



GOVERNMENTAL GRANT CONTRACT

(cost reimbursement grant contract with a federal or Tennessee local governmental entity or their agents and instrumentalities)

Begin Date May 1, 2021		End Date April 30, 2024		Agency Tracking # 33006-23722		Edison ID 73110	
Grantee Legal Entity Name The Industrial Development Board of the Metropolitan Government of Nashville and Davidson County						Edison Vendor ID 37957	
Subrecipient or Recipient ☒ Subrecipient ☐ Recipient			CFDA #				
			Grantee's fiscal year end 06/30				
Service Caption (one line only) FastTrack Economic Development Program – Oracle America, Inc.							
Funding —							
FY	State	Federal	Interdepartmental	Other	TOTAL Grant Contract Amount		
22	\$65,000,000.00				\$65,000,000.00		
TOTAL:	\$65,000,000.00				\$65,000,000.00		
Grantee Selection Process Summary							
☐ Competitive Selection			Grantees under the Economic Development Growth Program are selected based on factors including job creation and capital investment. All applications are reviewed, and grants are approved by ECD's Grant Committee.				
☒ Non-competitive Selection							
Budget Officer Confirmation: There is a balance in the appropriation from which obligations hereunder are required to be paid that is not already encumbered to pay other obligations. Jessica L. Johnson				CPO USE - GG			
Speed Chart (optional)		Account Code (optional)					

**GRANT CONTRACT
BETWEEN THE STATE OF TENNESSEE,
DEPARTMENT OF ECONOMIC AND COMMUNITY DEVELOPMENT
AND
THE INDUSTRIAL DEVELOPMENT BOARD OF THE METROPOLITAN GOVERNMENT OF
NASHVILLE AND DAVIDSON COUNTY**

This grant contract ("Grant Contract"), by and between the State of Tennessee, Department of Economic and Community Development hereinafter, referred to as the "State" or the "Grantor State Agency" and Grantee Industrial Development Board of the Metropolitan Government of Nashville and Davidson County, hereinafter referred to as the "Grantee," is for the provision of assisting Oracle America, Inc. (the "Company"), as further defined in the "SCOPE OF SERVICES AND DELIVERABLES."

Grantee Edison Vendor ID # 37957

A. SCOPE OF SERVICES AND DELIVERABLES:

- A.1. The Grantee shall provide the scope of services and deliverables ("Scope") as required, described, and detailed in this Grant Contract.
- A.2. The Grantee shall utilize FastTrack Economic Development Program funds to assist the Company in the following project: Land acquisition, site preparation, construction, and occupying of office space to be located at various sites on or near Cowen Street, Nashville, Tennessee (the "Facility").
- A.3. Incorporation of Additional Documents. Each of the following documents is included as a part of this Grant Contract by reference or attachment. In the event of a discrepancy or ambiguity regarding the Grantee's duties, responsibilities, and performance hereunder, these items shall govern in order of precedence below.
 - a. this Grant Contract document with any attachments or exhibits (excluding the items listed at subsections b. and c., below);
 - b. the Accountability Agreement, attached and incorporated hereto as Attachment C.

B. TERM OF CONTRACT:

- B.1. This Grant Contract shall be effective for the period beginning on May 1, 2021 ("Effective Date") and ending on April 30, 2024, ("Term"). The State shall have no obligation to the Grantee for fulfillment of the Scope outside the Term.
- B.2. In the event the Grantee completed a Request to Incur Cost form ("RTIC") and the RTIC was approved by the State, the contract Effective Date shall be the date established by the RTIC. If applicable, the RTIC is attached as Attachment D.

C. PAYMENT TERMS AND CONDITIONS:

- C.1. Maximum Liability. In no event shall the maximum liability of the State under this Grant Contract exceed Sixty-Five Million Dollars and No/100 (\$65,000,000.00) ("Maximum Liability"). The Grant Budget, attached and incorporated as Attachment A is the maximum amount due the Grantee under this Grant Contract. The Grant Budget line-items include, but are not limited to, all applicable taxes, fees, overhead, and all other direct and indirect costs incurred or to be incurred by the Grantee.

- C.2. Compensation Firm. The Maximum Liability of the State is not subject to escalation for any reason unless amended. The Grant Budget amounts are firm for the duration of the Grant Contract and are not subject to escalation for any reason unless amended, except as provided in Section C.6.
- C.3. Payment Methodology. The Grantee shall be reimbursed for actual, reasonable, and necessary costs based upon the Grant Budget, not to exceed the Maximum Liability established in Section C.1. Upon progress toward the completion of the Scope, as described in Section A of this Grant Contract, the Grantee shall submit invoices prior to any reimbursement of allowable costs.
- C.4. Travel Compensation. Reimbursement to the Grantee for travel, meals, or lodging shall be subject to amounts and limitations specified in the "State Comprehensive Travel Regulations," as they are amended from time to time, and shall be contingent upon and limited by the Grant Budget funding for said reimbursement.
- C.5. Invoice Requirements. The Grantee shall invoice the State no more often than monthly, with all necessary supporting documentation, and present such to:

ECD.Invoices@tn.gov

- a. Each invoice shall clearly and accurately detail all of the following required information (calculations must be extended and totaled correctly).
- (1) Invoice/Reference Number (assigned by the Grantee).
 - (2) Invoice Date.
 - (3) Invoice Period (to which the reimbursement request is applicable).
 - (4) Grant Contract Number (assigned by the State).
 - (5) Grantor: Department of Economic and Community Development, FastTrack Economic Development Program.
 - (6) Grantor Number (assigned by the Grantee to the above-referenced Grantor).
 - (7) Grantee Name.
 - (8) Grantee Tennessee Edison Registration ID Number Referenced in Preamble of this Grant Contract.
 - (9) Grantee Remittance Address.
 - (10) Grantee Contact for Invoice Questions (name, phone, or fax).
 - (11) Itemization of Reimbursement Requested for the Invoice Period— it must detail, at minimum, all of the following:
 - i. The amount requested by Grant Budget line-item (including any travel expenditure reimbursement requested and for which documentation and receipts, as required by "State Comprehensive Travel Regulations," are attached to the invoice).
 - ii. The amount reimbursed by Grant Budget line-item to date.
 - iii. The total amount reimbursed under the Grant Contract to date.
 - iv. The total amount requested (all line-items) for the Invoice Period.
- b. The Grantee understands and agrees to all of the following.
- (1) An invoice under this Grant Contract shall include only reimbursement requests for actual, reasonable, and necessary expenditures required in the delivery of service described by this Grant Contract and shall be subject to the Grant Budget and any other provision of this Grant Contract relating to allowable reimbursements.
 - (2) An invoice under this Grant Contract shall not include any reimbursement request for future expenditures.

- (3) An invoice under this Grant Contract shall initiate the timeframe for reimbursement only when the State is in receipt of the invoice, and the invoice meets the minimum requirements of this section C.5.
- C.6. Budget Line-items. Expenditures, reimbursements, and payments under this Grant Contract shall adhere to the Grant Budget. The Grantee may vary from a Grant Budget line-item amount by up to one percent (1%) of the line-item amount, provided that any increase is off-set by an equal reduction of other line-item amount(s) such that the net result of variances shall not increase the total Grant Contract amount detailed by the Grant Budget. Any increase in the Grant Budget, grand total amounts shall require an amendment of this Grant Contract.
- C.7. Disbursement Reconciliation and Close Out. The Grantee shall submit any final invoice and a grant disbursement reconciliation report within sixty (60) days of the Grant Contract end date, in form and substance acceptable to the State.
- a. If total disbursements by the State pursuant to this Grant Contract exceed the amounts permitted by the section C, payment terms and conditions of this Grant Contract, the Grantee shall refund the difference to the State. The Grantee shall submit the refund with the final grant disbursement reconciliation report.
 - b. The State shall not be responsible for the payment of any invoice submitted to the State after the grant disbursement reconciliation report. The State will not deem any Grantee costs submitted for reimbursement after the grant disbursement reconciliation report to be allowable and reimbursable by the State, and such invoices will NOT be paid.
 - c. The Grantee's failure to provide a final grant disbursement reconciliation report to the State as required by this Grant Contract shall result in the Grantee being deemed ineligible for reimbursement under this Grant Contract, and the Grantee shall be required to refund any and all payments by the State pursuant to this Grant Contract.
 - d. The Grantee must close out its accounting records at the end of the Term in such a way that reimbursable expenditures and revenue collections are NOT carried forward.
- C.8. Indirect Cost. Should the Grantee request reimbursement for indirect costs, the Grantee must submit to the State a copy of the indirect cost rate approved by the cognizant federal agency or the cognizant state agency, as applicable. The Grantee will be reimbursed for indirect costs in accordance with the approved indirect cost rate and amounts and limitations specified in the attached Grant Budget. Once the Grantee makes an election and treats a given cost as direct or indirect, it must apply that treatment consistently and may not change during the Term. Any changes in the approved indirect cost rate must have prior approval of the cognizant federal agency or the cognizant state agency, as applicable. If the indirect cost rate is provisional during the Term, once the rate becomes final, the Grantee agrees to remit any overpayment of funds to the State, and subject to the availability of funds the State agrees to remit any underpayment to the Grantee.
- C.9. Cost Allocation. If any part of the costs to be reimbursed under this Grant Contract are joint costs involving allocation to more than one program or activity, such costs shall be allocated and reported in accordance with the provisions of Department of Finance and Administration Policy Statement 03 or any amendments or revisions made to this policy statement during the Term.
- C.10. Payment of Invoice. A payment by the State shall not prejudice the State's right to object to or question any reimbursement, invoice, or related matter. A payment by the State shall not be construed as acceptance of any part of the work or service provided or as approval of any amount as an allowable cost.

- C.11. Non-allowable Costs. Any amounts payable to the Grantee shall be subject to reduction for amounts included in any invoice or payment that are determined by the State, on the basis of audits or monitoring conducted in accordance with the terms of this Grant Contract, to constitute unallowable costs.
- C.12. State's Right to Set Off. The State reserves the right to set off or deduct from amounts that are or shall become due and payable to the Grantee under this Grant Contract or under any other agreement between the Grantee and the State of Tennessee under which the Grantee has a right to receive payment from the State.
- C.13. Prerequisite Documentation. The Grantee shall not invoice the State under this Grant Contract until the State has received the following, properly completed documentation.
 - a. The Grantee shall complete, sign, and return to the State an "Authorization Agreement for Automatic Deposit (ACH Credits) Form" provided by the State. By doing so, the Grantee acknowledges and agrees that, once this form is received by the State, all payments to the Grantee under this or any other grant contract will be made by automated clearing house ("ACH").
 - b. The Grantee shall complete, sign, and return to the State the State-provided W-9 form. The taxpayer identification number on the W-9 form must be the same as the Grantee's Federal Employer Identification Number or Social Security Number referenced in the Grantee's Edison registration information.

D. STANDARD TERMS AND CONDITIONS:

- D.1. Required Approvals. The State is not bound by this Grant Contract until it is signed by the parties and approved by appropriate officials in accordance with applicable Tennessee laws and regulations (depending upon the specifics of this Grant Contract, the officials may include, but are not limited to, the Commissioner of Finance and Administration, the Commissioner of Human Resources, and the Comptroller of the Treasury).
- D.2. Modification and Amendment. This Grant Contract may be modified only by a written amendment signed by all parties and approved by the officials who approved the Grant Contract and, depending upon the specifics of the Grant Contract as amended, any additional officials required by Tennessee laws and regulations (the officials may include, but are not limited to, the Commissioner of Finance and Administration, the Commissioner of Human Resources, and the Comptroller of the Treasury).
- D.3. Termination for Convenience. The State may terminate this Grant Contract without cause for any reason. A termination for convenience shall not be a breach of this Grant Contract by the State. The State shall give the Grantee at least thirty (30) days written notice before the effective termination date. The Grantee shall be entitled to compensation for authorized expenditures and satisfactory services completed as of the termination date, but in no event shall the State be liable to the Grantee for compensation for any service that has not been rendered. The final decision as to the amount for which the State is liable shall be determined by the State. The Grantee shall not have any right to any actual general, special, incidental, consequential, or any other damages whatsoever of any description or amount for the State's exercise of its right to terminate for convenience.
- D.4. Termination for Cause. If the Grantee fails to properly perform its obligations under this Grant Contract, or if the Grantee violates any terms of this Grant Contract, the State shall have the right to immediately terminate this Grant Contract and withhold payments in excess of fair compensation for completed services. Notwithstanding the exercise of the State's right to terminate this Grant Contract for cause, the Grantee shall not be relieved of liability to the State for damages sustained by virtue of any breach of this Grant Contract by the Grantee.

- D.5. Subcontracting. The Grantee shall not assign this Grant Contract or enter into a subcontract for any of the services performed under this Grant Contract without obtaining the prior written approval of the State. If such subcontracts are approved by the State, each shall contain, at a minimum, sections of this Grant Contract pertaining to "Conflicts of Interest," "Lobbying," "Nondiscrimination," "Public Accountability," "Public Notice," and "Records" (as identified by the section headings). Notwithstanding any use of approved subcontractors, the Grantee shall remain responsible for all work performed.
- D.6. Conflicts of Interest. The Grantee warrants that no part of the total Grant 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 Grantee in connection with any work contemplated or performed relative to this Grant Contract.
- D.7. Lobbying. The Grantee certifies, to the best of its knowledge and belief, that:
- a. No federally appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of an agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any federal contract, the making of any federal grant, the making of any federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any federal contract, grant, loan, or cooperative agreement.
 - b. If any funds other than federally appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this contract, grant, loan, or cooperative agreement, the Grantee shall complete and submit Standard Form-LLL, "Disclosure of Lobbying Activities," in accordance with its instructions.
 - c. The Grantee shall require that the language of this certification be included in the award documents for all sub-awards at all tiers (including subcontracts, sub-grants, and contracts under grants, loans, and cooperative agreements) and that all subrecipients shall certify and disclose accordingly.

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into and is a prerequisite for making or entering into this transaction imposed by 31 U.S.C. § 1352.

- D.8. Communications and Contacts. All instructions, notices, consents, demands, or other communications required or contemplated by this Grant 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. All communications, regardless of method of transmission, shall be addressed to the respective party as set out below:

The State:

Julia Eschbach, Contract Specialist
 Department of Economic and Community Development
 312 Rosa L. Parks Avenue, 27th Floor
 Nashville, TN 37243
 Email: julia.eschbach@tn.gov
 Telephone # 615.253.1900

FAX # 615.532.1296

The Grantee:

Nigel Hodge

The Industrial Development Board of Metropolitan Government of Nashville and Davidson County
c/o Director of Mayor's Office of Economic and Community Development
Metropolitan Courthouse, Suite G70
Nashville, Tennessee 37206
Email: Courtney.pogue@nashville.gov
Telephone # 615-862-6021

With a Copy to:

Department of Law
Metropolitan Courthouse, Suite 108
P.O. Box 196300
Nashville, Tennessee 37219

A change to the above contact information requires written notice to the person designated by the other party to receive notice.

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

- D.9. Subject to Funds Availability. This Grant Contract is subject to the appropriation and availability of State or Federal funds. In the event that the funds are not appropriated or are otherwise unavailable, the State reserves the right to terminate this Grant Contract upon written notice to the Grantee. The State's right to terminate this Grant Contract due to lack of funds is not a breach of this Grant Contract by the State. Upon receipt of the written notice, the Grantee shall cease all work associated with the Grant Contract. Should such an event occur, the Grantee shall be entitled to compensation for all satisfactory and authorized services completed as of the termination date. Upon such termination, the Grantee shall have no right to recover from the State any actual, general, special, incidental, consequential, or any other damages whatsoever of any description or amount.
- D.10. Nondiscrimination. The Grantee 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 Grant Contract or in the employment practices of the Grantee 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 Grantee shall, upon request, show proof of nondiscrimination and shall post in conspicuous places, available to all employees and applicants, notices of nondiscrimination.
- D.11. HIPAA Compliance. The State and the Grantee shall comply with obligations under the Health Insurance Portability and Accountability Act of 1996 (HIPAA), Health Information Technology for Economic and Clinical Health Act (HITECH) and any other relevant laws and regulations regarding privacy (collectively the "Privacy Rules"). The obligations set forth in this Section shall survive the termination of this Grant Contract.
- a. The Grantee warrants to the State that it is familiar with the requirements of the Privacy Rules and will comply with all applicable HIPAA requirements in the course of this Grant Contract.

- b. The Grantee warrants that it will cooperate with the State, including cooperation and coordination with State privacy officials and other compliance officers required by the Privacy Rules, in the course of performance of this Grant Contract so that both parties will be in compliance with the Privacy Rules.
- c. The State and the Grantee will sign documents, including but not limited to business associate agreements, as required by the Privacy Rules and that are reasonably necessary to keep the State and the Grantee in compliance with the Privacy Rules. This provision shall not apply if information received by the State under this Grant Contract is NOT "protected health information" as defined by the Privacy Rules, or if the Privacy Rules permit the State to receive such information without entering into a business associate agreement or signing another such document.

- D.12. Public Accountability. If the Grantee is subject to Tenn. Code Ann. § 8-4-401 *et seq.*, or if this Grant Contract involves the provision of services to citizens by the Grantee on behalf of the State, the Grantee agrees to establish a system through which recipients of services may present grievances about the operation of the service program. The Grantee shall also display in a prominent place, located near the passageway through which the public enters in order to receive Grant supported services, a sign at least eleven inches (11") in height and seventeen inches (17") in width stating:

NOTICE: THIS AGENCY IS A RECIPIENT OF TAXPAYER FUNDING. IF YOU OBSERVE AN AGENCY DIRECTOR OR EMPLOYEE ENGAGING IN ANY ACTIVITY WHICH YOU CONSIDER TO BE ILLEGAL, IMPROPER, OR WASTEFUL, PLEASE CALL THE STATE COMPTROLLER'S TOLL-FREE HOTLINE: 1-800-232-5454.

The sign shall be on the form prescribed by the Comptroller of the Treasury. The Grantor State Agency shall obtain copies of the sign from the Comptroller of the Treasury, and upon request from the Grantee, provide Grantee with any necessary signs.

- D.13. Public Notice. All notices, informational pamphlets, press releases, research reports, signs, and similar public notices prepared and released by the Grantee in relation to this Grant Contract shall include the statement, "This project is funded under a grant contract with the State of Tennessee." All notices by the Grantee in relation to this Grant Contract shall be approved by the State.
- D.14. Licensure. The Grantee, its employees, and any approved subcontractor shall be licensed pursuant to all applicable federal, state, and local laws, ordinances, rules, and regulations and shall upon request provide proof of all licenses.
- D.15. Records. The Grantee and any approved subcontractor shall maintain documentation for all charges under this Grant Contract. The books, records, and documents of the Grantee and any approved subcontractor, insofar as they relate to work performed or money received under this Grant Contract, shall be maintained in accordance with applicable Tennessee law. In no case shall the records be maintained for a period of less than five (5) full years from the date of the final payment. The Grantee's records shall be subject to audit at any reasonable time and upon reasonable notice by the Grantor State Agency, the Comptroller of the Treasury, or their duly appointed representatives.

The records shall be maintained in accordance with Governmental Accounting Standards Board (GASB) Accounting Standards or the Financial Accounting Standards Board (FASB) Accounting Standards Codification, as applicable, and any related AICPA Industry Audit and Accounting guides.

In addition, documentation of grant applications, budgets, reports, awards, and expenditures will be maintained in accordance with U.S. Office of Management and Budget's *Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards*.

Grant expenditures shall be made in accordance with local government purchasing policies and procedures and purchasing procedures for local governments authorized under state law.

The Grantee shall also comply with any recordkeeping and reporting requirements prescribed by the Tennessee Comptroller of the Treasury.

The Grantee shall establish a system of internal controls that utilize the COSO Internal Control - Integrated Framework model as the basic foundation for the internal control system. The Grantee shall incorporate any additional Comptroller of the Treasury directives into its internal control system.

Any other required records or reports which are not contemplated in the above standards shall follow the format designated by the head of the Grantor State Agency, the Central Procurement Office, or the Commissioner of Finance and Administration of the State of Tennessee.

- D.16. Monitoring. The Grantee's activities conducted and records maintained pursuant to this Grant Contract shall be subject to monitoring and evaluation by the State, the Comptroller of the Treasury, or their duly appointed representatives.
- D.17. Progress Reports. The Grantee shall submit brief, periodic, progress reports to the State as requested.
- D.18. Annual and Final Reports. The Grantee shall submit, within three (3) months of the conclusion of each year of the Term, an annual report. For grant contracts with a term of less than one (1) year, the Grantee shall submit a final report within three (3) months of the conclusion of the Term. For grant contracts with multiyear terms, the final report will take the place of the annual report for the final year of the Term. The Grantee shall submit annual and final reports to the Grantor State Agency. At minimum, annual and final reports shall include: (a) the Grantee's name; (b) the Grant Contract's Edison identification number, Term, and total amount; (c) a narrative section that describes the program's goals, outcomes, successes and setbacks, whether the Grantee used benchmarks or indicators to determine progress, and whether any proposed activities were not completed; and (d) other relevant details requested by the Grantor State Agency. Annual and final report documents to be completed by the Grantee shall appear on the Grantor State Agency's website or as an attachment to the Grant Contract.
- D.19. Audit Report. The Grantee shall be audited in accordance with applicable Tennessee law.
- If the Grantee is subject to an audit under this provision, then the Grantee shall complete Attachment B.
- When a federal single audit is required, the audit shall be performed in accordance with U.S. Office of Management and Budget's *Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards*.
- A copy of the audit report shall be provided to the Comptroller by the licensed, independent public accountant. Audit reports shall be made available to the public.
- D.20. Procurement. If other terms of this Grant Contract allow reimbursement for the cost of goods, materials, supplies, equipment, or contracted services, such procurement shall be made on a competitive basis, including the use of competitive bidding procedures, where practical. The Grantee shall maintain documentation for the basis of each procurement for which reimbursement is paid pursuant to this Grant Contract. In each instance where it is determined that use of a competitive procurement method is not practical, supporting documentation shall include a written justification for the decision and for use of a non-competitive procurement. If the Grantee is a subrecipient, the Grantee shall comply with 2 C.F.R. §§ 200.317—200.326 when

procuring property and services under a federal award.

The Grantee shall obtain prior approval from the State before purchasing any equipment under this Grant Contract.

For purposes of this Grant Contract, the term "equipment" shall include any article of nonexpendable, tangible, personal property having a useful life of more than one year and an acquisition cost which equals or exceeds five thousand dollars (\$5,000.00).

- D.21. Strict Performance. Failure by any party to this Grant Contract to insist in any one or more cases upon the strict performance of any of the terms, covenants, conditions, or provisions of this Grant Contract is not a waiver or relinquishment of any term, covenant, condition, or provision. No term or condition of this Grant Contract shall be held to be waived, modified, or deleted except by a written amendment signed by the parties.
- D.22. Independent Contractor. The parties shall not act as employees, partners, joint venturers, or associates of one another in the performance of this Grant Contract. The parties acknowledge that they are independent contracting entities and that nothing in this Grant Contract shall be construed to create a principal/agent 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.
- D.23. Limitation of State's Liability. The State shall have no liability except as specifically provided in this Grant Contract. In no event will the State be liable to the Grantee or any other party for any lost revenues, lost profits, loss of business, loss of grant funding, decrease in the value of any securities or cash position, time, money, goodwill, or any indirect, special, incidental, punitive, exemplary or consequential damages of any nature, whether based on warranty, contract, statute, regulation, tort (including but not limited to negligence), or any other legal theory that may arise under this Grant Contract or otherwise. The State's total liability under this Grant Contract (including any exhibits, schedules, amendments or other attachments to the Contract) or otherwise shall under no circumstances exceed the Maximum Liability originally established in Section C.1 of this Grant Contract. This limitation of liability is cumulative and not per incident.
- D.24. Force Majeure. "Force Majeure Event" means fire, flood, earthquake, elements of nature or acts of God, wars, riots, civil disorders, rebellions or revolutions, acts of terrorism or any other similar cause beyond the reasonable control of the party except to the extent that the non-performing party is at fault in failing to prevent or causing the default or delay, and provided that the default or delay cannot reasonably be circumvented by the non-performing party through the use of alternate sources, workaround plans or other means. A strike, lockout or labor dispute shall not excuse either party from its obligations under this Grant Contract. Except as set forth in this Section, any failure or delay by a party in the performance of its obligations under this Grant Contract arising from a Force Majeure Event is not a default under this Grant Contract or grounds for termination. The non-performing party will be excused from performing those obligations directly affected by the Force Majeure Event, and only for as long as the Force Majeure Event continues, provided that the party continues to use diligent, good faith efforts to resume performance without delay. The occurrence of a Force Majeure Event affecting Grantee's representatives, suppliers, subcontractors, customers or business apart from this Grant Contract is not a Force Majeure Event under this Grant Contract. Grantee will promptly notify the State of any delay caused by a Force Majeure Event (to be confirmed in a written notice to the State within one (1) day of the inception of the delay) that a Force Majeure Event has occurred, and will describe in reasonable detail the nature of the Force Majeure Event. If any Force Majeure Event results in a delay in Grantee's performance longer than forty-eight (48) hours, the State may, upon notice to Grantee: (a) cease payment of the fees until Grantee resumes performance of the affected obligations; or (b) immediately terminate this Grant Contract or any purchase order, in whole or in part, without further payment except for fees then due and payable. Grantee will not

increase its charges under this Grant Contract or charge the State any fees other than those provided for in this Grant Contract as the result of a Force Majeure Event.

- D.25. Tennessee Department of Revenue Registration. The Grantee shall comply with all applicable registration requirements contained in Tenn. Code Ann. §§ 67-6-601 – 608. Compliance with applicable registration requirements is a material requirement of this Grant Contract.
- D.26. Charges to Service Recipients Prohibited. The Grantee shall not collect any amount in the form of fees or reimbursements from the recipients of any service provided pursuant to this Grant Contract.
- D.27. No Acquisition of Equipment or Motor Vehicles. This Grant Contract does not involve the acquisition and disposition of equipment or motor vehicles acquired with funds provided under this Grant Contract.
- D.28. State and Federal Compliance. The Grantee shall comply with all applicable state and federal laws and regulations in the performance of this Grant Contract. The U.S. Office of Management and Budget's Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards is available here: http://www.ecfr.gov/cgi-bin/text-idx?SID=c6b2f053952359ba94470ad3a7c1a975&tpl=/ecfrbrowse/Title02/2cfr200_main_02.tpl
- D.29. Governing Law. This Grant Contract shall be governed by and construed in accordance with the laws of the State of Tennessee, without regard to its conflict or choice of law rules. The Grantee 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 Grant Contract. The Grantee acknowledges and agrees that any rights or claims against the State of Tennessee or its employees hereunder, and any remedies arising there from, shall be subject to and limited to those rights and remedies, if any, available under Tenn. Code Ann. §§ 9-8-101 through 9-8-408.
- D.30. Completeness. This Grant Contract is complete and contains the entire understanding between the parties relating to the subject matter contained herein, including all the terms and conditions agreed to by the parties. This Grant Contract supersedes any and all prior understandings, representations, negotiations, or agreements between the parties, whether written or oral.
- D.31. Severability. If any terms and conditions of this Grant Contract are held to be invalid or unenforceable as a matter of law, the other terms and conditions shall not be affected and shall remain in full force and effect. To this end, the terms and conditions of this Grant Contract are declared severable.
- D.32. Headings. Section headings are for reference purposes only and shall not be construed as part of this Grant Contract.
- D.33. Iran Divestment Act. The requirements of Tenn. Code Ann. § 12-12-101, *et seq.*, addressing contracting with persons as defined at Tenn. Code Ann. §12-12-103(5) that engage in investment activities in Iran, shall be a material provision of this Grant Contract. The Grantee certifies, under penalty of perjury, that to the best of its knowledge and belief that it is not on the list created pursuant to Tenn. Code Ann. § 12-12-106.
- D.34. Debarment and Suspension. The Grantee certifies, to the best of its knowledge and belief, that it, its current and future principals, its current and future subcontractors and their principals:
 - a. are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions by any federal or state department or agency;

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

The Grantee shall provide immediate written notice to the State if at any time it learns that there was an earlier failure to disclose information or that due to changed circumstances, its principals or the principals of its subcontractors are excluded or disqualified, or presently fall under any of the prohibitions of sections a-d.

- D.35. Confidentiality of Records. Strict standards of confidentiality of records and information shall be maintained in accordance with applicable state and federal law. All material and information, regardless of form, medium or method of communication, provided to the Grantee by the State or acquired by the Grantee on behalf of the State that is regarded as confidential under state or federal law shall be regarded as "Confidential Information." Nothing in this Section shall permit Grantee to disclose any Confidential Information, regardless of whether it has been disclosed or made available to the Grantee due to intentional or negligent actions or inactions of agents of the State or third parties. Confidential Information shall not be disclosed except as required or permitted under state or federal law. Grantee shall take all necessary steps to safeguard the confidentiality of such material or information in conformance with applicable state and federal law.

The obligations set forth in this Section shall survive the termination of this Grant 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 Grant Contract, the special terms and conditions shall be subordinate to the Grant Contract's other terms and conditions.
- E.2. Grantee Participation. Grantee Participation amounts detailed in the Grant Budget are intended as a goal for the total project, and the amount of actual Grantee Participation expenditures will not impact the maximum amounts reimbursable to the Grantee as detailed by the Grant Budget column, "Grant Contract."

IN WITNESS WHEREOF,

**THE INDUSTRIAL DEVELOPMENT BOARD OF THE METROPOLITAN GOVERNMENT OF
NASHVILLE AND DAVIDSON COUNTY:**

Winniforester, Secretary 11-17-21

Nigel Hodge

11/17/21

GRANTEE SIGNATURE

DATE

Nigel Hodge, Chair IDB

PRINTED NAME AND TITLE OF GRANTEE SIGNATORY (above)

DEPARTMENT OF ECONOMIC AND COMMUNITY DEVELOPMENT:

Robert O Rolfe / sk

11:30/21

ROBERT O. ROLFE, COMMISSIONER

DATE

ATTACHMENT A

GRANT BUDGET

Grantee:

The Industrial Development Board of the Metropolitan Government of Nashville and Davidson County

Grantee Contact:

Nigel Hodge, 615-862-6021, courtney.pogue@nashville.gov

Company:

Oracle America, Inc.

Program:

FastTrack Economic Development Grant Program

The Grant Budget line-item amounts below shall be applicable only to expense incurred during the following

Applicable

Period:

BEGIN: May 1, 2021

END: April 30, 2024

POLICY 03 Object Line-Item Reference	EXPENSE OBJECT LINE-ITEM CATEGORY ¹	GRANT CONTRACT	GRANTEE PARTICIPATION	TOTAL PROJECT
1 2	Salaries, Benefits & Taxes	0.00	0.00	0.00
4, 15	Professional Fee, Grant & Award ²	65,000,000.00	0.00	65,000,000.00
5, 6, 7, 8, 9, 10	Supplies, Telephone, Postage & Shipping, Occupancy, Equipment Rental & Maintenance, Printing & Publications	0.00	0.00	0.00
11 12	Travel, Conferences & Meetings	0.00	0.00	0.00
13	Interest ²	0.00	0.00	0.00
14	Insurance	0.00	0.00	0.00
16	Specific Assistance To Individuals	0.00	0.00	0.00
17	Depreciation ²	0.00	0.00	0.00
18	Other Non-Personnel ²	0.00	0.00	0.00
20	Capital Purchase ²	0.00	0.00	0.00
22	Indirect Cost	0.00	0.00	0.00
24	In-Kind Expense	0.00	0.00	0.00
25	GRAND TOTAL	65,000,000.00	0.00	65,000,000.00

¹ Each expense object line-item shall be defined by the Department of Finance and Administration Policy 03, *Uniform Reporting Requirements and Cost Allocation Plans for Subrecipients of Federal and State Grant Monies, Appendix A*. (posted on the Internet at: <https://www.tn.gov/finance/looking-for/policies.html>).

² Applicable detail follows this page if line-item is funded.

ATTACHMENT A

GRANT BUDGET LINE-ITEM DETAIL:

PROFESSIONAL FEE, GRANT & AWARD	AMOUNT
Land acquisition, site preparation, construction, and occupying of office space to be located at various sites on or near Cowen Street, Nashville, Tennessee	65,000,000.00
TOTAL	65,000,000.00

INTEREST	AMOUNT
n/a	n/a
TOTAL	n/a

DEPRECIATION	AMOUNT
n/a	n/a
TOTAL	n/a

OTHER NON-PERSONNEL	AMOUNT
n/a	n/a
TOTAL	n/a

CAPITAL PURCHASE	AMOUNT
n/a	n/a
TOTAL	n/a

ATTACHMENT B**Parent Child Information**

The Grantee should complete this form and submit it with the Grant Contract. The Grantee should submit only one, completed "Parent Child Information" document to the State during the Grantee's fiscal year.

"Parent" means an entity whose IRS filing contains the information of at least one other entity.

"Child" means an entity whose information is contained in another entity's IRS filing.

Grantee's Edison Vendor ID number:

Is The Industrial Development Board of the Metropolitan Government of Nashville and Davidson County a parent? ☐ Yes ☐ No

If yes, provide the name and Edison Vendor ID number, if applicable, of any child entities.

Is The Industrial Development Board of the Metropolitan Government of Nashville and Davidson County a child? ☐ Yes ☐ No

If yes, complete the fields below.

Parent entity's name: _____

Parent entity's tax identification number: _____

Note: If the parent entity's tax identification number is a social security number, this form must be submitted via US mail to:

Central Procurement Office, Grants Program Manager
3rd Floor, WRS Tennessee Tower
312 Rosa L Parks Avenue
Nashville, TN 37243

Parent entity's contact information

Name of primary contact person: _____

Address: _____

Phone number: _____

Email address: _____

Parent entity's Edison Vendor ID number, if applicable: _____

ATTACHMENT C

Accountability Agreement

STATE OF TENNESSEE
DEPARTMENT OF ECONOMIC AND COMMUNITY DEVELOPMENT
ACCOUNTABILITY AGREEMENT

This Accountability Agreement (this "Agreement") is made and entered into as of 11/30, 2021, by and among the Tennessee Department of Economic and Community Development, a department of the State of Tennessee (the "State"), the Industrial Development Board of the Metropolitan Government of Nashville and Davidson County (the "Development Authority"), and Oracle America, Inc. (the "Company") (the State, the Development Authority, and the Company, collectively, the "Parties").

RECITALS

WHEREAS, the purpose of the State's incentive programs is to promote long-term job growth by providing financial assistance to eligible applicants to induce and assist companies to relocate, expand, or construct projects in Tennessee;

WHEREAS, one of the economic development incentives offered by the State is an incentive award as a economic development grant (the "Award") and the State, subject to the appropriation of funding, has committed to provide the Award to the Development Authority for the Project summarized in Section 2.2 (the "Project");

WHEREAS, the Development Authority, in accordance with its statutory purposes, will utilize the Award to participate in the Project to assist the Company;

WHEREAS, in consideration for the Award, the Company has committed to create the number of jobs noted in Section 3.1 and make a capital investment of \$1,350,000,000;

WHEREAS, on or around the date of the execution of this Agreement, the Development Authority has or will execute a grant contract between the State and the Development Authority (the "Grant Contract") that provides the terms of the Award, a copy of which is attached hereto as Attachment A and incorporated into this Agreement, and the Company has or will execute a grant contract between the Development Authority and the Company with respect to the Award.

Now, therefore, upon and in consideration of the respective promises and covenants contained herein and for other good and valuable consideration, the receipt, adequacy, and sufficiency of which are hereby acknowledged, the Parties hereto agree as follows:

ARTICLE I – CAPITALIZED TERMS

Capitalized terms used herein shall have the meanings ascribed thereto in this Article I of the Agreement, unless the meanings of such terms have been otherwise specified in a different context. For purposes of this Agreement:

- 1.1 "Adjusted Award Amount" has the meaning assigned to such term in Section 5.1.
- 1.2 "Affiliate" has the meaning assigned to such term in Section 6.2.
- 1.3 "Agreement" has the meaning assigned to such term in the preamble hereto.
- 1.4 "Amount Received" has the meaning assigned to such term in Section 3.3.
- 1.5 "Award" has the meaning ascribed to such term in the preamble hereto.
- 1.6 "Award Amount" has the meaning assigned to such term in Section 2.1.
- 1.7 "Committed Jobs" has the meaning assigned to such term in Section 3.1.
- 1.8 "Company" has the meaning assigned to such term in the preamble hereto.
- 1.9 "Development Authority" has the meaning assigned to such term in the preamble hereto.
- 1.10 "End Date" means December 31, 2029. All references to the End Date shall include any extensions granted herein.
- 1.11 "Event of Default" has the meaning assigned to such term in Section 5.1.
- 1.12 "Facility" has the meaning assigned to such term in Section 2.2.
- 1.13 "Force Majeure" means any of the following events that directly impact the Company's ability to meet the Performance Requirement: flood, earthquake, storm, lightning, fire, or other Acts of God; sabotage or terrorism.
- 1.14 "Grant Contract" has the meaning assigned in the preamble hereto.
- 1.15 "Interim Date" means each December 31st after the Start Date. All references to an Interim Date shall include any extensions granted herein.
- 1.16 "Job" means a new full-time position that is created and filled at the Facility during the period beginning on the Start Date and ending on the End Date, and that is held by a Company employee who is offered medical benefits. Jobs shall not include positions created prior to the Start Date and transferred to the Facility from another Company location in the State but may include positions created prior to the Start Date and transferred to the Facility from a Company location outside of the State. Jobs shall also include full-time positions created and filled after the Start Date which are temporarily located at a Company location in the State, that are intended to be permanently located at the Facility after completion of the Facility so long as these positions are not counted towards the fulfillment of any other incentive provided by the State. Additionally, Jobs shall not include positions created as a result of a merger, acquisition, or other business combination unless such positions are new positions in

the State of Tennessee. A Job shall be deemed filled at the Facility if the Company employee resides in Tennessee and reports to the Facility.

- 1.17 "Minimum Performance Requirement" has the meaning assigned to such term in Section 3.3
- 1.18 "Net New Jobs" means the cumulative number of Jobs as of each Interim Date.
- 1.19 "Notification Letter" has the meaning assigned to such term in Section 5.2.
- 1.20 "Parties" has the meaning assigned to such term in the preamble hereto.
- 1.21 "Performance Percentage" means a percentage calculated by dividing the number of Net New Jobs filled on the End Date by the number of Committed Jobs.
- 1.22 "Performance Requirement" has the meaning assigned to such term in Section 3.1.
- 1.23 "Project" has the meaning assigned to such term in Section 2.2.
- 1.24 "Project Expenses" has the meaning assigned to such term in Section 4.3.
- 1.25 "Protest Letter" has the meaning assigned to such term in Section 5.2.
- 1.26 "Start Date" means May 1, 2021.
- 1.27 "State" has the meaning assigned to such term in the preamble hereto.

ARTICLE II – AWARD

- 2.1 Grant Award Amount. Subject to approval of the Grant Contract, and approval by the State Building Commission, the State shall provide to the Development Authority an Award of up to Sixty-Five Million Dollars and No/100 (\$65,000,000.00) (the "Award Amount") for the Project, and the Development Authority will make payments of the Award Amount to the Company as set forth in Grant Contract.
- 2.2 Project Description. The Development Authority and the Company shall use the Award to implement the project (the "Project"), which is defined as follows:

Land acquisition, site preparation, construction, and occupying of office space to be located at various sites on or near Cowen Street, Nashville, Tennessee (the "Facility").
- 2.3 Use of Proceeds. Funds from the Award shall be used to reimburse costs of land acquisition, site preparation and construction of the Facility as shown on the Grant Contract.

ARTICLE III – PERFORMANCE REQUIREMENT

- 3.1 Company Commitment. As consideration for the Award, and as part of the Project, the Company shall create and maintain five thousand nine hundred and eighty nine (5,989) Jobs (“Committed Jobs”) commencing on the Start Date, until the End Date (the “Performance Requirement”).
- 3.2 Force Majeure. The State may, in its sole discretion, extend the End Date, Interim Dates, or interim reporting periods required by Section 4.2 due to an event of Force Majeure. However, an extension of the End Date, Interim Dates, or interim reporting periods required by Section 4.2 shall be for a term no longer than one year following the original End Date, Interim Date or interim reporting period.
- 3.3 Compliance with the Performance Requirement. Pursuant to Section 4.2, the Company will annually submit a report of the Net New Jobs as of each Interim Date during the period commencing on the Start Date and ending on the End Date. Upon the End Date, the Company shall submit the report for the final Interim Date that provides the number of Net New Jobs filled on the End Date. For the avoidance of doubt, the intent of this Agreement is to ensure long-term employment and only Jobs filled on the End Date will be counted toward compliance with the Performance Requirement. The Company shall be deemed in compliance with the Performance Requirement if the Performance Percentage as of the End Date is equal to or greater than ninety percent (90%). The Company’s failure to be in compliance with the Performance Requirement as of the End Date shall result in the repayment to the State of all or a portion of the Award Amount received by the Development Authority on behalf of the Company (“Amount Received”) in accordance with Section 5.1. Further, if the Performance Percentage is below fifty percent (50%) (the “Minimum Performance Requirement”), the Company shall repay to the State all of the Award Amount that has been received by the Development Authority in accordance with Article V.

ARTICLE IV – REPORTING REQUIREMENTS

- 4.1 Baseline Report. The State and the Company agree that the Company has zero existing jobs (“Baseline Jobs”) prior to creation of Jobs under this Agreement, which shall be reported on Exhibit A. The Company must submit backup data in the form of a headcount listing of all positions at the Facility as of the date Baseline Jobs were reported in the Company’s Application for Incentives submitted to the State seeking incentives for the Project. Back-up data shall include, at a minimum, an employee identification number or position identification number and hire date for each position reported. Back-up data shall provide reasonable assurance that information provided to the State pursuant to this Agreement is true and correct in all material respects.
- 4.2 Performance Reports. On or before the 60th day (or such later date as shall have been approved by the State) following each Interim Date during the period commencing on the Start Date and ending on the End Date, the Company shall deliver to the State

and the Development Authority a report substantially similar to Exhibit B (a "Performance Report") that provides the number of Jobs existing as of the Interim Date applicable to such report. Each Performance Report will be signed by a duly authorized representative of the Company and will certify the number of Jobs as of the Interim Date applicable to such Performance Report. Performance reports shall include appropriate back-up data for the Jobs reported. The Company must submit a list of all Jobs as of the Interim Date applicable to the report. Back-up data shall include, at a minimum, an employee identification number or position identification number and hire date for each new position reported. Back-up data shall provide reasonable assurance that information provided to the State pursuant to this Agreement is true and correct in all material respects.

- 4.3 Project Expenses. The Company shall provide to the Development Authority and the State, in form and substance acceptable to the State, copies of documents necessary to verify the Company's eligible expenses related to the Project of at least the Award Amount for which the Company desires to be reimbursed ("Project Expenses"). The State must approve all documentation for Project Expenses prior to reimbursement.

ARTICLE V – DEFAULT

- 5.1 Event of Default and Repayment Amount. For purposes of this Agreement, the term "Event of Default" shall mean the occurrence of any of the following events: (i) the Company fails to provide the Baseline Report or any of the Performance Reports required pursuant to Sections 4.1 and 4.2 or the back-up data applicable to such Performance Reports on or before the due dates established in Sections 4.1 and 4.2 within thirty (30) days after written notice of such failure and opportunity to cure, (ii) the Company ceases to operate or fails to complete the Project described in Section 2.2 between the Start Date and the End Date, (iii) the Company fails to meet the Minimum Performance Requirement, or (iv) the Company fails to meet the Performance Requirement.

In the case of an Event of Default under Section 5.1(i), the Company shall repay 100% of the Amount Received. In the case of an Event of Default under Section 5.1(ii), the Company shall repay to the State 100% of the Amount Received. In the case of an Event of Default under Section 5.1(iii), the Company shall repay to the State 100% of the Amount Received. In the case of an Event of Default under Section 5.1(iv), the Repayment Amount shall be determined by (A) multiplying the Award Amount by the Performance Percentage (the "Adjusted Award Amount"), then (B) the Company shall be liable to repay to the State any portion of the Amount Received that exceeds the Adjusted Award Amount. (See Exhibit C.)

- 5.2 Notification and Repayment. In the event the Company has defaulted under Section 5.1 of this Agreement, the State shall deliver written notice (a "Notification Letter") to the Development Authority and the Company of such failure or default that will include a summary of the basis of the State's claim and shall include a demand that

the Company pay the State the Repayment Amount (in which case such Notification Letter shall include the State's determination of the Repayment Amount).

No later than forty-five (45) days after the date of its receipt of a Notification Letter in which the State demands such repayment, the Company shall submit the Repayment Amount to the State. Any portion of the Repayment Amount that remains unpaid after the end of such forty-five (45) day period shall accrue interest from and after such period at the rate provided under TENN. CODE ANN. §47-14-105 and, should the Company fail to remit the Repayment Amount to the State, the State shall have the right to seek any and all remedies available to it through its administrative processes or to seek remedies available at law or equity; provided that, neither the Company nor any of its Affiliates shall be liable for any damages arising from this Agreement that exceed, in the aggregate, that portion of the Award Amount received by the Company plus any interest the Company is required to pay pursuant to this Section 5.2. Notwithstanding the foregoing, if the Company believes that the State has improperly demanded payment of the Repayment Amount (either in whole or in part), the Company shall have the right to remit the Repayment Amount demanded by the State pursuant to the State's Notification Letter under protest, in which case (i) the Company shall provide to the State a written explanation of the nature of the protest (the "Protest Letter"); (ii) the Repayment Amount paid by the Company shall not be subject to interest as described in this Section 5.2 if paid within the forty-five (45) day period described above; and (iii) the Company shall not be deemed to have waived any rights or defenses with respect to the Award Amount or the Repayment Amount (including, without limitation, any rights or defenses the Company may have under this Agreement or the Grant Contract with respect to the Award); provided, however, that the Company shall not be entitled to file a claim against the State with respect to funds repaid pursuant to this Section 5.2 after the first anniversary of the date on which the Company receives the Notification Letter pursuant to which the Company shall have repaid such funds. Further, any such claim against the State shall be made to the Tennessee Claims Commission in accordance with Title 9, Chapter 8 of the Tennessee Code Annotated and shall be limited to disputes relating to matters described in the Protest Letter.

ARTICLE VI – MISCELLANEOUS

- 6.1 Records. The Company shall maintain documentation reasonably sufficient to verify the information contained in the reports required under Article 4 for three (3) years following the End Date. To the extent that the State has questions about the data supplied by Company in any report, application, filing or other document provided under this Agreement, the parties will engage in good faith efforts to resolve such questions and, upon the State's reasonable request, Company will furnish back-up documentation reasonably sufficient to verify the accuracy and completeness of the report, application, filing or other document in question, and to demonstrate the manner in which such items or their contents were calculated or prepared. If, notwithstanding the good faith efforts of the Parties to resolve any questions concerning such items, the Parties are unable to resolve such issues, the State may

examine and audit such books and records of Company as are reasonably sufficient to verify the accuracy of such items. Any such audit must: (i) not be disruptive to Company's business and must take place at a mutually agreed time during Company's normal business hours; (iv) take place with reasonable prior written notice; (v) be completed as quickly as reasonably possible; and (vi) be conducted by the State alone and not in conjunction or cooperation with any other party. The State agrees that any information learned or disclosed in connection with any such audit is confidential information of the Company and subject to the security, nondisclosure and nonuse obligations under Section 6.10. In the event the State's examination reveals a calculation discrepancy, the parties will cooperate in good faith to address and resolve such deficiency or discrepancy. The State will be solely responsible for all costs of any audit it conducts. Information, documents and materials that do not constitute public records under the Tennessee Public Records Act, Tenn. Code Ann. § 10-7-101, et seq. ("TPRA"), learned by the State in connection with any such audit shall be treated as confidential information of Company and the State agrees to maintain the confidentiality of such information to the maximum extent permitted by applicable law. Information, documents and materials provided by the Company that constitute public records under TPRA shall be treated as described in Section 6.10 of this Agreement. Notwithstanding the foregoing or any other provision of this Agreement, the Company shall not be required to disclose, permit the inspection of or examination of, or discuss, any document, information or other matter that (a) constitutes trade secrets or proprietary information, (b) in respect of which disclosure is prohibited by law, or (c) is subject to attorney-client or similar privilege, employee privacy or constitutes attorney work product.

- 6.2 Assignment. No party may assign this Agreement without the prior written consent of the other Parties, except that Company may assign this Agreement to an Affiliate. "Affiliate" as used herein means any entity that directly or indirectly controls, is controlled by, or is under common control with Company. Without limiting the generality of the foregoing, this Agreement will be binding upon, inure to the benefit of, and be enforceable by the Parties and their respective successors and assigns.
- 6.3 Communication and Notices. All notices or other communications required or contemplated by this Agreement shall be in writing and shall be made by certified, first class mail, return receipt requested, by overnight courier service with an asset tracking system, or by email. Any such communication, regardless of method of transmission, shall be addressed to the respective party at the appropriate mailing address or email address set forth below or to that of such other party or address as may be hereafter specified by written notice.

The Development Authority:

The Industrial Development Board of the Metropolitan Government of Nashville and Davidson County
Attn: Chairman
Metropolitan Courthouse, Suite G70
Nashville, TN 37201

The State:

Tennessee Department of Economic and Community Development
Attn: General Counsel
312 Rosa Parks, 27th Floor
Nashville, TN 37243
Email: ecd.legal@tn.gov
Telephone: 615-741-1888

The Company:

Oracle America, Inc.
Attn: Lease Administration
1001 Sunset Boulevard
Rocklin, California 95765
Facsimile (916) 315-7652

With a Copy to:

Oracle America, Inc.
Attn: General Counsel
500 Oracle Parkway
Redwood Shores, California 94065
Facsimile (650) 506-7114

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

- 6.4 Governing Law. This Agreement shall be governed by and construed in accordance with the laws of the State of Tennessee. The Company 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 Agreement. The Company 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 Title 9, Chapter 8 of the Tennessee Code Annotated.
- 6.5 Exhibits. The Exhibits and Attachment hereto attached will be construed to be a part of this Agreement by such reference or other mention at each point at which such reference or other mention occurs, in the same manner and with the same effect as if each Exhibit and Attachment were set forth in full and at length every time it is referred to or otherwise mentioned. In the event of a discrepancy or ambiguity regarding the grant of funds from the State to the Development Authority under the Grant Contract, the terms of the Grant Contract shall govern.

- 6.6 Severability. If any one or more of the provisions contained herein will for any reason be held by any court of competent jurisdiction to be invalid, illegal, or unenforceable in any respect, such invalidity, illegality, or unenforceability will not affect any other provision hereof, and this Agreement will be construed as if such invalid, illegal, or unenforceable provision had never been contained herein.
- 6.7 Waiver. No waiver of any provision hereof shall be effective unless made in writing and signed by the State. The failure of the State to require the performance of any term or obligation of this Agreement, or the waiver by the State of any breach of this Agreement, shall not prevent any subsequent enforcement of such term or obligation or be deemed a waiver of any subsequent breach.
- 6.8 Authorized Signatures. Each of the individuals executing this Agreement represents that they are authorized to execute this Agreement on behalf of their respective entities.
- 6.9 Execution in Counterparts. This Agreement may be executed in any number of counterparts and by different parties in separate counterparts. Each counterpart when so executed shall be deemed to be an original and all of which together shall constitute one and the same Agreement. The parties may execute this Agreement via electronic signature such as DocuSign.
- 6.10 Information Security. The State and the Development Authority agree to use adequate physical and technical measures to maintain the security of all electronic and tangible records relating to this Agreement including at a minimum: a working network firewall to protect data accessible via the Internet; up-to-date security patches; up-to-date anti-virus software; policies restricting access to information (and physical records embodying information) to those with a need to know (subject to applicable public records and freedom of information laws); unique user identifications and credentials for each person with access to information, and; a policy requiring the use of "strong passwords" on all computer systems. The State and the Development Authority acknowledge and agree that the Company must comply with its information security policies in performing its obligations under this Agreement and that to the extent the Company is required to deliver sensitive employment related information (such as social security numbers, compensation information, employee names, employee addresses and job titles) in connection with this Agreement, the Company may deliver such information in password protected and encrypted files.
- 6.11 Confidentiality. The Company acknowledges and agrees that this Agreement is a public record subject to disclosure (after redaction of information exempt from disclosure as described below) under the State's public records laws. The State and the Development Authority acknowledge and agree that the State's public records laws exempt from disclosure certain types of records, materials and information. The State and the Development Authority each agree to use adequate safeguards, no less than those safeguards described in Section 6.10, to maintain the security and confidentiality of all materials, communications, data and information related to this

Agreement or supplied by the Company in connection with this Agreement. The Company acknowledges that portions of this Agreement and the materials, communications, data and information related to this Agreement may constitute public records subject to disclosure under the State's public records laws and agrees that the State and the Development Authority may disclose such portions of this Agreement and the materials, communications, data and information related to this Agreement as required by law, provided that the disclosing party (a) discloses only such information as is required under the applicable law, and (b) limits disclosure, refuses to disclose, and redacts and/or omits portions of materials to the maximum extent permitted by applicable law. The State and the Development Authority agree that their respective staff, representatives and agents will exercise the utmost discretion in oral and written communications regarding the Project and will provide information internally only to those individuals who need the information to facilitate the parties' performance under this Agreement.

- 6.12 Termination. The Company may terminate this Agreement at any time in its sole discretion upon thirty (30) days written notice. In the event of such termination, the Company shall be liable to repay to the State all of the Amount Received pursuant to the repayment procedure described in Section 5.2. The Company may terminate this Agreement without penalty prior to reimbursement of any Project Expenses under the Grant Contract, in which case the Company will forfeit any and all rights or claims to the Award, and this Agreement shall be of no further force or effect.

[Signature Page Follows]

IN WITNESS WHEREOF, the Parties have hereunto set their signatures the day and year first written above.

**Tennessee Department of Economic
and Community Development**

By: Robert O Rife/sk

Title: Commissioner

Date: 11/30/21

Oracle America, Inc.

By: Don Watson
Don Watson (May 10, 2021 16:15 EDT)

Title: SVP Global Real Estate & Facilities Management

Date: May 10, 2021

**The Industrial Development Board of the
Metropolitan Government of Nashville and
Davidson County**

By: Nigel Hays

Title: Chair

Date: 11/17/21

Winnie Fonester
Secretary
11-17-21

EXHIBIT A

Baseline Report

Company: _____
Grant Number: _____
Date: _____

Please attach back-up data for each existing Job. Back-up data must meet the requirements of Section 4.1.

Start Date: May 1, 2021	Existing Jobs
	0

The undersigned company represents that the individual executing this report on behalf of the company is an authorized signatory of the company. The undersigned company hereby certifies that all information contained in this Baseline Report is true and accurate. The undersigned company understands that the information provided in this Baseline Report will be used to determine the number of Net New Jobs.

Oracle America, Inc.

By: Don Watson
Don Watson May 10, 2021 10:11 AM

Title: SVP Global Real Estate & Facilities Management

Date: May 10, 2021

EXHIBIT B

Performance Report

Company: _____
Grant Number: _____
Date: _____

Check the applicable reporting period:

☐ 1st Interim ☐ 2nd Interim ☐ 3rd Interim ☐ 4th Interim ☐ 5th Interim
☐ 6th Interim ☐ 7th Interim ☐ 8th Interim ☐ 9th Interim

Unless the State agrees to an extension, this report must be submitted to the State no later than 60 days following each Interim Date for the period commencing on the Start Date and ending on the End Date. Net New Jobs shall be calculated according to the definition provided in the Agreement.

Please attach back-up data for each Job created by the Company. Back-up data must meet the requirements of Section 4.2.

<i>[insert Interim Date]:</i>	Net New Jobs (Reporting Period Only)	Net New Jobs (Cumulative since Start Date)

The undersigned company represents that the individual executing this report on behalf of the company is an authorized signatory of the company. I hereby certify that each Job listed above complies with the definition provided in the Accountability Agreement and that all information contained in this Performance Report is true and accurate.

Oracle America, Inc.

By: _____

Title: _____

Date: _____

EXHIBIT C

Repayment Amount Calculation (Required only if Performance Percentage is less than 90%)

STEP 1

Award Amount * Performance Percentage = Adjusted Award Amount

STEP 2

Award Amount - Adjusted Award Amount = Repayment Amount

Example A – Repayment Required

Company A committed to create 800 jobs as consideration for an award of \$1,500,000. At the End Date, Company A created 528 Jobs.

- Award Amount = \$1,500,000
- Commitment = 800 jobs
- Net New Jobs created = 528 (66% Performance Percentage)
- $\$1,500,000 \times 66\% = \$990,000$ Adjusted Award Amount
- $\$1,500,000 - \$990,000 = \$510,000$
- Repayment Amount = \$510,000 (34% of Award Amount)
- If company received less than full Award Amount, must repay difference between amount received and \$990,000

Example B – Repayment Required

Company B committed to create 1,000 jobs as consideration for an award of \$1,000,000. At the End Date, Company B created 440 Jobs.

- Award Amount = \$1,000,000
- Commitment = 1,000 jobs
- Net New Jobs created = 440 (44% Performance Percentage)
- Company must repay all grant funds received

Example C – No Repayment Necessary

Company C committed to create 600 jobs as consideration for an award of \$500,000. At the End Date, Company B created 546 Jobs.

- Award Amount = \$500,000
- Commitment = 600 jobs
- Net New Jobs created = 498 (91% Performance Percentage)
- No repayment required

ATTACHMENT A

Grant Contract

ATTACHMENT D

Request to Incur Costs

**FASTTRACK GRANT REQUEST TO INCUR COST (RTIC)
PRIOR TO CONTRACT EXECUTION**

1. Industrial Development Board of the Metropolitan Government of Nashville and Davidson County ("Grantee") requests permission on behalf of
Oracle America, Inc. ("Company") to begin incurring eligible expenses for the Company's
project prior to the award of a state contract under the:

- ☐ FastTrack Job Training Assistance Program (FJTAP) beginning on the following date: _____
☐ FastTrack Infrastructure Development Program (FIDP) beginning on the following date: _____
☒ FastTrack Economic Development Grant Program (ED) beginning on the following date: 5/1/2021

2. I acknowledge that all FastTrack grant activities must be conducted according to the program guidelines as may be amended by ECD from time to time. I understand that failure to provide any of the required documentation will render the FastTrack application ineligible for approval by the ECD Grant Committee.
3. I acknowledge that the Company may not submit reimbursement requests to the State for payment until the FastTrack contract has been executed and that such reimbursement requests will be submitted in the form required by ECD.
4. I acknowledge that approval of permission to begin hiring and/or incur eligible expenses prior to grant award is not to be construed as approval of the grant, that this permission merely makes it possible for a grant to be approved at a later date, and that it is possible the grant will never be awarded or may be awarded for a lesser amount than requested.
5. I acknowledge that all FastTrack grants are subject to the approval of the ECD Grant Committee and that permission to incur costs, if approved, does not indicate the likelihood of such approval.
6. I acknowledge that all FastTrack grants are subject to the review and approval of the Central Procurement Office and the Office of the Comptroller and that permission to incur costs, if approved, does not indicate the likelihood of such approval.
7. I acknowledge that any grant over \$750,000 is subject to the approval of the Tennessee State Funding Board and that permission to incur costs, if approved, does not indicate the likelihood of such approval.
8. ECD and its staff are prohibited from providing any verbal or written assurance that a grant will be awarded and any such verbal or written assurance is void.

Grantee Signature:

Ginger Hausser

Digitally signed by Ginger Hausser
Date: 2021.03.25 14:31:45 -05'00'

Date: 3/25/2021

Company Signature (If Applicable):

Date: _____

Name, Title:

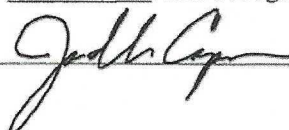
Ginger Hausser, Chair

FOR ECD USE ONLY

DATE RTIC APPROVED BY ECD GRANT COMMITTEE: 03/30/2021

FastTrack Program RTIC Date: 5/1/21 Program Name: FEDP Addtl Program/Date: N/A

Juandale Cooper, ECD FastTrack Director Approval:



09/17/2021