APPENDIX A – SAMPLE CONTRACT

AGREEMENT
BETWEEN
OWENS COMMUNITY COLLEGE
AND
[NAME OF CONSULTANT]

THIS AGREEMENT (this "**Agreement**") is between Owens Community College, a state community college district (hereinafter "**College**"), 30335 Oregon Road, Perrysburg, OH 43551, and [Name of Consultant] (hereinafter "**Consultant**"), [Street Address, City, State, Zip].

The parties agree as follows:

I. NATURE OF AGREEMENT

A. Consultant shall be employed as an independent contractor, to fulfill the terms of this Agreement and to act as a consultant to College. It is specifically understood that the nature of the services to be rendered under this Agreement are of such a personal nature that College is the sole judge of the adequacy of such services.

B. College enters into this Agreement in reliance upon Consultant's representations that it has the necessary expertise and experience to perform its obligations hereunder, and Consultant warrants that it does possess the necessary expertise and experience.

C. Consultant shall perform the services to be rendered under this Agreement and College shall not hire, supervise, or pay any assistants to Consultant in its performance of services under this Agreement. College shall not be required to provide any training to Consultant to enable it to perform services required hereunder.

II. SCOPE OF WORK

A. Consultant shall perform the services (the "**Work**") set forth in Exhibit 1, Scope of Work, attached hereto and made a part hereof.

B. In order to facilitate the Work, College shall provide the resources set forth in Exhibit 1, Scope of Work.

III. TIME OF PERFORMANCE

A. The Work shall be commenced on or after the date of an approved purchase order/DATE.

B. The Work shall be concluded on or before DATE, and this Agreement shall terminate on the earlier to occur of: (i) the date on which the Work is completed to the satisfaction of College or (ii) the date on which this Agreement is terminated as provided in Article VI, Termination of Consultant's Services.

C. [OPTION 1 - up to two year term] Notwithstanding the foregoing, this Agreement shall expire no later than June 30, 2025. As the current General Assembly cannot commit a future General Assembly to expenditure, this Agreement shall in any event expire no later than June 30, 2025. College may renew this Agreement once on the same terms and conditions by giving written notice

prior to expiration. Such renewal shall begin July 1, 2025 and shall terminate June 30, 2026, unless sooner terminated as set forth herein.

D. [OPTION 2 - one year term with option to renew for second year] Notwithstanding the foregoing, as the current General Assembly cannot commit a future General Assembly to expenditure, this Agreement shall in any event expire no later than June 30, 2025. College may renew this Agreement for an additional one year term on the same terms and conditions by giving written notice prior to expiration.

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

IV. COMPENSATION

A. College shall pay Consultant no more than [$0.00] for the Work.

B. The total amount due shall be computed according to the following cost schedule:

1. Cost Schedule

C. Consultant shall not be reimbursed for travel, lodging or any other expenses incurred in the performance of the Work. [Note: If applicable, the College's travel policy should be incorporated here. To the extent that reimbursement for travel is permitted, a maximum amount should be established here.]

D. After Consultant receives a purchase order, Consultant shall submit an invoice for the Work performed consistent with this Article IV, Compensation. Each invoice shall contain an itemization of the Work performed, including dates the Work was performed, [total hours worked,] the location or address where the Work was performed, and the sum due at that time pursuant to this Agreement. All invoices shall contain the Consultant's name and address and shall reference College. After receipt and approval by College of a proper invoice, as determined by College, payment to Consultant will be made promptly. Interest on any late payments as required by Section 126.30 of the Ohio Revised Code will be calculated using the Ohio Budget and Management Payment Calculator found here: https://obm.ohio.gov/areas-of-interest/financial-support-services/resources/late-payment-calculator / (other terms as established by College to be inserted)]. Unless otherwise directed by College, invoices should be directed [via email to: _____ _____].

E. In the event that any customer of Consultant negotiates a lower fee structure for the Work or comparable services, Consultant shall promptly notify College and shall extend the lower negotiated rate to College retroactively to the first date the lower rate was offered to another customer.

V. CERTIFICATION OF FUNDS

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 complied with, 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

and/or College's Board of Trustees, or in the event that grant funds are used, until such time that College gives Consultant written notice that such funds have been made available to College by College's funding source(s).

B. This Agreement is contingent upon the College treasurer's certification that sufficient appropriated funds are available as required pursuant to R.C. 3358.06.

VI. TERMINATION OF CONSULTANT'S SERVICES

A. College may, at any time prior to the completion of the Work, suspend or terminate this Agreement with or without cause by giving written notice to Consultant.

B. In the event that the Work includes divisible services, College may, at any time prior to completion of the Work, by giving written notice to Consultant, suspend or terminate any one or more such portions of the Work.

C. Consultant, 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 College, furnish a report, as of the date Consultant receives notice of notice of suspension or termination, describing the status of all Work, including, without limitation, results, conclusions resulting there from, and any other matters College requires.

D. Consultant shall be paid for services rendered up to the date Consultant received notice of suspension or termination, less any payments previously made, provided Consultant 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 College for which Consultant has not rendered services shall be refunded.

E. In the event this Agreement is terminated prior to completion of the Work, Consultant shall deliver to College all work products and documents which have been prepared by Consultant in the course of performing the Work. All such materials shall become, and remain the property of, College, to be used in such manner and for such purpose as College may choose.

F. Consultant agrees to waive any right to, and shall make no claim for, additional compensation against College by reason of any suspension or termination.

G. Consultant may terminate this Agreement upon sixty (60) days' prior written notice to College.

VII. RELATIONSHIP OF PARTIES

A. Consultant 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. Consultant will also be responsible for all licenses, permits, employees' wages and salaries, insurance of every type and description, and all business and personal taxes, including income and Social Security taxes and contributions for Workers' Compensation and Unemployment Compensation coverage, if any.

B. While Consultant shall be required to render services described hereunder for College during the term of this Agreement, nothing herein shall be construed to imply, by reason of Consultant's engagement hereunder as an independent contractor, that College shall have or may exercise any

right of control over Consultant with regard to the manner or method of Consultant'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 Consultant is an independent contractor and neither Consultant nor its personnel shall at any time, or for any purpose, be considered as agents, servants, or employees of College or the State of Ohio for the purposes of Ohio Public Employees Retirement Systems Benefits.

VIII. RECORD KEEPING

A. During performance of this Agreement and for a period of three (3) years after its completion, Consultant shall maintain auditable records of all charges pertaining to this Agreement and shall make such records available to College as College may reasonably require.

IX. RELATED AGREEMENTS

A. The Work is to be performed by Consultant, who may subcontract without College'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 1, Scope of Work, but which are required for satisfactory completion of the Work.

1. Consultant shall not enter into subcontracts related to the Work without prior written approval by College. All work subcontracted shall be at Consultant's expense.

2. Consultant shall furnish to College a list of all subcontractors, their addresses, tax identification numbers, and the dollar amount of each subcontract.

B. Consultant 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 College to terms inconsistent with, or at variance from, this Agreement.

C. Consultant warrants that it has not entered into, nor shall it enter into, other agreements, without prior written approval of College, to perform substantially identical work for the State of Ohio or any of its state institutions of higher education such that the Work duplicates the work called for by the other agreements.

X. RIGHTS IN DATA AND COPYRIGHTS/PUBLIC USE

A. College shall have unrestricted authority to reproduce, distribute and use (in whole or in part) any reports, data or materials prepared by Consultant pursuant to this Agreement. No such documents or other materials produced (in whole or in part) with funds provided to Consultant by College shall be subject to copyright by Consultant in the United States or any other country.

B. Consultant 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 College. Any requests for distribution received by Consultant shall be promptly referred to College.

C. Custom Deliverables. Deliverables under this Agreement are any Consultant-provided products, supplies, services or work product described in the specifications of this Contract. All custom work done by the Consultant and covered by this Agreement, including any software modifications and documentation, will belong to the College with all rights, title, and interest in all intellectual property that comes into existence through the Consultant's work under this Agreement being assigned to the College similar retained interests in any such custom developed materials. The Consultant must provide the College with all assistance reasonably needed to vest such rights of ownership in the College. However, the Consultant will retain ownership of all tools, methods, techniques, standards, and other development procedures, as well as generic and preexisting shells, subroutines, and similar material incorporated in any custom Deliverable ("Pre-existing Materials").

D. The Consultant grants the College a worldwide, non-exclusive, royalty-free, perpetual license to use, modify, and otherwise distribute all Pre-existing Materials that are incorporated in any custom-developed Deliverable, including distribution to third parties as required by funding mandates. The Consultant may not include in any custom Deliverable any intellectual property unless such has been created under this Agreement or qualifies as Pre-existing Material. If the Consultant wants to incorporate any Pre-existing Materials in a custom Deliverable, the Consultant must disclose that desire to the College and obtain written approval from the College for doing so in advance. On the request of the Consultant, the College will incorporate any proprietary notice that Constultant may reasonably want for any Pre-existing Materials included in a custom Deliverable in all copies the College makes of that Deliverable. Subject to the limitations and obligations of the College with respect to Pre-existing Materials, the College may make all custom Deliverables available to the general public without any proprietary notices of any kind.

XI. CONFIDENTIALITY

A. Consultant shall not discuss or disclose any information or material obtained pursuant to its obligations under this Agreement without the prior written consent of College.

B. It is understood by the parties that College is a state community college, created pursuant to R.C. Chapter 3358, and is subject to the Ohio Public Records Act, O.R.C. 149.43, et seq., and that any record kept by College that is deemed a public record is subject to release if a proper request is made.

XII. LIABILITY

A. Consultant agrees to indemnify and to hold College 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 Consultant'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. Consultant shall bear all costs associated with defending College and the State of Ohio against any claims.

C. In no event shall either party be liable to the other party for indirect, consequential, incidental, special, or punitive damages, or lost profits.

D. In conjunction herewith, Consultant agrees, at its own cost, to procure and continue in force at all times that this Agreement is in effect, in its name, general liability insurance against any and all claims for injuries to persons or damage to property occurring or arising out of Consultant's obligations set forth herein. Such insurance shall at all times be in an amount not less than Five Hundred Thousand Dollars ($500,000) on account of bodily injury to or death of one (1) person, and One Million Dollars ($1,000,000) on account of bodily injuries or death of more than one (1) person as a result of any one (1) accident or disaster, and Two Hundred Fifty Thousand Dollars ($250,000) for property damage in any one (1) accident. Such insurance shall be written by a company or companies authorized to engage in the business of general liability insurance in the State of Ohio with an A.M. Best rating of at least "A" or be otherwise approved in writing by College. Any insurance policy required hereunder shall include an endorsement naming College and the State of Ohio as additional insureds. Prior to the effective date of this Agreement, Consultant shall provide College with (i) a copy of such endorsement and (ii) a certificate reflecting the coverage of the policy, each in a form acceptable to College in its sole discretion. Consultant shall provide written notice to College no less than thirty (30) days prior to a cancellation, non-renewal, expiration or material alteration of the coverage contained in any policy required hereunder, and shall provide to College evidence of continuing coverage of any required policy no less than thirty (30) days prior to its expiration.

XIII. ANTITRUST ASSIGNMENT

A. Consultant assigns to College all State and Federal antitrust claims and causes of action that relate to all goods and services provided for in this Agreement.

XIV. CONSULTANT'S REPRESENTATIONS AND WARRANTIES

A. COMPLIANCE WITH LAWS. Consultant, in the execution of its duties and obligations under this Agreement, agrees to comply with all applicable federal, state and local laws, rules, regulations and ordinances.

B. DRUG FREE WORKPLACE. Consultant 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 engaged in the Work purchase, transfer, use or possess illegal drugs or alcohol, or abuse prescription drugs in any way.

C. NONDISCRIMINATION OF EMPLOYMENT. Consultant understands and agrees that Consultant, any subcontractor, and any person acting on behalf of Consultant or a subcontractor, shall not discriminate, by reason of race, color, religion, sex, sexual orientation, age, genetic information, disability, military status, national origin, or ancestry, against any citizen of this state in the employment of any person qualified and available to perform the work, or against any student of the College, or any employee of College. Consultant further agrees that Consultant, any subcontractor, and any person acting on behalf of Consultant or a subcontractor shall not, in any manner, discriminate against, intimidate, or retaliate against any employee hired for the performance of the Work, any student of the College, or any employee of the College, on account of race, color, religion, sex, sexual orientation, age genetic information, disability, military status, national origin, or ancestry.

D. CONFLICTS OF INTEREST. No personnel of Consultant 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, which 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 College in writing. Thereafter, he or she shall not participate in any action affecting the Work, unless College 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.

E. ETHICS COMPLIANCE. Consultant 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. Consultant further represents, warrants, and certifies that neither Consultant nor any of its employees will do any act that is inconsistent with such laws.

F. QUALIFICATIONS TO DO BUSINESS. Consultant affirms that it has all of the approvals, licenses, or other qualifications needed to conduct business in Ohio and that all are current. If at any time during the term of this Agreement Consultant, for any reason, becomes disqualified from conducting business in the State of Ohio, Consultant will immediately notify College in writing and will immediately cease performance of the Work.

G. CAMPAIGN CONTRIBUTIONS. Consultant hereby certifies that neither Consultant nor any of Consultant's partners, officers, directors or shareholders, nor the spouse of any such person, has made contributions in excess of the limitations specified in R.C. 3517.13.

H. FINDINGS FOR RECOVERY. Consultant warrants that it is not subject to an "unresolved" finding for recovery under R.C. 9.24.

I. DEBARMENT. Consultant 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 R.C. 125.25.

J. CONFIDENTIALITY OF EDUCATIONAL RECORDS. Consultant understands that it may, pursuant to this Agreement, generate or otherwise be in possession of confidential education records regarding College's students, and that these records are protected by federal law including, inter alia, the Family Educational Rights and Privacy Act ("FERPA"), 20 U.S.C.A. 1232g. Consultant further understands that it may not share or disclose these education records with any party other than College, without both College's and the relevant student's consent.

OHIO SERVICES AND OFFSHORE SERVICES. Consultant affirms to have read and understands Executive Orders 2019-12D and 2022-02D and shall abide by those requirements in the performance of this Agreement. Notwithstanding any other terms of this Agreement, the College reserves the right to recover any funds paid for services the Agreement performs outside of the United States for which it did not receive a waiver and for purchases or investments in a Russian institution or company in violation of the Executive Order. The College does not waive any other rights and remedies provided the College in this Consultant. The provisions of this paragraph will expire when the applicable Executive Order is no longer effective. The Consultant must complete the Contractor/Subcontractor Affirmation and Disclosure Form affirming the Consultant

understands and will meet the requirements of the above prohibition. https://dam.assets.ohio.gov/image/upload/procure.ohio.gov/pdf/EO2022-02D/04-Affirmation%20and%20Disclosure%20Form_3-4-22.pdf. During the performance of this Agreement, if the Consultant changes the location(s) disclosed on the Affirmation and Disclosure Form, Consultant must complete and submit a revised Affirmation and Disclosure Form reflecting such changes.

K. REPAYMENT. If the representations and warranties in Paragraphs H or I of this Article XIV are found to be false, this Agreement is void ab initio and Consultant shall immediately repay to College any funds paid under this Agreement.

L. BOYCOTTING. Pursuant to R.C. 9.76(B), Consultant warrants that Consultant 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.

XV. MISCELLANEOUS

A. CONTROLLING LAW. This Agreement and the rights of the parties hereunder shall be governed, construed, and interpreted in accordance with the laws of the State of Ohio. Consultant consents to jurisdiction in a court of proper jurisdiction in Franklin County, Ohio.

B. WAIVER. A waiver by any party of any breach or default by the other party under this Agreement shall not constitute a continuing waiver by such party of any subsequent act in breach of or in default hereunder.

C. SURVIVAL. The provisions of Articles IV, VI, VIII, X, XI, XII, XIII and XIV(L) and (O) 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 Consultant, without the prior written consent of College.

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 AND AMENDMENTS. 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 a written amendment and duly executed 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 College unless executed in full, and is effective as of the last date of signature by College.

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. FACSIMILE SIGNATURES. Any party hereto may deliver a copy of its counterpart signature page to this Agreement via fax or e-mail. Each party hereto shall be entitled to rely upon a facsimile signature of any other party delivered in such a manner as if such signature were an original.

(Remainder of page intentionally left blank)

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed by their duly authorized officers.

CONSULTANT

Signature: _____

Name: _____

Title: _____

Signature Date: _____

OWENS COMMUNITY COLLEGE

Signature: _____

Name: _____

Title: _____

Signature Date: _____

TREASURER CERTIFICATION:

This signature certifies the amount required to meet the obligation in the fiscal year in which the contract is made has been lawfully appropriated for such purpose and is in the treasury or in process of collection to the credit of an appropriate fund free from any previous encumbrances.

By:_____

Name:_____

Title: _____

Date:_____