



Park Companies Inc

4345 Stringtown Rd NW
Lancaster, OH 43130
p: 740.639.4049
f: 614.754.5006
michele@parkcompanies.biz

PROJECT: RFQ 1828-27-23 Trichloroethylene
COUNTY: Franklin
PID:
Letting Date: 12/13/22
Completion Date: 01/31/23

QUOTATION TO FURNISH AND ERECT THE FOLLOWING ITEMS:

REF	ITEM	QTY.	UNIT	DESCRIPTION		UNIT PRICE	EXTENDED PRICE
		4.00	EA	55 gallon drums of Trichloroethylene (including shipping)	@	3,200.00	12,800.00
TOTAL QUOTATION							<u>12,800.00</u>

Notes: **Estimated delivery date prior to 1/31/2023**



RFQ-1828-27-23

Trichloroethylene

Issue Date: 11/30/2022

Questions Deadline: 12/12/2022 04:00 PM (ET)

Response Deadline: 12/14/2022 04:00 PM (ET)

Contact Information

Contact: NaCole Davis

Address: OH

Email: DOT.CENPurchasingSupport@dot.ohio.gov

Event Information

Number: RFQ-1828-27-23
Title: Trichloroethylene
Type: Competitive Sealed Bid
Issue Date: 11/30/2022
Question Deadline: 12/12/2022 04:00 PM (ET)
Response Deadline: 12/14/2022 04:00 PM (ET)
Notes: FOUR (4) 55-gallon drums of new Trichloroethylene to be delivered to Office of Materials Management (all four drums at once). Price per drum must include shipping. Quotes shall remain valid for a period of 30 days to allow time for Purchase Order generation

****Failure to submit a signed Affirmation and Disclosure Form will result in the disqualification of the quote.**

An authorized dealer or distributor must provide the manufactured item

Ship To Information

Contact: Suzy Miller
Address: Materials Management
1600 W Broad St
Columbus, OH 43223

Billing Information

Contact: Suzy Miller
Address: Materials Management
1600 W Broad St
Columbus, OH 43223

Bid Attachments

FY20_Buy_America_-_Ohio_Certification v2.0.pdf

[Download](#)

Buy Ohio/America/Veterans Preference - Supplier Certification Sheet

FY23 Standard Terms and Conditions.pdf

[Download](#)

Updated Terms and Conditions

Affirmation and Disclosure Form.pdf

[Download](#)

Affirmation and Disclosure Form

Bid Attributes

1 Terms and Conditions Acknowledgement

I certify that I have read, understand and agree to the terms and conditions contained on this bid.

☒ I Certify

(Required: Check if applicable)

2 Affirmation and Disclosure Form

I certify that I have read, understand, completed, and submitted the Affirmation and Disclosure Form contained on this quote request. **Failure to submit a signed Affirmation and Disclosure Form will result in the disqualification of the quote.

☒ Affirmation and Disclosure Form
(Required: Check if applicable)

3 Estimated Completion Date

Please enter the estimated completion date for this project.

01 / 31 / 2023
(Required)

4 Freight Charges: FOB Destination

DELIVERY/FREIGHT CHARGES: Unless otherwise stated, the Department shall not be responsible for freight or delivery charges. Prices submitted are to be based upon the products or services being offered **F.O.B. destination**, freight prepaid by the Vendor to the locations set forth in the RFQ/ITB or as listed on the purchase order issued pursuant to any contract awarded. Any shipment marked C.O.D. shall be rejected and returned at the Vendor's expense.

Bid Lines

- 1** (4) - 55-gallon drums of new Trichloroethylene to be delivered to Office of Materials Management (all four drums at once). Price per drum must include shipping. Quotes shall remain valid for a period of 30 days to allow time for Purchase Order generation.

****Failure to submit a signed Affirmation and Disclosure Form will result in the disqualification of the quote.**

An authorized dealer or distributor must provide the manufactured item

Quantity: 4 UOM: EA Unit Price: \$ 3,200.00 Total: \$ 12,800.00

Supplier Notes: _____

☐ No bid
☐ Additional notes
(Attach separate sheet)

Supplier Information

Company Name: Park Companies Inc.

Contact Name: Michele M Brown

Address: 4345 Stringtown Rd NW
Lancaster, OH 43130

Phone: 740-639-4049

Fax: 614-754-5006

Email: Michele@parkcompanies.biz

Supplier Notes

By submitting your response, you certify that you are authorized to represent and bind your company.

Michele M. Brown
Print Name

Michele M Brown
Signature

Vendor Name: Park Companies Inc

CERTIFICATION STATEMENTS

Bidders claiming preference for Domestic Source End Products, the Ohio preference, and/or the Veteran Friendly Business Enterprise (VBE) must complete the following information. **Any bidder who intentionally submits false or misleading information in an attempt to receive a bid preference will be immediately disqualified and may be subject to legal action up to and including debarment.** The Department reserves the right to clarify any information during the evaluation process.

BIDDERS MUST COMPLETE THIS CERTIFICATION TO RECEIVE ANY PREFERENCES

A. DOMESTIC PREFERENCE (BUY AMERICAN): Revised Code 125:11 and Administrative Code 123:5-1(K) [Not applicable to "Excepted Products"]

1. Where is each product/services being offered mined, raised, grown, produced or manufactured?

☒ **United States: (State) (Go to B-1)**

☐ **Other: _____ (Specify Country) (Go to A-2)**

2. End product is manufactured outside the United States and at least 50% of the cost of its components are produced, mined, raised, grown or manufactured within the United States. The cost of components may include transportation costs to the place of manufacture and, in the case of components of foreign origin, duty whether or not a duty free entry certificate is issued.

☐ **Yes (Go to Section B-1)** ☐ **No (Go to Section A-3)**

3. The Bidder hereby certifies that each end product, except the products listed below, is a domestic source end product as defined in the Buy American Act and that components of unknown origin have been considered to have been mined, produced, grown or manufactured outside the United States.

(Item) _____ (Country of Origin) _____

(Item) _____ (Country of Origin) _____

B. OHIO PREFERENCE (BUY OHIO): Revised Code 125:09 and Administrative Code 123:5-1-06

1. The products/services being offered are raised, grown, produced, mined or manufactured in Ohio.

☐ Yes ☒ No (Go to B-2)

2. Bidder has significant economic presence within the state of Ohio.

☒ Yes (Answer a, b, c, d below) ☐ No (Go to B-3)

a) Bidder has paid the required taxes due the State of Ohio

☒ Yes ☐ No

b) Bidder is registered with the Ohio Secretary of State

☒ Yes (Charter/Registration No: 4311623)

c) Bidder has ten or more employees based in Ohio or border state.

☐ Yes ☒ No (Go to B-2d)

d) Bidder has seventy-five percent or more employees based in Ohio or border state

☒ Yes ☐ No (Go to B-3)

3. Border state bidder?

☐ Yes (Specify which state then go to B-2c): ☐ KY ☐ MI ☐ NY ☐ PA ☐ IN

☒ No (Go to B-4 below)

4. Border state bidder: mined products mined in respective border state

☐ Yes ☐ No ☒ Not Applicable

C. VETERANS PREFERENCE (BUY VETERAN): Revised Code 9.318 and Administrative Code 123:5-1-16

Is the bidder a certified Veteran Friendly Business Enterprise as defined in Administrative Code 123:5-1-01(KK)

☐ Yes ☒ No

Name of person completing form (printed): Michelle M. Brown

Signature of person completing form: Michelle M. Brown

DEPARTMENT OF ADMINISTRATIVE SERVICES
STANDARD AFFIRMATION AND DISCLOSURE
FORM

EXECUTIVE ORDER 2022-02D

State of Ohio's Response to Russia's Unjust War on the Country of Ukraine

March 2022

All of the following provisions must be included in all invitations to bid, requests for proposals, state term schedules, multiple award contracts, requests for quotations, informal quotations, and statements of work. This information is to be submitted as part of the response to any of the procurement methods listed.

AFFIRMATION AND DISCLOSURE FORM

Park Companies Inc

Contractor affirms that Contractor has read and understands the applicable Executive Orders regarding the prohibitions of performance of offshore services, locating State data offshore in any way, or purchasing from Russian institutions or companies.

The Contractor shall provide all the name(s) and location(s) where services under this Contract will be performed and where data is located in the spaces provided below or by a Failure to provide this information may result in no award. If the Contractor will not be using subcontractors, indicate "Not Applicable" in the appropriate spaces.

1. Principal location of business of Contractor:

4345 Stringtown Rd. NW
(Address)

Lancaster OH 43130
(City, State, Zip)

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

None
(Name)

(Address, City, State, Zip)

(Name)

(Address, City, State, Zip)

2. Location where services will be performed by Contractor:

4345 Stringtown Rd. NW
(Address)

Lancaster OH 43130
(City, State, Zip)

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

None
(Name) (Address, City, State, Zip)
(Name) (Address, City, State, Zip)

3. Location where state data will be located, by Contractor:

4345 Stringtown Rd. NW Lancaster OH 43130
(Address) (City, State, Zip)

Name/Location(s) where state data will be located by subcontractor(s):

None
(Name) (Address, City, State, Zip)
(Name) (Address, City, State, Zip)
(Name) (Address, City, State, Zip)
(Name) (Address, City, State, Zip)
(Name) (Address, City, State, Zip)

Contractor also affirms, understands and agrees that Contractor and its subcontractors are under a duty to disclose to the State any change or shift in location of services performed by Contractor or its subcontractors before, during and after execution of any contract with the State. Contractor agrees it shall so notify the State immediately of any such change or shift in location of its services. The State has the right to immediately terminate the contract, unless a duly signed waiver from the State has been attained by the Contractor to perform the services outside the United States.

On behalf of the Contractor, I acknowledge that I am duly authorized to execute this Affirmation and Disclosure Form and have read and understand that this form is a part of any Contract that Contractor may enter into with the State and is incorporated therein.

By: Michelle M Brown
Contractor Park Companies Inc

Ohio Department of Administrative Services
General Services Division

Print Name: Michele M Brown

Title: Vice President

Date: 12-13-22



Request for Quote

Terms & Conditions

Ohio Department of Transportation

OFFICE OF ACCOUNTING

Below are the instructions, definitions, and conditions that must accompany each procurement opportunity for supplies and most services within ODOT Request for Quotes (RFQ). If there are any questions, please direct them to the administrators or managers in the Division of Finance or Legal.

INSTRUCTIONS FOR SUBMITTING QUOTES

1. The quote **must** be properly acknowledged, completed, signed, accompanied by copies of all necessary supportive documentation, and returned in its **entirety**, including these Definitions and Conditions.
2. Vendors **MAY REQUEST CLARIFICATION**, if any vendor discovers an inconsistency, error, or omission, the vendor should request clarification. Any questions or inquiries must be submitted no later than two (2) business days before the scheduled closing date. The issuance of an addendum or change is dependent upon the information received and the impact on the competitive process.

GENERAL DEFINITIONS

When used in this procurement or any ensuing contract, the following definitions shall apply. If a conflict exists between these definitions and any definition listed in the specifications or scope of work, the specifications or scope shall prevail.

1. **DEPARTMENT or ODOT:** Ohio Department of Transportation
2. **AUTHORIZED DEALER/DISTRIBUTOR:** The vendor who maintains written legal agreements with manufacturers to act as their agent and provide supplies, materials, equipment, or services listed in the RFQ. The authorized dealer/distributor must maintain active and sufficient facilities, necessary to perform the awarded contract, own title to the goods inventoried within these facilities and maintain a true stock of these goods on a continuing basis and in sufficient quantity to provide uninterrupted service to ordering agencies.
3. **VENDOR:** The company and/or authorized representative of the company who has signed and is submitting the signed RFQ response and who will be responsible to ensure proper performance of the contract awarded pursuant to the RFQ.
4. **MBE OR EDGE CERTIFIED:** MBE means Minority Business Enterprise and EDGE means Encouraging Diversity, Growth and Equity. The Department of Administrative Services (DAS) has the responsibility for implementing the State of Ohio's minority business set-aside program pursuant to O.R.C. 125.081, and the EDGE program pursuant to O.R.C. 122.922.
5. **EQUIPMENT:** Items, implements and machinery with a predetermined and considerable usage life.
6. **INVOICE:** An itemized listing showing delivery of the commodity or performance of the service described in the order, and the date of the purchase or rendering of the service, or an itemization of the things done, material supplied, or labor furnished, and the sum due pursuant to the contract or obligation.

7. **MATERIALS:** Items or substance of an expendable or non-expendable nature from which something can be made, improved, or repaired.
8. **PURCHASE:** To buy, purchase, installment purchase, rent, lease, lease purchase or otherwise acquire equipment, materials, supplies or services. "Purchase" also includes all functions that pertain to obtaining of equipment, materials, supplies, or services, including description of requirements, selection, and solicitation of sources, preparation, and award of contracts, and all phases of contract administration.
9. **SERVICES:** The furnishing of labor, time, or effort by a person, not involving the delivery of a specific end product other than a report which, if provided, is merely incidental to the required performance. "Services" does not include services furnished pursuant to employment agreements or collective bargaining agreements.
10. **DELIVERABLE:** Any Contractor-provided, products, supplies, services, or work product described in the specifications of the Contract.
11. **SPECIFICATION:** Any description of the physical or functional characteristics or of the nature of supplies, equipment, service, or insurance. It may include a description of any requirements for inspecting, testing, or preparing supplies, equipment, services, or insurance.
12. **SUPPLIES:** Provisions and items normally considered expendable or consumable.
13. **PRIME VENDOR:** The vendor who, upon awarding of a contract, becomes the prime vendor who is considered to be the primary source for providing the goods or services listed in the awarded contract and the party to whom payment will be made upon delivery of the goods and/or completion of the contract.
14. **SUBVENDOR:** An individual, firm, or corporation to whom the Vendor sublets part of the contract to be performed.

STANDARD TERMS AND CONDITIONS

1. **HEADINGS:** The headings used in this RFQ are for convenience only and shall not affect the interpretation of any of the terms and conditions thereof. When terms and conditions set forth elsewhere in the RFQ conflict with these terms and conditions, the RFQ standard terms and conditions shall prevail.
2. **GOVERNING LAW:** The RFQ award and the contract entered into with the successful vendor (hereinafter collectively referred to as "the Contract") are governed by the laws of the State of Ohio. To the extent that ODOT is a party to any litigation arising out of or relating in any way to this contract or the performance thereunder, such an action shall be brought only in a court of competent jurisdiction in Franklin County, Ohio.
3. **INFORMATION REQUESTED:** Vendors shall furnish all information as requested in the RFQ. At the discretion of the Director, additional information, necessary for evaluation of the quote may be attached to the RFQ and shall be properly identified as being part of the quote. ODOT reserves the right to request literature, or other documentation for clarification, although such may not have been set forth in the RFQ. ODOT also reserves the right to require a Vendor to be a registered supplier with the State of Ohio through the Supplier Portal prior to a contract being awarded. Failure to provide the required information or complete supplier registration with the State of Ohio within seven business days of the award may render the quote invalid.

4. **SAMPLES REQUESTED:** When requested, samples shall be furnished at the Vendors' expense and unless otherwise specified, prior to closing of the RFQs. Samples shall be clearly identified by Vendor's name, the RFQ number, corresponding items in the RFQ and the closing date. ODOT acknowledges that it may receive quote from multiple vendors and authorized dealers/distributors quoting the same manufacturer's products. In such situations, samples may be submitted by manufacturers on behalf of multiple vendors or authorized dealers/distributors, provided that such samples shall be accompanied by written documentation, on manufacturer's letterhead, signed by an authorized representative of manufacturer, listing the named dealers/distributors and vendors for whom the samples are provided. Any vendor or authorized dealer/distributor not appearing on this listing and who has failed to furnish requested samples shall be considered non-responsive. Unless otherwise stated, any sample submitted with the quote shall not be deemed to vary from any of the provisions, specifications, or terms and conditions of the RFQ. When requested in writing, samples not destroyed in testing, shall be returned at the vendor's expense. Samples not so requested shall become the property of ODOT. Unsolicited samples which are submitted, shall be at the vendor's risk and, shall not be examined or tested, and shall not be considered in the evaluation process. ODOT reserves the right to request samples although such may not have been set forth in the RFQ.
5. **SPECIFICATIONS:** ODOT is authorized to prepare specifications to obtain supplies and services. The purpose of the specification is to describe the supplies or services to be purchased and will serve as a basis for comparison of quote. The Department may use any form of specification it determines to be in the best interest of the State and that best describes the supplies or services to be purchased. Specifications may be in the form of a design specification or a combination thereof. If the Department determines that a design, performance, or a combination specification is not in the best interest of the State, it may use brand name or equal specifications. Where a brand name or equal specification is used, use of brand name is for the purpose of describing the base standard of quality, performance and characteristics desired only, and is not intended to limit or restrict competition. Substantially equivalent supplies or services to those designated will be considered for award.
- The Department may also use a qualified products list of the federal government or may develop a qualified products list applicable to ODOT. When developing a qualified products list, the Department shall solicit a sufficient number of suppliers to ensure maximum coverage with providers of the supplies or services. Any supplier, not solicited, may request inclusion on the qualified products list. Potential suppliers will be required to furnish exact samples of the supplies or services to be provided for testing and examination by ODOT. Only those supplies or services that conform to the ODOT's requirements will be considered for inclusion on a qualified products list.
6. **UNIT PRICE GOVERNS:** The unit price governs the award unless otherwise specified in the RFQ. The unit price must be entered for each item being quoted. Use of ditto marks, arrows, or other markings in lieu of the actual unit price may be deemed non-responsive. Lot prices listed in the unit price area shall be considered as the unit price unless clearly identified as the lot price. Any request to change or alter the price after closing of the quote shall not be allowed. Vendors should review its pricing carefully, as once a contract is awarded, the Vendor shall be required to deliver the goods or services at the prices quoted. Vendors shall not insert a unit cost of more than three (3) digits to the right of the decimal point. Digit(s) beyond three (3) will be dropped and not used in the evaluation of the quote or payment thereof.

7. **QUOTE FIRM:** Once opened, all RFQs are firm and cannot be altered. Once a contract is awarded, the Vendor shall deliver at the prices and terms quoted. The Ohio Department of Transportation shall receive the benefit of any decrease in price during the guaranteed price period. Unless otherwise stated, all RFQs shall remain valid for a period of sixty (60) calendar days after the RFQ closing date.
8. **REJECTION OF ANY/ALL RFQ:** The Director of ODOT reserves the right to accept, or reject, any or all RFQs in whole or in part and may determine that any irregularities or deviations from the specifications do not result in the quote being non-responsive, provided however, that the Director of ODOT determines that this does not affect the amount of the quote or result in a competitive advantage to the Vendor.
9. **DEVIATIONS:** Statements or modifications that deviate from the RFQ's terms, conditions, specifications and requirements (such as altering delivery, changing F.O.B., price list changes, etc.) may render the quote non-responsive if the Director determines that the deviation or modification affects the amount of the quote or results in an unfair competitive advantage for the Vendor.
10. **DISQUALIFICATION OF VENDORS:** Any of the following reasons may be considered as being sufficient for the disqualifications of a Vendor and the rejection of their quote:
 - a. More than one RFQ for the same work from a parent and subsidiary company, from two or more related subsidiary companies, or an individual, firm, or corporation under the same or different name.
 - b. Evidence of collusion among Vendors.
 - c. Quote which are in ODOT's opinion materially unbalanced.
 - d. Evidence that the Vendor has sublet or sub-vended any portion of the work, supplies, services, labor, or materials without prior written approval from the Department.
 - e. Evidence that the Vendor is not an authorized dealer/distributor of the manufacturer.

The quote supplied by a disqualified Vendor shall be rejected, and the disqualification determination will be used to evaluate the responsibility of the Vendor in future RFQs.
11. **TIE PROCESS:** If two or more quotes offer the same unit price and are determined to be responsive and responsible, the Department will break the tie as follows: during the evaluation process, the Vendors that submitted tie quote will be contacted and given a deadline to submit a written revised unit price for the affected item or items. If a tie still exists, the Department may repeat this process or look to past or current performance in order to secure the item or items. ODOT will not allow a tie quote situation to otherwise unnecessarily delay a potential award.
12. **CREATION OF THE CONTRACT:** A contract is created between the Vendor and the Ohio Department of Transportation when the Department accepts the quote, and an authorized person acknowledges the acceptance in writing. The contract shall become operational only when either a purchase order has been issued or the Department's payment card is presented to the awarded Vendor. The contract shall contain all the terms and conditions of this RFQ as well as the accepted responses in the vendor's quote, except that no responses may change or alter the terms and conditions of this RFQ.

The contract will be construed in accordance with the plain meaning of its language and neither for nor against the drafting party.

13. **NON-ASSIGNMENT OF INTEREST:** The Vendor shall not assign any interest, duty, or right under the contract, in whole or in part, without prior written approval from the Director of ODOT.
14. **DELIVERY/FREIGHT CHARGES:** Unless otherwise stated, the Department shall not be responsible for freight or delivery charges. Prices are to be based upon the products or services being offered **F.O.B. destination**, freight prepaid by the Vendor to the locations set forth in the RFQ or as listed on the purchase order issued pursuant to any contract awarded. Any shipment marked C.O.D. shall be rejected and returned at the Vendor's expense.
15. **DELIVERY/INSPECTION; ACCEPTANCE:** Upon delivery of the product/service, the Department retains the right to inspect the product/service prior to final acceptance and/or payment for the product/service. The purpose of the inspection process is to ensure that the product/service is in compliance with the specifications set forth in the awarded contract. If the product/service does not meet the specifications, the Department shall notify the Vendor for removal/replacement of the product or service. The Department shall retain all rights and remedies as described herein. Wherein products ordered by the Department are delivered to a facility, which is not owned by the Department and where the Department has contracted with this facility to take delivery of products ordered, acceptance will occur when the products have been inspected and accepted by the Department within a reasonable amount of time after delivery to the facility. The Department shall not be responsible for any storage costs incurred prior to the inspection and acceptance.
16. **DELIVERY/TITLE TO THE MERCHANDISE:** Title to the product(s) passes to the Department upon inspection and acceptance. The Department shall approve and process payment for the product(s) upon passing of the title.
17. **RETURNED GOODS:** When the use of this Contract involves the purchase of goods, the following applies:
 - a. Returned goods, when due to Contractor error (i.e., over-shipment, defective merchandise, unapproved substitution, etc.), shall be returned to the Contractor at the Contractor's expense. The Contractor shall arrange to remove the returned goods from the Department within seven (7) calendar days after notification. The Contractor shall not apply any restocking or other charges to the Department. At the Department's option, replacement items may be accepted and will be shipped within seven (7) calendar days of notification. Failure of the Contractor to arrange for return of the items within the specified time will result in the items being deemed as abandoned property and the Department will dispose of accordingly.
 - b. For orders of custom manufactured items, the Contractor must provide a production sample of the item to the Department for acceptance. The production sample must be identical to the item to be provided. The Department will provide written acceptance of the item prior to the Contractor continuing with production. Once delivery and acceptance has been completed and the Department determines for any reason that any remaining quantities will not be used, the Department may request the return of the custom manufactured items. Acceptance of the return of the custom manufactured items will be at the option of the Contractor. Failure of the Contractor to provide a production sample and obtain written approval from the Department will result in the Contractor bearing all responsibility and costs associated with the return of these goods.

- c. Returned goods of regular catalog stock merchandise, when due to the Department's error (i.e., over purchase, discontinued use, inventory reduction, etc.) will be accepted by the Contractor if notice is given by the Department within six (6) months of delivery and acceptance. All items to be returned must be unused and in their original containers and in suitable condition for resale. Return of regular stock catalog merchandise, when delivery and acceptance exceed six (6) months will be at the option of the Contractor.
- 18. **SUBVENDORS NOT PERMITTED:** The Vendor certifies that it will not sub-vend or sublet any portion of the work, labor, or supplies provided in the RFQ without prior written approval from the Department. The Vendor is further not permitted to sub-vend or subcontract any work, labor, or obtain any supplies from any other vendors that provided quote in this RFQ.
- 19. **TAXATION:** ODOT is exempt from federal excise taxes and all state and local taxes, unless otherwise provided herein. ODOT does not agree to pay any taxes on commodities, goods, or services acquired from any Vendor.
- 20. **INVOICING & PAYMENT:** In consideration for Vendor's performance, the Department shall pay Vendor directly at the rate specified in the RFQ. Payments may be made by the Ohio Payment Card, an Auditor of State warrant or by electronic funds transfer (EFT). For all transactions, Vendor must be a registered supplier with State of Ohio, completed through the Supplier Portal. The Department is not obligated to purchase any goods or services provided by the Vendor from the award of the contract to the Vendor. The approved purchase order shall authorize the Vendor to provide goods or services listed on the order and will obligate the Department to pay for such goods or services upon completion of delivery or performance of service by the Vendor. Any order placed, not using an approved Department purchase order or payment card, shall not be considered a valid order and may result in denial of payment and/or return of goods at the Vendor's expense.

By Purchase Order: Upon delivery of goods or performance of the service, as described on any purchase order placed against the contract, Vendor shall submit proper invoices within 30 calendar days after the Department's receipt of goods or services directly to the ordering agency billing office as indicated on the purchase order. A proper invoice is defined as being free from defects, discrepancies, errors, or other improprieties and shall include, but may not be limited to:

- a. Vendor's name and address as designated in the quote.
- b. Invoice remittance address as designated in the quote.
- c. Vendor's federal E.I. number.
- d. The Purchase Order number authorizing the purchase of goods or services.
- e. Description, including time period, unit price, quantity, and total price of goods or services delivered or rendered as specified in the Quote.
- f. Assessments for load limit violations, non-compliance with specifications, late delivery, and other necessary deductions have been properly applied, etc.

Defective invoices shall be returned to the Vendor noting areas for correction. If such notification of defect is sent, the required payment date shall be thirty (30) days after receipt of the corrected invoice.

By Payment Card: The Department may use the Ohio Payment Card in accordance with the OBM guidelines. Vendor may process a payment in the payment card network only upon delivery and acceptance of the supplies or services ordered. For partial deliveries or performance, Vendor may process a payment for the amount delivered or completed only and not for the entire amount ordered by the Department. Payments for purchases at the contract price are made within three (3) days of the actual sale date with a State of Ohio payment card.

If you are able to accept the State of Ohio payment card, your company must meet the policies and procedures of the Department's Office of Accounting. In addition, unit prices quote shall include all costs associated with the use of the State's payment card if you have checked that your company is able to accept a credit card.

Defective Invoices: In the event the Department is in receipt of defective or improper invoices, the Department shall postpone payment pursuant to Section 126.30 of the Ohio Revised Code. Invoices shall be returned to the Vendor noting areas for correction. If such notification of defect is sent, the required payment date shall be thirty (30) calendar days after receipt of the corrected invoice.

Payment of Invoices: Pursuant to Section 126.30 of the Revised Code, and the applicable rules thereto, the Department shall make prompt payment for any goods or services acquired from the Vendor. Upon receipt of a proper invoice, payment, subject to the foregoing provision and, unless otherwise stated, shall be made within thirty (30) calendar days. The Department will make payment to the same company name and Federal E. I. number awarded the contract and mail to the Vendor address indicated in the quote. No payments shall be made to parent or subsidiary companies. Any changes regarding payment after formation of the contract will not be permitted.

21. GENERAL REPRESENTATIONS AND WARRANTIES: The Contractor warrants that:

- a. The recommendations, guidance, and performance of the Contractor under this Contract will be in accordance with the industry's professional standards, the requirements of this Contract and without any material defect.
- b. No Deliverable will infringe on the intellectual property rights of any third party.
- c. All warranties are in accordance with the Contractor's standard business practices.
- d. The Deliverables are merchantable and fit for the particular purpose described in this Contract and will perform substantially in accordance with its user manuals, technical materials, and related writings.
- e. The Deliverables comply with all governmental, environmental and safety standards.
- f. The Contractor has the right to enter into this Contract.
- g. The Contractor has not entered into any other contracts or employment relationships that restrict the Contractor's ability to perform under this Contract.
- h. The Contractor will observe and abide by all applicable laws and regulations, including those of the Department regarding conduct on any premises under the Department's control.

- i. The Contractor has good and marketable title to any Deliverable delivered under this Contract for which title passes to the Department.
- j. The Contractor has the right and ability to grant the license granted in any Deliverable for which title does not pass to the Department.

If any work of the Contractor or any Deliverable fails to comply with these warranties, and the Contractor is so notified in writing, the Contractor will correct such failure in a commercially reasonable time or as specified in the Contract. If the Contractor fails to comply, the Contractor will refund the amount paid for the Deliverable. The Contractor will also indemnify the Department for any direct damages and claims by third parties based on breach of these warranties.

Any other express warranties offered by the Contractor shall be a minimum of one year or the Contractor's standard warranty whichever is longer.

22. CANCELLATION OF CONTRACT:

- a. If any article furnished by a vendor in the performance of a contract or purchase order fails to conform to the specifications and conditions prescribed or to any sample of the article submitted by the vendor, the Department may reject the article. Without additional expense to the Department, the vendor shall reclaim and remove any rejected article that has been delivered and immediately shall replace all rejected articles with articles that conform to the specifications and conditions or samples. If the vendor does not immediately replace the rejected articles with conforming articles, the Department may cancel the contract or purchase order and purchase the article without using a notice and bidding procedure. In an emergency situation as determined by the Director, the Director immediately may purchase any necessary replacement article. The Director may deduct from any moneys due or that may thereafter become due to the vendor who provided the rejected article the difference between the price named in the canceled contract or purchase order with the vendor and the actual cost of the article purchased by the Department in substitution for that due from the vendor.
- b. If a vendor fails to make prompt delivery of any article, as noted in quote specifications, and the delivery is delayed by circumstances other than fire, strike, freight embargo, or an act of God or a government, the Department may cancel the contract or purchase order and purchase the article without using a notice and bidding procedure. The Director may deduct from any moneys due or that may thereafter become due to the vendor who failed to promptly deliver the article the difference between the price named in the canceled contract or purchase order with the vendor and the actual cost of the article purchased by the Department in substitution for that due from the vendor.
- c. The Department may recover from a vendor who fails to promptly provide conforming articles any incidental or consequential damages as defined in section 1302.89 of the Revised Code incurred by the Department in promptly obtaining the conforming articles.
- d. The rights and remedies established in this section are not exclusive and are in addition to any other available rights and remedies.
- e. If the Vendor is the sole authorized dealer/distributor of the product, services, labor, or materials in this State or in the area, ODOT reserves the right to notify the manufacturers/producers of the cancelation of the contract and to request that the

manufacturer or producer either directly provide the supplies, materials, equipment or services listed in the RFQ/Contract or provide the name of another authorized dealer/distributor with whom the Department may call upon to fulfill the terms of the contract. The authorized dealer/distributor must maintain active and sufficient facilities, necessary to perform the awarded contract, own title to the goods inventoried within these facilities and maintain a true stock of these goods on a continuing basis and in sufficient quantity to provide uninterrupted service to ordering agencies.

23. SUSPENSION/TERMINATION OF CONTRACTOR'S SERVICES:

- a. ODOT may, at any time prior to completion of the Work, suspend or terminate this Contract with or without cause by giving written notice to Contractor.
- b. In the event that the Work includes divisible services, ODOT 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. The Contractor, upon receipt of notice of suspension or termination, shall immediately cease all work on the suspended or terminated activities under this Contract, refuse any additional orders, suspend or terminate all subcontracts relating to the suspended or terminated activities and take all necessary or appropriate steps to limit disbursements and minimize the costs the Contractor will incur related to this Contract, and if directed by ODOT, 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 matter DOT requires. Suspension, termination or expiration of this Contract will not limit the Contractor's continuing obligation with respect to Deliverables that ODOT paid for or limit ODOT's rights in such.
- 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 ODOT for which Contractor has not rendered services shall be refunded.
- e. In the event this Contract is terminated prior to completion of the Work, Contractor shall deliver to ODOT 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, ODOT, to be used in such manner and for such purpose as ODOT may choose.
- f. Contractor agrees to waive any right to, and shall make no claim for, additional compensation against ODOT by reason of any suspension or termination.
- g. Contractor may terminate this Contract upon sixty (60) days' prior written notice to ODOT.

24. FORCE MAJEURE: If ODOT or Contractor is unable to perform any part of its obligations under this Agreement by reason of force majeure, the party will be excused from its obligations to the

extent that its performance is prevented by force majeure, for the duration of the event. The party must remedy with all reasonable dispatch the cause preventing it from carrying out its obligations under this Agreement. The term "force majeure" means without limitation: acts of God, such as epidemics, lightning, earthquakes, fires, storms, hurricanes, tornadoes, floods, washouts, droughts, any other severe weather, or explosions; restraint of government and people; war; strikes; and other like events or any other cause that could be not reasonably foreseen in the exercise of ordinary care, and that is beyond the reasonable control of the party.

25. **AUDITS:** The Contractor must keep all financial records in a manner consistent with Generally Accepted Accounting Principles (GAAP) or equivalent accounting principles. Additionally, the Contractor must keep separate business records for this project, including records of disbursements and obligations incurred that must be supported by Contracts, invoices, vouchers and other data as appropriate.

During the period covered by this Contract and until the expiration of three (3) years after final payment under this Contract, the Contractor agrees to provide the State, or any authorized representatives providing financial support to the work undertaken hereunder, with access to and the right to examine any books, documents, papers and records of the Contractor involving transactions related to this Contract.

The Contractor must, for each subcontract in excess of \$5,000, require its subcontractors to agree to the same provisions of this Section. The Contractor may not artificially divide Contracts with its subcontractors to avoid requiring subcontractors to agree to this provision. This provision does not apply to Contracts where federal funds are used and the federal government requires audits of all subcontracts regardless of the amount of the Contract.

The Contractor must provide access to the requested records no later than five (5) business days after the request by the State, the State's designee or any party with audit rights. If an audit reveals any material deviation from the Contract requirements, any misrepresentations, or overcharge to the State or any other provider of funds for the Contract, the State or other party will be entitled to recover damages as well as the cost of the audit

26. **COMPLIANCE WITH LAW:** Contractor must comply throughout the duration of the Agreement with all applicable federal, state, local laws and Executive Orders while performing under this Agreement.
27. **EQUAL EMPLOYMENT OPPORTUNITY:** Contractor will comply with all state and federal laws regarding equal employment opportunity and fair labor and employment practices, including Section 125.111 of Ohio Revised Code and all related Executive Orders.
28. **NON-DISCRIMINATION/COMPLIANCE WITH APPLICABLE LAWS:** The Vendor, as a term of the contract, shall comply with Civil Rights Act of 1964, the Federal Rehabilitation Act of 1973, any and all applicable Federal Executive Orders, any and all applicable Ohio Governor Executive Orders, and any and all other statutes, rules and regulations pertaining to non-discrimination. The Vendor further agrees that he/she is in compliance with the requirements of Ohio Revised Code Section 125.111.
29. **FEDERAL REQUIREMENTS:** During the performance of this Agreement, the Contractor, for itself, its assignees, and successors in interest (hereinafter referred to as the "Contractor") agrees as follows:

- a. The Contractor will ensure that applicants are hired and that employees are treated during employment without regard to their race, religion, color, sex (including pregnancy, gender identification and sexual orientation), national origin (ancestry), disability, genetic information, age (40 years or older), sexual orientation, or military status (past, present, or future). Such action shall include, but not be limited to, the following: Employment, Upgrading, Demotion, or Transfer; Recruitment or Recruitment Advertising; Layoff or Termination; Rates of Pay or other forms of Compensation; and Selection for Training including Apprenticeship.
- b. The Contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices setting forth the provisions of this nondiscrimination clause. The Contractor will, 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, religion, color, sex (including pregnancy, gender identification and sexual orientation), national origin (ancestry), disability, genetic information, age (40 years or older), or military status (past, present, or future).
- c. Contractor agrees to fully comply with Title VI of the Civil Rights Act of 1964, 42 USC Sec. 2000. Contractor shall not discriminate on the basis of race, color, national origin, sex (including pregnancy, gender identification and sexual orientation), age, disability, low-income status, or limited English proficiency in its programs or activities. The Director of Transportation may monitor the Contractor's compliance with Title VI.
- d. Compliance with Regulations: The Contractor (hereinafter includes consultants) will comply with the Acts and Regulations relative to Non-discrimination in Federally assisted programs of the U.S. Department of Transportation, Federal Highway Administration (FHWA), as they may be amended from time to time, which are herein incorporated by reference and made a part of this Agreement.
- e. Non-discrimination: The Contractor, regarding the work performed by it during the Agreement, will not discriminate on the grounds of race, color, national origin, sex (including pregnancy, gender identification and sexual orientation), age, disability, low-income status, or limited English proficiency in the selection and retention of Sub-Contractors, including procurements of materials and leases of equipment. The Contractor will not participate directly or indirectly in the discrimination prohibited by the Acts and the Regulations as set forth in paragraph 10 below, including employment practices when the Agreement covers any activity, project, or program set forth in Appendix B of 49 CFR Part 21.
- f. Solicitations for Sub-Contractors, including Procurements of Materials and Equipment: In all solicitations, either by competitive bidding, or negotiation made by the Contractor for work to be performed under a sub-Contractor, including procurements of materials, or leases of equipment, each potential sub-Contractor or supplier will be notified by the Contractor of the Contractor's obligations under this Agreement and the Acts and the Regulations relative to nondiscrimination on the grounds of race, color, national origin, sex, age, disability, low-income status, or limited English proficiency.
- g. Information and Reports: The Contractor will provide all information and reports required by the Acts, the Regulations, and directives issued pursuant thereto, and will permit access to its books, records, accounts, other sources of information, and its facilities as may be determined by the Ohio Department of Transportation (hereinafter

“ODOT”) or FHWA to be pertinent to ascertain compliance with such Acts, Regulations, and instructions. Where any information required of a Contractor is in the exclusive possession of another who fails or refuses to furnish this information, the Contractor will so certify to ODOT or FHWA, as appropriate, and will set forth what efforts it has made to obtain the information.

- h. Sanctions for Noncompliance: In the event of a contractor’s noncompliance with the Nondiscrimination provisions of this Agreement, ODOT will impose such Agreement sanctions as it or FHWA may determine to be appropriate, including, but not limited to:
 - 1. withholding payments to the Contractor under the Agreement until the Contractor complies; and/or
 - 2. cancelling, terminating, or suspending of the Agreement, in whole or in part.
- i. Incorporation of Provisions: The Contractor will include the provisions of paragraphs one through nine in every sub-Contractor, including procurements of materials and leases of equipment, unless exempt by the Acts, the Regulations, and directives issued pursuant thereto. The Contractor will take action with respect to any sub-Contractor or procurement as ODOT or FHWA may direct as a means of enforcing such provisions including sanctions for noncompliance. Provided, that if the Contractor becomes involved in, or is threatened with litigation by a Sub-Contractor, or supplier because of such direction, the Contractor may request ODOT to enter into any litigation to protect the interests of ODOT. In addition, the Contractor may request the United States to enter into the litigation to protect the interests of the United States.
- j. During the performance of this contract, the Contractor, for itself, its assignees, and successors in interest (hereinafter referred to as the “Contractor,” which includes consultants) agrees to comply with the following non-discrimination statutes and authorities; including but not limited to:

30. PERTINENT NON-DISCRIMINATION AUTHORITIES:

- a. Title VI of the Civil Rights Act of 1964 (42 U.S.C. § 2000d *et seq.*, 78 stat. 252) (prohibits discrimination on the basis of race, color, national origin); and 49 CFR Part 21
- b. The Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (42 U.S.C. § 4601) (prohibits unfair treatment of persons displaced or whose property has been acquired because of Federal or Federal-Aid programs and projects)
- c. Federal-Aid Highway Act of 1973 (23 U.S.C. § 324 *et seq.*) (prohibits discrimination on the basis of sex)
- d. Section 504 of the Rehabilitation Act of 1973 (29 U.S.C. § 794 *et seq.*), as amended (prohibits discrimination on the basis of disability) and 49 CFR Part 27
- e. The Age Discrimination Act of 1975, as amended (42 U.S.C. § 6101 *et seq.*) (prohibits discrimination on the basis of age)
- f. Airport and Airway Improvement Act of 1982 (49 U.S.C. § 471, Section 47123), as amended (prohibits discrimination based on race, creed, color, national origin, or sex)

- g. The Civil Rights Restoration Act of 1987 (PL 100-209) (broadened the scope, coverage, and applicability of Title VI of the Civil Rights Act of 1964, the Age Discrimination Act of 1975, and Section 504 of the Rehabilitation Act of 1973, by expanding the definition of the terms “programs or activities” to include all of the programs or activities of Federal-Aid recipients, sub-recipients, and Contractor’s, whether such programs or activities are Federally funded or not)
 - h. Titles II and III of the Americans with Disabilities Act (42 U.S.C. §§ 12131-12189), as implemented by Department of Transportation regulations at 49 CFR parts 37 and 38 (prohibits discrimination on the basis of disability in the operation of public entities, public and private transportation systems, places of public accommodation, and certain testing entities)
 - i. The Federal Aviation Administration’s Non-Discrimination Statute (49 U.S.C. § 47123) (prohibits discrimination on the basis of race, color, national origin, and sex)
 - j. Executive Order 12898, Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations (ensures non-discrimination against minority populations by discouraging programs, policies, and activities with disproportionately high and adverse human health or environmental effects on minority and low-income populations)
 - k. Executive Order 13166, Improving Access to Services for People with Limited English Proficiency, and resulting agency guidance, national origin discrimination includes discrimination because of limited English proficiency (LEP). To ensure compliance with Title VI, you must take reasonable steps to ensure that LEP persons have meaningful access to your programs (70 Fed. Reg. at 74087 to 74100)
 - l. Title VIII of the Civil Rights Act of 1968 (Fair Housing Act), as amended (prohibits discrimination in the sale, rental, and financing of dwellings on the basis of race, color, religion, sex, national origin, disability, or familial status (presence of child under the age of 18 and pregnant women)
 - m. Title IX of the Education Amendments Act of 1972, as amended (20 U.S.C. 1681 *et seq.*) (prohibits discrimination on the basis of sex in education programs or activities)
 - n. Uniformed Services Employment and Reemployment Rights Act (USERRA) (38 U.S.C. 4301 4333) (prohibits discrimination on the basis of present, past or future military service)
 - o. Genetic Information Nondiscrimination Act (GINA) (29 CFR Part 1635, 42 U.S.C. 2000ff)
31. **SEVERABILITY:** If any provision of this Agreement or application of any such provision shall be held by a court of competent jurisdiction to be contrary to law, the remaining provisions shall remain in full force and effect.
32. **NON-APPROPRIATION OF FUNDS:** It is understood that the Department's funds are contingent upon the availability of lawful appropriations by the Ohio General Assembly. Subject to the applicable provisions of the Ohio Revised Code, the Department represents that it has adequate funds to meet its obligations under any contract awarded as a result of this contract during the current fiscal year; that it intends to maintain any contract awarded as a result of this contract for the full period set forth herein; and that it has no reason to believe that it will not have sufficient funds to enable it to make all payments due hereunder during such period. However,

if the Ohio General Assembly fails at any time during such contract period to continue funding for any contract awarded as a result of this contract, the Department's obligations under such contract are terminated as of the date that the funding expires without further obligation of the Department.

Furthermore, if the source of funding for the contract is supplied by an entity other than the Department, and if said funding is withdrawn prior to the acceptance by the Director, the Department's obligations under this Contract are terminated without further obligation of the Department.

Article II, Section 22, of the Constitution of the State of Ohio prohibits the current General Assembly from committing a future General Assembly to an expenditure. In addition, no state contract may extend beyond June 30 of the current biennium. Should the effective date of this contract extend beyond June 30, of the current biennium, such contract shall be null and void unless ODOT affirmatively renews the contract through issuance of a valid ODOT Purchase Order or by actions of the Department of the decision to renew. A biennium will expire on June 30 of an odd numbered calendar year.

33. **ANTITRUST:** The Department and the Vendor recognize that in actual economic practice, overcharges resulting from antitrust violations are usually borne by ODOT. As consideration for the award of the contract, and intending to be legally bound, the Vendor assigns to the Department all right, title and interest, to all claims and causes of action the Vendor now has or may acquire under state or federal antitrust laws **provided** that the claims or causes of action relate to the goods or services that are the subject of the contract, and **except** as to any claims or causes of action which result from antitrust violations that occur after the price is established under the contract and that are not passed on to the Department. Additionally, Vendor warrants that any overcharges resulting from antitrust violations by Vendor's first tier suppliers and sub-Vendors shall not be passed on to the Department.
34. **INDEMNIFICATION:** The Vendor shall defend, indemnify, and hold harmless the Department for all claims, damages, lawsuits, costs, judgments, expenses, or any other liabilities which may arise out of, or are related to, the Vendor's performance under this Contract.
35. **CONFIDENTIALITY:** The Vendor acknowledges that some of the information, documents, data, records, or other material provided by the Department during the performance of the contract may be of a confidential nature. The Vendor agrees that it will not disclose any information obtained by it as a result of the contract, without written permission from the Director of ODOT. Further, Vendor agrees to make all reasonable efforts to ensure that no such confidential information is disseminated by its employees. The restrictions herein shall survive termination of the contract. The Vendor shall assume that all aspects of information, documents, data, records, or other material are confidential unless otherwise indicated.
36. **CONFIDENTIAL DATA:** The Department reserves the right to request additional confidential information, including but not limited to financial information, to be used for evaluation purposes even though such information may not have been required by the RFQ. In the event such information is requested, the Department agrees to retain such information as confidential to the extent permitted by law.
37. **PUBLIC RECORDS AND RETENTION OF DOCUMENTS AND INFORMATION:** The Contractor acknowledges, in accordance with Section 149.43 of the Ohio Revised Code, that this Contract, as well as any information, deliverables, records, reports, and financial records related to this Contract are presumptively deemed public records. The Contractor understands that these

records will be made available to the public unless the Department determines that, pursuant to state or federal law, such materials are confidential or otherwise exempt from disclosure. The Contractor must comply with any direction from the Department to preserve and/or provide documents in information, in both electronic and paper form, and to suspend any scheduled destruction of such documents and information.

38. **DRUG-FREE WORKPLACE:** By virtue of the submission of this RFQ, the Vendor certifies, to the best of his/her ability, that its employees will not purchase, transfer, use, or possess illegal drugs or alcohol or abuse prescription drugs, in any way, while working on state property. Failure to comply will result in immediate termination of any contract awarded and the Vendor will be subject to the provisions as set forth in Paragraph 21.
39. **WORKERS' COMPENSATION:** Vendor shall comply with all State and Federal laws pertaining to the type of service requested, such as Workers' Compensation. ODOT is hereby released from any and all liability for injury received by the Vendor, its employees, or agents while performing tasks, duties, work, or responsibilities as set forth in this Contract. The Contractor will also maintain employer's liability insurance with a least a \$1,000,000.00 limit.
40. **AUTOMOBILE AND GENERAL LIABILITY INSURANCE:** During the term of the Contract and any renewal thereto, the Contractor, and any agent of the Contractor, at its sole cost and expense shall maintain a policy of Automobile Liability Insurance in accordance with the State and Federal laws, unless otherwise stated. In addition, Contractor shall carry Commercial General Liability Insurance coverage with a \$1,000,000 annual aggregate and a \$500,000 per occurrence limit for bodily injury, personal injury, wrongful death, and property damage. The defense cost shall be outside 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 and a statement that the Contractor's commercial general liability insurance shall be primary over any other coverage. Umbrella/excess liability insurance may be used to meet the required limits and the coverage must follow form. The State reserves the right to approve all policy deductibles and levels of self-insured retention-captive insurance programs and may require the Contractor to have their policy(ies) endorsed to reflect per project / per location general aggregate limits.

Said certificates shall contain a clause or endorsement providing thirty (30) days prior written notice of cancellation, non-renewal or decrease in coverage will be given to the State. Failure of the Contractor to maintain this coverage for the duration of the Contract, and any renewals thereto, may be considered as a default. All insuring companies shall have and maintain at least an A- (Excellent) rating from A.M. Best, unless otherwise approved in writing by the State.

41. **OHIO ETHICS LAW/CONFLICT OF INTEREST:** 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 Conflicts of Interest laws including but not limited to Chapter 102 and Sections 2921.42 and 2921.43 of the Ohio Revised Code. Contractor further represents, warrants, and certifies that neither Contractor nor any of its employees will do any act that is inconsistent with such laws or otherwise presents a conflict of interest.
42. **CERTIFICATE FOR DOMESTIC AND OHIO PREFERENCE FORM:** Those Vendors claiming preference for Domestic Source End Products and/or the Ohio preference, pursuant to Revised Code Sections 125.09 and 125.11 and Administrative Code Section 123:5-1-06 must complete the enclosed Certificate for Domestic and Ohio Preference Form. The Department reserves the right to clarify any information during the evaluation process. Vendors must complete this certification to receive the preference.

43. **OHIO ELECTION LAW:** Contractor affirms that, as applicable to it, no party listed in Division (I) or (J) of Section 3517.13 of the Revised Code or spouse of such party has made, as an individual, within the two previous calendar years, one or more contributions totaling in excess of \$1,000.00 to the Governor or to his campaign committees.
44. **ENTIRE AGREEMENT; MODIFICATIONS:** The Agreement and this Addendum supersede all prior agreements, written or oral, between Vendor and ODOT and shall constitute the entire Agreement and understanding between the parties with respect to the subject matter hereof. The Agreement and this Addendum and each of its provisions shall be binding upon the parties and may not be waived, modified, amended, or altered except by a writing signed by ODOT and Vendor.
45. **CONSTRUCTION:** Any general rule of construction to the contrary notwithstanding this Contract shall be liberally construed in favor of the effect the purpose of this Contract and the policy and purposes of the Department. If any provisions in this Contract are found to be ambiguous, an interpretation consistent with the purpose of this Contract that would render the provision valid shall be favored over any interpretation that would render it invalid.
46. **PRIOR AGREEMENTS:** This Contract sets forth all understandings between the parties respecting the subject matter of this transaction, and all prior agreements, understandings, and representations, whether oral or written, representing this subject matter are merged into and superseded by this written Contract. No course of prior dealings between the parties and no usage of trade shall be relevant or admissible to supplement, to explain, or to vary any of the terms of this Contract.
47. **SWEATSHOP FREE CERTIFICATION:** The Vendor certifies that all facilities used in the production of the supplies or performance of services offered in the contract are in compliance with applicable domestic labor, employment, health and safety, environmental and building laws. This certification applies to any and all suppliers used by the Vendor in furnishing the supplies or services described in this Contract and awarded to the Vendor.
48. **AMENDMENTS:** No amendment or modification of this Contract will be effective unless it is in writing and signed by both parties.
49. **TRADE:** Pursuant to R.C. 9.76(B), Contractor warrants that Contractor is not boycotting any jurisdiction with whom the State of Ohio can enjoy open trade, including Israel, and will not do so during the term of this Agreement.

The State of Ohio does not acquire supplies or services that cannot be imported lawfully into the United States. The Contractor certifies that it, its subcontractors, and any agent of the Contractor or its subcontractors, acquire any supplies or services in accordance with all trade control laws, regulations or orders of the United States, including the prohibited source regulations set forth in subpart 25.7, Prohibited Sources, of the Federal Acquisition Regulation and any sanctions administered or enforced by the U.S. Department of Treasury's Office of Foreign Assets Control. A list of those sanctions by country can be found at <https://www.treasury.gov/resource-center/sanctions/Programs/Pages/Programs.aspx>. These sanctions generally preclude acquiring any supplies or services that originate from sources within, or that were located in or transported from or through Cuba, Iran, Libya, North Korea, Syria, or the Crimea region of Ukraine.

50. **STATE AUDIT FINDINGS:** Contractor affirmatively represents to ODOT that it is not subject to a finding for recovery under R.C. 9.24, or that it has taken the appropriate remedial steps required under R.C. 9.24 or otherwise qualifies under that section. Contractor agrees that if this

representation is deemed to be false, the Agreement shall be void ab initio as between the parties to this Agreement, and any funds paid by ODOT hereunder shall be immediately repaid to ODOT, or an action for recovery may be immediately commenced by ODOT for recovery of said funds.

51. **DEBARMENT:** Contractor represents and warrants that it is not debarred from consideration for contract awards by any governmental agency. If this representation and warranty is found to be false, this Agreement is void ab initio, and the Contractor shall immediately repay any funds paid under this Agreement.
52. **THIRD PARTY BENEFITS, IMMUNITIES AND DEFENSES:** Nothing in this Agreement shall inure to the benefit of any third parties. Nothing in this Agreement shall act as a waiver of any immunities or defenses available to either party, either by statute or common law.
53. **GOVERNING THE EXPENDITURE OF PUBLIC FUNDS ON INDEPENDENT SERVICES (EO 2019 12D):** 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, ODOT 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. The State does not waive any other rights and remedies provided ODOT in this Agreement.
54. **STATE OF OHIO'S RESPONSE TO RUSSIA'S UNJUST WAR ON THE COUNTRY OF UKRAINE (EO 2022-02D):** Prohibition of the expenditure of public funds for offshore services. No State Cabinet Agency, Board or Commission will enter into any contract to purchase services provided outside of the United States or that allows State data to be sent, taken, accessed, tested, maintained, backed-up, stored, or made available remotely outside (located) of the United States, unless a duly signed waiver from the State has been attained. Notwithstanding any other terms of this Contract, the State 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. The State does not waive any other rights and remedies provided to the State in the Contract.

Further, no State agency, board, commission, State educational institution, or pension fund will make any purchase from or investment in any Russian institution or company. Notwithstanding any other terms of this Contract, the State reserves the right to recover any funds paid to Contractor for purchases or investments in a Russian institution or company in violation of this paragraph. The provisions of this paragraph will expire when the applicable Executive Order is no longer effective.

The Contractor must complete the Contractor/Subcontractor Affirmation and Disclosure Form affirming the Contractor understands and will meet the requirements of the above prohibition. During the performance of this Contract, if the Contractor changes the location(s) disclosed on the Affirmation and Disclosure Form, Contractor must complete and submit a revised Affirmation and Disclosure Form reflecting such changes.

55. **REGISTRATION WITH THE SECRETARY OF STATE:** Contractor certifies that it is either:
- a. A company that is properly registered with the Ohio Secretary of State; or
 - b. A foreign corporation that is not incorporated under the laws of the State of Ohio, but is registered with the Ohio Secretary of State pursuant to Sections 1703.01 to 1703.31 of the Ohio Revised Code, as applicable; or

c. Exempt from registration requirements of the Ohio Secretary of State.

56. **INDEPENDENT CONTRACTOR ACKNOWLEDGEMENT:** It is fully understood and agreed that Contractor is an independent Contractor and is not an agent, servant, or employee of the State. Contractor declares that it is engaged as an independent business and has complied with all applicable federal, state, and local laws regarding business permits and licenses of any kind, including but not limited to any insurance coverage, workers' compensation, or unemployment compensation that is required in the normal course of business and will assume all responsibility for any federal, state, municipal or other tax liabilities. Additionally, Contractor understands that as an Independent Contractor, it is not a public employee and is not entitled to contributions from the State to any public employee retirement system.

Contractor acknowledges and agrees that any individual providing personal services under this Agreement is not a public employee for purposes of Chapter 145 of the Ohio Revised Code. Unless Contractor is a "business entity" as that term is defined in Section 145.037 of the Ohio Revised Code ("an entity with five or more employees that is a corporation, association, firm, limited liability company, partnership, sole proprietorship, or other entity engage in business") Contractor shall have any individual performing services under the Contract complete and submit to the ODOT the Independent Contractor/Worker Acknowledgement form:

<https://www.opers.org/forms-archive/PEDACKN-Independent-Contractor-Worker-Acknowledgment.pdf>

Contractor's failure to complete and submit the Independent Contractor/Worker Acknowledgement prior to commencement of the work, service or deliverable, provided under this Contract, shall serve as Contractor's certification that Contractor is a "business entity" as the term is defined above.

57. **TRAVEL:** Any travel that the Contractor requires to perform its obligations under this Contract will be at the Contractor's expense. The Department will pay for any additional travel that it requests only with prior written approval. The Department will pay for all additional travel expenses that it requests in accordance with Section 126.31 of the Ohio Revised Code and Rule 126-1-02 of the Ohio Administrative code.
58. **AUTHORIZATION:** Any person executing this Agreement in a representative capacity hereby warrants that he/she has been duly authorized by his/her principal to execute this Agreement on such principal's behalf.
59. **COUNTERPARTS:** This Agreement may be executed in any number of counterparts, each of which shall be deemed to be an original, and all of which shall constitute but one and the same instrument.
60. **FACSIMILE/ELECTRONIC SIGNATURES:** Any party hereto may deliver a copy of its counterpart signature page to this Agreement via fax, e-mail or through electronic software. Each party hereto shall be entitled to rely upon a facsimile or electronic signature of any other party delivered in such a manner as if such signature were an original.