

DNROBF010 Ohio Department of Natural Resources Interactive Nature Displays for Cowan Lake State Park Nature Center

Proposals Submission: Proposals for Nature Center Displays must be received by 4:00pm on 09/28/2020.

Submit Proposals via e-mail only to: Patrick Means, Agency Procurement Officer Ohio Department of Natural Resources Office of Budget & Finance DNROBFBIDS@dnr.state.oh.us Emails must be titled with the solicitation number: **DNROBF010 Ohio Department of Natural Resources Interactive Nature Displays for Cowan Lake Nature Center**

Inquiries: All inquiries should be submitted a minimum of five (5) working days prior to the opening date through the Procurement website, www.procure.ohio.gov. Locate the “Quick Links” menu on the right, select “Bid Opportunities Search”; Step 1, enter the “Bid Number; Step 2, click “Search”; Step 3, click the “Document/Bid Number.” The “Submit Inquiry” button is at the bottom right of the Opportunity Detail page. Bidders will not receive a personalized e-mail response to their question, nor will they receive notification when the question is answered. Responses may be viewed by clicking the “View Q & A” button located beneath the “Submit Inquiry” button.

Background Information:

Cowan Lake State Park Background Information

Cowan Lake State Park, established in 1968, offers visitors 1,775 acres of recreational land. It provides visitors with a peaceful lake setting complete with scenic inlets, wooded shoreline, and 1,000-foot swimming beach. The 700-acre lake allows only 10-horsepower boats, ideal for anglers, sailors, and those who enjoy paddle sports. Meandering trails through mature woodlands complement Cowan Lake’s natural features. Other features enjoyed by park visitors include a full-service marina with boat rentals, a campground with 254 campsites, a camp store, and ample picnic areas.

Cowan Lake State Park Nature Center

One of the park’s most visited amenities is its nature center, which connects children and adults to nature. It offers educational programming as well as interpretive displays and micro habitats that allow visitors to safely observe up close some of Ohio’s native wildlife. In 2019, the Cowan Lake Nature Center provided 335 hours of education programming for 4,267 participants.

A popular destination for park visitors, the nature center’s displays have become worn and many are no longer relevant to or usable by the audience viewing them. The purpose of this RFP is to have a design builder plan, construct, and install engaging interactive three-dimensional displays and other creative exhibits that can excite and stimulate learning in people of all ages.

It is notable that since the 2020 pandemic, visitations numbers to state parks across Ohio are at record numbers – ODNR anticipates this trend in visitation to continue. Cowan Lake SP nature center’s temporary closure (like all state park nature centers) to help reduce the spread of Covid-19, makes it the perfect time to launch this project. Once nature centers safely reopen, Cowan Lake will be ready to provide park visitors with the very best nature-based educational experiences.

Address for Project Location

Cowan Lake State Park
1750 Osborn Road, Wilmington OH 45177

Scope of Work

The nature center is in a former state park cabin and features approximately 550-square feet of L-shaped interpretive exhibit space. The selected firm will design, assemble, and install engaging, interactive displays and other creative exhibit components that excite and stimulate learning in people of all ages. The ODNR is looking for innovative ideas for the required and optional displays. Offerors must design and deliver four of the seven display themes identified in the list below.

- Two of the highlighted display themes are required to be interactive
- Two other displays identified as required displays can be 2-D wall panels/murals, table-top displays, small dioramas, etc.

- It is notable that some existing displays will continue to be used in the nature center, requiring creative use of the remaining exhibit space
- Displays not only must be interactive and engaging, but also durable. The nature center is heavily used, therefore strong consideration should be given to developing displays that are lasting and include such features as sliding or hinged “reveal” windows and doors, spinning wheels, and other creative tactile components. This does not exclude the use of touch screens, electronics, or A/V related technologies, but those elements should not be overly used
- Literature racks are not to be contemplated as part of the requested displays

Exhibit themes for the Cowan Lake Nature Center,

- Native Ohio pollinators with an emphasis on Monarch butterflies **(required)**
- American Bald Eagles at Cowan Lake **(required)**
- American Lotus **(required)**
- Area’s first settler, William Smalley
- The Adena People, indigenous to the area
- Geology of Cowan Lake and surrounding region **(required)**
- Promotion of adjacent raptor enclosure*

*ODNR is interested in hearing creative proposals for exterior signage that promotes the adjacent raptor enclosure. Costs for signage is to be included in the bidder’s cost proposal.

Offerors will provide the following:

- Explain your firm’s understanding of the objectives of the project and the approach you will use to reach these objectives
- Concepts/designs for interactive nature displays. Include how display style meets the requirement for being interactive
- Experience and qualifications that highlight relevant work – specifically any for museums or nature centers. Share primary reasons the offeror should be selected for this project
- Examples of interactive displays created by the offeror, provided via web links or as attached photos
- Timeline for project that includes key dates, such as design completion, assembly, and installation.
- Table of organization for design team and project manager’s experience. Also, company staff who will build, and install all displays

Site Visit and Point of Contact

Prior to submitting a bid response, offerors are encouraged to visit the Cowan Lake Nature Center, Cowan Lake State Park, 1750 Osborn Road, Wilmington, OH 45177.

Site visits available by appointment only: 9/10/20, 9/11/20, 9/15/20 and 9/16/20.

To schedule an appointment, contact:

Laura Briggs, (614) 290-1396, Laura.Briggs@dnr.state.oh.us

Once a contract is awarded, failure of the bidder to have requested a site visit to become familiar with the facility and requirements of the bid will be insufficient reason to support any request to be released from the contract.

Deliverables

- Design of all displays* shall be completed within 35 days of receiving a purchase order
- Fabrication and installation must be completed no later than March 19, 2021

*Required displays: Ohio Pollinators, Bald Eagles of Cowan Lake, American Lotus, and Geology of Cowan Lake, meeting the requirements outlined in the Scope of Work.

Budget The estimated budget for the Nature Displays is between \$90,000 and \$100,000.

Delivery Contacts and Location

Kathryn Conner at (234) 567-3804 or Shawn Conner at (513) 403-7001

Ohio Department of Natural Resources

Cowan Lake State Park Nature Center

1750 Osborn Road, Wilmington, OH 45177

The scale below (0-5) will be used to rate each proposal on the criteria listed in the Technical Proposal Evaluation table.

DOES NOT MEET 0 POINTS	WEAK 1 POINT	WEAK TO MEETS 2 POINTS	MEETS 3 POINTS	MEETS TO STRONG 4 POINTS	STRONG 5 POINTS
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DNR will score the Proposals by multiplying the score received in each category by its assigned weight and adding all categories together for the Offeror's Total Technical Score. Representative numerical values are defined as follows:

DOES NOT MEET (0 pts.): Response does not comply substantially with requirements or is not provided.

WEAK (1 pt.): Response was poor related to meeting the objectives.

WEAK TO MEETS (2 pts.): Response indicates the objectives will not be completely met or at a level that will be below average.

MEETS (3 pts.): Response generally meets the objectives (or expectations).

MEETS TO STRONG (4 pts.): Response indicates the objectives will be exceeded.

STRONG (5 pts.): Response significantly exceeds objectives (or expectations) in ways that provide tangible benefits or meets objectives (or expectations) and contains at least one enhancing feature that provides significant benefits.

Evaluation criteria:

Total allowable technical points	1075
Project cost allowable points	215

Criterion	Weight	Rating (0-5)	Extended Score
Offeror Profile and Prior Experience			
1. Company history and years of experience designing and installing nature center displays.	20		
2. Demonstrate a consult, design, and construct of nature center displays or similar projects. Provide examples, with descriptions. Submit examples as web links or photos.	25		
3. Explain reasons why your firm should be selected for this project.	20		
Scope of Work (Work Plan)			
1. Define methodology for working with the ODNR to successfully achieve display design, assembly and installation. For example, communication and transfer of ideas and plans.	40		
2. Provide the names, table of organization, and experience of project staff who will design, assemble and install the nature displays. Include contact information for project team members.	35		
3. Demonstrate options for interactive components envisioned for this Nature Center's displays.	40		

4. Summarize the offeror's concepts for two of the required displays: Ohio's pollinators and Bald Eagles.	30		
References			
1. Provide two or more references from nature centers and/or museums.	5		

Cost Proposal:

	Total cost for design, build and installation of nature display	Date of installation completion.
Ohio's Pollinators	\$	
Bald Eagles	\$	
American Lotus	\$	
Geology of Cowan Lake	\$	
Signage for raptor center	\$	
Additional Displays from the list of themes. Provide a cost per display (will not be part of the cost proposal evaluation)	\$	

NOTE: The ODNR may request additional displays from the list of themes for installation in other State Parks.

Cost Proposal Points. to calculate the Offeror's Cost Proposal points after the Offeror's total technical points are determined, using the following method:

Cost points = (lowest Offeror's cost/Offeror's cost) x Maximum Available Cost Points as indicated in the "Scoring Breakdown" table. The value is provided in the Scoring Breakdown table. "Cost" = Total Not to Exceed Cost identified in the Cost Summary section of Offeror Proposals. In this method, the lowest cost proposed will receive the Maximum Available Cost Points.

The number of points assigned to the cost evaluation will be prorated, with the lowest accepted cost proposal given the maximum available points possible for this criterion. Other acceptable cost proposals will be scored as the ratio of the lowest price proposal to the proposal being scored, multiplied by the maximum available points possible for this criterion.

An example for calculating cost points, where Maximum Available Cost Points Value = 60 points, is the scenario where Offeror X has proposed a cost of \$100.00. Offeror Y has proposed a cost of \$110.00 and Offeror Z has proposed a cost of \$120.00. Offeror X, having the lowest cost, would get the maximum available 60 cost points. Offeror Y's cost points would be calculated as \$100.00 (Offeror X's cost) divided by \$110.00 (Offeror Y's cost) equals 0.909 times 60 maximum points, or a total of 54.5 points. Offeror Z's cost points would be calculated as \$100.00 (Offeror X's cost) divided by \$120.00 (Offeror Z's cost) equals 0.833 times 60 maximum available points, or a total of 50 points.

Invoicing requirements

The following instructions must be followed for invoicing.

Invoices Origin-DNR-XXX (A unique number will be provided with each invoice.)

All invoices must be submitted DIRECTLY to Ohio Shared Services (OSS).

There are three options available to submit invoices to OSS:

- EMAIL the invoice to: invoices@ohio.gov
- FAX the invoice to: 1-614-485-1039
- MAIL the invoice to: Ohio Shared Services, PO Box 182880, Columbus, Ohio 43218-2880

In order to process your invoice, please make sure all the required information listed below is on your invoice before submitting it to OSS or they will be returned for not being a proper invoice.

1. Must include the Purchase Order (PO) number assigned. You may shorten it to the last five digits.
2. Supplier full name as it appears on your PO.
3. The Ship to and/or service facility name and full address
4. Unique invoice number
5. Date of service or date work was completed.
6. Complete itemization of services performed, materials or goods supplied and/or labor furnished.
7. Line charge(s). If parts are included, please break out the line charges with product and charges separately.
8. No State of Ohio sales tax
9. Remit to address must match our records for payment
10. This PO is only valid for the goods and/or services received through June 30, 20XX.
11. Any goods/services received after June 30, 20XX will require a new PO.

All fields mentioned above are required to count as a correct invoice; failure to provide this information will result in a returned invoice and delayed payment.

Contract Negotiations. Negotiations will be scheduled at the convenience of DNR. The selected Offeror(s) are expected to negotiate in good faith.

General. Negotiations may be conducted with any Offeror who submits a competitive Proposal, but DAS may limit discussions to specific aspects of the RFP. Any clarifications, corrections, or negotiated revisions that may occur during the negotiations phase will be reduced to writing and incorporated in the RFP, or the Offeror's Proposal, as appropriate. Negotiated changes that are reduced to writing will become a part of the Contract file open to inspection to the public upon award of the Contract. Any Offeror whose response continues to be competitive will be accorded fair and equal treatment with respect to any clarification, correction, or revision of the RFP and will be given the opportunity to negotiate revisions to its Proposal based on the amended RFP.

Top-ranked Offeror. Should the evaluation process have resulted in a top-ranked Proposal, DNR may limit negotiations to only that Offeror and not hold negotiations with any lower-ranking Offeror. If negotiations are unsuccessful with the top-ranked Offeror, DNR may then go down the line of remaining Offerors, according to rank, and negotiate with the next highest-ranking Offeror. Lower-ranking Offerors do not have a right to participate in negotiations conducted in such a manner.

Contract Award. DNR plans to award the Contract based on the schedule in the RFP, if DNR decides the Project is in the best interests of the State and has not changed the award date.

Contract. If this RFP results in a Contract award, the Contract will consist of this RFP including all attachments, written addenda to this RFP, the Contractor's accepted Proposal and written authorized addenda to the Contractor's Proposal. It will also include any materials incorporated by reference in the above documents and any purchase orders and change orders issued under the Contract. The general terms and conditions for the Contract are contained in Attachment Three of this RFP. If there are conflicting provisions between the documents that make up the Contract, the order of precedence for the documents is as follows:

1. This RFP, as amended;
2. The documents and materials incorporated by reference in the RFP;
3. The Offeror's proposal, as amended, clarified, and accepted by DNR; and
4. The documents and materials incorporated by reference in the Offeror's Proposal.

Notwithstanding the order listed above, change orders and amendments issued after the Contract is executed may expressly change the provisions of the Contract. If they do so expressly, then the most recent of them will take precedence over anything else that is part of the Contract.

Apparent awardee will be required to sign a contract with the Ohio Department of Natural Resources.

**STATE OF OHIO
INSTRUCTIONS, TERMS AND
CONDITIONS FOR INVITATION FOR BID**

I-1. Bids are Public Records. Once Bids have been opened they may be considered public record as defined in Ohio Revised Code ("O.R.C.") Section 149.43 and are subject to inspection and copying after ODNR announces the award of the contract.. Bidder may request that certain information, such as trade secrets or proprietary data, be designated as confidential and not considered as public records. Such requests must be accompanied by the statutory exemption from Ohio's Public Records Act, Chapter 149 of the O.R.C. Any confidential material shall accompany the Bid in a sealed container marked "confidential", and shall be readily separable from the Bid in order to facilitate public inspection of non-confidential portion. Prices, makes, models, catalog numbers of items offered, deliveries and terms of payment shall not be considered as confidential. The decision as to whether or not such trade secrets or proprietary data shall be disclosed at the Bid opening rests solely with ODNR.

I-2. Bids are Firm for 90 Days. Unless stated otherwise, once opened, all Bids are irrevocable for ninety (90) days. Beyond ninety (90) days, Bidder will have the option to honor their Bid or make a written request to withdraw their Bid from consideration.

I-3. Bid Preparation. ODNR assumes no responsibility for costs incurred by the Bidder prior to the award of any contract resulting from this Bid. Total liability of ODNR is limited to the terms and conditions of a resulting contract.

I-4. Suspension and Debarments. ODNR will not award a contract for supplies or services, funded in whole or in part with federal funds, to a person who has been suspended or debarred from doing business with the State of Ohio or who appears on the federal List of Excluded Parties Listing System <https://www.sam.gov/portal/public/SAM/>

I-5. Registration with the Secretary of State. The Bidder represents and warrants that the Bidder meets all applicable requirements for registration under O.R. C. Chapters 1701, 1703 or 1705.

Any foreign corporation required to be licensed under O.R.C. Sections 1703.01 to 1703.31, which transacts business in the State of Ohio, without being so licensed, or when its license has expired or been canceled, shall forfeit not less than \$250 nor more than ten thousand dollars. No officer of a foreign corporation shall transact business in ODNR, if such corporation is required by O.R.C. Sections 1703.01 to 1703.31 to procure and maintain a license, but has not done so. Whoever violates this is guilty of a misdemeanor of the fourth degree.

I-6. Certification Regarding Contract Eligibility With Other Governmental Entities. The Bidder certifies that Bidder has not, within the last seven (7) years been the subject of any government action to limit the Bidder's right to do business with the State of Ohio. If the Bidder cannot so certify, the Bidder must provide a written explanation with the Bid response.

I-7. Non-Collusion Certification. The Bidder certifies that he/she is (sole owner, partner, president, secretary, etc.) of the party making the forgoing Bid; that such Bid is genuine and not collusive or sham; that Bidder has not colluded, conspired or agreed, directly or indirectly, with any Bidder or person, to put in a sham Bid; or colluded or conspired to have another not Bid and has not in any manner, directly or indirectly, sought by agreement or collusion, or communication or conference, with any person to fix the Bid price of its Bid or any other Bidder, or to fix any overhead, profit or cost element of the Bid price, or of that of any other Bidder, or to secure any advantage against any Bidder or any person or persons interested in the proposed contract and that all statements contained in the Bid are true; and further, that the Bidder has not, directly or indirectly, submitted this Bid, or the contents thereof, or divulged any related information or data to any association or to any member or agent of any association.

I-8. Electronic Commerce Program. The State of Ohio is an active participant in E-Commerce to include Electronic Data Interchange (EDI). This program will benefit both the State of Ohio and the Contractor by reducing time delays in receiving invoices and making payments that are associated with the existing manual processes. The Contractor is encouraged to move toward compliance with electronic commerce technologies, as this will be the preferred method of doing business with ODNR. Information regarding E-Commerce is available on the Office of Budget and Management's website at <http://obm.ohio.gov/StateAccounting/edi/default.aspx>

I-9. Use of Social Security Numbers as Federal Tax Identification Numbers. ODNR requires vendors and contractors wishing to do business with ODNR to provide their Federal Taxpayer Identification Number to ODNR. ODNR does this so that it can perform statutorily required "responsibility" analyses on those vendors and contractors doing business with ODNR and, under limited circumstances, for tax reporting purposes. If you are a vendor or contractor using your Social Security Number as your Federal Taxpayer Identification Number, please be aware that the information you

submit is a public record, and ODNR may be compelled by Ohio law to release Federal Taxpayer Identification Numbers as a public record. If you do not want to have your Social Security Number potentially disclosed as a Federal Taxpayer Identification Number, the Department encourages you to use a separate Employer Identification Number (EIN) obtained from the United States Internal Revenue Service's to serve as your Federal Taxpayer Identification Number.

I-10. Expenditure of Public Funds on Offshore Services. Bidder affirms to have read and understands Executive Order 2019-12D and hereby certifies that its Bid shall comply with the requirements of that Executive Order. ODNR reserves the right to recover any funds paid for services Bidder performs outside of the United States for which it did not receive a waiver.

**STATE OF OHIO
DEPARTMENT OF NATURAL RESOURCES**

STANDARD AFFIRMATION AND DISCLOSURE FORM

EXECUTIVE ORDER 2019-12D

Banning the Expenditure of Public Funds on Offshore Services

CONTRACTOR/SUBCONTRACTOR AFFIRMATION AND DISCLOSURE:

By the signature affixed to this response, the CONTRACTOR/SUBCONTRACTOR affirms, understands, and will abide by the requirements of Executive Order 2019-12D. If awarded a contract, the CONTRACTOR/SUBCONTRACTOR becomes the Contractor and affirms that both the Contractor and any of its subcontractors shall perform no services requested under this Agreement outside of the United States.

The CONTRACTOR/SUBCONTRACTOR shall provide all the name(s) and location(s) where services under this Contract will be performed in the spaces provided below or by attachment. Failure to provide this information as part of the response will deem the CONTRACTOR/SUBCONTRACTOR not responsive and the Agreement will not be executed. If the CONTRACTOR/SUBCONTRACTOR will not be using subcontractors, indicate "Not Applicable" in the appropriate spaces. Attach a supplemental sheet, if necessary.

1. Principal location of business of Contractor:

(Address) (City, State, Zip)

Name/Principal location of business of subcontractor(s):

(Name) (Address, City, State, Zip)

(Name) (Address, City, State, Zip)

2. Location where services will be performed by Contractor:

(Address) (Address, City, State, Zip)

Name/Location where services will be performed by subcontractor(s):

(Name) (Address, City, State, Zip)

(Name) (Address, City, State, Zip)

3. Location where State data will be stored, accessed, tested, maintained, or backed-up, by Contractor:

(Address) (Address, City, State, Zip)

Name/Location(s) where State data will be stored, accessed, tested, maintained, or backed-up by subcontractor(s):

(Name) (Address, City, State, Zip)

(Name)

(Address, City, State, Zip)

4. Location where services to be performed will be changed or shifted by Contractor:

(Address)

(Address, City, State, Zip)

Name/Location(s) where services will be changed or shifted to be performed by subcontractor(s):

(Name)

(Address, City, State, Zip)

(Name)

(Address, City, State, Zip)

(Name)

(Address, City, State, Zip)

ATTACHMENT ONE

Attachment one is an example of a DNR contract. The Ohio Department of Natural Resources reserves the right to change the contract Terms and Conditions, prior to a contract award.

Apparent awardee will be required to sign a contract with the Ohio Department of Natural Resources.

EXAMPLE ONLY

PERSONAL SERVICES AGREEMENT

This Agreement is between the Ohio Department of Natural Resources (“ODNR”), with offices located at 2045 Morse Road, Building [____], Columbus, Ohio 43229, and [Insert name of Contractor] (“Contractor”) with offices located at [Insert Street Address, City, State and ZIP], a [Insert type of business entity] organized and in good standing under the laws of the State of [____].

The parties agree as follows:

I. NATURE OF AGREEMENT

- A. Contractor shall be employed as an independent contractor, to fulfill the terms of this Agreement and to act as a contractor to ODNR. It is specifically understood that the nature of the services to be rendered under this Agreement are of such a personal nature that ODNR is the sole judge of the adequacy of such services.
- B. ODNR enters into this Agreement in reliance upon Contractor’s representations that it has the necessary expertise and experience to perform its obligations hereunder, and Contractor warrants that it does possess the necessary expertise and experience.
- C. Contractor shall perform the services to be rendered under this Agreement and ODNR shall not hire, supervise, or pay any assistants to Contractor in its performance of services under this Agreement. ODNR shall not be required to provide any training to Contractor to enable it to perform services required hereunder.

II. SCOPE OF WORK

- A. Contractor shall perform the services (the “Work”) set forth in the attached Exhibit I, Scope of Work, which is incorporated as part of this Agreement.
- B. In order to facilitate the Work, ODNR shall provide the resources set forth in Exhibit I, Scope of Work.

III. TIME OF PERFORMANCE

- A. The Work shall be commenced on or after the date of an approved purchase order.
- B. The Work shall be concluded on or before [Insert termination date], and this Agreement shall terminate on the earlier to occur of: (i) the date on which the Work is completed to the

satisfaction of ODNR or (ii) the date on which this Agreement is terminated as provided in Article VI, Termination of Contractor's Services.

- C. [OPTION 1 – Two-year term (repeat in Exhibit I)] Notwithstanding the foregoing, as the current General Assembly cannot commit a future General Assembly to expenditures, this Agreement shall in any event expire no later than June 30, 2021. ODNR may renew this Agreement once on the same terms and conditions by giving written notice prior to expiration. Such renewal shall begin July 1, 2021, and shall terminate June 30, 2023, unless sooner terminated as set forth herein.

[OPTION 2 – One-year term with option to renew for second year (repeat in Exhibit I)] Notwithstanding the foregoing, this Agreement shall expire no later than June 30, 2020. ODNR may renew this Agreement for an additional one-year term on the same terms and conditions by giving written notice prior to expiration. As the current General Assembly cannot commit a future General Assembly to expenditures, this Agreement and any renewal shall in any event expire no later than June 30, 2021.

- D. It is expressly agreed by the parties that none of the rights, duties, and obligations herein shall be binding on either party if award of this Agreement would be contrary to the terms of Ohio Revised Code ("R.C.") §§ 3517.13, 127.16, or Chapter 102.

IV. COMPENSATION

- A. ODNR shall pay Contractor no more than \$_____ for the Work.
- B. The total amount due and its manner and schedule of payment shall be computed according to the cost schedule established in Exhibit I, Scope of Work.
- C. [OPTION 1 – No Travel (Delete Exhibit II and re-number subsequent Exhibits)] Contractor shall not be reimbursed for travel, lodging, or any other expenses incurred in the performance of the Work.

[OPTION 2 – Travel Reimbursement (Include Exhibit II)] Contractor shall be reimbursed for the Contractor's reasonable, actual, and necessary travel, lodging, and other travel-related expenses incurred in the performance of the Work to the extent that such reimbursement is in the best interest of the state.

1. Only travel expenses that are pre-approved by ODNR, will be reimbursed.
2. Travel expenses shall be reimbursed under the same rules and conditions that apply to state employees under Ohio Administrative Code ("O.A.C.") 126-1-02, pursuant to the Ohio Office of Budget and Management ("OBM") Travel Policy, attached as Exhibit II.
3. If it is not possible to follow the OBM Travel Policy, with prior written approval of ODNR, Contractor shall be reimbursed pursuant to the federal rates for reimbursement in the continental United States.
4. Meals shall not be reimbursed unless overnight travel is both critical and essential.

- D. Contractor must receive a purchase order from ODNR prior to filling an order or performing any of the Work.
- E. After Contractor receives a purchase order, Contractor shall submit an [Insert Invoice Frequency] invoice for the Work performed consistent with this Article IV, Compensation. Each invoice shall contain an itemization of the Work performed, including dates the Work was performed and total hours worked, if required by Paragraph B., above, the location or address where the Work was performed, and the sum due at that time pursuant to this Agreement. All invoices shall contain Contractor's name and address and purchase order number. Invoices are to be sent to Ohio Shared Services, P. O. Box 182880, Columbus, Ohio 43218 or via e-mail to invoices@ohio.gov. After receipt and approval by ODNR of a proper invoice, as defined in O.A.C. 126-3-01(A)(5), payment will be made pursuant to O.A.C. 126-3-01.
- F. In the event that any customer of Contractor negotiates a lower fee structure for the Work or comparable services Contractor shall promptly notify ODNR and shall extend the lower negotiated rate to ODNR retroactively to the first date the lower rate was offered to another customer.

V. CERTIFICATION OF FUNDS / NON-APPROPRIATION

- A. It is expressly understood and agreed by the parties that none of the rights, duties, and obligations described in this Agreement shall be binding on either party until all relevant statutory provisions of the R.C., including, but not limited to, R.C. § 126.07, have been met, and until such time as all necessary funds are available or encumbered and, when required, such expenditure of funds is approved by the Controlling Board of the State of Ohio, or in the event that grant funds are used, until such time that ODNR gives Contractor written notice that such funds have been made available to ODNR by ODNR's funding source.

VI. TERMINATION OF CONTRACTOR'S SERVICES

- A. ODNR may, at any time prior to completion of the Work, suspend or terminate this Agreement with or without cause by giving written notice to Contractor.
- B. In the event that the Work includes divisible services, ODNR may, at any time prior to completion of the Work, by giving written notice to Contractor, suspend or terminate any one or more such portions of the Work.
- C. Contractor, upon receipt of notice of suspension or termination, shall cease work on the suspended or terminated activities under this Agreement, suspend or terminate all subcontracts relating to the suspended or terminated activities, take all necessary or appropriate steps to limit disbursements and minimize costs, and, if requested by ODNR, furnish a report, as of the date Contractor receives notice of suspension or termination, describing the status of all Work, including, without limitation, results, conclusions resulting therefrom, and any other matters ODNR requires.
- D. Contractor shall be paid for services rendered up to the date Contractor received notice of suspension or termination, less any payments previously made, provided Contractor has supported such payments with detailed factual data containing Work performed and hours

worked. In the event of suspension or termination, any payments made by ODNR for which Contractor has not rendered services shall be refunded.

- E. In the event this Agreement is terminated prior to completion of the Work, Contractor shall deliver to ODNR all work products and documents which have been prepared by Contractor in the course of performing the Work. All such materials shall become and remain the property of ODNR, to be used in such manner and for such purpose as ODNR may choose.
- F. Contractor agrees to waive any right to, and shall make no claim for, additional compensation against ODNR by reason of any suspension or termination.
- G. Contractor may terminate this Agreement upon sixty (60) days' prior written notice to ODNR.

VII. RELATIONSHIP OF PARTIES

- A. Contractor shall be responsible for all of its own business expenses, including, but not limited to, computers, email and internet access, software, phone service, and office space. Contractor will also be responsible for all licenses, permits, employees' wages and salaries, insurance of every type and description, and all business and personal taxes, including income and Social Security taxes and contributions for Workers' Compensation and Unemployment Compensation coverage, if any.
- B. While Contractor shall be required to render services described hereunder for ODNR during the term of this Agreement, nothing herein shall be construed to imply, by reason of Contractor's engagement hereunder as an independent contractor, that ODNR shall have or may exercise any right of control over Contractor with regard to the manner or method of Contractor's performance of services hereunder.
- C. Except as expressly provided herein, neither party shall have the right to bind or obligate the other party in any manner without the other party's prior written consent.
- D. It is fully understood and agreed that Contractor is an independent contractor and neither Contractor nor its personnel shall at any time, or for any purpose, be considered as agents, servants, or employees of ODNR or the State of Ohio.
- E. For any employees or subcontractors working onsite at any ODNR location, Contractor understands that these employees or subcontractors are subject to a background check conducted by ODNR. Such a background check may include criminal records, tax records, driving records, and verification of academic credentials or degrees. ODNR may also conduct drug testing, field investigation, and polygraph examinations of certain employees of the Contractor or its subcontractors, if ODNR believes such action is necessary. ODNR reserves the right to refuse access to the job site at any time if ODNR determines in its discretion that Contractor's employee or subcontractor presents a potential security threat or if there is a change in the results of the background check at any time during the completion of the Work.

VIII. RECORD KEEPING

- A. During performance of this Agreement and for a period of three (3) years after its completion, Contractor shall maintain auditable records of all charges pertaining to this Agreement and shall make such records available to ODNR as ODNR may reasonably require.
- B. Contractor shall, for the purpose of compliance with R.C. § 145.036, provide ODNR with a list of all individuals who will provide personal services under this Agreement, but only if Contractor has no more than four employees.

IX. RELATED AGREEMENTS

- A. All Work is to be performed by Contractor, who may subcontract without ODNR's approval for the purchase of articles, supplies, components, or special mechanical services that do not involve the type of work or services described in Exhibit I, Scope of Work, but which are required for satisfactory completion of the Work.
 - 1. Contractor shall not enter into subcontracts related to the Work without prior written approval by ODNR. All work subcontracted shall be at Contractor's expense.
 - 2. Contractor shall furnish to ODNR a list of all subcontractors, their addresses, tax identification numbers, and the dollar amount of each subcontract.
- B. Contractor shall bind its subcontractors to the terms of this Agreement, so far as applicable to the work of the subcontractor, and shall not agree to any provision which seeks to bind ODNR to terms inconsistent with, or at variance from, this Agreement.
- C. Contractor warrants that it has not entered into, nor shall it enter into, other agreements, without prior written approval of ODNR, to perform substantially identical work for the State of Ohio such that the Work duplicates the work called for by the other agreements.

X. RIGHTS IN DATA AND COPYRIGHTS/PUBLIC USE

- A. ODNR shall have unrestricted authority to reproduce, distribute, and use (in whole or in part) any reports, data, or materials prepared by Contractor pursuant to this Agreement. No such documents or other materials produced (in whole or in part) with funds provided to Contractor by ODNR shall be subject to copyright by Contractor in the United States or any other country. If Contractor has reason to believe that use of a specified item is subject to patent or copyright protection, Contractor shall immediately notify ODNR.
- B. Contractor agrees that all original works created under this Agreement shall be made freely available to the general public to the extent permitted or required by law until and unless specified otherwise by ODNR. Any requests for distribution received by Contractor shall be promptly referred to ODNR.

XI. CONFIDENTIALITY

- A. Contractor shall not discuss or disclose any information or material obtained pursuant to its obligations under this Agreement without the prior written consent of ODNR.
- B. Contractor acknowledges that this Agreement is subject to the requirements, conditions, and restrictions set forth in IRS Publication 1075 (the "Publication"). The IRS may from time to time revise, amend, or replace the Publication, which is available online at: (<http://www.irs.gov/pub/irs-pdf/p1075.pdf>). The terms set forth in the attached Exhibit III are fully incorporated as part of this Agreement.
- C. The Contractor agrees not to use advertising, news releases, sales promotions, or other publicity matters relating to any product or service furnished by the Contractor wherein ODNR's name is mentioned, or language used from which a connection with ODNR may be reasonably inferred, without the prior written consent of ODNR.
- D. Any obligations under this Agreement regarding confidentiality are subject to applicable law, including the Ohio Public Records Act set forth in R.C. Chapter 149, and disclosure of records pursuant to the Ohio Public Records Act is not a breach of this Agreement.

XII. LIABILITY

- A. Contractor agrees to indemnify and hold ODNR and the State of Ohio harmless and immune from any and all claims for injury or damages arising from this Agreement which are attributable to Contractor's own actions or omissions or those of its trustees, officers, employees, subcontractors, suppliers, third party agents, or joint venturers while acting under this Agreement. Such claims shall include 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.
- B. Contractor shall bear all costs associated with defending ODNR and the State of Ohio against any claims.
- C. In no event shall either party be liable to the other party for indirect, consequential, incidental, punitive, or special damages, which include lost profits.
- D. **[Include this language if ...?]** In conjunction herewith, Contractor agrees, at its own cost, to procure and continue in force at all times that this Agreement is in effect, in its name, the following insurance coverages:
 - 1. Workers' Compensation Insurance, as required by Ohio law, and, if some of the Project will be done outside Ohio, the laws of the appropriate state(s) where the Project will be performed. The Contractor shall also maintain employer's liability insurance with at least a \$1,000,000 limit.
 - 2. Commercial general liability insurance for bodily injury, personal injury, wrongful death and property damage. The defense cost shall be outside of the policy limits. Such policy shall designate the state of Ohio as an additional insured, as its interest may appear. The

policy shall also be endorsed to include a blanket waiver of subrogation. At a minimum the limits shall be:

\$1,200,000 General Aggregate¹
\$2,000,000 Products/Completed Operations Aggregate
\$1,000,000 Per Occurrence Limit
\$100,000 Fire Legal Liability
\$10,000.00 Medical Payments

3. Commercial Automobile Liability Insurance with a combined single limit of \$500,000.

4. Where applicable, professional liability insurance covering all staff with a minimum limit of \$1,000,000 per occurrence and \$3,000,000 aggregate. If the Contractor's policy is written on a "claims made" basis, the Contractor shall provide ODNR with proof of continuous coverage at the time the policy is renewed. If for any reason the policy expires, or coverage is terminated, the Contractor must purchase and maintain "tail" coverage through the applicable statute of limitations.²

Such insurance shall be written by a company or companies with an A.M. Best rating of at least "A" or be otherwise approved in writing by ODNR. The policy shall be endorsed to provide ODNR with a 30-day prior written notice of cancellation or material change to the policy. It is agreed that the Contractor's Commercial General Liability Policy shall be primary over any other insurance coverage. Certificates for Workers' Compensation and proof of insurance must be provided to ODNR. The certificate(s) must be in a form that is reasonably satisfactory to ODNR as to the contents of the policies and the quality of the insurance carriers.

- E. [Include this language if Paragraph D above is included] To the fullest extent permitted by applicable law, Contractor waives all rights against ONDR and its agents and employees for damages to the extent covered by any insurance, except rights to the proceeds of that insurance. All policies shall accomplish the waiver of subrogation by endorsement or otherwise.
- F. Contractor hereby grants to ODNR a waiver of any right to subrogation which any insurer of said Contractor may acquire against ODNR by virtue of the payment of any loss under such insurance. Contractor agrees to obtain any endorsement that may be necessary to affect this waiver of subrogation, but this provision applies regardless of whether or not ODNR has received a waiver of subrogation endorsement from the insurer.

XIII. ANTITRUST ASSIGNMENT

- A. Contractor assigns to ODNR all state and federal antitrust claims and causes of action that relate to all goods and services provided for in this Agreement.

¹ Amounts of coverage may differ, depending upon the risk involved.

² May be deleted where inapplicable

XIV. CONTRACTOR'S REPRESENTATIONS AND WARRANTIES

- A. **COMPLIANCE WITH LAWS.** Contractor, in the execution of its duties and obligations under this Agreement, agrees to comply with all applicable federal, state, and local laws, rules, regulations, and ordinances.
- B. **DRUG-FREE WORKPLACE.** Contractor agrees to comply with all applicable federal, state, and local laws regarding smoke-free and drug-free work places and shall make a good faith effort to ensure that none of its employees or permitted subcontractors purchase, transfer, use, or possess illegal drugs or alcohol, or abuse prescription drugs in any way while engaged in the Work provided for in this Agreement.
- C. **NONDISCRIMINATION OF EMPLOYMENT.** Pursuant to R.C. § 125.111 and ODNR's policy, Contractor agrees that Contractor, any subcontractor, and any person acting on behalf of Contractor or a subcontractor, shall not discriminate, by reason of race, color, religion, sex, sexual orientation, age, disability, military status as defined in R.C. § 4112.01, national origin, or ancestry against any citizen of this state in the employment of any person qualified and available to perform the Work. Contractor further agrees that Contractor, any subcontractor, and any person acting on behalf of Contractor or a subcontractor shall not, in any manner, discriminate against, intimidate, or retaliate against any employee hired for the performance of the Work on account of race, color, religion, sex, sexual orientation, age, disability, military status, national origin, or ancestry.
- D. **AFFIRMATIVE ACTION PROGRAM.** Contractor represents that it has a written affirmative action program for the employment and effective utilization of economically disadvantaged persons pursuant to R.C. § 125.111(B) and has filed an Affirmative Action Program Verification form with the Equal Employment Opportunity and Affirmative Action Unit of the Department of Administrative Services.
- E. **CONFLICTS OF INTEREST.** No personnel of Contractor who exercise any functions or responsibilities in connection with the review or approval of this Agreement or carrying out of any of the Work shall, prior to the completion of the Work, voluntarily acquire any personal interest, direct or indirect, that is incompatible or in conflict with the discharge and fulfillment of his or her functions and responsibilities with respect to the carrying out of the Work. Any such person who acquires an incompatible or conflicting personal interest on or after the effective date of this Agreement, or who involuntarily acquires any such incompatible or conflicting personal interest, shall immediately disclose his or her interest to ODNR in writing. Thereafter, he or she shall not participate in any action affecting the Work, unless ODNR shall determine in its sole discretion that, in light of the personal interest disclosed, his or her participation in any such action would not be contrary to the public interest.
- F. **ETHICS COMPLIANCE.** Contractor represents, warrants, and certifies that it and its employees engaged in the administration or performance of this Agreement are knowledgeable of and understand the Ohio Ethics and Conflict of Interest laws. Contractor further represents, warrants, and certifies that neither Contractor nor any of its employees will do any act that is inconsistent with such laws.

- G. QUALIFICATIONS TO DO BUSINESS. Contractor affirms that it has all of the approvals, licenses, or other qualifications needed to conduct business in Ohio and that all are current. If Contractor becomes disqualified from conducting business in the State of Ohio for any reason at any time during the term of this Agreement, Contractor will immediately notify ODNR in writing and will immediately cease performance of the Work.
- H. CAMPAIGN CONTRIBUTIONS. Contractor hereby certifies that neither Contractor nor any of Contractor's partners, officers, directors, or shareholders, nor the spouse of any such person, has made contributions to the governor or the governor's campaign committees in excess of the limitations specified in R.C. § 3517.13.
- I. FINDINGS FOR RECOVERY. Contractor warrants that it is not subject to an "unresolved" finding for recovery under R.C. § 9.24.
- J. STATE OF OHIO DEBARMENT. Contractor represents and warrants that it is not debarred from consideration for contract awards by the Director of the Department of Administrative Services, pursuant to either R.C. §§ 153.02 or 125.25.
- K. FEDERAL GOVERNMENT DEBARMENT AND SUSPENSION. Should a federal government or entity provide a source or the entire source of funding and payment for this Agreement, this section applies. Contractor represents and warrants that it is not debarred from consideration for contract awards under 2 CFR 180. If, for any reason, the Contractor and/or any of its principals becomes disqualified from conducting business in the United States during the term of this Agreement, or if Contractor and/or any of its principals becomes subject to any reportable event outlined in Section 872 of Public Law 110-417 (41 U.S.C. 2313), Contractor shall both immediately notify ODNR in writing and cease performance of work. Failure to provide such notice in a timely fashion as required by the Federal funding authority shall void this Agreement and may be sufficient cause for the State or the Federal funding agency to debar the Contractor from future State contracting opportunities as may be permitted by state or federal law, guidance for which is provided at 2 CFR Sections 180 and 200.212.
- L. EXPENDITURES OF PUBLIC FUNDS ON OFFSHORE SERVICES. The Contractor affirms to have read and understands Executive Order 2019-12D and shall abide by those requirements in the performance of this Agreement. Notwithstanding any other terms of this Agreement, ONDR reserves the right to recover any funds paid for services the Contractor performs outside of the United States for which it did not receive a waiver. ODNR does not waive any other rights and remedies provided ODNR in this Agreement.
- M. REPAYMENT. If the representations and warranties in Paragraphs I or J of this Article XIV are found to be false, this Agreement is void *ab initio* and Contractor shall immediately repay to ODNR any funds paid under this Agreement.
- N. OHIO PUBLIC EMPLOYEES RETIREMENT SYSTEM RETIRANT.

If Contractor is a PERS Retirant, as defined by R.C. § 145.38, Contractor shall notify ODNR of such status in writing prior to the commencement of Work. Notices pursuant to this Paragraph M shall be sent to ODNR's Director of Human Resources by mail at 2045 Morse Rd., Building D-1, Columbus, Ohio 43229, by fax at _____, or by email

at _____ . ODNR shall not be responsible for any changes to Contractor's retirement benefits that may result from entering into this Agreement. Contractor acknowledges and agrees any of its individual employees providing personal services under this Agreement are not public employees for the purposes of R.C. Chapter 145. ODNR will not make contributions to the public employees' retirement system on behalf of any individuals employed by Contractor, or its subcontractors or other agents. Contractor certifies that it is an employer with five or more employees as defined as a "business entity" in R.C. § 145.037(A) for the purposes of the application of R.C. Chapter 145, or that it has completed the necessary forms and returned them to ODNR if Contractor is an employer with no more than four (4) employees.

- O. **BOYCOTTING.** Pursuant to R.C. § 9.76, Contractor hereby declares that it is not boycotting any jurisdiction with whom the State of Ohio can participate in open trade, including the nation of Israel, and will not do so during the term of this Agreement.

XV. MISCELLANEOUS

- A. **CONTROLLING LAW.** This Agreement and the rights of the parties hereunder shall be governed, construed, and interpreted in accordance with the laws of the State of Ohio. Contractor consents to jurisdiction in a court of proper jurisdiction in Franklin County, Ohio.
- B. **WAIVER.** A waiver by any party of any breach or default by the other party under this Agreement shall not constitute a continuing waiver by such party of any subsequent act in breach of or in default hereunder.
- C. **SURVIVAL.** The provisions of Articles IV, VI, VIII, X, XI, XII, XIII and XIV(J) hereof shall survive the termination or expiration of this Agreement.
- D. **SUCCESSORS AND ASSIGNS.** Neither this Agreement nor any rights, duties, or obligations hereunder may be assigned or transferred in whole or in part by Contractor, without the prior written consent of ODNR.
- E. **NOTICES.** Except to the extent expressly provided otherwise herein, all notices, consents, and communications required hereunder (each, a "Notice") shall be in writing and shall be deemed to have been properly given when: 1) hand delivered with delivery acknowledged in writing; 2) sent by U.S. Certified mail, return receipt requested, postage prepaid; 3) sent by overnight delivery service (Fed Ex, UPS, etc.) with receipt; or 4) sent by fax or email. Notices shall be deemed given upon receipt thereof, and shall be sent to the addresses first set forth above. Notwithstanding the foregoing, notices sent by fax or email shall be effectively given only upon acknowledgement of receipt by the receiving party. Any party may change its address for receipt of Notices upon notice to the other party. If delivery cannot be made at any address designated for Notices, a Notice shall be deemed given on the date on which delivery at such address is attempted.
- F. **CONFLICT.** In the event of any conflict between the terms and provisions of the body of this Agreement and any exhibit hereto, the terms and provisions of the body of this Agreement shall control.

- G. HEADINGS. The headings in this Agreement have been inserted for convenient reference only and shall not be considered in any questions of interpretation or construction of this Agreement.
- H. SEVERABILITY. The provisions of this Agreement are severable and independent, and if any such provision shall be determined to be unenforceable in whole or in part, the remaining provisions and any partially enforceable provision shall, to the extent enforceable in any jurisdiction, nevertheless be binding and enforceable.
- I. ENTIRE AGREEMENT. This Agreement contains the entire agreement between the parties hereto and shall not be modified, amended, or supplemented, or any rights herein waived, unless specifically agreed upon in writing by the parties hereto. This Agreement supersedes any and all previous agreements, whether written or oral, between the parties.
- J. EXECUTION. This Agreement is not binding upon ODNR unless executed in full, and is effective as of the last date of signature by ODNR.
- K. COUNTERPARTS. This Agreement may be executed in any number of counterparts, each of which shall be deemed an original, and all of which shall constitute but one and the same instrument.
- L. ELECTRONIC SIGNATURES. Any party hereto may deliver a copy of its counterpart signature page to this Agreement electronically pursuant to R.C. Chapter 1306. Each party hereto shall be entitled to rely upon an electronic signature of any other party delivered in such a manner as if such signature were an original.

[SIGNATURE PAGE FOLLOWS]

Each party is signing this Agreement on the date stated below that party's signature.

CONTRACTOR

OHIO DEPARTMENT OF NATURAL RESOURCES

[NAME OF CONTRACTOR]
[additional line for name, if needed]

[DIVISION/OFFICE] OF [DIVISION/OFFICE NAME]

By: _____

By: _____

Printed Name: _____

Printed Name: _____

Title: _____

Title: _____

Date: _____

Date: _____

EXHIBIT I

Scope of Work

I. WORK DESCRIPTION

- A. OBJECTIVE AND SCOPE
- B. WORK MANAGEMENT
- C. DELIVERABLES
- D. WORK RISK IDENTIFICATION AND MITIGATION

II. COMPENSATION

- A. NOT TO EXCEED
- B. PAYMENT SCHEDULE
- C. TRAVEL (See Exhibit II)

III. WARRANTY

Contractor warrants to ODNR that all materials and equipment furnished under this Agreement shall be new and of good quality unless otherwise required or permitted by the Agreement, that the Work shall be free from defects not inherent in the quality required or permitted, and that the Work shall conform to the requirements of the Agreement.

IV. CHANGES TO SCOPE OF WORK

ODNR may order changes in the Work without invalidating the Agreement. A change in the Work shall be governed by a change order in the form of a contract amendment. Contractor shall not proceed with any change in the Work without ODNR's prior written authorization. Upon execution of an amendment, Contractor shall perform all changes in the Work under the applicable provisions of the Agreement and any amendments, and the Contractor shall proceed promptly with the change unless otherwise provided in the amendment. The amendment will govern any changes to the Work, changes to the fees owed to Contractor, and any changes to the time for completion of the project. By signing an amendment, Contractor irrevocably certifies that the elements of the amendment are completely satisfied, and waives all rights, if any, to seek further adjustment of the fees owed or the time for completion of the Work, or both, at a later date with respect to the associated change in the Work including without limitation on account of the "cumulative impact" of the associated change in the Work in combination with one or more other changes in the Work.

EXHIBIT II

Ohio Office of Budget and Management Travel Policy

[Include if agreement includes travel reimbursement]

126-1-02 Rates and requirements for reimbursement of travel expenses of state agents.

(A) Definitions

(1) "Compensation" means payment for services rendered, whether made on an hourly, per diem, salaried, or fee basis but does not include reimbursement of travel expenses.

(2) "Headquarters" means the office address at which a state agent has his/her primary work assignment.

(3) "Continental U.S. travel" means travel within the continental United

States, including the lower forty-eight states, excluding Hawaii and Alaska.

(4) "International travel" means travel outside of the continental United States, including Hawaii and Alaska.

(5) "Reimbursable travel expenses" means those expenses which are actually incurred as a necessary part of approved travel. In addition to lodging, meals, per diem, and mileage, it includes:

(a) Miscellaneous transportation expenses such as parking charges, road tolls, and other reasonably incurred transportation expenses directly related to authorized travel, provided such expenses are listed separately on a state agent's travel expense reimbursement request;

(b) Commercial transportation expenses paid by the state agent such as taxi cabs, automobile rental, airfare, ferries, subways, bus, trains, and other commercial transportation providers;

(c) Registration fees paid by the state agent for professional events such as conferences, seminars, and meetings;

(d) Miscellaneous business expenses such as telephone, facsimile, internet, and other similar charges paid by the state agent for official state business;

(e) Miscellaneous living expenses such as laundry, dry cleaning, personal telephone calls, and postage.

(6) "State agency" means every organized body, office, or agency established by the laws of the state for the exercise of any function of state government which uses money that has been appropriated to it directly, but does not include the general assembly, supreme court, court of appeals, court of claims, any agency of these, or any state university or college as defined in division (A)(1) of section 3345.12 of the Revised Code.

(7) "State agent" means any officer, member, or employee of a state agency whose compensation is paid, in whole or in part, from state funds but does not include any volunteer serving without compensation.

(8) "Travel at state expense" means travel expenses which are paid from moneys appropriated directly to a state agency by the general assembly, but does not include travel by a state agent where expenses are paid pursuant to rule 102-3-08 of the Administrative Code.

(9) "Receipt" means the original document, or electronic copy of the document, provided by a service provider or merchant that indicates the merchant's name, date of purchase, transaction amount, and line item detail identifying the service or goods provided.

(10) "Supporting documentation" means documents that validate expense claims to include, but not limited to the following:

(a) Conference material provided by the conference organizer.

(b) Formal meeting agenda provided by the meeting organizer.

(c) Currency exchange rate as evidenced by a foreign currency exchange receipt, bank or credit card statement, or the exchange rate issued by an authoritative source such as "OANDA" (<http://www.oanda.com/currency/historical-rates/>) for the travel period. Expenses shall be recorded on the travel expense report in U.S. dollars. Reimbursements authorized by this rule will be made in U.S. dollars. The original itemized receipt and the currency exchange rate documentation described in this rule is required.

(d) State agency authorizations.

(11) "Conference" means a prearranged gathering with a formal agenda, for consultation or exchange of information or discussion that benefits the state, such as seminars, trainings, meetings, and other professional events.

(12) "Paid travel status" means the designation given to a state agent who is traveling on behalf of the state and is in an active pay status.

(B) Authority for travel and reimbursement

(1) Authority for travel

All state agents traveling at state expense or on paid travel status must be authorized prior to travel by the head of a state agency or his/her designee. Travel may be authorized only for official state business and only if the state agency has the financial resources to reimburse the state agent for travel expenses. State agents who are traveling at state expense or who are on paid travel status must, at all times, use prudent judgment in the use of state resources, incurring only those expenses necessary to carry out the official business of the state.

(2) Reporting requirements

(a) A state agent who has traveled at state expense and is requesting reimbursement by a state agency of his/her travel expenses shall report his/her travel expenses as prescribed by the office of budget and management. A state agent shall submit the travel expense reimbursement request within sixty days of

the last date of travel. This time frame may be extended by the head of the state agency or his/her designee if mitigating circumstances exist, but in no case may this time frame exceed ninety days from the last date of travel, unless the terms of an applicable collectively bargained agreement differs, in which case that agreement's provision controls. A completed request for travel expense reimbursement may be denied by the office of budget and management for reasons including, but not limited to, a state agent's failure to submit the request in a timely, accurate, or truthful manner.

(b) A state agent shall obtain and provide all receipts and supporting documentation required by this rule.

(c) At no time shall a state agent claim or be reimbursed more than is allowable under this rule.

(3) Approval of travel

When the head of a state agency or his/her designee approves of a state agent's travel, such action constitutes certification that the reimbursement of such state agent's travel expenses is proper. The head of a state agency or his/her designee may require any reasonable form of verification of an expense if he/she determines that additional verification is necessary for this certification or if required receipts are not available.

(4) Reimbursement of expenses

A state agent shall be reimbursed for his/her travel expenses as authorized by this rule upon approval by the head of a state agency or his/her designee. Reimbursement for travel expenses shall be via direct deposit to the same financial institution and account that the state agent has designated for receipt of the balance of his/her compensation in accordance with section 124.151 of the Revised Code.

(5) Submission of receipts

As specified by the office of budget and management, original or a legible electronic copy of receipts shall be submitted to the office of budget and management.

(6) Direct payment

At the agency's discretion, a state agency may make direct payment to a supplier who provides travel services for the state agent, in lieu of reimbursing the state agent for his/her travel expenses. A direct payment shall comply with the applicable rates and requirements specified in this rule.

(C) Transportation

The head of a state agency or his/her designee shall, subject to the discretion of the office of budget and management, determine the appropriate mode or modes of transportation to be utilized by a state agent.

(1) Travel by state motor vehicles

Travel by state-owned or leased motor vehicle is authorized only for state agents and for other parties who are properly designated by a state agency and endorsed onto insurance coverage through the department of administrative services. Reimbursement is authorized for incurred service expenses necessary to the efficient and safe operation of a state-owned or leased motor vehicle.

(2) Travel by privately owned automobile

Travel by privately owned automobile is authorized only if the owner thereof is insured under a policy of liability insurance complying with the requirements of section 4509.51 of the Revised Code. Reimbursement of mileage expenses incurred on state business is authorized at a rate up to the internal revenue service's business standard mileage rate, within the discretion of the director of the office of budget and management. The reimbursement rate for mileage expenses incurred on state business may not fall below forty-five cents per mile, unless the internal revenue service's business standard mileage rate falls below forty-five cents per mile, in which case the director may lower the reimbursement rate below forty-five cents per mile. The director of the office of budget and management will review the appropriate mileage reimbursement rate on a quarterly basis.

A state agent shall not be reimbursed for mileage commuting from his/her residence to his/her headquarters nor from his/her headquarters to his/her residence. If a state agent is required to report to a location other than his/her headquarters, the state agent will only be reimbursed for the distance from his/her residence to the alternate location less the state agent's normal commute distance. For example, if a state agent's normal commute from his/her residence to his/her headquarters is ten miles, and a state agent's commute from his/her residence to his/her authorized destination is thirty miles, the state agent shall only be reimbursed for twenty miles.

Travel expense reports shall indicate all intermediate destinations (i.e., specify intermediate towns and cities but not stops within a town or city) between the commencement and termination of travel as well as all vicinity mileage after arrival at destination. Reimbursement shall be made to only one of two or more state agents traveling in the same privately owned automobile .

(3) Travel by commercial transportation

(a) Travel by commercial transportation is authorized at the lowest available rate. When any segment of travel by commercial transportation exceeds eight hours, the head of the state agency may authorize business class travel for the state agent.

(b) State funds shall not be expended to pay for unused reservations with commercial transportation unless the state agency is satisfied that failure to cancel or use the reservation was unavoidable. State agency authorization shall be required as supporting documentation.

(c) Travel within the state of Ohio by common air carrier at the lowest available rate is authorized for elected officials, directors, assistant directors, deputy directors, board and commission members, and heads of state agencies. State employees not listed in this paragraph are authorized to travel within the state of Ohio by common air carrier at the lowest available rate only if flying is more economical than other modes of travel.

(d) Reimbursement is authorized for automobile rental if automobile rental is more economical than any other mode of transportation or if the state agent's destination is not easily accessible by any other mode of transportation. The state agent must purchase liability insurance and loss damage waiver for accidents arising out of the operation or use of the automobile and include that cost in determining whether the automobile rental is the most economical mode of transportation.

(4) Required receipts for transportation expenses

Except as otherwise provided, receipts are required for all service expenses incurred in connection with the operation of state-owned automobiles, all commercial transportation expenses, and all miscellaneous transportation expenses exceeding ten dollars.

(D) Meal, incidental, and miscellaneous expenses within the continental U.S.

(1) Restrictions and reimbursement per diem

Meals and incidental per diem for state agents is authorized only when overnight lodging is required. State agents may receive per diem for meal and incidental expenses in accordance with the per diem rates established by the U.S. general services administration (www.gsa.gov), which is based on the lodging location. Per diem is designed to offset the additional cost of travel, not to entirely pay for the state agent's meal and incidental expenses. The amount of per diem shall be adjusted on departure and return days based upon the time of departure and return. The standard meal and incidental expenses allowance is based on a full day of official travel (twenty-four hours) within the continental U.S. Where overnight lodging is required and where a state agent is on travel status for less than a full day, the meal and incidental expenses rate for the departure and return days shall be pro-rated as follows:

(a) Twenty-five per cent of the standard meal and incidental expenses allowance if the state agent is on travel status for less than six hours;

(b) Fifty per cent of the standard meal and incidental expenses allowance if the state agent is on travel status for six hours but less than twelve hours;

(c) Seventy-five per cent of the standard meal and incidental expenses allowance if the state agent is on travel status for twelve hours but less than eighteen hours;

(d) One hundred per cent of the standard meal and incidental expenses allowance if the state agent is on travel status for eighteen hours but less than twenty-four hours.

(e) Notwithstanding the restrictions provided in paragraph (D)(1) of this rule, where a state agency elects to schedule a state agent to travel out of state by air travel and schedules a return flight for the same day, meals and incidental per diem is authorized; however, the meal and incidental expenses shall be pro-rated as provided in paragraphs (D)(1)(a) to (D)(1) (d) of this rule.

(2) Incidental expenses included in the per diem allowance are listed as follows and are thus not separately reimbursable:

(a) All gratuities given to porters, baggage carriers, bellhops, hotel maids, flight attendants, ship attendants, taxi drivers, wait staff and all other services related to the hospitality industry;

(b) Any transportation between places of lodging or business and places where meals are taken, if suitable meals cannot be obtained at the temporary lodging or business site;

(c) Mailing costs associated with filing travel reimbursement requests.

(3) A receipt shall be required for any single miscellaneous business expenses charge over ten dollars. State agents shall first use any free internet or phone services prior to incurring these expenses.

(4) If the state agent is in overnight status in the continental U.S. for more than one week, including a weekend, miscellaneous living expenses will be reimbursed when such expense is reasonable as determined by the head of the state agency or his/her designee. Receipts shall be required for all miscellaneous living expenses.

(E) Meal, incidental, and miscellaneous expenses outside the continental U.S. (international)

(1) A state agent traveling outside the continental U.S., assigned to a foreign office, or otherwise on approved international travel status, including international conferences, shall be entitled to reimbursement of meals when such cost is reasonable as determined by the head of the state agency or his/her designee.

(2) If the state agent is in overnight international travel status for more than one week, including a weekend, miscellaneous living expenses will be reimbursed when such expense is reasonable as determined by the head of the state agency or his/her designee.

(3) Receipts shall be required for international travel expenses, which include commercial transportation, lodging, meal, and miscellaneous living expenses. Currency exchange rates shall be provided as supporting documentation.

(4) A receipt shall be required for any single miscellaneous business expense charge exceeding ten dollars. State agents shall first use any free internet or phone services prior to incurring these expenses. Currency exchange rates shall be provided as supporting documentation.

(F) Lodging

(1) Continental U.S.

In accordance with the per diem rates established by the U.S. general services administration, reimbursement of expenses incurred while on official travel status within the continental U.S. is authorized per state agent per calendar day for lodging in commercial establishments at actual cost up to the maximum allowable lodging rate for that location, plus applicable taxes on the entire room.

(2) Outside the continental U.S. (international)

Reimbursement for lodging in commercial establishments is authorized per state agent per calendar day at actual cost when such cost is reasonable as determined by the head of a state agency or his/her designee. The currency exchange rate shall be provided as supporting documentation.

(3) Itemized receipts or equivalent are required for all lodging expenses.

(4) Overnight lodging may be reimbursed only when the state agent is traveling on official state business and is either:

(a) At a location greater than forty-five miles from both the state agent's residence and headquarters, or;

(b) At a location greater than thirty miles from both the state agent's residence and headquarters for conference purposes.

(G) Conferences

Reimbursement is authorized for conference registration fees and conference expenses as follows:

(1) Registration fees

Conference registration fees may be reimbursed to the state agent, or conference registration fees may be paid directly by a state agency in advance of the event. If the registration fee includes any meals, the state agent shall not be reimbursed for those same meals under paragraphs (D) and (E) of this rule, and any amount reimbursed to the state agent under paragraphs (D) and (E) of this rule for meals shall be adjusted accordingly.

(2) Meal and incidental

If the event includes or provides a meal, the state agent shall not be reimbursed for that same meal under paragraphs (D) and (E) of this rule. State agents shall receive per diem for any meals not provided by the event and incidentals at the rate prescribed by the U.S. general services administration.

When meals are included with registration expense, the number and type of meals must be identified by the state agent. If a meal is offered as part of the event and the state agent has medical restrictions, the state agent should make every effort to have the conference facilitate his or her needs. If the event does not honor the request, the state agent is not required to deduct the applicable meal allowance from the per diem, but must include documentation explaining the situation.

(3) Lodging

Lodging at the event site or lodging at a hotel identified in the event registration materials as one of the event hotels may be reimbursed at actual cost, provided such cost is reasonable as determined by the head of a state agency or his/her designee.

(4) Required receipts for conference expenses

Receipts are required for expenses exceeding ten dollars. Any applicable conference materials such as agendas, brochures or otherwise shall be required as supporting documentation.

(5) Direct payment

Instead of reimbursing a state agent for his/her conference expenses, a state agency may make direct payment to a supplier who provides event services for the state agent.

(H) Agency contractors

State agencies desiring to reimburse travel, lodging, and meal expenses should negotiate such reimbursement with the contractor or supplier when negotiating the cost of the contract, but shall not negotiate rates higher than those authorized by this rule.

(I) Non-reimbursable travel expenses

"Non-reimbursable travel expense" include, but are not limited to, the following:

(1) Alcoholic beverages purchased by the state agent;

(2) Entertainment expenses paid by the state agent;

(3) Incidental expenses, which include personal expenses incurred during travel that are primarily for the benefit of the state agent and not directly related to the official purpose of the travel. Examples include, but are not limited to, the purchase of personal hygiene items, magazines or books, movie rentals, and other miscellaneous items;

(4) Political expenses paid by the state agent;

(5) Travel insurance expenses paid by the state agent; for purposes of this paragraph, the use of the term "travel insurance expense" does not mean liability coverage and loss damage waiver expenses incurred in renting an automobile pursuant to paragraph (C)(3)(d) of this rule.

(6) The cost of traffic fines and parking tickets.

(J) Exceptions may be requested by submitting a written request to the director of budget and management by the head of a state agency or his/her designee prior to the expense being incurred. The director of the office of budget and management may grant exceptions to this rule only for travel by law enforcement officials, insurance examiners, state agents on continuous travel status for two or more consecutive days, state agents requiring special travel arrangements due to a disability, and state agents whose workday is other than eight a.m. to five p.m. or if state agents whose in-state travel and lodging arrangements are economically advantageous to the state. Other exceptions may be granted upon a written request submitted to the director of budget and management by the head of a state agency or his/her designee prior to the expense being incurred or, at the director's discretion, after the expense has been incurred. No exception shall remain in effect for more than one fiscal year.

(K) Amendment to this rule

An amendment to this rule applies to travel on or after the effective date of the amendment.

Eff. Date: 9/1/2019

EXHIBIT III

IRS Publication 1075

[Select the text for either IT or non-IT services – Do not use both.]

1075 CONTRACT LANGUAGE FOR TECHNOLOGY SERVICES

I. PERFORMANCE

In performance of this Agreement, Contractor agrees to comply with and assume responsibility for compliance by its employees with the following requirements:

- (1) All Work will be done under the supervision of Contractor's employees.
- (2) Any Federal tax returns or return information (hereafter referred to as "returns" or "return information" or "FTI") made available in any format shall be used only for the purpose of carrying out the provisions of this Agreement. Information contained in such material will be treated as confidential and will not be divulged or made known in any manner to any person except as may be necessary in the performance of this Agreement. Disclosure to anyone other than an officer or employee of Contractor will be prohibited.
- (3) All returns and return information will be accounted for upon receipt and properly stored before, during, and after processing. In addition, all related output will be given the same level of protection as required for the source material.
- (4) Contractor certifies that the data processed during the performance of this Agreement will be completely purged from all data storage components of its computer facility, and no output will be retained by Contractor at the time the work is completed. If immediate purging of all data storage components is not possible, Contractor certifies that any IRS data remaining in any storage component will be safeguarded to prevent unauthorized disclosures.
 - a. Further, the destruction of all FTI will be in compliance with destruction procedures as defined in IRS Publication 1075. The FTI will be logged through destruction, and these logs will be available to the IRS or ODNR as needed through the retention period as defined in IRS Publication 1075.
- (5) Any spoilage or any intermediate hard copy printout that may result during the processing of ODNR data will be given to ODNR or its designee. When this is not possible, Contractor will be responsible for the destruction of the spoilage or any intermediate hard copy printouts, and will provide ODNR or its designee with a statement containing the date of destruction, description of material destroyed, and the method used.
- (6) All computer systems receiving, processing, storing, or transmitting FTI must meet the requirements defined in IRS Publication 1075. To meet functional and assurance requirements, the security features of the environment must provide for the managerial,

operational, and technical controls. All security features must be available and activated to protect against unauthorized use of and access to FTI.

- (7) No Work involving FTI furnished under this Agreement will be subcontracted without prior written approval of the IRS and ODNR.
- (8) Contractor will maintain a list of employees authorized access. Such list will be provided to ODNR and, upon request, to the IRS reviewing office.
- (9) Incident response policies and procedures must be developed, documented, disseminated, and updated as necessary to facilitate the implementation of incident response security controls.
- (10) Audit and accountability policies and procedures must be developed, documented, disseminated, and updated as necessary to facilitate the implementation of audit and accountability security controls.
 - a. To support the audit of activities, Contractor must ensure that audit information is archived for six years.
 - b. The information system must protect audit information and audit tools from unauthorized access, modification, and deletion.
- (11) IRS Publication 1075 compliance is mandatory. The aforementioned compliance items are a small selection of key elements contained within the requirements defined in IRS Publication 1075. ODNR reserves the right to impose additional and more stringent requirements as deemed necessary to protect FTI.

II. CRIMINAL/CIVIL SANCTIONS

- (1) Each officer or employee of any person to whom returns or return information is or may be disclosed will be notified in writing by such person that returns or return information disclosed to such officer or employee can be used only for a purpose and to the extent authorized herein, and that further disclosure of any such returns or return information for a purpose or to an extent unauthorized herein constitutes a felony punishable upon conviction by a fine of as much as \$5,000 or imprisonment for as long as 5 years, or both, together with the costs of prosecution. Such person shall also notify each such officer and employee that any such unauthorized further disclosure of returns or return information may also result in an award of civil damages against the officer or employee in an amount not less than \$1,000 with respect to each instance of unauthorized disclosure. These penalties are prescribed by IRC sections 7213 and 7431 and set forth at 26 CFR 301.6103(n)-1.
- (2) Each officer or employee of any person to whom returns or return information is or may be disclosed shall be notified in writing by such person that any return or return information made available in any format shall be used only for the purpose of carrying out the provisions of this Agreement. Information contained in such material shall be treated as confidential and shall not be divulged or made known in any manner to any

person except as may be necessary in the performance of this Agreement. Inspection by or disclosure to anyone without an official need-to-know constitutes a criminal misdemeanor punishable upon conviction by a fine of as much as \$1,000 or imprisonment for as long as 1 year, or both, together with the costs of prosecution. Such person shall also notify each such officer and employee that any such unauthorized inspection or disclosure of returns or return information may also result in an award of civil damages against the officer or employee [United States for Federal employees] in an amount equal to the sum of the greater of \$1,000 for each act of unauthorized inspection or disclosure with respect to which such defendant is found liable or the sum of the actual damages sustained by the plaintiff as a result of such unauthorized inspection or disclosure plus in the case of a willful inspection or disclosure which is the result of gross negligence, punitive damages, plus the costs of the action. These penalties are prescribed by IRC sections 7213A and 7431 and set forth at 26 CFR 301.6103(n)-1.

- (3) Additionally, it is incumbent upon Contractor to inform its officers and employees of the penalties for improper disclosure imposed by the Privacy Act of 1974, 5 U.S.C. 552a. Specifically, 5 U.S.C. 552a(i)(1), which is made applicable to contractors by 5 U.S.C. 552a(m)(1), provides that any officer or employee of a contractor, who by virtue of his/her employment or official position, has possession of or access to agency records which contain individually identifiable information, the disclosure of which is prohibited by the Privacy Act or regulations established thereunder, and who knowing that disclosure of the specific material is prohibited, willfully discloses the material in any manner to any person or agency not entitled to receive it, shall be guilty of a misdemeanor and fined not more than \$5,000.
- (4) Before receiving access to FTI, Contractor must certify that each individual understands ODNR's security policy and procedures for safeguarding IRS information. Contractor must maintain its authorization to access FTI through annual recertification. The initial certification and recertification must be documented and placed in ODNR's files for review. Contractor is hereby advised of the provisions of IRC sections 7431, 7213, and 7213A. (See Exhibit 5 to the Publication, IRC Sec. 7431 Civil Damages for Unauthorized Inspection or Disclosure of Returns and Return Information; see also Exhibit 4 to the Publication, IRC Sec. 7213 Unauthorized Disclosure of Information). The training provided before the initial certification and annually thereafter must also cover the incident response policy and procedure for reporting unauthorized disclosures and data breaches. (See Section 10 of the Publication). For both the initial certification and the annual certification, Contractor must sign, either with ink or electronic signature, a confidentiality statement certifying its understanding of the security requirements.

III. INSPECTION

Contractor shall comply with the FTI safeguard requirements of IRS Publication 1075, including all requirements that refer or relate to record retention and audits.

The IRS and ODNR shall have the right to send their officers and employees into Contractor's offices, plants, and all other sites operated or controlled by Contractor so that the officers and employees may inspect the facilities and operations utilized for the performance of any Work under this Agreement. This includes alternate worksites where FTI is or has been received, processed, stored, destroyed, or handled

by any means. This provision specifically includes private property held by Contractor if it allows its employees to establish an alternate work site within their property.

On the basis of such inspection, specific measures may be required to remedy matters of non-compliance where Contractor is found to be noncompliant with safeguards required by the Agreement, the IRS Office of Safeguards, or ODNR. The Agreement may be terminated subject to the discretion of the IRS and/or ODNR for any reason. In either case, Contractor shall have no recourse and shall not be entitled to any damages as a result of the required remedy or termination of the Agreement.

A background check must be performed, as required by IRS Publication 1075, on each of Contractor's employees or subcontractors that may be exposed to FTI provided by ODNR. Results of the background checks shall be made available to ODNR, the IRS, or their designees upon request.

Contractor must provide staff, logs, records, systems access, and facility access at its own expense to assist during each inspection and audit. Inspections and audits may be performed by ODNR, the IRS, or their designees at any time Contractor is in possession of FTI or during the subsequent years until all FTI has been returned or destroyed, the return or destruction has been reported to ODNR, and the retention periods for these records as defined in IRS Publication 1075 have expired.

1075 CONTRACT LANGUAGE FOR GENERAL (NON-IT) SERVICES

I. PERFORMANCE

In performance of this Agreement, Contractor agrees to comply with and assume responsibility for compliance by its employees with the following requirements:

- (1) All Work will be performed under the supervision of Contractor or Contractor's responsible employees.
- (2) Any Federal tax returns or return information (hereafter referred to as "returns" or "return information" or "FTI") made available shall be used only for the purpose of carrying out the provisions of this Agreement. Information contained in such material shall be treated as confidential and shall not be divulged or made known in any manner to any person except as may be necessary in the performance of this Agreement. Inspection by or disclosure to anyone other than an officer or employee of Contractor is prohibited.
- (3) All returns and return information will be accounted for upon receipt and properly stored before, during, and after processing. In addition, all related output and products will be given the same level of protection as required for the source material.
- (4) No Work involving returns and return information furnished under this Agreement will be subcontracted without prior written approval of ODNR and IRS.
- (5) Contractor will maintain a list of employees authorized access. Such list will be provided to ODNR and, upon request, to the IRS reviewing office.

- (6) Incident response policies and procedures must be developed, documented, disseminated, and updated as necessary to facilitate the implementation of incident response security controls.
- (7) Audit and accountability policies and procedures must be developed, documented, disseminated, and updated as necessary to facilitate the implementation of audit and accountability security controls.
 - a. To support the audit of activities, Contractor must ensure that audit information is archived for six years.
 - b. The information system must protect audit information and audit tools from unauthorized access, modification, and deletion.
- (8) IRS Publication 1075 compliance is mandatory. The aforementioned compliance items are a small selection of key elements contained within the requirements defined in IRS Publication 1075. ODNR reserves the right to impose additional and more stringent requirements as deemed necessary to protect FTI.

II. CRIMINAL/CIVIL SANCTIONS

- (1) Each officer or employee of any person to whom returns or return information is or may be disclosed shall be notified in writing by such person that returns or return information disclosed to such officer or employee can be used only for a purpose and to the extent authorized herein, and that further disclosure of any such returns or return information for a purpose or to an extent unauthorized herein constitutes a felony punishable upon conviction by a fine of as much as \$5,000 or imprisonment for as long as five years, or both, together with the costs of prosecution. Such person shall also notify each such officer and employee that any such unauthorized future disclosure of returns or return information may also result in an award of civil damages against the officer or employee in an amount not less than \$1,000 with respect to each instance of unauthorized disclosure. These penalties are prescribed by IRC sections 7213 and 7431 and set forth at 26 CFR 301.6103(n)-1.
- (2) Each officer or employee of any person to whom returns or return information is or may be disclosed shall be notified in writing by such person that any return or return information made available in any format shall be used only for the purpose of carrying out the provisions of this Agreement. Information contained in such material shall be treated as confidential and shall not be divulged or made known in any manner to any person except as may be necessary in the performance of this Agreement. Inspection by or disclosure to anyone without an official need to know constitutes a criminal misdemeanor punishable upon conviction by a fine of as much as \$1,000.00 or imprisonment for as long as 1 year, or both, together with the costs of prosecution. Such person shall also notify each such officer and employee that any such unauthorized inspection or disclosure of returns or return information may also result in an award of civil damages against the officer or employee [United States for Federal employees] in an amount equal to the sum of the greater of \$1,000.00 for each act of unauthorized inspection or disclosure with respect to which such defendant is found liable or the sum

of the actual damages sustained by the plaintiff as a result of such unauthorized inspection or disclosure plus in the case of a willful inspection or disclosure which is the result of gross negligence, punitive damages, plus the costs of the action. The penalties are prescribed by IRC Sections 7213A and 7431 and set forth at 26 CFR 301.6103(n)-1.

- (3) Additionally, it is incumbent upon Contractor to inform its officers and employees of the penalties for improper disclosure imposed by the Privacy Act of 1974, 5 U.S.C. 552a. Specifically, 5 U.S.C. 552a(i)(1), which is made applicable to contractors by 5 U.S.C. 552a(m)(1), provides that any officer or employee of a contractor, who by virtue of his/her employment or official position, has possession of or access to agency records which contain individually identifiable information, the disclosure of which is prohibited by the Privacy Act or regulations established thereunder, and who knowing that disclosure of the specific material is so prohibited, willfully discloses the material in any manner to any person or agency not entitled to receive it, shall be guilty of a misdemeanor and fined not more than \$5,000.
- (4) Before receiving access to FTI, Contractor must certify that each individual understands ODNR's security policy and procedures for safeguarding IRS information. Contractor must maintain its authorization to access FTI through annual recertification. The initial certification and recertification must be documented and placed in ODNR's files for review. Contractor is hereby advised of the provisions of IRC Sections 7431, 7213, and 7213A. (See Exhibit 5 to the Publication, IRC Sec. 7431 Civil Damages for Unauthorized Inspection or Disclosure of Returns and Return Information; see also Exhibit 4 to the Publication, IRC Sec. 7213 Unauthorized Disclosure of Information). The training provided before the initial certification and annually thereafter must also cover the incident response policy and procedure for reporting unauthorized disclosures and data breaches. (See Section 10 of the Publication). For both the initial certification and the annual certification, Contractor must sign, either with ink or electronic signature, a confidentiality statement certifying its understanding of the security requirements.

III. INSPECTION

Contractor shall comply with the FTI safeguard requirements of IRS Publication 1075, including all requirements that refer or relate to record retention and audits.

The IRS and ODNR shall have the right to send their officers and employees into Contractor's offices, plants, and all other sites operated or controlled by Contractor so that the officers and employees may inspect the facilities and operations utilized for the performance of any Work under this Agreement. This includes alternate worksites where FTI is or has been received, processed, stored, destroyed, or handled by any means. This provision specifically includes private property held by Contractor if it allows its employees to establish an alternate work site within their property.

On the basis of such inspection, specific measures may be required to remedy matters of non-compliance where Contractor is found to be noncompliant with safeguards required by the Agreement, the IRS Office of Safeguards, or ODNR. The Agreement may be terminated subject to the discretion of the IRS and/or ODNR for any reason. In either case, Contractor shall have no recourse and shall not be entitled to any damages as a result of the required remedy or termination of the Agreement.

A background check must be performed, as required by IRS Publication 1075, on each of Contractor's employees or subcontractors that may be exposed to FTI provided by ODNR. Results of the background checks shall be made available to ODNR, the IRS, or their designees upon request.

Contractor must provide staff, logs, records, systems access, and access to the facilities at its own expense to assist during each of the inspections/audits. Inspections/Audits may be performed by ODNR, IRS or their designee at any time Contractor is in possession of Federal Tax Information (FTI) or during the subsequent years until all FTI has been return or destroyed, the return or destruction have been reported to ODNR, and the retention periods for these records as defined in IRS publication 1075 have expired.

EXHIBIT IV

Agreement for Protection of Confidential Information

“Confidential Information” means any and all tangible or intangible information, documents, prototypes, samples, products, services, methodologies, research, technical knowledge, marketing plans, trade secrets, and proprietary materials disclosed previously or in the future by ODNR to you, either directly or indirectly, in writing, orally or by inspection of tangible objects, including, without limitation, any information: (i) that has been marked as proprietary or confidential; (ii) whose confidential nature has been made known by ODNR; (iii) that due to its character and nature, a reasonable person under like circumstances would treat as confidential. Confidential Information may also include information disclosed to a Contractor by third parties; or (iv) Personal Information, as defined in R.C. § 1347.01(E), in any form which is any information that describes anything about a person, or that indicates actions done by or to a person, or that indicates that a person possesses certain personal characteristics, and that contains, and can be retrieved from a system by, a name, identifying number, symbol, or other identifier assigned to a person. Confidential Information shall not, however, include any information which (i) was publicly known and made generally available in the public domain prior to the time of disclosure by ODNR; (ii) becomes publicly known and made generally available after disclosure by ODNR to you through no action or inaction of you; (iii) is already in your possession at the time of disclosure by ODNR as shown by your files and records immediately prior to the time of disclosure; (iv) is obtained by you from a third party without a breach of such third party’s obligations of confidentiality; or (v) is required by law to be disclosed by you, provided that ODNR is given prompt written notice of such requirement prior to such disclosure and assistance in obtaining an order protecting the information from public disclosure, in which case such information shall remain Confidential Information.

NON-USE AND NON-DISCLOSURE. You agree not to use any Confidential Information of ODNR for any purpose except to assist Contractor and its permitted subcontractors or agents in providing services to ODNR. You agree not to disclose any Confidential Information to third parties.

MAINTENANCE OF CONFIDENTIALITY. You agree to take reasonable measures to protect the secrecy of and avoid disclosure and unauthorized use of the Confidential Information.

CONTRACTOR

By: _____

Name: _____

Title: _____

Date: _____

**STATE OF OHIO
DEPARTMENT OF NATURAL RESOURCES**

STANDARD AFFIRMATION AND DISCLOSURE FORM

EXECUTIVE ORDER [2019-12D]

Banning the Expenditure of Public Funds on Offshore Services

CONTRACTOR/SUBCONTRACTOR AFFIRMATION AND DISCLOSURE:

By the signature affixed to this response, the CONTRACTOR/SUBCONTRACTOR affirms, understands, and will abide by the requirements of Executive Order 2019-12D. If awarded a contract, the CONTRACTOR/SUBCONTRACTOR becomes the Contractor and affirms that both the Contractor and any of its subcontractors shall perform no services requested under this Agreement outside of the United States.

The CONTRACTOR/SUBCONTRACTOR shall provide all the name(s) and location(s) where services under this Contract will be performed in the spaces provided below or by attachment. Failure to provide this information as part of the response will deem the CONTRACTOR/SUBCONTRACTOR not responsive and the Agreement will not be executed. If the CONTRACTOR/SUBCONTRACTOR will not be using subcontractors, indicate "Not Applicable" in the appropriate spaces. Attach a supplemental sheet, if necessary.

5. Principal location of business of Contractor:

(Address)

(City, State, Zip)

Name/Principal location of business of subcontractor(s):

(Name)

(Address, City, State, Zip)

(Name)

(Address, City, State, Zip)

6. Location where services will be performed by Contractor:

(Address)

(Address, City, State, Zip)

Name/Location where services will be performed by subcontractor(s):

(Name)

(Address, City, State, Zip)

- _____
(Name) (Address, City, State, Zip)
7. Location where State data will be stored, accessed, tested, maintained, or backed-up, by Contractor:

(Address) (Address, City, State, Zip)

Name/Location(s) where State data will be stored, accessed, tested, maintained, or backed-up by subcontractor(s):

(Name) (Address, City, State, Zip)

(Name) (Address, City, State, Zip)

8. Location where services to be performed will be changed or shifted by Contractor:

(Address) (Address, City, State, Zip)

Name/Location(s) where services will be changed or shifted to be performed by subcontractor(s):

(Name) (Address, City, State, Zip)

(Name) (Address, City, State, Zip)

(Name) (Address, City, State, Zip)