the written notice, the Contractor shall cease all work associated with the Contract. Should such an event occur, the Contractor shall be entitled to compensation for all satisfactory and authorized services completed as of the termination date. Upon such termination, the Contractor shall have no right to recover from the University any actual, general, special, incidental, consequential, or any other damages whatsoever of any description or amount.

E.3. **Breach.** A party shall be deemed to have breached the Contract if any of the following occurs (However, this list is not exclusive.):
- failure to perform in accordance with any term or provision of the Contract;
- partial performance of any term or provision of the Contract;
- any act prohibited or restricted by the Contract,
For purposes of this Contract, these items shall hereinafter be referred to as a "Breach."

a. Contractor Breach—University shall notify Contractor in writing of a Breach.
   (1) In event of a Breach by Contractor, the University shall have available the remedy of actual damages and any other remedy available at law or equity.
   (2) Partial Default—In the event of a Breach, the University may declare a Partial Default. In which case, the University shall provide the Contractor written notice of: (1) the date which Contractor shall terminate providing the service associated with the Breach; and (2) the date the University will begin to provide the service associated with the Breach. Notwithstanding the foregoing, the University may revise the time periods contained in the notice written to the Contractor.

In the event the University declares a Partial Default, the University may withhold, together with any other damages associated with the Breach, from the amounts due the Contractor the greater of: (1) amounts which would be paid the Contractor to provide the defaulted service; or (2) the cost to the University of providing the defaulted service, whether said service is provided by the University or a third party. To determine the amount the Contractor is being paid for any particular service, the University shall be entitled to receive within five (5) days of any request, pertinent material from Contractor. The University shall make the final and binding determination of the amount.

b. University Breach—In the event of a Breach of contract by the University, the Contractor shall notify the University in writing within 30 days of any Breach of contract by the University. The notice shall contain a description of the Breach. In the event of Breach by the University, the Contractor may avail itself of any remedy available in the Claims Commission; provided, however, failure by the Contractor to give the University written notice and opportunity to cure as described herein operates as a waiver of the University's Breach. Failure by the Contractor to file a claim before the Claims Commission within one (1) year of the written notice of Breach shall operate as a waiver of the claim in its entirety. It is agreed by the parties this provision establishes a contractual period of limitations for any claim brought by the Contractor.

E.6. Competitive Procurements. If this Contract provides for reimbursement of the cost of goods, materials, supplies, equipment, or services, such procurements shall be made on a competitive basis, when practical.

E.7. Inventory/Equipment Control. No equipment shall be purchased under this Contract.

E.8. University Furnished Property. The Contractor shall be responsible for the correct use, maintenance, and protection of all articles of nonexpendable, tangible, personal property furnished by the University for the Contractor's temporary use under this Contract. Upon termination of this Contract, all property furnished shall be returned to the University in good order and condition as when received, reasonable use and wear thereof excepted. Should the property be destroyed, lost, or stolen, the Contractor shall be responsible to the University for the residual value of the property at the time of loss.

E.9. Contract Documents. Included in this Contract by reference are the following documents:
a. This Contract document and its attachments
b. The Request for Proposal and its associated amendments
c. The Contractor's Proposal

In the event of a discrepancy or ambiguity regarding the interpretation of this Contract, these documents shall govern in order of precedence as listed above.

E.10. Prohibited Advertising. The Contractor shall not refer to this Contract or the Contractor's relationship with the University hereunder in commercial advertising in such a manner as to state or imply that the Contractor or the Contractor's services are endorsed.

E.11. Hold Harmless. The Contractor agrees to indemnify and hold harmless the University as well as its officers, agents, and employees from and against any and all claims, liabilities, losses, and causes of action which may arise, accrue, or result to any person, firm, corporation, or other entity which may be injured or damaged as a result of acts, omissions, or negligence on the part of the Contractor, its employees, or any person acting for or on its or their behalf relating to this Contract. The Contractor further agrees it shall be liable for the reasonable cost of attorneys for the University in the event such service is necessitated to enforce the terms of this Contract or otherwise enforce the obligations of the Contractor to the University.

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

E.12. Debarment and Suspension. The Contractor certifies, to the best of its knowledge and belief, that it and its principals:

a. are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions by any Federal or state department or agency;

b. have not within a three (3) year period preceding this Contract been convicted of, or had a civil judgment rendered against them from commission of fraud, or a criminal offence in connection with obtaining attempting to obtain, or performing a public (Federal, State, or Local) transaction or grant under a public transaction; violation of Federal or State antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification, or destruction of records, making false statements, or receiving stolen property;

c. are not presently indicted for or otherwise criminally or civilly charged by a government entity (Federal, State, or Local) with commission of any of the offenses listed in section b. of this certification; and

d. have not within a three (3) year period preceding this Contract had one or more public transactions (Federal, State, or Local) terminated for cause or default.
IN WITNESS WHEREOF:

EARTH-BORN CONTRACTORS, INC.:  
Lance Rossie, President  
Date: 10-10-06

TENNESSEE TECHNOLOGICAL UNIVERSITY:  
Michael Niven, Director  
Facilities & Business Services  
Date: 10-11-06

Clare Stinson, Vice President for  
Business & Fiscal Affairs  
Facilities & Business Services  
Date: 10-11-06
ATTACHMENT 6.1

TENNESSEE BOARD OF REGENTS
HIGHER EDUCATION SYSTEM
Minority / Ethnicity Form

In order to comply with reporting regulations required by the State of Tennessee and the United States federal income tax laws, it is necessary that the following information be provided prior to the issuance of any contract.

<table>
<thead>
<tr>
<th>1. Name of Contractor:</th>
<th>Earth-Born Contractors, Inc</th>
</tr>
</thead>
<tbody>
<tr>
<td>Federal ID / Social Security Number:</td>
<td>62-1160821</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>2. Is Contractor a US citizen?</th>
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<tr>
<td>☐ Yes</td>
</tr>
<tr>
<td>☐ No</td>
</tr>
</tbody>
</table>

If no, state country of citizenship:

(If not a US Citizen, please include a copy of Visa with this form.)

<table>
<thead>
<tr>
<th>3. Kind of Ownership (Check one):</th>
</tr>
</thead>
<tbody>
<tr>
<td>☐ Govt. (GO)</td>
</tr>
<tr>
<td>☐ Agency of the State of Tennessee (SA)</td>
</tr>
<tr>
<td>☐ Non-Profit (NO)</td>
</tr>
<tr>
<td>☒ Majority (MJ)</td>
</tr>
<tr>
<td>☐ Minority* (see reverse side for definition)</td>
</tr>
<tr>
<td>☐ Woman (WO)** (see reverse side for definition)</td>
</tr>
<tr>
<td>☐ Small (SM)** (see reverse side for definition)</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>4. Minority / Ethnicity Code (Check One):</th>
</tr>
</thead>
<tbody>
<tr>
<td>☐ African American (MA)</td>
</tr>
<tr>
<td>☐ Native American (MN)</td>
</tr>
<tr>
<td>☐ Hispanic American (MH)</td>
</tr>
<tr>
<td>☐ Asian American (MS)</td>
</tr>
<tr>
<td>☐ Other Minority (MO)</td>
</tr>
<tr>
<td>Specify: ____________________________</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>5. Preference for reporting purposes: (Note: If Contractor qualifies in multiple categories as small, woman-owned and/or minority, Contractor is to specify in which category he/she is to be considered for reporting and classification purposes.)</th>
</tr>
</thead>
<tbody>
<tr>
<td>☐ Small ☐ Minority ☐ Woman-Owned</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>6. Certification: I certify that all the information as completed above is accurate and true.</th>
</tr>
</thead>
<tbody>
<tr>
<td>Lance Rossie</td>
</tr>
</tbody>
</table>

Signature | Date |
-----------|------|

Name (Printed): Lance Rossie |
Title: President |
ATTACHMENT 6.3

NOTE: THIS FORM IS TO BE COMPLETED AND RETURNED WITH TECHNICAL PROPOSAL.

PROPOSAL TRANSMITTAL AND STATEMENT OF CERTIFICATIONS AND ASSURANCES

The Proposer must complete and sign this Technical Proposal Transmittal. It must be signed, in the space below, by an individual empowered to bind the proposing entity to the provisions of this RFP and any contract awarded pursuant to it. If the individual is not the Proposer's chief executive, attach evidence showing the individual's authority to bind the proposing entity.

PROPOSER LEGAL ENTITY NAME: Earth Born Contractors, Inc.

The Proposer does hereby affirm and expressly declare confirmation, certification, and assurance of the following:

1) This proposal constitutes a commitment to provide all services as defined in the RFP Attachment 6.2, Pro Forma Contract, Scope of Services for the total contract period and confirmation that the Proposer shall comply with all of the provisions in this RFP and shall accept all terms and conditions set out in the RFP Attachment 6.2, Pro Forma Contract. A Proposer may not submit the Proposer's own contract terms and conditions in a response to this RFP. If a proposal contains such terms and conditions, the University may determine, at its sole discretion, the proposal to be a non-responsive counteroffer, and the proposal may be rejected.

2) The information detailed in the proposal submitted herewith in response to the RFP is accurate.

3) The proposal submitted herewith in response to the RFP shall remain valid for at least 120 days subsequent to the date of the Cost Proposal opening and thereafter in accordance with any contract pursuant to the RFP.

4) The Proposers shall comply with:
   a) the laws of the State of Tennessee;
   b) Title VI of the federal Civil Rights Act of 1964;
   c) Title IX of the federal Education Amendments Act of 1972;
   d) the Equal Employment Opportunity Act and the regulations issued there under by the federal government;
   e) the Americans with Disabilities Act of 1990 and the regulations issued there under by the federal government;
   f) the condition that the submitted proposal was independently arrived at, without collusion, under penalty of perjury; and,
   g) the condition that no 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 Proposer in connection with the Procurement under this RFP.

5) The Proposer shall comply with all of the provisions in the subject RFP and shall accept all terms and conditions set out in the RFP Attachment 6.2, Pro Forma Contract.

6) The Proposer ___ does or ___ does not agree to extend this proposal and current contract pricing to all TBR/UT Universities for the same time period it is available to the University as Proposer has indicated in its proposal in response to Section 1.3 of this RFP.

SIGNATURE & DATE: Jane Rossin 9-27-06
ATTACHMENT 6.4

NOTE: THIS ATTACHMENT (PARTS A & B) IS TO BE COMPLETED AND RETURNED WITH TECHNICAL PROPOSAL.

| PROPOSER NAME: | Earth-Born Contractors, Inc. |

**SECTION A — MANDATORY REQUIREMENTS**

The Proposer must address ALL Mandatory Requirements section items and provide the information and documentation as requested. The far right column is provided for use by the Proposer in responding. Response should be either “agree” (denoting acceptance of and agreement to requirement) or “disagree” (denoting refusal to accept and/or agree to requirement). Additional pages may be attached if needed to provide complete explanation or response. Any attachment shall be labeled with its corresponding reference number (far left column below - Ref. No.). Failure to complete bid in this format is grounds for rejection without consideration.

RFP Coordinator will review all mandatory requirements, including but not limited to the following:

- Proposal received on or before the Proposal Deadline.
- Technical Proposal copies and Cost Proposal copies packaged separately.
- Technical Proposal contains NO cost data.
- Adherence to required proposal format.
- Technical Proposal does NOT contain any restrictions of the rights of the University or other qualification of the proposal.

The RFP Coordinator will also review the proposal to determine if the Mandatory Requirement Items (below) are met. For each requirement that is not met, the Proposal Evaluation Team must review the proposal and determine appropriate score.

**NOTICE:** In addition to these requirements, the University will also evaluate compliance with ALL RFP requirements.

<table>
<thead>
<tr>
<th>Ref. No.</th>
<th>Requirement</th>
<th>Bidder’s Response</th>
</tr>
</thead>
<tbody>
<tr>
<td>A.1</td>
<td>The University will not pay for Contractor’s employee travel time.</td>
<td>V agree</td>
</tr>
<tr>
<td>A.2</td>
<td>The University requires that all workers wear shirts, pants and shoes</td>
<td>V agree</td>
</tr>
<tr>
<td>A.3</td>
<td>The University reserves the right to purchase materials and provide them to the Contractor for their use, as best suits the needs of the University or to require Contractor to provide materials at a &quot;cost plus&quot; basis as defined in Section 6.5, Cost Proposal. (Note: Cost is defined as Contractor’s invoiced cost plus applicable taxes. The University reserves the right to examine the Contractor’s invoice to confirm actual cost of product to Contractor.</td>
<td>V agree</td>
</tr>
<tr>
<td>A.4</td>
<td>Contractor shall provide own tools of the trade.</td>
<td>V agree</td>
</tr>
<tr>
<td>A.5</td>
<td>Contractor may be required to provide machine(s) such as small Bobcat with attached pavement breaker and auger, small dump truck or trailer - load capacity of 6,000 lbs. University will pay hourly rate for machine(s) only during actual operation of the machine(s). Travel time is not to be included.</td>
<td>V agree</td>
</tr>
<tr>
<td>A.6</td>
<td>The University will not be responsible for lost, stolen or damaged tools.</td>
<td>V agree</td>
</tr>
</tbody>
</table>
## TECHNICAL PROPOSAL & EVALUATION GUIDE — SECTION B

### PROPOSER NAME:

### SECTION B — QUALIFICATIONS & EXPERIENCE

The Proposer must address ALL Mandatory Requirements section items and provide the information and documentation as requested. Space is provided following each requirement for the response. If more space is needed in order to provide complete response, Proposer shall attach additional pages. Each page shall clearly reference the part of the Proposal being addressed.

The Proposer must address ALL Qualifications and Experience section items and provide, in sequence, the information and documentation as required (referenced with the associated item references).

A Proposal Evaluation Team, made up of three or more University employees, will independently evaluate and score the proposal’s "qualifications and experience" responses.

<table>
<thead>
<tr>
<th>Ref. No.</th>
<th>Requirement</th>
</tr>
</thead>
<tbody>
<tr>
<td>B.1</td>
<td>Proposer's Response: Corporation Earth Born Contractors, Inc 2370 Quinland Lake Rd. Suite 100 Cookeville TN 38506</td>
</tr>
<tr>
<td>B.2</td>
<td>Proposer's Response: yes □ no (If yes, provide explanation below)</td>
</tr>
<tr>
<td>B.3</td>
<td>Proposer's Response: yes □ no (If yes, provide explanation below)</td>
</tr>
<tr>
<td>B.4</td>
<td>Proposer's Response: yes □ no (If yes, provide attached opinion)</td>
</tr>
<tr>
<td>B.5</td>
<td>Proposer's Response: yes □ no (If yes, provide explanation below)</td>
</tr>
</tbody>
</table>

State whether or not there have been any mergers, acquisitions, or sales of the Proposer's company within the last ten years, and if so, an explanation providing relevant details?

State whether or not Proposer or any of the Proposer's employees, agents, independent contractors, or subcontractors have been convicted of, pled guilty to, or pled nolo contendere to any felony, and if so, an explanation providing relevant details.

State whether or not, in the last ten years if Proposer has filed (or had filed against it) any bankruptcy or insolvency proceeding, whether voluntary or involuntary, or undergone the appointment of a receiver, trustee, or assignee for the benefit of creditors, and if so, an explanation providing relevant details.

Bidder's Response: yes □ no (If yes, provide attached opinion)
<table>
<thead>
<tr>
<th>Project Description</th>
<th>Dates</th>
</tr>
</thead>
<tbody>
<tr>
<td>Elementary &amp; High School Footers</td>
<td>2006</td>
</tr>
<tr>
<td>Justice Center Sidewalks</td>
<td>2006</td>
</tr>
<tr>
<td>4 Commuter Rail Station Platforms</td>
<td>2006</td>
</tr>
<tr>
<td>Floor &amp; slab repairs</td>
<td>2006</td>
</tr>
<tr>
<td>Light pole bases</td>
<td>2006</td>
</tr>
<tr>
<td>Miscellaneous</td>
<td>1986-2006</td>
</tr>
<tr>
<td>Factory slab, footers, walls</td>
<td>2006</td>
</tr>
<tr>
<td>Sidewalks, walls</td>
<td>2006</td>
</tr>
</tbody>
</table>