



Ohio Third Frontier

Request for Proposals (RFP) for BROADBAND DEVELOPMENT GRANTS

- RFP Released – November 28, 2018
- Written Questions through – 2:00 pm, December 17, 2018
- Proposals due by 2:00 pm, December 31, 2018
- Review and Recommendation of Awards by the Third Frontier Commission anticipated in February 2019
- Ohio Controlling Board presentation following Third Frontier Commission Approval



**Development
Services Agency**

John R. Kasich, Governor

David Goodman, Director

RFP Administered by:
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Ohio Third Frontier

Request for Proposals (RFP) for Broadband Development Grants

1 Ohio Third Frontier Statement of Solicitation

1.1 Overview

Ohio Third Frontier's Broadband Development Grants will award grants to one or more independent organizations that have experience working with Ohio broadband providers for:

- Collecting broadband deployment data from Ohio broadband providers, verifying the data's accuracy through on-the-ground testing, and analyzing the data to help inform future investments in broadband infrastructure and creating annual state and county broadband maps that show the availability of broadband service at various upload speeds throughout Ohio; and/or
- Conducting business and residential surveys that measure broadband adoption and use in Ohio; and/or
- Engaging communities and facilitating local technology planning to provide evidence of local support for broadband development grant projects and potential economic impacts of the grant projects.

The applicant can apply for funding for one or more of the areas mentioned above. Applications can address the entire state or smaller areas/regions.

1.2 Background

Senate Bill 299 of the 132nd General Assembly provides up to \$1,000,000 for the broadband grants in state fiscal year 2019, to be awarded by the Ohio Third Frontier Commission (the Commission) after recommendations are made by an independent reviewer based on the merits of proposed research and development project(s).

Ohio Third Frontier works with innovative startup technology companies across the state of Ohio, helping to accelerate their growth through a network of resources. This network provides business expertise and support, mentorship by seasoned entrepreneurs and industry professionals, access to investors and capital, and help recruiting talent.

For more information about Ohio Third Frontier, visit www.ohiothirdfrontier.com.

1.3 Request for Proposals Issuance

The issuance of this Request for Proposals (RFP) is under the Ohio Third Frontier Broadband Development Grants pursuant to Section 184.112 of the Ohio Revised Code, which provides that the Commission shall establish a competitive process for making awards of support to fund the research and development projects that have the most merit. The Commission, on completion of that process, shall seek The Controlling Board

of the State of Ohio (Controlling Board) approval to award support for the research and development projects selected by the Commission.

Publication of this RFP will be on the State of Ohio procurement website at <https://procure.ohio.gov>.

The Commission reserves the right to fund any proposal in full or in part, or to reject any or all proposals submitted. Also, the Commission may request additional information to assist in the review process or to re-issue the RFP and accept new proposals if the Commission determines that doing so is in the best interests of the State of Ohio (the State). Issuing this RFP does not bind the State to make an award of Ohio Third Frontier funds. Any award of Ohio Third Frontier funds in respect to this RFP will be subject to availability of funds as provided in Ohio Revised Code Section 126.07.

The Ohio Development Services Agency (DSA) administers this RFP and reserves the right to adjust the dates for this RFP for any reason it deems appropriate. DSA's Office of Technology Investments will administer all funds awarded under this RFP. This RFP is not a contract or commitment of any kind on the part of DSA, the Commission, or the State.

1.4 RFP Process and Awards Process

The RFP process will consist of the following steps:

- Release of RFP
- Questions and Answers (Q&A) and Communications
- Submittal of Proposals

A description of each RFP process step is in Appendix A – RFP Process, Awards Process, and Mandatory Compliance.

The Awards Process will consist of the following steps:

- Proposal Review and Evaluation Procedures
- Award Decision
- Award and Agreement Preparation and Execution

A description of each Award Process step is in Appendix A – RFP Process, Awards Process, and Mandatory Compliance.

All questions regarding this RFP must be submitted in writing via e-mail to andy.shaw@development.ohio.gov with a subject line of "BDG RFP Q&A."

Applicants must be aware of all prohibited contact in Section II *Questions and Answers (Q&A) and Communications* of Appendix A – RFP Process, Awards Process, and Mandatory Compliance. If an applicant or third-party acting on their behalf makes prohibited contact, DSA, in its sole discretion, may eliminate the proposal from the RFP process.

2 Description

2.1 Eligibility

An applicant (Applicant) is the entity that submits a proposal and will be legally and financially responsible for the administration of any resulting award of Ohio Third Frontier Funds. Applicants may be: individuals, public and private entities, agencies, institutions, private companies or organizations, partnerships, business trusts, other business entities or ventures, research organizations, whether for profit or not for profit, or combinations or consortiums of any of the foregoing for the purpose of supporting research and development projects. See O.R.C. §184.11.

Applicants must be in-state entities. See O.R.C. §184.111.

2.2 Funding

DSA anticipates awarding up to a total of \$1 million for state fiscal year 2019. There may be one or multiple awards.

2.3 Term of Project

The “Project” is the plan of action or activities that make up the total scope of work outlined in the Applicant’s proposal. The period during which the funded work will take place (Project Period) shall be no more than 1 year.

3 General Proposal Requirements

3.1 General Instructions

All proposals are to be submitted to procurement@development.ohio.gov.

All proposals must be submitted in accordance with the schedule on the cover page of this RFP.

Additionally, all tabular data including Appendix E – Budget Forms and Appendix D – Qualifications and Company Information shall be submitted in Excel (.xlsx) format.

It is the Applicant's responsibility to ensure submission of a complete proposal based on all requirements of this RFP.

3.1.1 General Formatting Requirements

- Proposals are to be submitted on 8.5 x 11-inch page size.
- Margins must not be less than $\frac{3}{4}$ of an inch on all sides, except forms found in the Appendices.
- The font must be 11 points or larger with no more than six lines per inch.
- All pages must be numbered consecutively using the format "Page [#] of [total number of pages]" (e.g., Page 2 of 25).
- The proposal title and Applicant name must appear at the bottom of each page.
- The first page of the proposal must be the Application Information Page found in Appendix B – Application Forms.
- Do not include a cover or cover letter other than the Application Information Page.

3.1.2 Page Limitations

Any pages beyond the 15-page limit will be eliminated from the proposal before it is sent for review and evaluation. Except as otherwise noted, appendices or other methods to augment the information presented in the proposal are not allowed. References to web-based information to supplement the proposal are not permitted, and such references will not be considered in the evaluation.

3.2 Public Information

All information submitted in response to this RFP is public information and will be released if a public records request is made for it. Do not include any confidential or trade secret information in your proposal.

3.3 Order and Content of Proposal Sections

Unless otherwise noted, the proposal must address each of the elements listed in this section in the order requested.

3.3.1 *Application Information Page*

The first page of the proposal must be the completed Appendix B – Application Forms.

3.3.2 *Table of Contents*

Prepare a Table of Contents with detail for all levels of headings requested in this RFP. This section should also include a list of Charts, Figures and Tables that appear in the proposal with a page number for each, if applicable.

3.3.3 *First Narrative Element*

In describing the specifics of Applicant's proposal, please include:

- An organizational and key personnel description of the Applicant and any partners.
- A detailed description of the Project's purpose and objectives.
- A detailed description of the methods to be used to achieve the Project goals and what funding areas from Section 1.1 of this RFP those methods are responsive to, including expected deliverables with estimated costs, and the number of counties the Project proposal includes or whether the Project is statewide.
- A Project implementation plan including a timeline.
- A detailed description of any technology that will be used to achieve the Project goals.
- The Project's significance, proposed economic impact and projected outcomes.

3.3.4 **Budget**

Please see Section 2.22 for additional information.

The Commission will recommend awards based on the evaluations of the independent reviewer. Applicants must provide a proposed budget setting forth the specific deliverables proposed and costs therefor. Proposed budgets must include a narrative explanation of cost detail for the proposed deliverables, areas of the State the deliverables will cover, and to what funding areas from Section 1.1 those deliverables will apply.

The budget must clearly describe all sources and uses of funds for the proposed Project. The Applicant is to provide a detailed budget and related explanations that are consistent with the level of resources being requested. In preparing the budget, the Applicant must use the applicable budget forms contained in Appendix E – Budget Forms.

Applicant Responsibility. The Applicant is solely responsible for having adequate funds to cover all expenses not covered by the Ohio Third Frontier funds awarded to complete the Project.

4 Evaluation Criteria

Proposals will be evaluated by an independent evaluator based on the Applicant's responsiveness to the requirements of this RFP and on the responses to any additional information that may be requested by the evaluator or DSA. Implicit in those requirements and evaluation criteria is the quality of the work plan, budget and specific deliverables proposed in the scope of work.

The following criteria have been designated with the highest relevance to and weighting for the grant(s):

- Alignment of the Proposal with the purpose, goals, eligibility, and funding requirements as described in this RFP.
- Quality of the responses to the requirements of this RFP as outlined in the Proposal Narrative. The specific elements of the work plan that will be examined include, but are not limited to, the following:
 - Prior experience working with broadband technology, telephone, cable, and/or internet service providers;
 - Track record in collecting, verifying, and analyzing data;
 - Description of the technology that will be used to analyze the data's accuracy to help inform future investments in broadband infrastructure;
 - Demonstrable experience, and capabilities, in preparing high-quality maps, reports, and other related presentation materials for all or part of the state;
 - Proposal for improving broadband connectivity at or exceeding the current FCC-defined broadband speeds;
 - Prior experience with direct consumer engagement and conducting business and residential surveys;
 - Description of the methodology to determine status of existing broadband technology and description of methodology to determine where broadband plans exist and investment has been made in broadband infrastructure;
 - Prior experience working with and developing partnerships among local communities and other regional stake-holders; and
 - Prior experience facilitating strategic planning efforts among various parties and developing an actionable plan.

Secondary consideration will also be given to the following criteria:

- Experience and qualifications of the Applicant (including background, number of years experience, number of employees, financial stability, capacity to do the work); and
- Budget reasonableness and consistency with the deliverables to be provided.

5 APPENDICES

Appendix A – RFP Process, Awards Process, and Mandatory Compliance

Appendix B – Application Forms

Appendix C – Intentionally Omitted

Appendix D – Qualifications and Company Information

Appendix E – Budget Forms

Appendix F – Form of Grant Agreement



Development
Services Agency



Third Frontier
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John R. Kasich, Governor

David Goodman, Director

Appendix A

Ohio Third Frontier

BROADBAND DEVELOPMENT GRANTS

RFP Process, Awards Process, and Mandatory Compliance

Appendix A – RFP Process, Awards Process, and Mandatory Compliance

Request for Proposals Process: This Ohio Third Frontier Program’s Request for Proposals (RFP) Process will consist of the following steps:

I. Release of RFP

This RFP will be released by publication on the Ohio Third Frontier website at http://development.ohio.gov/bs_thirdfrontier/default.htm and will be on the State of Ohio procurement website at <https://procure.ohio.gov>.

II. Questions and Answers (Q&A) and Communications

a. Question and Answer Period

All questions regarding this RFP must be submitted to DSA staff in writing via email. All questions and inquiries must be sent to andy.shaw@development.ohio.gov with a subject line of “BDG Q&A”.

b. Communication during Proposal Period

After a Proposal is submitted for this program RFP, the Commission reserves the right to request additional information from any or all Applicants to assist in its evaluation process. However, no Applicant or others acting on their behalf may initiate contact with any Commission member and/or DSA’s external evaluators for this RFP’s Proposals during the Proposal Period regarding the submitted Proposal. The Proposal Period is considered to be the date of Proposal submission for this RFP through the date of the Commission’s award/rejection decision for that Proposal. Applicants responding to this RFP are expected to limit their contact to those DSA staff with whom they ordinarily interact regarding the administration of other awards. Applicants and others acting on their behalf shall avoid direct contact with Commission members or other DSA staff during the Proposal Period, other than that which might occur at regularly scheduled meetings.

c. If an Applicant and/or others acting on their behalf makes prohibited contact, DSA in its discretion may eliminate the Proposal from the RFP process.

III. Submittal of Proposal

It is the responsibility of each Applicant to ensure that DSA receives Proposals by the submission deadline. Late Proposals may not be reviewed nor considered.

An Applicant must ensure that a Proposal submitted in response to this RFP complies with all the requirements set forth in this RFP. All Applicants are advised to read this RFP carefully to ensure a complete understanding of the Proposal requirements. In particular, the form, format, and content of all Proposals must follow the directions provided in Sections 2, 3 and 4 and use the forms presented in the Appendices. The Applicant is solely responsible to ensure its Proposal is complete, accurate, responsive to the requirements of this RFP, and received by DSA by the deadline provided on the cover of this RFP.

Note: All costs incurred in preparation of a Proposal shall be borne by the Applicant and its team. Proposal preparation costs and/or Proposal consultancy costs are not recoverable from Ohio Third Frontier funds. The state shall not otherwise contribute to or be liable for the costs of Proposal preparation.

Awards Process: The Ohio Third Frontier's Awards Process will consist of the following steps:

I. Proposal Review and Evaluation Procedures

Ohio Third Frontier uses a competitive, objective, and transparent process to make awards to projects based on proposals that reflect meritorious statement of work content, sound business and commercialization plans, and potential for positive impacts on the economic conditions in Ohio.

This RFP establishes specific award criteria and will be subject to a competitive peer review process. This RFP process complies with Ohio Revised Code Section 184.02 (B), which states:

In addition to the powers and duties under sections 184.10 to 184.20 of the Revised Code, the Commission shall do all of the following: (1) Establish a competitive process for the award of grants and loans that is designed to fund the most meritorious proposals and, when appropriate, provide for peer review of proposals.

Upon receipt of proposals, DSA staff will conduct an administrative review using an established written protocol to screen proposals for compliance with the objective content requirements defined in the RFP. Examples of proposal elements checked in the screening process include Applicant eligibility and proposal completeness. Proposals found to not comply with this RFP's requirements may be eliminated from the competition and not reviewed further.

II. Award Decision

At a public meeting, Proposals recommended for funding will be presented along with necessary programmatic details including information about funds available and program goals and criteria. Applicants will be informed of the meeting by DSA staff. If requested, Applicants must attend the Commission meeting at which Proposals are considered for funding. Both the external evaluator for these Broadband Development Grants and DSA staff will be available to respond to questions from Commission members.

Commission members will deliberate and exercise their independent judgment regarding award decisions based on all the information exchanged. The Ohio Third Frontier Commission reserves the right to request additional information from any or all Applicants to assist in its evaluation process. The Commission also reserves the right to direct additional due diligence be performed on any or all Proposals by DSA staff and/or the external evaluator. The Commission may approve awards subject to conditions identified during its deliberation. The Commission acts by the affirmative vote of a majority of its members. The funding decisions of the Commission are final and all Applicants will be notified of the outcome of their Proposals after the Commission makes its funding decisions.

All decisions taken by the Commission, including votes and a summary of any award conditions, will be recorded in minutes of the Commission meeting. If and to the extent the Commission deviates from a recommendation of an external evaluator, those deviations will be reflected in meeting minutes.

III. Award and Agreement Preparation and Execution

Awards of Ohio Third Frontier funds will be made based on Proposals as submitted (including any such modifications that may be identified during the review and evaluation process and as may be agreed by the Applicant), the Project budget, and any conditions set forth by the Commission. The Grant will remain open for the duration of the Project, plus a reporting period to be determined by DSA during which reports are required to be submitted to DSA.

Following selection by the Commission, an award of Ohio Third Frontier Funds must be approved by the state's Controlling Board, a legislative body that reviews appropriation of state funds. DSA will request Controlling Board review as soon as possible after the Commission funding decision. If requested, Applicants selected by the Commission for funding must attend the Controlling Board meeting at which their applications for funding are to be considered. The Controlling Board process normally takes a minimum of 45 to 60 days to complete.

DSA will prepare a Grant Agreement, a legal agreement setting forth the terms and conditions upon which Ohio Third Frontier funds are awarded and the respective rights and obligations of the Applicant and the State of Ohio with respect to Ohio Third Frontier funds and the Project for which they are to be used. The Grant Agreement may incorporate the Proposal and Project budget, as either may have been modified by evaluation findings, funding decisions, or other terms or conditions consistent with the approval by the Commission.

Grant Agreements are sent to Applicants for review and signature. DSA executes Grant Agreements on behalf of the Commission after the Grant Agreement is accepted by the Applicant. After DSA executes the Grant Agreement, the Grant is entered on the state's accounting system and invoices may be submitted. Once the Grant Agreement is fully-executed, the Applicant will be considered and referred to as a "Grantee".

A Grantee is required to complete the Project as described in the Grantee's Proposal as submitted and with only those modifications as agreed by the Grantee and DSA in finalizing the Grant Agreement. DSA will assign a staff member who will work with the Grantee throughout the Project.

All Grantees may be required to submit to DSA progress reports, as well as invoices and expenditures reports, to document achievement of Project milestones, to report Project-related success stories, and to submit post-Project completion reports for a period of time to be determined by DSA. All reports and invoices will be submitted in the form and format required by DSA, which may change from time to time.

Mandatory Compliance: The Applicant must agree to comply with state laws and other requirements as set forth in the attached form grant agreement (which may be modified from time to time by grantor), such as:

I. Obligations to the State: Compliance with Laws

Grantees will be required to certify in the Grant Agreement that they do not owe: 1) any delinquent taxes to the state or a political subdivision of the state; 2) any moneys to the state or a state agency for the administration or enforcement of any environmental laws of the state; and 3) any other moneys to the state, a state agency, or a political subdivision of the state that are past due, whether the amounts owed are being contested in a court of law or not.

Grant Agreements will require Grantees to comply with all applicable federal, state, and local laws in the performance of the Project. Grantees must accept full responsibility for payments of all unemployment compensation, insurance premiums, workers' compensation premiums, all income tax deductions, social security deductions, and any and all other taxes or payroll deductions required for all employees engaged by Grantees on the performance of the work authorized by the Grant Agreements.

II. Compliance with Governor's Executive Order 2011-03K

In accordance with Executive Order 2011-03K, Grantee, by its signature on this document, certifies 1) it has reviewed and understands Executive Order 2011-03K, 2) has reviewed and understands the Ohio ethics and conflict of interest laws including, without limitation, Ohio Revised Code §§ 102.01 *et seq.*, §§ 2921.01, 2921.42, 2921.421 and 2921.43, and §§ 3517.13(I) and (J), and 3) will take no action inconsistent with those laws and the order, as any of them may be amended or supplemented from time to time. The Grantee understands that failure to comply with the Ohio ethics and conflict of interest laws is, in itself, grounds for termination of this Agreement and the grant of funds made pursuant to this Agreement and may result in the loss of other contracts or grants with the State of Ohio. The Executive Order can be found at <http://governor.ohio.gov/Portals/0/pdf/executiveOrders/EO2011-03.pdf>.

III. Other Compliance

The form of Grant Agreement includes additional legal and contractual requirements for Grantees.

Appendix B

Ohio Third Frontier

BROADBAND DEVELOPMENT GRANTS

- *Application Form*



BROADBAND DEVELOPMENT GRANTS

2019 Request for Proposal

Application Information Page

Applicant Name (as listed with Ohio Secretary of State)					
Applicant Address					
City:		State:		Zip Code:	
County:					
Project Title:					
OTF Funds Requested:	\$				

Typed Name of Authorizing Agent

Title of Authorizing Agent

Signature

Date

Project Contact Information:

Name

Title

Organization

Address

City, State Zip

Telephone #

E-mail address

Authorizing Agent – the individual authorized by the Applicant to accept the terms and conditions of an award of Grant Funds.
Project Contact - the individual authorized by the Applicant to direct the Project for which the Grant Funds have been awarded, including overseeing the day-to-day operations of the Grant Agreement



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Appendix D: Qualifications and Company Information

**APPENDIX E:
Budget Form**

Overall Project Budget

		SFY 2019	
Deliverables		Grant Funds	
	Deliverable 1		
	Deliverable 2		
	Deliverable 3		
	Deliverable 4		
	Deliverable 5		
	Deliverable 6		
	SUBTOTAL	\$	-
	Final Deliverable		
	TOTAL FUNDS	\$	-

Appendix F

Ohio Third Frontier

BROADBAND DEVELOPMENT GRANTS

- *Form of Grant Agreement*



GRANT AGREEMENT

Broadband Development Grant

Grantee:		Grant Control No.:	
Address:			
City:		State:	Zip:
County:			
Grantee Contact:		Title:	
Telephone Number:		Email:	
Effective Date:		Grant Expiration Date:	
Controlling Board Approval Date:		Grant Funds:	Up to \$

This Grant Agreement (the “**Agreement**”) is made and entered into by and between the **State of Ohio, Development Services Agency (“Grantor”)** and Grantee in accordance with the terms and conditions of this Agreement.

1. Statement of Work. Grantee shall undertake and complete the work and activities set forth in Exhibit I, “Scope of Work,” which is attached hereto, made a part hereof, and incorporated herein by reference as if fully rewritten herein. Grantee shall consult with the personnel of Grantor and with other appropriate persons, agencies, or instrumentalities as necessary to ensure a complete understanding of the work and satisfactory completion thereof.

2. Grantor’s Instructions. Grantor may, from time to time as it deems appropriate and necessary, communicate specific instructions and requests to Grantee concerning the performance of the work described in this Agreement. Upon such notice and within a reasonable time, Grantee shall comply with such instructions and fulfill such requests to the satisfaction of Grantor. It is expressly understood by the parties that the instructions and requests are for the sole purpose of performing the specific tasks requested and to ensure satisfactory completion of the work described in this Agreement. However, they are not intended to amend or alter the terms of this Agreement or any part thereof.

3. Term and Location of Performance.

(a) Term. This Agreement shall be binding upon both parties, and the work described in this Agreement shall commence on _____ and all activities under this Agreement shall be completed not later than _____, on which date this Agreement shall expire. In the event that the work hereunder is to be done in separate phases, each phase shall be completed within the time prescribed in Exhibit I.

(b) Location of Performance. Grantee affirms that it has read and understands Executive Order 2011-12K issued by Ohio Governor John R. Kasich, that it shall abide by those requirements in the performance of this Agreement, and that it shall perform no services required under this Agreement outside of the United States. This Executive Order can be found online at:

<http://www.governor.ohio.gov/Portals/0/pdf/executiveOrders/EO%202011-12K.pdf>.

(c) Change of Performance Location. Grantee also affirms, understands, and agrees to immediately notify Grantor of any change or shift in the location(s) of services performed by Grantee or its subgrantees under this Agreement, and no services shall be changed or shifted to a location(s) outside of the United States.

4. Compensation. In consideration of the promises of Grantee herein, Grantor agrees to pay Grantee as

set forth in Exhibit I on a reimbursement basis upon Grantor's receipt and approval of proper invoices. Grantee shall not be compensated for services rendered hereunder except as expressly set forth herein. The total compensation to be paid to Grantee under this Agreement shall not exceed _____ and No/100 Dollars (\$_____.00).

5. Proper Invoicing Method. Grantee shall be required to submit proper invoices that are itemized and show all of the following:

- (a) Performance of the service described in Exhibit I;
- (b) Date or dates of the rendering of the service;
- (c) An itemization of the things or service done, the material supplied or the labor furnished; and
- (d) The sum due pursuant to that invoice in relation to the total compensation owed under the Agreement.

The adequacy and sufficiency of such invoices shall be determined solely by Grantor. If Grantor determines that an invoice is inadequate or insufficient, or determines that further documentation or clarification is required for a particular invoice, the burden of providing the required information or documentation is on Grantee. Costs incurred by Grantee which are associated with providing the required additional information or documentation and costs which are related to defending an inadequate or insufficient invoice shall not be charged to Grantor and shall not be considered an allowable expense under this Agreement. Failure to comply with this section shall delay payment to Grantee under this Agreement.

6. Grantee's Expenses. Grantee shall solely be responsible for all office, business, and personnel expenses associated with the performance of this Agreement.

7. Permissible Expenses. If "travel expenses," as defined in Ohio Administrative Code Section 126-1-02, are a cost of the project eligible for reimbursement, Grantee shall be reimbursed for those permissible travel expenses in amounts in accordance with Ohio Administrative Code Section 126-1-02, as updated from time to time (the "Expense Rule) and Grantee agrees that it shall not be reimbursed and Grantor shall not pay any items that are deemed to be "non-reimbursable travel expenses" under the Expense Rule, whether purchased by the Grantee or Grantor or their respective employees or agents.

8. Termination.

(a) General. Grantor may terminate this Agreement upon written notice to Grantee if Grantor determines that Grantee has not delivered the product or services to be provided as further described in Exhibit I. In addition, either Grantor or Grantee may terminate this Agreement for just cause upon thirty (30) days written notice to the other party. Upon notice of termination, Grantee shall cease all work under this Agreement and shall take all necessary or appropriate steps to limit disbursements and minimize costs in ceasing all work. Grantee shall be required to furnish a report setting forth the status of all activities under the Agreement including, but not limited to, the work completed and the payments received by Grantee and such other information as Grantor may require. Subject to any claim for damages arising from Grantee's breach, Grantee shall be entitled to compensation for work completed through the date Grantee received notice of termination upon submission and approval of proper documentation or invoices.

(b) Services Performed Outside the U.S.

(i) Grantor is not obligated and shall not pay for any services provided under this Agreement that Grantee or any of its subgrantees performed outside of the United States. If services are performed outside of the United States, such activities will be treated as a material breach of this Agreement, and Grantee shall immediately return to Grantor all funds paid for those services.

(ii) In addition, if Grantee or any of its subgrantees perform any such services outside of the United States, Grantor may, at any time after the breach, terminate this Agreement for such breach, upon

written notice to Grantee. If Grantor terminates the Agreement, Grantor may buy substitute services from a third party, and Grantor may recover the additional costs associated with acquiring the substitute services.

(iii) If Grantee or any of its subgrantees prepares to perform services or changes or shifts the location(s) of services performed by Grantee or its subgrantees under this Agreement to a location(s) outside of the United States, but no services are actually performed outside of the United States, Grantee shall promptly, but in no event later than 10 days, change or shift the location(s) of services performed to location(s) within the United States.

9. Records Maintenance and Access.

(a) Maintenance of Records. Grantee shall establish and maintain for at least three (3) years after the last day of the Term of the Agreement or earlier termination of this Agreement its records regarding this Agreement, including, but not limited to, financial reports and all other information pertaining to Grantee's performance of its obligations under this Agreement. Grantee also agrees that any records required by Grantor with respect to any questioned costs, audit disallowances, litigation or dispute between Grantor and Grantee shall be maintained for the time needed for the resolution of such question or dispute.

(b) Inspection and Copying. At any time during normal business hours and upon not less than twenty-four (24) hours' prior written notice, Grantee shall make available to Grantor, its agents or other appropriate State agencies or officials all books and records regarding this Agreement which are in the possession or control of Grantee, including, but not limited to, records of personnel. Grantor, its agents and other appropriate State agencies and officials may review, audit and make copies of such books and records, and any such inspection of books and records will be undertaken in such a manner as not to interfere unreasonably with the normal business operations of Grantee. Grantee shall, at its own cost and expense, segregate records to be made available for inspection pursuant to this Section 9(b) from Grantee's other records of operation.

10. Certification of Funds. It is expressly understood by the parties that none of the rights, duties, and obligations described in this Agreement shall be binding on either party until all applicable statutory provisions of the Ohio Revised Code, including but not limited to section 126.07, have been complied with and until such time as all necessary funds are made available and forthcoming from the appropriate state agencies, and, when required, such expenditure of funds is approved by the Controlling Board of the State of Ohio, or in the event that federal funds are used, until such time that Grantor gives Grantee written notice that such funds have been made available to Grantor by Grantor's funding source. Grantor shall provide Grantee with written evidence of the Controlling Board action within 30 days after the date on which the Controlling Board considered the appropriation request.

11. Equal Employment Opportunity. Grantee shall not discriminate against any employee or applicant for employment because of race, religion, color, sex, national origin, disability, age, military status or ancestry. Grantee shall ensure that applicants for employment are considered for employment, and that employees are treated during employment, without regard to their race, religion, color, sex, national origin, disability, age, military status or ancestry. Grantee will incorporate the requirements of this paragraph in all of its contracts for any of the work undertaken on the project (other than subcontracts for standard commercial supplies or raw materials), and Grantee will require all of its contractors for any part of such work to incorporate such requirements in all subcontracts for such work.

12. Indemnification. Grantee agrees to indemnify and to hold the Grantor and State of Ohio harmless and immune from any and all claims for injury or damages arising from this Agreement and Grantee's performance of the obligations or activities in furtherance of the project which are attributable to the Grantee's own actions or omissions or those of its trustees, officers, employees, subgrantees, suppliers, third parties utilized by the Grantee, or joint venturers while acting under this Agreement. Such claims shall include, but are not limited to, any claims made under the Fair Labor Standards Act or under any other federal or state law involving

wages, overtime, or employment matters and any claims involving patents, copyrights, and trademarks. Grantee shall bear all costs associated with defending the Grantor and the State of Ohio against any claims.

13. Conflict of Interest. No personnel of Grantee or personnel of any subgrantee, and no public official who exercises any functions or responsibilities in connection with the review or approval of any work completed under this Agreement, shall, prior to the completion of such work, voluntarily or involuntarily acquire any personal interest, direct or indirect, which is incompatible or in conflict with the discharge or fulfillment of his or her functions or responsibilities with respect to the completion of the work contemplated under this Agreement. Grantee shall immediately disclose in writing to Grantor any such person who, prior to or after the execution of this Agreement, acquires any personal interest, voluntarily or involuntarily. Grantor shall cause any such person who, prior to or after the execution of this Agreement, acquires any personal interest, voluntarily or involuntarily, to immediately disclose such interest to Grantor in writing. Thereafter, such person shall not participate in any action affecting the work under this Agreement unless Grantor determines that, in light of the personal interest disclosed, his or her participation in any such action would not be contrary to the public interest.

14. Drug-Free Workplace Compliance. In the event that work performed pursuant to the terms of this Agreement will be done while on state property, Grantee hereby certifies that all of its employees, while working on state property, will not purchase, transfer, use or possess illegal drugs or alcohol or abuse prescription drugs in any way.

15. Adherence to State and Federal Laws, Regulations.

(a) General. Grantee agrees to comply with all applicable federal, state, and local laws related to the Grantee's performance of the obligations of this Agreement. The Grantee accepts full responsibility for payments of all unemployment compensation, insurance premiums, workers' compensation premiums, all income tax deductions, social security deductions, and any and all other taxes or payroll deductions required for all employees engaged by Grantee in the performance of the requirements of this Agreement.

(b) Ohio Ethics Laws. By its signature on this document, Grantee certifies: (1) it has reviewed and understands the Ohio ethics and conflict of interest laws including, without limitation, Ohio Revised Code Sections 102.01 *et seq.*, Sections 2921.01, 2921.42, 2921.421 and 2921.43, and Sections 3517.13(I) and (J); and (2) it has taken and will take no action inconsistent with those laws, as any of them may be amended or supplemented from time to time. Grantee understands that failure to comply with the Ohio ethics and conflict of interest laws is grounds for termination of this Agreement and the grant of funds made pursuant to this Agreement and may result in the loss of other contracts or grants with the State of Ohio.

16. Open Trade. In accordance with Ohio Revised Code Section 9.76, Grantee represents and warrants it is not boycotting any jurisdiction with whom the State of Ohio can enjoy open trade, including Israel, and will not do so during the Term of this Agreement.

17. Unresolved Findings. Grantee warrants that it is not subject to an unresolved finding for recovery under Ohio Revised Code Section 9.24. If this warranty is deemed to be false at any time during the Term of this Agreement, this Agreement is void *ab initio* and the Grantee must immediately repay to the Grantor any funds paid under this Agreement.

18. Employees Not State Employees/Employee Acknowledgements. Grantee acknowledges and agrees that, consistent with the provisions of Ohio Revised Code Sections 124.01(F) and 145.012, its employees are not and shall not be deemed to be "public employees" as defined in Ohio Revised Code Section 145.01(A). In furtherance thereof, if Grantee has less than 5 employees, Grantee agrees to have each of its employees execute an acknowledgement in the form attached hereto as Exhibit II (the "OPERS Acknowledgement") and submit them to Grantor prior to the execution of this agreement by Grantor.

19. Ownership. Grantee initially owns copyright to the assembled work of services produced by

Grantee, but upon payment for services rendered, all rights owned by Grantee as to services rendered transfer to Grantor and Grantee hereby irrevocably transfers and assigns to Grantor all right, title and interest therein, including all copyrights. Grantee represents to Grantor and unconditionally guarantees that any materials provided to Grantor for purposes of completing the work described in Exhibit I of this Agreement are owned by the Grantee, or Grantee has the right to use such materials. Grantee will hold harmless, protect, and defend Grantor from any claim or suit arising from the use of such materials furnished by the Grantee.

20. Public Records. Grantee acknowledges that this Agreement and other records in the possession or control of Grantee regarding the project are public records under Ohio Revised Code Section 149.43 and are open to public inspection unless a legal exemption applies.

21. Miscellaneous.

(a) Governing Law. This Agreement shall be governed by the laws of the State of Ohio as to all matters, including but not limited to matters of validity, construction, effect and performance.

(b) Forum and Venue. All actions regarding this Agreement shall be forumed and venued in a court of competent subject matter jurisdiction in Franklin County, Ohio.

(c) Entire Agreement. This Agreement and its exhibits and any documents referred to herein constitute the complete understanding of the parties and merge and supersede any and all other discussions, agreements and understandings, either oral or written, between the parties with respect to the subject matter hereof.

(d) Severability. Whenever possible, each provision of this Agreement shall be interpreted in such a manner as to be effective and valid under applicable law, but if any provision of this Agreement is held to be prohibited by or invalid under applicable law, such provision shall be ineffective only to the extent of such prohibition or invalidity, without invalidating the remainder of such provisions of this Agreement.

(e) Conflict of Provisions. Should it be determined that a provision within this Agreement conflicts with a provision set forth in Exhibit I, then the language of Exhibit I shall control as being the more specific terms and conditions of the Agreement.

(f) Notices. All notices, consents, demands, requests and other communications which may or are required to be given hereunder shall be in writing and shall be deemed duly given if personally delivered or sent by United States mail, registered or certified, return receipt requested, postage prepaid, to the addresses set forth hereunder or to such other address as the other party hereto may designate in written notice transmitted in accordance with this provision.

In case of Grantor, to:

Ohio Development Services Agency
Office of _____
P.O. Box 1001
Columbus, Ohio 43216-1001
Attention: _____
Phone No.: _____
With a copy to Chief Legal Counsel, Ohio Development Services Agency

In case of Grantee, to:

Address

Attention: _____
Phone No.: _____

Notwithstanding the foregoing, ordinary communications regarding the status of services being provided by Grantee may be sent by electronic mail to the designated representatives of Grantor and Grantee.

(g) Amendments or Modifications. Either party may at any time during the term of this Agreement request amendments or modifications. Requests for amendment or modification of this Agreement shall be in writing and shall specify the requested changes and the justification of such changes. Should the parties consent to modification of the Agreement, then an amendment shall be drawn, approved, and executed in the same manner as the original agreement.

(h) Forbearance. No act of forbearance or failure to insist on the prompt performance by Grantee of its obligations under this Agreement, either express or implied, shall be construed as a waiver by Grantor of any of its rights hereunder.

(i) Pronouns. The use of any gender pronoun shall be deemed to include all the other genders, and the use of any singular noun or verb shall be deemed to include the plural, and vice versa, whenever the context so requires.

(j) Headings. Section headings contained in this Agreement are inserted for convenience only and shall not be deemed to be a part of this Agreement.

(k) Assignment. Neither this Agreement nor any rights, duties, or obligations described herein shall be assigned or subcontracted by Grantee without the prior express written consent of Grantor.

IN WITNESS WHEREOF, the parties have executed this Grant Agreement on the last day and year set forth below.

GRANTEE:

GRANTOR:

_____,
a(n) _____

State of Ohio
Development Services Agency
David Goodman, Director

By: _____

By: _____

Printed Name: _____

Printed Name: _____

Title: _____

Title: _____

Date: _____

Date: _____