

PERSONAL SERVICES AGREEMENT

This Agreement is between the **OHIO DEPARTMENT OF NATURAL RESOURCES** ("ODNR"), acting through its **DIVISION OF PARKS AND WATERCRAFT**, with offices located at 2045 Morse Road, Building A, Columbus, Ohio 43229, and **TAYLOR STUDIOS INC** (UEI # H2BLG56B96S5) ("Contractor") with offices located at 1320 Harmon Drive, Rantoul, IL 61866, a Foreign Corporation organized and in good standing under the laws of the State of Ohio.

Expenditures for this Agreement are partially or fully funded by federal funds. ODNR received a federal grant under the terms and conditions of a Coronavirus State and Local Fiscal Recovery Funds award, awarded through U.S. Department of the Treasury. This grant is made under Assistance Listing Number 21.027 Coronavirus State and Local Fiscal Recovery Funds.

The parties agree as follows:

I. NATURE OF AGREEMENT

- A. Contractor shall be engaged 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 June 30, 2023, 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. 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, 2023. 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, 2023, and shall terminate June 30, 2025, unless sooner terminated as set forth herein.

- 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 R.C. Chapter 102.

IV. COMPENSATION

- A. ODNR shall pay Contractor no more than **\$ 400,000.00** 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. Contractor shall not be reimbursed for travel, lodging, or any other expenses incurred in the performance of the Work.
- 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 invoice for the Work performed as deliverables are received 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 via email to invoices@ohio.gov, by fax to 614-485-1039, or by mail to P. O. Box 182880, Columbus, Ohio 43218-2880. 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. Incomplete invoices may be returned unprocessed, delaying payment.
- 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 Ohio Revised Code, 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 receives 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 ninety (90) 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, unless payment for any such item is specifically provided for herein or in the purchase order.
- 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 subcontracted work 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 Confidential Information, defined in Exhibit IV, 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. The disclosure of records by ODNR pursuant to the Ohio Public Records Act shall not be a breach of this Agreement, and shall not constitute a waiver of Contractor's obligations under this Article XI as to any records disclosed pursuant to a request for public records.

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 special damages, which include lost profits.

D. 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 Work will be done outside Ohio, the laws of the appropriate state(s) where the Work 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 Aggregate
\$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.
5. Where applicable, builder's risk insurance covering the Work with a minimum limit equal to the compensation for the Work set forth in Article IV.

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. To the fullest extent permitted by applicable law, Contractor waives all rights against ODNR 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.

XIV. CONTRACTOR'S STATUTORY OBLIGATIONS

- A. **PREVAILING WAGES.** Contractor shall comply with the prevailing wage requirements described under R.C. Chapter 4115 that include, without limitation, the requirements described under this section. If the Work is subject to payment of prevailing wage rates, the Contractor shall:
1. Pay to laborers and mechanics performing the Work the prevailing wage rates of the Project locality, as determined by the Ohio Department of Commerce, Wage and Hour Bureau;
 2. Post in a prominent place readily accessible to all workers on the site, a legible listing of the current classifications of laborers, workers, and mechanics employed under this Agreement;
 3. Ensure that the rates posted are current and remain posted in legible condition during the period of this Agreement; and not be entitled to an increase in compensation on account of an increase in prevailing wage rates, except as otherwise provided by applicable law.

The Contractor may access the Ohio Department of Commerce, Wage & Hour Bureau at its website, <https://wagehour.com.ohio.gov/w3/webwh.nsf/wrlogin/?openform>, to obtain current wage rates.

- B. **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.
- C. **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.
- D. **NONDISCRIMINATION OF EMPLOYMENT.** Pursuant to R.C. § 125.111, 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.

Contractor shall, in all solicitations or advertisements for employees placed by or on behalf of the Contractor, state that all qualified applicants will receive consideration for employment without regard to race, color, religion, national origin, ancestry, age, sex, sexual orientation, handicap, or any disability. Contractor shall cooperate with the state Equal Employment Opportunity Coordinator, with any other

official or agency of the state or federal government which seeks to eliminate unlawful employment discrimination, and with all other state and federal efforts to assure equal employment practices under the Agreement, and Contractor shall comply promptly with all requests and directions from the State of Ohio or any of its officials and agencies in this regard.

- E. **USE OF MBE AND EDGE VENDORS.** Revised Code § 125.081 requires state agencies to set aside purchases for Minority Business Enterprises ("MBE") and Executive Order 2008-13S encourages use of Encouraging Diversity, Growth and Equity ("EDGE") businesses. ODNR encourages Contractor to purchase goods and services from Ohio-certified MBE and EDGE vendors.
- F. **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.
- G. **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, or by email at toni.brokaw-farmer@dnr.ohio.gov. 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.

XV. CONTRACTOR'S REPRESENTATIONS AND WARRANTIES

- A. **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.
- B. **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. Neither Contractor nor any of its employees will do any act that is inconsistent with such laws.
- C. **RESEARCH AND DEVELOPMENT.** Funds shall not be used for research and development.

- D. **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.
- E. **CAMPAIGN CONTRIBUTIONS.** Contractor hereby certifies that neither it, nor any person described in R.C. § 3517.13 (I) or (J), nor the spouse of any such person, has made, as an individual, within the two previous calendar years, one or more contributions to the governor or the governor's campaign committees totaling in excess of the limitations specified in R.C. § 3517.13.
- F. **FINDINGS FOR RECOVERY.** Contractor represents and warrants that it is not subject to a finding for recovery under R.C. § 9.24, or that it has taken appropriate remedial steps required under R.C. § 9.24 or otherwise qualifies under that section. Contractor agrees that if this representation or warranty is deemed to be false, this Agreement shall be void *ab initio* as between the parties to this Agreement, and any funds paid by ODNR hereunder shall be immediately repaid to ODNR, or an action for recovery may be immediately commenced by ODNR for recovery of said funds.
- G. **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.
- H. **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.
- I. **EXPENDITURES OF PUBLIC FUNDS ON OFFSHORE SERVICES.** Contractor affirms to have read and understands Executive Order 2019-12D issued by Ohio Governor Mike DeWine. Contractor shall perform no services required under this Agreement or locate State data in any way outside of the United States.

Contractor also affirms to have read and understands Executive Order 2022-02D issued by Ohio Governor Mike DeWine. Contractor has signed and completed the Standard Affirmation and Disclosure Form and shall perform no services in Russia, locate State data in Russia in any way, or purchase from or invest in Russian institutions or companies.

- J. **REPAYMENT.** If the representations and warranties in Paragraphs D, E, F, G, or H of this Article XV are found to be false, this Agreement is void *ab initio* and Contractor shall immediately repay to ODNR any funds paid under this Agreement.

- K. **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.
- L. **PROCUREMENT OF RECOVERED MATERIALS.** Contractor must comply with Section 6002 of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act. The requirements of Section 6002 include procuring only items designated in guidelines of the Environmental Protection Agency (EPA) at 40 CFR Part 247 that contain the highest percentage of recovered materials practicable, consistent with maintaining a satisfactory level of competition, where the purchase price of the item exceeds \$10,000 or the value of the quantity acquired during the preceding fiscal year exceeded \$10,000; procuring solid waste management services in a manner that maximizes energy and resource recovery; and establishing an affirmative procurement program for procurement of recovered materials identified in the EPA guidelines.
- M. Contracts for more than the simplified acquisition threshold currently set at \$ 150,000, which is the inflation adjusted amount determined by the Civilian Agency Acquisition Council and the Defense Acquisition Regulations Council (Councils) as authorized by 41 U.S.C. 1908, must address administrative, contractual, or legal remedies in instances where contractors violate or breach contract terms, and provide for such sanctions and penalties as appropriate." 2 CFR PART 200 APPENDIX II.
- N. **EQUAL EMPLOYMENT OPPORTUNITY.** Except as otherwise provided under 41 CFR Part 60, all contracts that meet the definition of "federally assisted construction contract" in 41 CFR Part 60-1.3 must include the equal opportunity clause provided under [41 CFR 60-1.4\(b\)](#), in accordance with Executive Order 11246, "Equal Employment Opportunity" ([30 FR 12319, 12935, 3](#) CFR Part, 1964-1965 Comp., p. 339), as amended by Executive Order 11375, "Amending Executive Order 11246 Relating to Equal Employment Opportunity," and implementing regulations at 41 CFR part 60, "Office of Federal Contract Compliance Programs, Equal Employment Opportunity, Department of Labor." 2 CFR PART 200 APPENDIX II.
- O. **DAVIS-BACON ACT, AS AMENDED ([40 U.S.C. 3141-3148](#)).** When required by federal program legislation, all prime construction contracts in excess of \$ 2,000 awarded by non-federal entities must include a provision for compliance with the Davis-Bacon Act ([40 U.S.C. 3141-3144, and 3146-3148](#)) as supplemented by Department of Labor regulations (29 CFR Part 5, "Labor Standards Provisions Applicable to Contracts Covering Federally Financed and Assisted Construction"). In accordance with the statute, contractors must be required to pay wages to laborers and mechanics at a rate not less than the prevailing wages specified in a wage determination made by the Secretary of Labor. In addition, contractors must be required to pay wages not less than once a week. The non-federal entity must place a copy of the current prevailing wage determination issued by the Department of Labor in each solicitation. The decision to award a contract or subcontract must be conditioned upon the acceptance of the wage determination. The non-federal entity must report all suspected or reported violations to the federal awarding agency. The contracts must also include a provision for compliance with the Copeland "Anti-Kickback" Act ([40 U.S.C. 3145](#)), as supplemented by Department of Labor regulations (29 CFR Part 3, "Contractors and Subcontractors on Public Building or Public Work Financed in Whole or in Part by Loans or Grants from the United States"). The act provides that each contractor or subrecipient must be prohibited from inducing, by any means, any person employed in the construction, completion, or repair of public work, to give up any part of the compensation to which he or she is otherwise entitled. The non-

federal entity must report all suspected or reported violations to the federal awarding agency. 2 CFR PART 200 APPENDIX II.

- P. CLEAN AIR ACT (42 U.S.C. 7401-7671Q.) AND THE FEDERAL WATER POLLUTION CONTROL ACT (33 U.S.C. 1251-1387), AS AMENDED. Contracts and subgrants of amounts in excess of \$ 150,000 must contain a provision that requires the non-Federal award to agree to comply with all applicable standards, orders or regulations issued pursuant to the Clean Air Act (42 U.S.C. 7401-7671q) and the Federal Water Pollution Control Act as amended (33 U.S.C. 1251-1387). Violations must be reported to the Federal awarding agency and the Regional Office of the Environmental Protection Agency (EPA). 2 CFR PART 200 APPENDIX II.
- Q. BYRD ANTI-LOBBYING AMENDMENT (31 U.S.C. 1352). Contractors that apply or bid for an award exceeding \$ 100,000 must file the required certification. Each tier certifies to the tier above that it will not and has not used federal appropriated funds to pay any person or organization for influencing or attempting to influence an officer or employee of any agency, a member of Congress, officer or employee of Congress, or an employee of a member of Congress in connection with obtaining any federal contract, grant or any other award covered by 31 U.S.C. 1352. Each tier must also disclose any lobbying with non-Federal funds that takes place in connection with obtaining any federal award. Such disclosures are forwarded from tier to tier up to the non-Federal award. 2 CFR PART 200 APPENDIX II.

XVI. 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 XV(J), (N), (O), (P) 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]

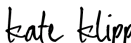
Each party is signing this Agreement on the date stated below that party's signature.

CONTRACTOR

OHIO DEPARTMENT OF NATURAL RESOURCES

TAYLOR STUDIOS INC

DIVISION OF PARKS AND WATERCRAFT

DocuSigned by:

By: _____
AC684D09C5EB4B6...
Printed Name: Kate Klipp
Title: Proposal Manager
Date: February 2, 2023

By: _____
Printed Name: _____
Title: _____
Date: _____

EXHIBIT I

Scope of Work

I. WORK DESCRIPTION

A. OBJECTIVE AND SCOPE

- 1) The scope of work for this project includes the design, content, and script development, fabrication, and installation of a variety of interactive educational opportunities at the Maumee Bay Nature center. These “education stations” should be designed in a comprehensive flow throughout the building and incorporate information that can be easily understood by a variety of age groups and education levels. This area has unique features and a layered history that should be explored and included in both the information offered and in materials used in the creation of the displays. Offerors are encouraged to consider the use of materials that reflect and enhance both the natural history and historical events that have occurred in the surrounding areas of Maumee Bay. The successful supplier will be required to coordinate with park staff on schedule and display needs, such as location of in-wall aquariums/terrariums, access to electric, etc.
- 2) For exhibit design purposes, the allocated space within the nature center is estimated **at 1,026 sf**. The building layout is provided, as well as photos of the current space.

B. DISPLAY THEMES FOR EXPLORATION

- 1) Bird migration - warblers and other migratory birds: the park is host to a huge spring migration of neotropical birds through the region and a renowned destination for ornithologists and amateur birders alike.
- 2) Legends of Lake Erie: From natural history to natural disasters, the changes of landscape caused by this turbulent lake- this display could include a lake depth chart highlighting the Great Lakes system and Lake Erie individually in comparison. Could include shipwrecks.
- 3) Recreation at the park and regionally: Maumee Bay offers something for every outdoor enthusiast (power boats, paddle sports, fishing, swimming, camping, hiking, biking, and bridle trails).
- 4) Live animals: possibly an interior living pond featuring native plant and fish as well as in-wall terrarium & aquarium.
- 5) Geology of Maumee Bay: ancient seas and moving glaciers left indelible marks on the Maumee Bay landscape from clay to the fertile farm fields, life was difficult in this region for the first European settlers – inclusion of Great Black Swamp information.
- 6) Sustainable practices and the benefits of natural resources conservation, how visitors can apply those practices at home (might include some outside signage or displays).

- 7) Lake Life: animals that live here and how people use the lake (problems the lake faces, invasive species, fisheries- include H2Ohio info here on how we are trying to repair it).

C. EXPECTATIONS

- 1) In concert with ODNR staff, Supplier will develop an overall story for the nature center experience that connects the exhibits in cohesive way.
- 2) Supplier will develop (including content/copy development), design, fabricate, and install engaging, interactive, three-dimensional displays and other creative exhibits that excite and stimulate interest and learning in people of all ages.
- 3) This nature center will be unstaffed at times. Special consideration should be given to developing displays that are durable, self-explanatory, and feature interactive components that are not easily damaged or removed. No components will require electronics or electricity.
- 4) Development or acquisition of all photos and illustrations are the responsibility of the Supplier. Photos accompanying displays are the ultimate responsibility of the Supplier and should be given consideration when developing a project budget.
- 5) Supplier is responsible for subject matter research and script/text development, the creation of original graphics/illustrations/diagrams/maps etc., and photography. The Division of Parks and Watercraft will work closely to provide subject-matter experts, editing, proofing, etc.
- 6) The Supplier shall incorporate multiple owner review and approval timeframes in its plans to achieve the final timeline.
- 7) Supplier to provide full size prints of the exhibit panels showing text, photos and illustration placement, colors for staff approval prior to fabrication.
- 8) Supplier to provide samples of exhibit materials to be used.

D. DELIVERABLES

- 1) Research, development, design, fabrication, and installation of exhibits, meeting the requirements in the Scope of Work, completion winter/spring, 2024.

II. COMPENSATION

- A. The total cost for the Work under this agreement is not to exceed \$400,000.00.
- B. Invoices may be submitted to Invoices@ohio.gov upon completion of specific deliverables as agreed upon by ODNR and Taylor Studios.

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**IRS Publication 1075****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 III

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.

Although some sensitive personal information, such as medical records, addresses, telephone numbers, and social security numbers may be publicly available through other sources, Contractor shall not disclose or use such information in any manner except as expressly authorized in this Agreement. Therefore, notwithstanding whether such information becomes publicly known without breach of this Agreement, Contractor does have an obligation to maintain the confidentiality of such sensitive personal information.


Contractor must return all originals of any Confidential Information provided by ODNR and destroy any copies Contractor has made on termination or expiration of this Agreement.

Contractor will be liable for the disclosure of any Confidential Information. The parties agree that the disclosure of confidential information of ODNR may cause ODNR irreparable damage for which remedies other than injunctive relief may be inadequate, and Contractor agrees that in the event of a breach of the obligations hereunder, ODNR shall be entitled to temporary and permanent injunctive relief to enforce this provision without the necessity of proving actual damages. This provision shall not, however, diminish or alter any right to claim and recover damages.

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:  _____
AC684D09C5EB4B6...

Name: Kate Klipp

Title: Proposal Manager

Date: February 2, 2023