



**OHIO TURNPIKE AND  
INFRASTRUCTURE COMMISSION**

**ADDENDUM NO. 1**  
**ISSUED DECEMBER 14, 2020**

to

**RFP NO. 9-2020**  
**FOR**  
**DISABLED VEHICLE SERVICES**

**PROPOSAL DUE DATE: 5:00 P.M. (EASTERN TIME), DECEMBER 18, 2020**

**ATTENTION OF RESPONDENTS IS DIRECTED TO:**

**ANSWERS TO QUESTIONS RECEIVED THROUGH 5:00 PM ON DECEMBER 4, 2020**  
**REVISED APPENDIX A – SCOPE OF SERVICES**  
**REVISED APPENDIX C – MAXIMUM CHARGES AND FEES TO OWNERS OF DISABLED VEHICLES**  
**REVISED APPENDIX D – DISABLED VEHICLE SERVICE CONTRACT**

Issued by the Ohio Turnpike and Infrastructure Commission through Jennifer L. Stueber, Esq., General Counsel.

A handwritten signature in blue ink, appearing to read "J. Stueber", is positioned above the signature line.

December 14, 2020

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Jennifer L. Stueber, Esq.,  
General Counsel

\_\_\_\_\_  
Date

**ANSWERS TO QUESTIONS RECEIVED THROUGH 5:00 P.M. ON DECEMBER 4, 2020:**

**Q#1 Are we to carry our own transponders for use beyond the 2 first or 2 after our zone exits. The proposal states. If we tow a vehicle from our zone to the next zone is that a covered transponder use beings how it is past the next 2 exits from our zone?**

*A#1 Yes, that is correct. If a DVS contractor must conduct work (service or tow) outside of their zone plus two exits, they must carry their own transponders or pay for all tolls by cash or credit card.*

**Q#2 For the insurance section. What is the classification of the rigging insurance" needed. We carry on hook and cargo. The proposal lists only rigging, cargo insurance, garage, liability, etc. nothing mentioned about on hook coverage so this is new to us.**

*A#2 The Commission has reviewed the insurance requirements set forth in Section 23 of the form Disabled Vehicle Services Contract (Appx. D) and has determined that Rigger's Insurance is not necessary for the required services, but that On-Hook Towing or Tow Truck liability insurance is acceptable. Because the contractor will be towing passenger vehicles and commercial vehicles, the coverage amount was increased from \$50,000 to \$100,000. A revised Appendix D, Form Disabled Vehicle Services Agreement, reflecting the revised insurance requirements is attached to this Addendum No. 1.*

**Q#3 AAA contracted rates - It states in the proposal \$150hr we are contracted at \$250hr for recreational vehicles through AAA?**

*A#3 AAA offers two levels of RV services – Plus and Premier. For Plus RV your cost would be \$150 and for Premier RV it would be \$210. Larger motorhomes, for example a private coach, may be charged commercial rates due to its size and weight. A revised Appendix C, Maximum Charges & Fees to Owners of Disabled Vehicles, is attached to this Addendum No. 1.*

**Q#4 Since Covid-19 is becoming more prominent in everyday life, until we don't know when, what are the expectations of the DVS provider regarding transporting more than 1 customer inside the cab of our vehicle?**

*A#4 Each DVS Contractor will be responsible for transporting passengers. With COVID-19 still present, DVS Contractors may have to supply passengers with a mask prior to transporting. If there is more than one passenger from the same vehicle there should be no issues transporting multiple passengers. Although, if multiple passengers must be transported from different vehicles, a second transport vehicle may need to be requested. Additionally, DVS Contractors must comply with all applicable federal, state, or local orders, rules and regulations regarding COVID-19 in the performance of the required services.*

**Q#5 What are the view of remote dispatching if need be due to covid-19?**

*A#5 Dispatching should be conducted at the main dispatching location. Only in a situation where a dispatch center must be shut down(quarantined) due to COVID-19 contact tracing should remote dispatching be considered. If this were to happen, the DVS Contractor should contact the Safety Services Manager at the Ohio Turnpike and make notification of the change in operations.*

**Q#6 Will light duty wreckers with dolly service be comparable to light duty flatbeds, if need be, especially in recovery circumstances/inclement weather?**

*A#6 The RFP requires three (3) light duty flatbeds. To clarify, every DVS Contractor MUST have at least two (2) light duty flatbeds and either another flatbed or a light duty wrecker with a dolly service. Three light duty vehicles will be required. Appendix A, Scope of Services, to the RFP has been revised to include this clarification and is attached to this Addendum No. 1.*

**Q#7 Due to travel and distance restrictions when there are multiple passengers if we are waiting for an additional transport service (additional transport would be troopers as well) for those passengers, can delay time/fees be charged to the customer due to having to wait for the additional transport since we cannot leave them roadside?**

- a. Instances that we have run across (obviously covid) multiple passengers with the vehicle than we have seatbelts in our cab.
- b. Passengers that are going to a different ending location than where the ending location is for the vehicle.
- c. Children in car seats because the parent does not want the car seat aged child riding inside our vehicle. We have run into are the children in car seats.
- d. Lastly, a lot of people do not want their pets riding alone in the vehicle while being towed. They want them riding inside the cab but again when there are multiple passengers and their pets.

*A#7 In these situations, an additional vehicle might be the best approach. Obviously, every situation much be evaluated separately. Depending on the circumstance, additional charges may be considered for transportation accommodations. DVS Contractors can always contact the Safety Services Manager at the Ohio Turnpike with specific questions in unique scenarios.*

**Q#8 In reference to pricing on recreational vehicles, the proposal list medium rates at \$160.00 per hour and RV's just underneath at \$150.00 per hour. Most RV's are over 10,000 GVW which classifies them as medium duty. When Larger RV's GVW fall into heavy duty category, can those rates be charges?**

*A#8 AAA offers two levels of RV services – Plus and Premier. For Plus RV your cost would be \$150 and for Premier RV it would be \$210. Larger motorhomes, for example a private coach, may be charged commercial rates due to its size and weight.*

**Q#9 Proposal shows \$3.50 tow rate for AAA premium customers, is that \$3.50 only if AAA is paying?**

*A#9 That is correct. If the customer is not a AAA member, they can be charged the regular passenger vehicle mileage rate.*

**Q#10 It shows in the proposal points? What are these points?**

*A#10 The points listed in Part IX of the RFP are only for the Commission's use and provide a method for the Commission to evaluate the proposals. After the proposal deadline, the Commission will convene an evaluation team made up of Commission staff to evaluate all timely received proposals. The evaluation team will review and assign points to each proposal using the points rubric set forth in Part IX of the RFP to rank the proposals. From there, the Commission will attempt to negotiate an agreement with the Respondent with the top ranked proposal. If those discussions fail, the Commission will attempt to negotiate an agreement with the Respondent that submitted the next ranked proposal.*

**END OF ADDENDUM NO. 1**

## **REVISED APPENDIX A – SCOPE OF SERVICES**

### **A. DVS Zones**

The Commission has seven (7) Disabled Vehicle Service Zones (“DVS Zones”). The numerical designation of each DVS Zone, and the location of each zone are set forth below.

**DVS Zone 1** shall be from the Ohio-Indiana line to the 35.0 milepost.

**DVS Zone 2** shall be from the 35.0 milepost to the 71.0 milepost.

**DVS Zone 3** shall be from the 71.0 milepost to the 110.2 milepost (Interchange 110), including the east-bound deceleration ramp and the west-bound acceleration ramp of Interchange 110.

**DVS Zone 4** shall be from the 110.2 milepost to the 145.5 milepost (Interchange 145). This includes the west-bound deceleration ramp, east-bound acceleration ramp and interchange area of Interchange 110.2; and the east-bound deceleration ramp and west-bound acceleration ramp of Interchange 145.

**DVS Zone 5** shall be from the 145.5 milepost (Interchange 145) to the 180.3 milepost (Interchange 180). This includes the east-bound acceleration ramp, west-bound deceleration ramp and interchange area of Interchange 145; and the east-bound deceleration ramp and west-bound acceleration ramp of Interchange 180.

**DVS Zone 6** shall be from the 180.3 milepost (Interchange 180) to the 209.2 milepost (Interchange 209). This includes the east-bound deceleration ramp and west-bound acceleration ramp of Interchange 209; and the east-bound acceleration ramp, west-bound deceleration ramp and interchange area of Interchange 180.

**DVS Zone 7** shall be from the 209.2 milepost (Interchange 209) to the Ohio-Pennsylvania line including the east-bound acceleration ramp, west-bound deceleration ramp and interchange area of Interchange 209.

During the term of the Contract or any extensions thereof, the Commission reserves the right, at its sole option, to marginally adjust the DVS Zones.

Selected DVS Operators agree, for the benefit of the operators of the service stations, that the DVS Operator will not sell gasoline (unleaded or diesel), oil, accessories or other products or services which are offered for sale by the Commission’s service station operators, except as shall be reasonably necessary or incidental to the performance of the duties and functions under the Contract.

### **B. Specific Duties**

DVS Operator will be required to furnish repairs, towing and heavy wrecker services to motorists within the DVS Zone(s) identified in the Contract.

DVS Operator is required to arrive at the scene of a disabled vehicle within forty-five (45) minutes of the time the DVS Operator receives notification from the Commission's Communication Center or the Ohio State Highway Patrol Turnpike ("OSHP") radio room. Upon arrival at the location of the customer requesting service, the DVS Operator shall notify the Commission's Communications Center that they are "Signal 1" (have arrived) at the specific milepost. When service is completed at the site, or in the case of a tow, when the vehicle is hooked up and ready to be towed away, the DVS Operator shall notify The Commission's Communications Center that they are "Signal 2" (vehicle "in tow" or vehicle "recovered and released") at the specific milepost. This procedure shall be followed for each call on the Turnpike except, when in the opinion of the Commission, severe weather or another emergency condition has caused substantial increases in service calls.

When requested by the Commission, the DVS Operators shall remove commercial vehicles from the ditch area between 1900 hours through 0600 ("Overnight Recovery"). The Commission shall establish an "overnight zone" to conduct the operation. If called out without making a recovery in preparation for a night recovery, the DVS Operator may charge its prevailing labor rate for the time necessary to perform the evaluation prior to an overnight recovery.

**B. Services and Equipment Availability**

The DVS Operator shall operate their equipment in accordance with the highest standards of management and service to the end that the public may be served in the best possible manner, and that public esteem may be won and retained for the Operator and the Commission.

The DVS Operator shall be authorized by the American Automobile Association ("AAA") to be a provider of services to disabled vehicle owners/drivers using the Ohio Turnpike who are AAA members. The DVS Operator shall maintain such AAA approval for the duration of the Contract, and the DVS Operator shall provide services for active, card-bearing AAA members in need of such services and accept AAA payments. During the term of the Contract, the Commission may require the DVS Operator to obtain similar authorizations from other nationally recognized travel associations, subject to reasonable prior written notice.

The DVS Operator shall be authorized to engage in providing towing services in the form of a current and valid PUCO certificate of public convenience and necessity under Chapter 4921 of the Ohio Revised Code.

The DVS Operator must also be registered with the United States Department of Transportation ("USDOT").

In addition, drivers of towing vehicles that require the operator to possess a current Ohio Commercial Driver's License shall present a copy of each license upon the request of the Safety Services Manager, or his representative.

The DVS Operator shall render competent minor mechanical repairs and tire repairs within the DVS Zone(s). Minor repairs performed on disabled vehicles on the Turnpike mainline shall be

limited to repairs requiring thirty (30) minutes or less for completion. This shall include supplying gasoline if it is requested by the customer, Commission representative or OSHP. When so directed by an authorized representative of the Commission, the DVS Operator shall give priority in service to the following disabled vehicles: Commission owned vehicles and equipment; emergency vehicles; and travelers identified by the Commission's Communications Center to be in a perilous situation.

The DVS Operator shall provide the services for which they have contractually been obligated to perform on the Turnpike on a twenty-four (24) hour per day, seven (7) day per week, three hundred and sixty five (365) day per year basis.

**C. Facilities**

The DVS Operator shall maintain a modern garage within the DVS Zone(s). The garage shall be open to the public, at a minimum, Monday through Saturday during normal business hours, with a mechanic on duty at least until 5:00 p.m. If a customer requests repair service during the hours in which the DVS Operator is permitted to be closed, the DVS Operator shall perform such emergency services as requested after advising the customer of any increase in cost of the repair due to the time of day in which the services are being performed.

Between the hours of 6:00 a.m. to 5:00 p.m., a minimum of two (2) vehicle operators shall be on duty. Between 5:00 p.m. to 6:00 a.m., one (1) operator shall be on duty. A call list shall be established for this purpose. The DVS Operator shall, at all times, maintain within its employ the number of vehicle operators required to eliminate the possibility of late arrivals.

The DVS Operator shall maintain an adequate customer waiting area, ladies' restroom and mens' restroom at their facility. The DVS Operators shall clean these areas and maintain standards of cleanliness to create a favorable public opinion of the DVS Operator as well as the Commission.

**D. Equipment**

All equipment that the DVS Operator are required to use in performing their contractual obligations shall be maintained in good repair and shall be available twenty-four (24) hours per day. The Operator shall not locate or dispatch any required equipment at any time to a location more than fifteen (15) miles from the DVS Zone using an access point on the public-road system unless equivalent substitute equipment is available within the Zone.

The character, condition, and design of the equipment required below shall at all times be such that it will efficiently perform the work required. Equipment shall be subject to the periodic inspection and approval of the Commission. A safety and equipment checklist will be used for the inspection. All equipment shall meet the required standards. All deficiencies shall be corrected within a reasonable period of time after which a re-inspection will be made.

The DVS Operator shall place in service a sufficient number of modern vehicles of good appearance and in first-class mechanical condition that are capable of efficient use in the performance of the service required and in a manner satisfactory to the Commission. The DVS

Operator shall provide seven (7) such vehicles in each Zone, unless otherwise agreed to by the parties in writing. All vehicles shall meet the following criteria and shall be equipped and newly painted as specified below:

1. Three (3) tilt bed/roll back trucks, capable of ground loading non-commercial vehicles damage free. Every DVS Operator must have at least two (2) light duty flatbed trucks and either another light duty flatbed truck or a light duty wrecker with a dolly service. The vehicle is to be equipped as follows:

- a. Mechanics tools sufficient to perform necessary emergency repairs to vehicles;
- b. Lights, flares, reflectors, and flags suitable for placing on the highway and on the tilt bed/roll back truck to warn other motorists of the presence of a disabled or parked vehicle;
- c. One (1) five gallon can of water in summer months, adequate provisions for carrying four (4) quarts of motor oil and automatic transmission fluids;
- d. DVS Operators will not be required to carry gasoline/diesel fuel at all times, however, provisions must be available to supply enough gasoline/diesel fuel so that the customer can get to the next service plaza;
- e. Booster-battery equipment to service twelve-volt systems;
- f. One (1) fire extinguisher (dry powder or CO<sub>2</sub>) of not less than five (5) pound capacity;
- g. Shovel and broom
- h. Hard hat and reflective vest that meet or exceed the current ANSI standards;
- i. Minimum of two (2) bags of inert absorbent to control fluid spills; and
- j. Towing equipment, including wheel lift tow bar or equivalent, dolly and ramps necessary for the performance of the duties enumerated in this RFP.

2. Two (2) heavy-duty wreckers, with a crane capable of handling any vehicle up to and including a forty-five (45) ton trailer. Each wrecker shall also be capable of handling any passenger automobile on an embankment within the DVS Zone. Said wreckers shall be equipped with dual rear axles. In the event of an emergency during which the heavy-duty wrecker truck is required to be used as a service truck, it shall be equipped as follows:

- a. Mechanics tools sufficient to perform necessary emergency repairs to vehicles;
- b. Light, flares, flags and reflectors suitable for placing on the Turnpike and on the truck to warn other motorists of the presence of a disabled or parked vehicle;
- c. One (1) fire extinguisher (dry powder or CO<sub>2</sub>) of not less than five (5) pound capacity;
- d. Shovel and broom
- e. The DVS Operator will not be required to carry equipment to burn and cut metals at all times, however, equipment will be available if specifically requested;
- f. Hard hat and reflective vest that meet or exceed the current ANSI standards;
- g. Minimum of two (2) bags of inert absorbent to control fluid spills; and
- h. Towing equipment, including tow bar, or its equivalent, necessary for the performance of the duties enumerated in this RFP.



3. One (1) rotator wrecker, minimum 40 TON rotating wrecker with retractable boom. Should be capable of handling commercial recoveries while minimizing lane reduction. Assist first responders on accidents with entrapment with proficient operator. Each wrecker shall also be capable of handling any passenger automobile on an embankment within the DVS Zone. In the event of an emergency during which the rotator wrecker truck is required to be used as a service truck, it shall be equipped as follows:
  - a. Mechanics tools sufficient to perform necessary emergency repairs to vehicles;
  - b. Light, flares, flags and reflectors suitable for placing on the Turnpike and on the truck to warn other motorists of the presence of a disabled or parked vehicle;
  - c. One (1) fire extinguisher (dry powder or CO<sub>2</sub>) of not less than five (5) pound capacity;
  - d. Shovel and broom
  - e. The DVS Operator will not be required to carry equipment to burn and cut metals at all times, however, equipment will be available if specifically requested;
  - f. Hard hat and reflective vest that meet or exceed the current ANSI standards;
  - g. Minimum of two (2) bags of inert absorbent to control fluid spills; and
  - h. Towing equipment, including tow bar, or its equivalent, necessary for the performance of the duties enumerated in this RFP.
  
4. One (1) service vehicle, with the capability to service both cars and commercial vehicles, repair tires and to make any other service calls as needed. The service vehicle is to be equipped as follows:
  - a. Mechanics tools and repair parts sufficient to perform emergency repairs to vehicles;
  - b. Light, flares, flags and reflectors suitable for placing on the Turnpike and on the truck to warn motorists of the presence of a disabled vehicle;
  - c. One (1) fire extinguisher (dry powder or CO<sub>2</sub>) of not less than five (5) pound capacity;
  - d. One (1) five gallon can of water in summer months, and adequate provisions for carrying four (4) quarts of motor oil, and ATF fluids;
  - e. DVS Operators will not be required to carry gasoline/diesel fuel at all times, however, provisions must be available to supply enough gasoline/diesel fuel so that the customer can get to the next service plaza;
  - f. Booster-battery equipment to service twelve-volt systems;
  - g. Shovel and broom
  - h. Minimum of two (2) bags of inert absorbent to control fluid spills; and
  - j. Hard hat and reflective vest that meet or exceed the current ANSI standards.

All vehicles performing services on the Ohio Turnpike shall be identified as follows: On each door of the cab of each vehicle the following (or) such other language as the Commission may from time to time reasonably require shall be painted:

Name of Operator  
Authorized Service

**E. DVS Equipment Operation**

The DVS Operators' equipment will be permitted to enter and leave the Turnpike at any interchange, service plaza, maintenance building, and any emergency gate so designated by the Commission in accordance with such rules and regulations as adopted by the Commission.

Any tow truck, heavy wrecker or rotator with a vehicle in tow shall proceed forward in the direction of traffic on the side of the Turnpike upon which the disabled vehicle shall have come to rest, and shall exit from the Turnpike at the next exit interchange beyond the point of disablement. Any tow truck, heavy wrecker or rotator with a vehicle in tow shall proceed from the exit interchange back to the DVS Operator's garage or such other point as the motorist directs, by the shortest feasible route.

If the customer (who must be a disabled vehicle owner/driver that was using the Turnpike at the time) agrees to pay the extra toll charges, the DVS Operator may, for purposes of convenience to the customer and itself, offer to go beyond the nearest exit if it will expedite arrival at the DVS Operator's garage or create an additional convenience for the Turnpike customer, and it is safe to do so. This includes the ability to exit the Turnpike, turn around and re-enter if it is more convenient to use the Turnpike to get to the garage or any other Turnpike customer-designated location.

It is the responsibility of drivers of disabled commercial vehicles to properly place reflective devices when their vehicle is disabled. However, if the driver has not placed the reflective devices or is unavailable to place the devices, the DVS Operator shall, upon reaching a disabled vehicle, place at least three (3) lights, flares, reflectors, or flags which shall be set at the following places: one (1) at ten (10) feet behind the disabled vehicle in the direction towards approaching traffic; one (1) at one hundred (100) feet from the disabled vehicle in the direction toward approaching traffic; and one (1) placed at two hundred (200) feet from the disabled vehicle in the direction toward approaching traffic. The lights, flares, reflectors and flags shall be of such type and character that they will be visible for a distance of not less than one thousand (1,000) feet, and shall be of a type, design and quality approved by the Commission. Flashing lights on the towing/service vehicle itself, readily visible for one thousand (1,000) feet, shall be used at all times when vehicle is employed in any manner not consistent with the normal flow of traffic. Careful consideration shall be given to the location of the flashing lights so that they are clearly visible to approaching traffic whenever a towing/service vehicle is stopped at the location of a disabled vehicle, or has one in tow. The towing/service vehicles shall be equipped with other lights, flares, reflectors and flags so that additional lights, flares, reflectors or flags may be placed at greater distance if weather or road conditions or other circumstances so require.

Upon arrival to an incident, selected DVS Operators' shall immediately report, in order of priority, to the OSHP, the Commission's, Roadway Maintenance Supervisor, or Incident Responder to discuss the removal of the vehicles(s). DVS Operators shall fully cooperate with members of the OSHP and authorized employees of the Commission in all matters concerning clearing the roadway and traffic control.

U-turns by the Selected DVS Operator are permitted across the grass median strip at established crossovers, but subject to rules and regulations adopted by the Commission. Crossing of the median at marked or unmarked areas in the third lane section using light wreckers, flatbed vehicles or heavy-duty wreckers *is strictly prohibited*, unless coordinated with the OSHP or Commission maintenance personnel. Service vehicles that are no larger than the equivalent of a ¾ Ton pickup truck may utilize the cross over in third lane sections, but only with activated warning devices. In addition to any applicable civil and criminal penalties, any violation of these U-turn and crossover policies is a material breach of the Contract and may result in termination of the Selected DVS Operator.

**F. Non-Revenue Privileges.**

The DVS Operator will be permitted toll-free use of the Turnpike within the Zone(s) and up to two (2) exits beyond the Zone when performing obligations pursuant to the Contract and pursuant to the terms and conditions for the use of non-revenue transponders set forth in the Contract.

**G. Service Beyond Exit**

The DVS Operators shall, beyond the point-of-exit from the Turnpike, provide towing services to Customers only in accordance with the customer's instructions. If directed to do so by the disabled vehicle owner/driver, The DVS Operator shall relinquish the towed vehicle at the point-of-exit from the Turnpike. The DVS Operator may, subject to the requirements of the Contract requiring continuous availability of its equipment within fifteen (15) miles from its DVS Zone using access point to the Turnpike, tow the vehicle to any point or garage designated by the vehicle owner/driver.

**H. Absence of Disabled Vehicle Owner**

When directed to do so by the OSHP or other authorized Commission personnel, the DVS Operator shall remove from the Turnpike right-of-way and take to its garage any disabled vehicle whose owner or driver is absent or incapable of giving instructions as to the disposition thereof. In such event, the DVS Operator shall tow the disabled vehicle by the shortest feasible route back to the garage of the Operator. The DVS Operator may retain said vehicle, in accordance with law, until such time as accrued charges are satisfied and further instructions are received from the owner as to its disposition. If the vehicle remains unclaimed for the period of time prescribed by law, the DVS Operator may make disposition of said vehicle in accordance with Ohio Revised Code Section 4513.61 which requires a sign-off by the local law enforcement agency where the vehicle is stored or as may otherwise be provided by applicable law. If a vehicle is held for more than thirty (30) days, the DVS Operator may notify the OSHP (Turnpike) to seek assistance in returning the vehicle to the owner, or assistance in its disposal. The DVS Operator shall not undertake or arrange for repairs of a disabled vehicle without specific written authorization given by or on behalf of the owner. If an abandoned vehicle, as defined in Ohio Revised Code Chapter 4513 is ordered removed from the Turnpike by the OSHP, the DVS Operator shall remove same, and the Commission shall pay the DVS Operator for such removal as listed in the maximum rate schedule upon receipt by the Commission of proper invoicing.

**I. Storage of Vehicles**

The DVS Operator shall have a designated storage area that has ample lighting and is properly secured twenty-four (24) hours per day, seven (7) days per week. The DVS Operator shall, in the case of a vehicle that is placed in storage, inform the owner, in writing and within seventy-two (72) hours or taking possession of the vehicle, of the owner's rights and those of the Operator, and shall further advise the owner of the daily charge for storage. Storage charges shall begin when the vehicle arrives at the garage. The storage charges shall not exceed those listed in the maximum rate schedule.

**J. Two-Way Radios**

For the purpose of providing direct communication with its Communications Center, the Commission shall furnish, install and maintain MARCS radio equipment for the DVS Operator and its equipment, subject to the terms and conditions set forth in the Contract. Instructions for proper use of the MARCS radio equipment is attached hereto as **Exhibit 1**.

**K. Safety.**

The parties agree that safety shall not be sacrificed for job completion but should be an integral part of the DVS Operator's planning process.

The DVS Operator shall be solely responsible for the safety and health of its employees and for the protection of property and the general public. The DVS Operator shall comply with all OSHA, Federal, State, County, Local and Commission Safety and Health Laws, Regulations and Specifications.

The DVS Operator shall cooperate fully with the Commission's Maintenance Department personnel and the OSHP and all other first responders.

The DVS Operator shall ensure that all personal protective equipment is readily available, issued, and properly fitted, maintained and worn at all incidents. All personnel shall wear high visibility hard hats, reflective traffic vests or hi-visibility shirt or jacket that meet the latest requirements of ANSI/ISEA, Class 3 during ALL operations. All personnel shall wear Class E Leggings during night operations. All personnel shall wear proper clothing (i.e., no shorts, tank tops, tennis or jogging shoes).

1. Requirements. The following items are special safety concern to the Commission and Selected DVS Operators shall give special attention and strictly comply with the following:
  - a. Wearing of personal protective equipment;
  - b. Obey all traffic laws and regulations;
  - c. Properly operate vehicles and equipment in accordance with their intended use and specifications; and
  - d. Properly comply with all procedures in using crossovers.

2. Safety Training and Education.

- a. A Safety Meeting will be held after the Contracts are awarded concerning proper use of crossovers, work site safety and radio procedures. The Selected DVS Operator and its vehicle operators shall attend the meeting. An annual safety meeting will be scheduled thereafter to reaffirm proper safety procedures on the Turnpike.
- b. The Commission via its Safety Representative(s) reserves the right to review training and operational items with the operator and employees as may be reasonably felt necessary.

**L. DVS Equipment Operators**

DVS equipment operators shall be fully competent to perform the duties required hereunder. The equipment operators shall at all times be courteous and present a clean and neat appearance. They shall obey all rules and regulations of the Commission. All of the DVS Operators' personnel shall possess any license(s) or certificate(s) required by law for the performance of their duties and shall provide copies of such to the Commission upon request.

**M. Maximum Charges and Fees to Owners of Disabled Vehicles**

Unless otherwise provided under an agreement with any given commercial vehicle fleet owner, the DVS Operator shall not assess charges under the Contract for parts, repairs, and labor in excess of those prevailing in their service area and set forth in **Exhibit 2**, attached hereto and incorporated herein by reference which includes the Commission's maximum charges and fees schedule and the DVS Operator's prevailing rates for all rates not included in the Commission's schedule, subject to the Commission's approval. The prevailing rates submitted and the rates in the Commission's schedule shall be the maximum charges that the DVS Operator may assess owners/drivers of disabled vehicles under the Contract.

1. Definitions. For purposes of towing services and other types of service calls, the following definitions shall apply:

- a. Passenger vehicle: A passenger vehicle is defined as any motor vehicle without dual wheels weighing up to and including 10,000 pounds.
- b. Medium-weight vehicle: A medium weight vehicle is defined as any motor vehicle without dual wheels weighing between 10,001 to 26,000 pounds.
- c. Commercial vehicle: A commercial vehicle is defined as any dual wheel truck or weighing than 26,000 pounds loaded or unloaded.
- d. Disregards: Disregards means the cancellation of request for DVS Operator response by the OSHP or Commission personnel.
- e. Point-of-exit: Any toll plaza, maintenance building, service plaza or other

maintenance access point or turnaround within the Turnpike right-of-way.

f. Portal to portal: Applicable to commercial vehicles only. Defined as the time of departure by the DVS Operator's garage to the milepost location of the disabled commercial vehicle plus the time of return by the DVS vehicle to the DVS Operator's garage, or (if called to another disabled vehicle scene) the time of the DVS Vehicle's departure for the next scene.

g. Prevailing mileage charge: The maximum rate that may be added when the DVS Operator is requested to tow a passenger or commercial vehicle beyond points designated in the Contract. (See **Exhibit 2** for passenger vehicle mileage rates).

h. Prevailing rates: The rates listed in **Exhibit 2**. All rates that are not pre-established in **Exhibit 2** (and which are to be filled in by Responding DVS Operators) are subject to pre-approval by the Commission.

i. Recovery: Bringing the vehicle back to the roadway where it would become either capable of being driven, or would be capable of being hooked up to a tow truck or wrecker.

j. Servicing charges: Service call rates are the maximum flat rates that may be charged for emergency repairs of passenger or commercial vehicles; i.e., passenger tire changes, addition of fluids and/or fuel, lockouts, and other incidental repairs, etc. (see **Exhibit 2**); and the maximum hourly rates for services (parts and labor) rendered by the DVS Operator's mechanics both on the roadway as well as at the garage.

k. Towing rates: The maximum rates that may be charged for towing of passenger and commercial vehicles as set forth herein and in **Exhibit 2**.

2. Towing Services. For purposes of towing services, the following rate restrictions shall apply:

a. Passenger Vehicles: Towing a passenger vehicle is described as from the point-of-breakdown on the Turnpike to the garage of the DVS Operator, or to any other customer-designated location until the same amount of mileage has been for each mile beyond the first three (3) miles from the point-of-breakdown to the customer designated garage.

The DVS Operator shall charge the flat rate for towing passenger vehicles, which rate is set forth in **Exhibit 2**. If more than one-half (½) hour elapses between the time of "Signal 1" and the time of "Signal 2", and the DVS Operator still has not hooked up or recovered the passenger vehicle due to circumstances beyond his/her control (i.e., the car has not been released by the OSHP), then after that first one-half (½) hour, the DVS Operator may begin charging an hourly rate not to exceed the rate set forth in **Exhibit 2**, in thirty (30) minute increments. Except for the

applicable added mileage charges described below, no further towing charges may be assessed once the passenger vehicle is hooked up or recovered and released such that it may drive off under its own power.

Unless an additional tow truck is required to complete the tow (because the call was initially responded to by a service vehicle), there may be no service call charge added when a towing charge is assessed. However, the DVS Operator may charge for any parts or fluids provided and, once the passenger vehicle is at the garage, for the mechanics' hourly rate if such services are provided. In the unusual case where an additional tow truck is needed to recover a passenger vehicle, the DVS Operator may assess a second flat rate charge for the second tow truck (as well as the additional hourly rate if the above-described circumstances beyond the DVS Operator's control occur).

In the event a recovery of a passenger vehicle is required before a tow, the flat tow rate shall provide the compensation for the first one-half ( $\frac{1}{2}$ ) hour of recovery services and any necessary labor thereafter may be charged in one-half ( $\frac{1}{2}$ ) hour increments. If a passenger vehicle is pulling a trailer and the trailer requires to be towed, an additional rate of one-half ( $\frac{1}{2}$ ) of the base tow rate may be charged.

In the event a DVS Operator is requested by the customer to tow a disabled passenger vehicle to a place other than the garage of the Operator, the Operator may charge a rate per mile set forth in **Exhibit 2** for each mile beyond the first three (3) miles from the point-of-breakdown to the customer designated garage.

In the event the customer requests the DVS service to tow the vehicle to another location other than the DVS garage after the vehicle has been taken off the tow vehicle at the DVS garage location, a second tow rate the same as the prevailing passenger tow rate listed in **Exhibit 2** may be charged, and, if applicable, may include an additional mileage rate per mile for every mile beyond the original mileage from the point-of-breakdown to the point-of-exit from the Turnpike nearest the garage.

b. Commercial Vehicles: Towing a commercial vehicle is described as from the point-of-breakdown on the Turnpike to the garage of the DVS Operator, or to any other customer-designated location. Charges shall be assessed portal-to-portal.

The DVS Operator shall charge an hourly commercial towing rate for its heavy wreckers and/or rotators, which rate is subject to Commission approval. Said commercial towing rate shall not exceed prevailing towing rates in the DVS Zone. The rates shall be charged portal-to-portal in the following increments: Minimum one-half ( $\frac{1}{2}$ ) hour charge and thirty (30) minute increments thereafter. Unless an additional heavy wrecker or rotator is required to complete the tow (because the call was initially responded to by a service vehicle), there may be no service call charge added when an hourly towing charge is assessed. However, the DVS Operator may charge for any parts or fluids provided and, once the commercial

vehicle is at the garage, for the mechanic's hourly rate if such services are provided. In the case where an additional heavy wrecker or rotator is needed to recover a commercial vehicle, the DVS Operator may assess a second hourly rate for the second vehicle commencing from the time the second vehicle was called to the scene.

When the DVS Operator is required to perform a recovery or restoration of a commercial vehicle to the roadway, prior to the tow or the vehicle being released to the vehicle owner or driver, a recovery charge may be assessed not to exceed the prevailing recovery charge for heavy wreckers and rotators listed in **Exhibit 2** for commercial vehicles. If Commission personnel determines that additional equipment is required to provide a satisfactory response to an incident, the Commission may contact the nearest available DVS Operator to assist in a given zone.

3. Service Calls.

a. Passenger Vehicles: A flat rate is established in **Exhibit 2** for passenger vehicle service calls. When a passenger vehicle requires a service call and a tow is not required, the DVS Operator shall be entitled to charge the flat rate for the service call and any parts or fluids provided only. The flat rate includes thirty (30) minutes of labor to perform incidental repairs, lock-outs, tire changes or to provide fuel or other fluids. Should the service call from the time of "Signal 1" take the DVS Operator's mechanic longer than thirty (30) minutes to perform, then the prevailing Mechanic's hourly rate may thereafter be assessed in thirty (30) minute increments. DVS Operators shall not perform repairs on the Ohio Turnpike that exceeds thirty (30) minutes to complete. If the DVS Operator is unable to complete the service required in the thirty (30) minute time period required, the DVS Operator shall have the latitude to complete the repairs. However, the Selected Operator shall exercise sound discretion and, at the outset, if it is obvious that the repairs are going to exceed thirty (30) minutes, the vehicle shall be towed. If a tow is required and a tow truck responded to the initial service call, then only the passenger vehicle towing rates as set forth hereinabove along with any charges for parts and fluid may be assessed and not the service call rates. However, if a service vehicle responded initially and a tow truck must be called to the scene, the service call rate and any charge for parts and/or fluid may be assessed in addition to the towing fee and mileage rates set forth hereinabove for passenger vehicles.

b. Commercial Vehicles: A flat rate is established in **Exhibit 2** for commercial vehicle service calls. When a commercial vehicle requires a service call and a tow is not required, the DVS Operator shall be entitled to charge the flat rate for the service call and any parts or fluids provided only. The applicable prevailing Mechanic's hourly rate set forth in **Exhibit 2** may be assessed from portal-to-portal in thirty (30) minute increments for commercial vehicle service calls. DVS Operators shall not perform repairs on the Ohio Turnpike that exceeds thirty (30) minutes to complete. If the DVS Operator is unable to complete the service



required in the thirty (30) minute time period required, the DVS Operator shall have the latitude to complete the repairs. However, the Selected Operator shall exercise sound discretion and, at the outset, if it is obvious that the repairs are going to exceed thirty (30) minutes, the vehicle shall be towed. If a tow is thereafter required and a heavy wrecker or rotator responded to the initial service call, then only the commercial vehicle towing fee and mileage rates as set forth hereinabove along with any charges for parts and fluid may be assessed and not the service call rates. However, if a service vehicle responded initially and a heavy wrecker must be called to the scene, the service call rate and any charge for parts and/or fluid may be assessed in addition to the towing rates set forth hereinabove for commercial vehicles. The towing rates for the second vehicle may commence from the time the heavy wrecker was called to the scene.

4. Services Performed at Garage. Hourly charges for services provided at the garage of the DVS Operator shall be no more than the prevailing passenger and commercial vehicle hourly rates established in **Exhibit 2**. The DVS Operator shall charge the prevailing cost of fluids, fuel and /or parts provided.
5. Storage of Vehicles. Charges assessed for vehicle storage of both passenger and commercial vehicles shall not exceed those set forth in **Exhibit 2**.

The DVS Operators need not seek Commission approval to charge less than the approved prevailing rates. However, permanent decreases in prevailing rates should be reported to the Commission's Manager of Safety Services.

Only prevailing rates that are not already pre-established by the Commission in the attached **Exhibit 2** are subject to increase requests. Such prevailing rates may not be increased more than once during any calendar year of the Contract. Requests to increase prevailing rates shall be pre-approved by the Commission's Manager of Safety Services. Because of the current volatility of motor fuel costs, the Commission will, on its own, periodically review the passenger vehicle towing rate, the prevailing passenger vehicle mileage rate and the flat rates for service calls to determine if adjustment is required.

#### **N. Towing/Recovery of Commission-Owned Vehicles**

The charge for towing or recovery of Ohio Turnpike and Infrastructure Commission owned vehicles (including OSHP vehicles) shall be equal to the applicable passenger and commercial vehicle charges set forth in **Exhibit 2**.

All tows of Commission vehicles shall be to the nearest Commission Maintenance Building. For tows that are beyond the distance to the nearest Maintenance Building, the DVS Operator may charge the Commission the prevailing mileage rate set forth in **Exhibit 2**. Note, the prevailing mileage rate for the Commission's maintenance vehicles that are of commercial size shall be \$5.00 per mile. When necessary, the Commission will pay the prevailing labor rate set forth in **Exhibit 2**; i.e., for disconnecting the drive shaft in the Commission heavy trucks before towing.

The Commission shall waive any damage that may occur to Commission vehicles during the towing procedure that are due to ordinary wear and tear. However, for extensive damage and/or negligence or reckless disregard on the part of the DVS Operator, such damages shall not be waived.

**P. Form of Billing Turnpike Customers**

The DVS Operator shall adopt a system and form of billing Turnpike customers that is satisfactory to the Commission. The original copy of the invoice shall be given to the Turnpike customer and Contractor shall retain a copy. The statement of charges shall clearly show the name of the person receiving the service, make of vehicle, vehicle registration number, the place at which service was rendered by reference to the nearest milepost or the nearest Turnpike building, time service began and completed (Eastern Standard Time or Eastern Daylight Time), the class of work performed, the parts used, if any, the rates, the towing or service charge made, if any, and the total charge for the work. This billing will apply to all services, which originate within the right-of-way limits of the Turnpike, including services performed in the Contractor's garage. The Commission will provide a recommended form that Contractor may use for the purpose of preparing the statement of charges).

Contractor shall accept all major, nationally accepted credit cards and provide a means of processing credit cards with a minimum of delay and inconvenience to the customer.

Invoices of the DVS Operator shall clearly state the towing and service call rates as established in **Exhibit 2**.

**Q. Accounting and Operations Records**

As provided in the Contract, the DVS Operator agrees to keep such records of its operations and to make such reports to the Commission as the Commission may require. The DVS Operators shall keep accounting records of its operations under the Contract separate from its record of all other operations and shall keep separate records for each individual DVS Zone covered by this Contract(s).

**R. Towbook Towing Software- Operations**

The DVS Operator will be required to adopt and utilize the Towbook Towing Software. This application allows for silent dispatching between the Turnpike Communications Center and the DVS Operators/Drivers. The Commission will absorb all expenses related to the Towing Software *excluding the devices and/or data (cell phones, tablets, mobile data) needed to operate this application*. The Towbook Towing Software is **REQUIRED** to be used by the DVS Operator.

**REVISED APPENDIX C**

**MAXIMUM CHARGES AND FEES TO OWNERS OF DISABLED VEHICLES**

**TOWING CHARGES (Including Towing Services Ordered by the OSHP):**

**Passenger Vehicles:**

Flat rate for towing a passenger vehicle from the point-of-breakdown on the Turnpike to the DVS garage, or to any other customer-designated location until the same amount of mileage has been reached as from the point-of-breakdown to the point-of-exit from the Turnpike nearest the garage:

- March 1, 2021 – February 28, 2022 \$110.00

If more than one-half (1/2) hour elapses between the time of Signal 1 and the time of Signal 2, and the DVS Operator still has not hooked up or recovered the passenger vehicle due to circumstances beyond his/her control (i.e., car has not been released by the OSHP), then after that first one-half (1/2) hour, the DVS Operator may begin charging an hourly rate not to exceed \$90.00 per hour in thirty (30) minute increments. No further towing charges may be assessed once the passenger vehicle is hooked up, or has been recovered and released to drive away.

In the event a recovery of a passenger vehicle is required before a tow, the flat tow rate shall provide the compensation for the first one-half (1/2) hour of recovery services and any necessary labor thereafter may be charged in one-half (1/2) hour increments. If a passenger vehicle is pulling a trailer and the trailer requires to be towed, an additional rate of one-half (1/2) of the base tow rate may be charged.

Except as provided in the preceding paragraph, there shall be no service call charges when there is a towing charge unless an additional tow truck is required to complete the tow (because the call was initially responded to by a service vehicle). However, the DVS Operator may charge for any parts and fluids provided, and may assess the mechanic's hourly rate in one-half (1/2) hour increments once the vehicle is in the garage.

Mileage Rate: (If the DVS Operator is requested by the customer to tow a passenger vehicle to a location other than their garage, the rate that may be charged per mile for each mile beyond the first three (3) miles-from the point-of-breakdown to the garage): \$4.50

(If the DVS Operator is requested by a AAA Premium customer to tow a passenger vehicle to a location other than their garage, the rate that may be charged per mile for each mile beyond the first three (3) miles from the point-of-breakdown): \$3.50

In the event the customer requests the DVS service to tow the vehicle to

another location other than the DVS garage **after** the vehicle has been taken off the tow vehicle at the DVS garage location, a second tow rate the same as the prevailing passenger tow rate may be charged, and, if applicable, may include an additional mileage rate per mile for every mile beyond the original mileage from the point-of-breakdown to the point-of-exit from the Turnpike nearest the garage.

Medium Weight (10,001 to 26,000 lbs.) Vehicles:

(Hourly rate for towing a medium weight vehicle from the point-of-breakdown on the Turnpike to the DVS garage, or to any other customer-designated location until the same amount of mileage has been reached as from the point-of-breakdown to the point-of-exit from the Turnpike nearest the garage): \$160.00

(If more than one-half (½) hour elapses between the time of Signal 1 and the time of Signal 2, and the DVS Operator still has not hooked up or recovered the medium weight vehicle due to circumstances beyond his/her control (i.e., car has not been released by the OSHP), then after that first one-half (½) hour, the DVS Operator may begin charging an hourly rate not to exceed \$150.00 per hour in thirty (30) minute increments. No further towing charges may be assessed once the passenger vehicle is hooked up, or has been recovered and released to drive away.)

Mileage Rate: (If the DVS Operator is requested by the customer to tow a medium weight vehicle to other than their garage, the rate that may be charged per mile for each mile beyond the first three (3) miles from the point-of-breakdown to the garage): \$4.50

In the event the customer requests the DVS service to tow the medium weight vehicle to another location other than the DVS garage after the vehicle has been taken off the tow vehicle at the DVS garage location, a second tow rate the same as the prevailing medium weight tow rate may be charged, and, if applicable, may include an additional mileage rate per mile for every mile beyond the original mileage from the garage.

Recreation Vehicles:

In the event a customer requests the DVS service to tow a self-propelled Recreation Vehicle to the DVS garage or other location the approved AAA rate may be charged. The approved charge may be applied portal to portal. The AAA fee shall cover milage and all ancillary towing equipment.

- March 1, 20121 to February 28, 2024: \$150.00 for Plus RV, \$210.00 for Premium RV or the agreed rate under the DVS Operator’s contract with AAA

**Commercial (over 26,000 lbs.) Vehicles:**

Hourly Rates for towing commercial vehicle from point-of-breakdown on the Turnpike to DVS garage or any other designated location. Commercial Towing Rates shall be charged portal-to-portal.

Hourly Heavy Wrecker Rate:

- March 1, 2021 to February 28, 2024: \$350.00

Hourly Rotator Towing Rate:

- March 1, 2021 to February 28, 2024: \$400.00

Recovery Rates – When the commercial vehicle requires Recovery/Restoration prior to the tow or prior to release to the vehicle owner/driver, a flat hourly recovery rate may be charged.

Hourly Heavy Wrecker Recovery Rate:

- March 1, 2021 to February 28, 2024: \$500.00

Hourly Rotator Recovery Rate:

- March 1, 2021 to February 28, 2024: \$900.00

There shall be no service call charges when there is a towing charge unless an additional tow truck is required to complete the tow (because the call was initially responded to by a service vehicle). However, the DVS Operator may charge for any parts and fluids provided, and may assess the mechanic’s hourly rate in one-half (½) hour increments once the vehicle is in the garage.

For both passenger and commercial vehicle tow/recoveries requiring more than one (1) DVS vehicle, the DVS Operator may charge the established prevailing rates per additional tow truck, heavy wrecker or rotator **when being utilized. If a DVS wrecker is being used to only transport personnel to an incident as additional manpower the labor rate may only be applied.**

Mileage Rate: (If the DVS Operator is requested by the customer to tow a commercial vehicle to other than their garage, the rate that may be charged per mile from the point-of-breakdown to the garage):

*not to exceed \$5.00*

**SERVICE CALLS:**

**Flat Rates for Being Called to the Roadway:**

(To include thirty (30) minutes of labor to perform incidental repairs, lock-outs, passenger vehicle tire changes or to provide fuel or other fluids. Should the service call from the time of “Signal 1” take the DVS Operator’s mechanic longer than thirty (30) minutes to perform, then the prevailing Mechanic’s hourly rate may thereafter be assessed in thirty (30) minute increments. (DVS Operators are, however, advised of the requirement that repairs performed on the roadway may not exceed thirty (30) minutes). If a tow is thereafter required and a tow vehicle responded to the initial service call, then only the towing rates as set forth hereinabove along with any charges for parts and fluid may be assessed and not the service call rates. However, if a service vehicle responded initially and a tow vehicle must be called to the scene, the service service call rate and any charge for parts, labor and/or fluid may be assessed in addition to the towing rates set forth hereinabove.

Passenger Vehicle Service Call charge:

- March 1, 2021 to February 28, 2024: \$80.00

Commercial Vehicle Service Call charge:

- March 1, 2021 to February 28, 2024: \$125.00

**Mechanics Rates:**

Mechanic’s Hourly Rates may be charged in increments of one-half (½) hour.

Mechanic’s Hourly Rate for a disabled Passenger Vehicle on the Turnpike not requiring a tow: \$ \_\_\_\_\_

Mechanic’s Hourly Rate for Passenger Vehicle at the DVS Garage: \$ \_\_\_\_\_

Mechanic’s Hourly Rate for a disabled Commercial Vehicle on the Turnpike not requiring a tow: \$ \_\_\_\_\_

Mechanic’s Hourly Rate for Commercial Vehicle at the DVS Garage: \$ \_\_\_\_\_

**Prevailing Cost of Fluids, Fuel and Parts:**

In addition, the DVS operator may charge the prevailing cost of fluids, fuel and/or parts provided.

**STORAGE OF VEHICLES:**

Passenger Vehicles and two (2) Axle Trucks per day charge:

<ul style="list-style-type: none"> <li>• March 1, 2021 to February 28, 2024:</li> </ul>	\$35.00
Passenger Vehicle and two (2) Axle Trucks Inside Storage per day:	\$40.00
Commercial Vehicles including Tractor Trailer Combinations Per unit, per day charge:	\$60.00

REVISED APPENDIX D

**DISABLED VEHICLE SERVICE CONTRACT**

*[to be completed at time of contract award]*

THIS CONTRACT FOR DISABLED VEHICLE SERVICES (“Contract”) is made as of the last date written below (the “Effective Date”) between the **OHIO TURNPIKE AND INFRASTRUCTURE COMMISSION**, located at 682 Prospect Street, Berea, Ohio 44017 (hereinafter referred to as the “Commission”) and **[DVS OPERATOR]** with its office located at **[INSERT]** (hereinafter referred to as “DVS Operator”) (the “Commission” and “Contract” each may be referred to as a “Party” or collectively as the “Parties”).

**RECITALS**

**WHEREAS**, the Commission issued Request for Proposals No. *[insert]* -2020 on *[date]*, 2020 (the “RFP”) to select providers for disabled vehicle services on the Ohio Turnpike and DVS Operator timely submitted a proposal in response to the RFP; and

**WHEREAS**, Commission staff determined that Contractor’s proposal was the best proposal among those submitted in response to the RFP for *[Zone(s) insert based on proposal]* and recommended to the Executive Director that DVS Operator be awarded the contract for the required services; and

**WHEREAS**, the Executive Director approved the recommendation to award the contract to DVS Operator for the required services and the Commission authorized this contract under Resolution No. *[insert]*, adopted *[insert date]*; and

**WHEREAS**, the Commission desires to contract with DVS Operator to designate it as the primary, but not exclusive, provider of disabled vehicle services for *[Zone(s) insert based on proposal]* the “DVS Zone(s)”; and

**WHEREAS**, Contractor wishes to provide disabled vehicle services to the Commission within the DVS *[Zone(s) insert based on proposal]*.

**NOW, THEREFORE**, in consideration of the mutual covenants and agreements hereinafter set forth and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties hereto agree as follows:

**AGREEMENT**

In consideration of these facts and the mutual covenants of the parties under this Contract, the Parties agree as follows:

1. **RECITALS**. The Recitals hereto are incorporated herein by reference to the same extent and with the same force and effect as if fully set forth herein.
2. **TERM**. The initial term of this Contract (the “Initial Term”) shall be for a period of three



## REVISED APPENDIX D

(3) years, commencing on March 1, 2021 and remaining in effect until February 28, 2024. Following the Initial Term, the DVS Operator shall give notice to the Commission of its intent not to renew the Contract at least one hundred eighty (180) days in advance of the expiration of the Initial Term. If the DVS Operator fails to provide such notice, the Commission shall have the option to renew the Contract for one (1) additional two (2) year renewal period upon thirty (30) days advance notice to the DVS Operator.

### 3. **SERVICES AND RESPONSIBILITIES.**

- a. DVS Operator shall be a designated provider of disabled vehicle services (the “Services”) within the DVS *Zone(s)* [*insert zone or zones*] on a 24 hour/7 day per week basis. For the purposes of this Contract, the Services to be provided in the DVS *Zone(s)* shall be in compliance with the following and shall include such other services as required by the Commission, Commission employees, or Commission-designated representatives, including the Commission’s Communication Center and the Ohio State Highway Patrol, including, but not limited to: *See Scope of Services* attached hereto as **Exhibit A** and incorporated herein by reference.
- b. During the term of the Contract or any extensions thereof, the Commission reserves the right, at its sole option, to marginally adjust the DVS *Zone(s)*.
- c. The Commission agrees to not contract with any other party to provide Disabled Vehicle Services on the Turnpike within the Operator’s DVS *Zone(s)* except in anticipation of the termination of the Contract or the failure of the DVS Operator to perform the requirements of such Contract. In addition, the Commission reserves the right to hire additional equipment and operators that the Commission determines necessary from other sources, including but not limited to circumstances where the Commission’s personnel determines that additional equipment is required to provide a satisfactory response to an incident, the Commission may contact the nearest available DVS operator to assist in a given zone.
- d. The Commission reserves the right to permit passenger cars, trucking companies and bus operators to obtain their own service due to vehicle breakdown.
- e. In accordance with Section 5537-3-01(P) of the Ohio Administrative Code, the Commission will facilitate the enforcement of the requirement for Turnpike customers operating passenger vehicles to obtain recovery or towing services exclusively from the DVS Operator, and that Turnpike customers operating commercial vehicles are required to obtain towing and recovery services only from their own service unit, a contracted service provider, or the DVS Operator. Provided, however, nothing herein shall be construed to limit or restrict Turnpike customers from procuring services of their own choosing, except in the following cases: i) an accident; ii) when there is the need for wrecker or rotator assistance to restore a vehicle to the roadway; and iii) situations in which a vehicle breaks down and where safe traffic conditions and/or normal traffic flow will be interrupted by

## REVISED APPENDIX D

the non-contracted towing service. Nor shall anything limit or restrict Turnpike customers from dispensing with the services of the DVS Operator beyond a customer-designated point-of-exit from the Turnpike right-of-way. Further provided, however, where additional equipment is necessary to recover a commercial vehicle in a given DVS Zone, the DVS Operator shall render or accept mutual aid to or from the next closest Zone DVS Operator, when the Commission so directs.

- f. The Commission shall not be liable for any indebtedness of any Turnpike customer to the DVS Operator or for damage caused to the DVS Operator by any such customer or any other person.
  - g. The Commission has entered into contracts with others for the operation of service stations located on the right-of-way of the Turnpike and may, in the future, enter into other such arrangements. The operators of the service stations have, within the service plazas, the right to perform minor vehicle repairs, and to sell services and products incidental to service station operations that are used or required in connection with the operation or use of motor vehicles. The DVS Operator agrees, for the benefit of the operators of the service stations, that the DVS Operator will not sell gasoline (unleaded or diesel), oil, accessories or other products or services which are offered for sale by the service station operators, except as shall be reasonably necessary or incidental to the performance of the duties and functions under the Contract.
4. **DVS EQUIPMENT OPERATORS.** DVS equipment operators shall be fully competent to perform the duties required under this Contract. The equipment operators shall at all times be courteous and present a clean and neat appearance. They shall obey all rules and regulations of the Commission. All of the DVS Operators' personnel shall possess any license(s) or certificate(s) required by law for the performance of their duties and shall provide copies of such to the Commission upon request.
5. **DVS OPERATOR'S EQUIPMENT.**

- a. The DVS Operator shall provide seven (7) such vehicles in each Zone, unless otherwise agreed to by the parties in writing. All vehicles shall meet the following criteria and specifications set forth in the Scope of Services. All equipment that the DVS Operator is required to use in performing their contractual obligations shall be maintained in good repair and shall be available twenty-four (24) hours per day. The Operator shall not locate or dispatch any required equipment at any time to a location more than fifteen (15) miles from the DVS Zone using an access point on the public-road system unless equivalent substitute equipment is available within the Zone.
- b. The character, condition, and design of the equipment required below shall at all times be such that it will efficiently perform the work required. Equipment shall be subject to the periodic inspection and approval of the Commission. A safety and equipment checklist will be used for the inspection. All equipment shall meet the

## REVISED APPENDIX D

required standards. All deficiencies shall be corrected within a reasonable period of time after which a re-inspection will be made.

- c. The DVS Operator shall place in service a sufficient number of modern vehicles of good appearance and in first-class mechanical condition that are capable of efficient use in the performance of the service required and, in a manner, satisfactory to the Commission.
- d. The DVS Operator's equipment will be permitted to enter and leave the Turnpike at any interchange, service plaza, maintenance building, and any emergency gate so designated by the Commission in accordance with such rules and regulations as adopted by the Commission.

### **6. TWO-WAY RADIOS PROVIDED BY THE COMMISSION.**

- a. During the term of the Contract, the Commission will furnish, install and maintain MARCS radio equipment for use by the DVS Operator to perform the required services. The DVS Operators shall not attempt to make any repairs or adjustments to the Commission's MARCS radio equipment. Seven (7) portable radio units shall be installed in each of the DVS Operator's service vehicles and one (1) base mobile radio unit shall be installed at the DVS Operator's service garage/dispatch. Additional mobile units may be furnished, at the Commission's expense, as deemed necessary by the Commission in order for the DVS Operator to render the services required under the Contract. Transfer of radio equipment from one (1) service truck to another at reasonable intervals shall be under the direction and at the expense of the Commission. In the event that such radio equipment is damaged, destroyed, or stolen while in the possession of a DVS Operator, the Operator shall reimburse the Commission for the cost of such repairs or replacement. All MARCS radio equipment furnished shall remain the property of the Commission.
- b. MARCS radios will be programmed with frequencies licensed to the Commission by the Federal Communications Commission ("FCC"). The DVS Operator shall operate the radio equipment in strict conformance with the requirements established by the Commission, and the regulations of the FCC and such other governmental agencies possessing jurisdiction. Failure to conform with such regulations shall constitute a breach of the Contract.
- c. Upon expiration or earlier termination of the Contract, the DVS Operator shall surrender the radio equipment in good working condition to the Commission. Should the DVS Operator fail to comply, the Commission may repossess such equipment, whenever found, without any writ or other legal process and without any liability whatsoever for any damages arising from the act of repossession.

- 7. **TOWBOOK TOWING SOFTWARE.** The DVS Operator will be required to adopt and utilize the Towbook Towing Software to perform the required services. This application allows for silent dispatching between the Turnpike Communications Center and the DVS

## REVISED APPENDIX D

Operators/Drivers. The Commission will absorb all expenses related to the Towing Software excluding the devices and/or data (cell phones, tablets, mobile data) needed for the DVS Operator and its personnel to operate this application.

### 8. **SAFETY.**

- a. The parties agree that safety is of the utmost importance in the DVS Operator's performance of the Services and safety should be an integral part of the DVS Operator's planning process. The DVS Operator shall be solely responsible for the safety and health of its employees and for the protection of property and the general public. The DVS Operator shall comply with all OSHA, Federal, State, County, Local and Commission Safety and Health Laws, Regulations and Specifications. The DVS Operator shall cooperate fully with the Commission's Maintenance Department personnel and the OSHP and all other first responders and the safety requirements set forth in the Scope of Services.
- b. No provision of this Contract shall be construed to make the Commission or any other party other than the DVS Operator solely responsible for the safety of the DVS Operator and its personnel. The DVS Operator's failure to fulfill these safety requirements at any given incident may result in a twenty-five (25) percent reduction in its monthly stipend. The DVS Operator is responsible for meeting all safety requirements and/or for providing a safe work site.

### 9. **LICENSES, PERMITS, AUTHORIZATIONS AND APPROVALS.** During the term of the Contract, the DVS Operator shall do the following:

- a. National Travel Associations. The DVS Operator shall be authorized by the American Automobile Association ("AAA") to be a provider of services to disabled vehicle owners/drivers using the Ohio Turnpike who are AAA members. The DVS Operator shall maintain such AAA approval for the duration of the Contract, and the DVS Operator shall provide services for active, card-bearing AAA members in need of such services and accept AAA payments. During the term of the Contract, the Commission may require the DVS Operator to obtain similar authorizations from other nationally recognized travel associations, subject to reasonable prior written notice. The DVS Operator shall provide proof of AAA authorization or other required travel association authorizations to the Commission upon request.
- b. Public Utilities Commission of Ohio ("PUCO"). The DVS Operator shall be authorized by the PUCO to engage in providing towing services and maintain a current and valid PUCO certificate of public convenience and necessity under Chapter 4921 of the Ohio Revised Code and provide proof of such certificate to the Commission upon request.
- c. U.S. Department of Transportation ("USDOT"). The DVS Operator must be registered with USDOT and provide proof of registration to the Commission upon request.

## REVISED APPENDIX D

- d. Commercial Driver's License ("CDL"): All drivers of towing vehicles that require the operator to possess a current Ohio Commercial Driver's License shall obtain and maintain such license and present a copy of each license upon the request of the Safety Services Manager, or his representative.

### **10. MAXIMUM CHARGES AND FEES TO OWNERS OF DISABLED VEHICLES.**

Unless otherwise provided under an agreement with any given commercial vehicle fleet owner, the DVS Operator shall not assess charges under the Contract for parts, repairs, and labor in excess of those prevailing in their service area and set forth in **Exhibit 2** of the Scope of Services (**Exhibit A**), attached hereto and incorporated herein by reference, which includes the Commission's maximum rates and fee schedule and the DVS Operator's prevailing rates schedule for rates not included on the Commission's schedule, subject to the approval of the Commission. The DVS Operator's prevailing rates, not already listed in the Commission's schedule, shall be the maximum charges that the DVS Operator may assess owners/drivers of disabled vehicles under the Contract. The DVS Operator need not seek Commission approval to charge less than the approved prevailing rates. However, permanent decreases in prevailing rates should be reported to the Commission's Manager of Safety Services. Only prevailing rates that are not already pre-established by the Commission in **Exhibit 2** attached to the Scope of Services are subject to increase requests. Such prevailing rates may not be increased more than once during any calendar year of the Contract. Requests to increase prevailing rates shall be pre-approved by the Commission's Manager of Safety Services. Because of the current volatility of motor fuel costs, the Commission will, on its own, periodically review the passenger vehicle towing rate, the prevailing passenger vehicle mileage rate and the flat rates for service calls to determine if adjustment is required.

### **11. RECORDS RETENTION AUDIT AND INSPECTION.**

The Contractor shall maintain all pertinent financial and accounting records, and evidence pertaining to the Contract in accordance with generally accepted accounting principles and other procedures specified by the State of Ohio. Financial and accounting records shall be made available for review and/or audit upon request by the Executive Director of the Commission, his representative, or the Ohio Auditor of State's office at any time during the Contract period or for three (3) years from the expiration date and final payment on the Contract, whichever is later. Refusal to allow the Commission representatives access to said records shall constitute a material breach of this Contract. In addition, the Commission, at its own expense, shall be entitled to have an audit conducted of such books and records.

### **12. MATERIAL, EQUIPMENT AND PERFORMANCE WARRANTY.**

The Contractor shall provide the materials and/or equipment and the rendition of the Services required under the Contract in a manner consistent with the standards of competent practice for the towing and recovery industry and/or profession. All materials and/or equipment provided shall meet the specifications of the Commission, shall be free from any defects in material and workmanship, and shall be fit for the purpose of their intended use.

### **13. NON-REVENUE PRIVILEGES.**

## REVISED APPENDIX D

- a. The DVS Operator will be permitted toll-free use of the Turnpike within the Zone(s) and up to two (2) exits beyond the Zone when performing obligations pursuant to the Contract. *E-ZPass* transponders will be issued to the DVS Operator. Use of the transponders is authorized for carrying out the terms of the Contract only and subject to any policies or rules established or amended by the Commission from time to time.
- b. It shall be the DVS Operator's responsibility to manage the issuance and use of all transponders for the Contract and shall be liable for any misuse of the transponders. In addition to any applicable civil and criminal penalties, any violation of the Commission's policies or rules may result in revocation of the transponder and associated privileges. The following amounts will be assessed as Liquidated Damages against the DVS Operator for misuse of the non-Revenue Transponders throughout the life of the Contract:  
  
1st Occurrence: Full reimbursement of Tolls  
  
2nd Occurrence: Full reimbursement of Tolls plus \$250.00 in liquidated damages.  
  
3rd Occurrence: Full reimbursement of Tolls plus \$500.00 in liquidated damages.  
  
4th Occurrence: Default and Possible Termination of Contract
- c. The DVS Operator shall return all previously issued transponders when the Operator is no longer under contract with the Commission. Should the DVS Operator return less than the number issued to it, the Commission shall withhold the sum of one hundred dollars (\$100.00) per transponder not returned from the monthly performance stipend.

**14. MONTHLY STIPEND.** To ensure the availability and quality of services provided pursuant to this Contract and to compensate for disregards, the Commission agrees to pay the DVS Operator during the term of this Contract a monthly stipend in the total amount of Three Thousand Four Hundred Dollars (\$3,400.00) for each Zone, subject to any prevailing rate surcharges.

**15. INVOICES AND PAYMENT.**

- a. The Commission agrees to issue payment for the monthly stipend amount (plus any additional mileage surcharges for towing of Commission owned vehicles as set forth above) in the form of a check within thirty (30) days after receipt of a verified invoice from the Contractor. Contractor's invoices shall clearly state the towing and service call rates as established in the List of Maximum Charges and Fees, attached as **Exhibit 2** to the Scope of Services, incorporated herein by reference.
- b. Invoices for which the Commission is to remit payment (such as the monthly stipend invoice and invoices for any additional services billable to the Commission)

## REVISED APPENDIX D

are to be submitted by the Contractor not later than the 10<sup>th</sup> day of the month after any such services are performed. Invoices can be submitted to the Commission's Accounts Payable, 682 Prospect Street, Berea, Ohio 44017 or electronically to the following e-mail address: [apinvoiceing@ohioturnpike.org](mailto:apinvoiceing@ohioturnpike.org). Invoices received from the Contractor shall be verified for accuracy and invoices not in dispute (or any portion of a disputed invoice that is not in dispute) shall be paid by the Commission within thirty (30) days of their receipt. The exception to the above is in the case of disputed or questioned invoices or invoices received without proof of performance.

### **16. LIQUIDATED DAMAGES FOR FAILURE TO COMPLY WITH RESPONSE TIME/FAILURE TO REPORT.**

- a.** Repeated failures on the part of the DVS Operator to arrive on the scene of the disabled vehicle in the required time set forth in the Scope of Services (45 minutes) is a breach of the Contract and may result, at the sole option of the Commission, in Liquidated Damages or termination of the Contract. The Commission shall extend tolerance for three (3) strikes on an annual basis. Three (3) or more unexcused late arrivals (Signal 1 after 45 minutes of the initial callout notice) in a rolling one (1) year period shall be cause for imposition of a Liquidated Damages in the amount of \$150.00 per occurrence, which shall be deducted from the monthly stipend. Each late arrival will be evaluated, and a determination made by the Safety Services Manager as to whether the delay was excusable. Failure to respond to the Safety Services Manager, upon notification of a late arrival with a verifiable written explanation demonstrating the delay was not due to the actions of the DVS Operator within fourteen (14) calendar days will result in the late arrival being unexcused. A record will be maintained by the Commission of all unexcused late arrivals. If a DVS Operator has repeated Liquidated Damages assessed, then the Commission may deem the DVS Operator in default and terminate the contract.
- b.** In the event the notified DVS Operator does not arrive at the scene of a disabled vehicle within the time provided, the Commission reserves the right to request service from another provider, and to cancel the call to the first DVS Operator without cost to the Commission or the owner or driver of the disabled vehicle.
- c.** Failure to report arrival and/or departure time or falsification of either of those times will also be considered a material breach of the Contract for which the Commission, at its sole option, may impose Liquidated Damages, suspend or terminate the Contract. Each failure to report Signal 1 or Signal 2 or falsification may result in Liquidated Damages in the amount of \$2,500.00. Under such circumstances, the Commission will investigate the circumstances to verify that such failure to report arrival or departure time and/or falsification of times did indeed occur.
- d.** Failure on the part of the Commission to exercise its option to assess Liquidated Damages a DVS Operator or to terminate a Contract, shall in no way preclude the

REVISED APPENDIX D

Commission from imposing a Liquidated Damages and/or terminating the Contract for any subsequent failure(s) to report arrival and/or departure or falsification of time reported.

- 17. COMPLIANCE WITH LAWS, RULES, REGULATIONS, LICENSING AND CERTIFICATION REQUIREMENTS.** Contractor shall render the Services in material compliance with all applicable federal, state (including those set forth in Chapter 4765.01, et. Seq. of the Ohio Revised Code) and local laws, ordinances, codes, rules and regulations, including without limitation, the laws relating to the payment of wages, equal employment opportunity, campaign contributions, drug-free workplace, non-discrimination in employment, unemployment compensation, insurance premiums, workers' compensation premiums, income tax deductions, social security deductions, and any and all tax and payroll deductions required for its employees and it, its employees. Failure by Contractor to obtain and/or maintain any required license and authorization shall result in the immediate and automatic termination of this Contract. The failure of any of Contractor's personnel to obtain and/or maintain any required license and authorization for the Services which they are responsible for providing shall bar such person from providing the Services under this Contract until the license or authorization has been obtained. In the event that any provision of this Contract is in conflict with any law or regulation, then such law or regulation shall prevail. It is understood that neither the Contractor nor its employees are construed as employees of the Commission for the purpose of the Public Employees Retirement System ("PERS"), Workers' Compensation, or for any other purpose.
- 18. CERTIFICATION OF COMPLAINEE WITH OHIO REVISED CODE SECTIONS 102.03, 102.04 AND 3517.13.** The Contractor certifies that it is aware of and is in compliance with the Ethics provisions of Ohio Revised Code Sections 102.03 and 102.04, and any applicable provisions of Ohio Revised Code Section 3517.13 as they pertain to Campaign Contribution Limitations under Ohio law, and affirms that, as applicable, no principal of the Contractor nor the spouse of any principal, if any, has made, as an individual, any time during the previous two (2) calendar years, one (1) or more contributions totaling in excess of \$1,000.00 to the Governor or to his campaign committee.
- 19. TAX EXEMPT STATUS.** The State of Ohio and the Commission are exempt from federal excise taxes and all state and local taxes, unless otherwise provided. The Commission does not agree to pay any taxes on commodities, goods, or services acquired from, or by, the Contractor. The Contractor must, however, comply with all statutes, rules and regulations governing federal, state and local income, sales and excise taxes.
- 20. PUBLICITY.** Any use of or reference to the Contract by the Contractor to promote, solicit, or disseminate information regarding the scope of the Contract is prohibited, unless otherwise agreed to in writing by the Commission.
- 21. NON-EXCLUSIVE RIGHTS.** Nothing in the Contract with the Contractor shall preclude the Commission or the State of Ohio from purchasing other goods and/or



## REVISED APPENDIX D

services similar to the goods and/or services provided for in the Contract.

### 22. **INDEMNIFICATION:**

- i. General. The Contractor hereby expressly agrees and shall, to the fullest extent permitted by law, indemnify, hold harmless, and, at the option of the Commission as decided in its sole discretion, defend or pay for the defense of the Commission, Commission members, Executive Director, Deputy Directors, officers, agents, representatives, and employees (the “Indemnified Parties”) from and against any and all liability, claims, suits, causes of action, liens, demands, losses, damages, (including fines, penalties, incidental and consequential damages), settlements, judgments, costs, and expenses (including reasonable attorneys’ fees and any other costs of defense) of every kind, nature, or description arising out of or in connection with, caused by, resulting from, or occurring during the course of the performance of this Agreement, whether directly or indirectly, where such liability is
  - a) founded upon or grows out of, directly or indirectly, the acts, errors, omissions, undertakings, representations or warranties of the Contractor, its officers, employees, agents, independent contractors or subcontractors (or subcontractors or independent contractors thereof), or any other person or party for which the Contractor is legally liable, and
  - b) is attributable in any manner and to any extent to bodily injury, personal injury, sickness, disease or death of any person, loss of revenue, or the injury to or damage, destruction, or loss of use of property.
- ii. **Intellectual Property.** The Contractor hereby expressly agrees and shall, to the fullest extent permitted by law, indemnify, hold harmless, and, at the option of the Commission as decided in its sole discretion, defend or pay for the defense of the Indemnified Parties from and against any and all liability, claims, suits, causes of action, liens, demands, losses, damages (including fines, penalties, incidental and consequential damages), settlements, judgments, costs, and expenses (including reasonable attorneys’ fees and any other costs of defense) of every kind, nature, or description arising out of or in connection with, caused by, resulting from, or occurring during the course of the performance of this Agreement, whether directly or indirectly, where such liability is
  - a) founded upon or grows out of, directly or indirectly, the acts, errors, omissions, undertakings, representations or warranties of the Contractor, its officers, employees, agents, independent contractors or subcontractors, (or subcontractors or independent contractors thereof), or any other person or party for which the Contractor is legally liable, and

## REVISED APPENDIX D

- b) is attributable in any manner and to any extent to any claimed infringement of any copyright, patent, intellectual property right, or other intangible property right. The Contractor shall not be required to defend, indemnify, or hold harmless the Indemnified Parties when the claimed infringement occurs in materials provided to the Contractor by the Commission.
- iii. **Conditions.** The provisions of this Section 22, Indemnification, shall survive the expiration or termination of this Agreement. Should the Commission elect to have the Contractor defend one or more of the Indemnified Parties, the Commission shall have the right, but not the obligation, to associate in such defense, whether directly or through outside legal counsel, or both. Nothing herein shall require the Contractor to reimburse the Commission for damages or liabilities solely caused by the negligent acts, errors or omissions of one or more of the Indemnified Parties. This Section 22, Indemnification, is intended to be, and shall be construed as consistent with, and not in conflict with Ohio Revised Code Section 2305.31. Between the parties for purposes of fulfilling the Contractor's indemnity obligations hereunder, the Contractor waives any immunity derived from compliance with the Workers' Compensation Laws of the State of Ohio. The obligations of the Contractor hereunder shall not be limited by the types, terms, conditions, or limits of liability of any insurance purchased and maintained by the Contractor.

**23. INSURANCE.** Immediately upon the execution of the Contract, the Contractor shall forward to the Commission certificates of insurance which show that the Contractor is insured by an insurance company or companies rated A- or better by A.M. Best and approved by the Commission. Said insurance shall be maintained in full force and effect until the Contract has been fully and completely performed. It shall protect the Contractor and the Commission from liability and claims for damages for bodily injury, including wrongful death, personal and advertising liability and for damages to property caused by an accident arising from the Contractor's performance of the Contract. Said insurance shall provide that, in the event of cancellation or expiration of the policy, a thirty (30) day advance notice thereof will be given to the Ohio Turnpike and Infrastructure Commission.

The Contractor shall, at its own expense, purchase and maintain insurance in the following amounts:

- (i) Commercial General/Garage Liability Insurance in an amount not less than \$1,000,000 for bodily injury, including those resulting in death to any one person or persons arising from any one (1) accident and personal and advertising liability.
- (ii) Commercial General/Garage Liability Insurance in an amount not less than \$1,000,000 for damage to, or destruction of property, on account of any one accident, and in an amount not less than \$1,000,000 in the aggregate during each policy period each of which shall be not longer than one (1) year.

## REVISED APPENDIX D

- (iii) Liability insurance in an amount not less than \$100,000 per incident covering bodily injury, property damage, loss of use arising from, caused by, or resulting from the services provided by the Contractor. Responsive insurance can be tow truck liability insurance or on-hook towing liability coverage; Cargo Insurance in an amount not less than \$100,000; and Garagekeepers Insurance in an amount not less than \$200,000.
- (iv) Commercial Automobile Liability Insurance covering liability arising out of the ownership, maintenance or use of all owned, non-owned, and hired automobiles including mobile equipment in an amount of not less than a Combined Single Limit of \$1,000,000 for Bodily Injury and Property Damage.
- (v) Umbrella/Excess Liability Insurance over primary general liability and automobile liability in an amount not less than \$2,000,000.

The Ohio Turnpike and Infrastructure Commission shall be endorsed as an additional insured on the Commercial General Liability and Commercial Automobile Liability policy or policies. The insurance policy or policies shall be primary and non-contributory. The above-described certificates of insurance shall be delivered to and remain in the custody of the Commission and each shall be in form and words satisfactory to the Commission's General Counsel.

The Contractor shall also procure and maintain until the Contract has been fully and completely performed, Ohio Worker's Compensation Insurance covering all employees who engage in any work in connection with the performance of the Contract, except employees hired in a state other than Ohio who will not engage in any work in the State of Ohio.

The Commission may, at any time, require the Contractor to obtain any additional or other insurance. In each such case, the Commission shall reimburse the Contractor for the net premium cost thereof which reimbursement shall be made at the time of final payment.

Within twenty-four (24) hours after the occurrence of any accident or other event that results in or might result in injury to the person or property of any person, which arises in any manner from the performance under the Contract, the Contractor shall send written notice thereof to the Commission's General Counsel setting forth a full and precise statement of the facts pertaining thereto.

The Contractor shall immediately send to the Commission a copy of any summons, subpoena, notice or other documents served upon or received by the Operator, or any agent, employee or representative of the Operator, arising in any manner from the performance of the Contract.

24. **WAIVERS.** No failure or delay on the part of either of the Parties to this Contract in exercising any right, power or privilege hereunder shall operate as a waiver thereof, nor shall a single or partial exercise of any right, power or privilege preclude any other or further exercise of any other right, power or privilege. In no event shall the making by the

## REVISED APPENDIX D

Commission of any payment due to Contractor constitute or be construed as a waiver by the Commission of any breach of a provision of this Contract, or any default which may then exist, on the part of Contractor, and the making of any such payment by the Commission while any such breach or default shall exist, shall in no way impair or prejudice any right or remedy available to the Commission in respect to such breach or default.

**25. DEFAULT AND TERMINATION.** Subject to the force majeure provisions contained herein, if the Contractor fails to perform any material obligation under the Contract, or the Commission becomes dissatisfied with the Contractor's performance, the Commission shall notify the Contractor immediately, in writing, of such failure or dissatisfaction. If the Contractor has not cured the failure to the reasonable satisfaction of the Commission within fourteen (14) days of said notice, then the Commission may unilaterally terminate the Contract in full, upon written notice to the Contractor of such termination. In the event the Commission determines that Contractor's breach of this Contract endangers public health and safety, the Commission may, in its discretion, decide not to allow Contractor to have a cure period and may immediately terminate this Agreement. The Commission may voluntarily terminate the Contract (or any Group or Item encompassed within a contract award) at any time by giving thirty (30) calendar days prior written notice to the Contractor. If the Commission terminates the Agreement pursuant to this Section and/or the force majeure provision(s) contained herein, the Contractor shall be paid its fees for any undisputed benefits provided up to the date of termination. The Contractor shall not be relieved of liability to the Commission for damages sustained by virtue of any breach of the Contract by the Contractor. The Commission may withhold or require to be withheld any payment to the Contractor for the purpose of a setoff until such time as the exact amount of damages due the Commission is agreed upon or is otherwise determined.

**26. INDEPENDENT CONTRACTOR STATUS.** Nothing in this Contract shall constitute, be construed to be, or create a partnership, joint venture, or lease between Contractor and the Commission. Contractor and the Commission are independent contractors under this Contract. The Commission agrees that Contractor has the discretion to define the manner in which it performs the Services, including without limitation, each of the following: (A) determining the identity of its personnel who will perform the Services. In particular, the Commission recognizes that Contractor is under no obligation of any kind to interview or employ any Commission personnel to become Contractor employees; (B) setting the terms and conditions of employment for all Contractor personnel who perform the Services; (C) applying Contractor service policies or procedures with respect to the manner in which Contractor will provide the Services; and (D) exercising discretion with respect to the manner in which Contractor conducts its business operations in the Service Area. It is understood that neither Contractor nor its employees are construed as employees of the Commission for the purpose of the Public Employees Retirement System ("PERS"), Workers' Compensation, or for any other purpose.

**27. FORCE MAJEURE.** Neither party shall have liability to the other if it becomes unable to timely perform its obligations under this Contract due to labor disputes, fire, acts of God, tornados, flood, hurricane, earthquake, tidal wave, blizzard, or other natural

## REVISED APPENDIX D

disasters, acts of the state or federal government in their sovereign capacity, riots, civil commotion, quarantine restrictions, war, terrorism, incidence of disease or other illness that reaches outbreak, epidemic or pandemic proportions, unavoidable casualties, or other causes beyond their control.

28. **AMENDMENT OR MODIFICATION.** All modifications, amendments, or waivers of any provisions of this Contract or the Services, shall be made only by the written mutual consent of the Parties.
29. **ASSIGNMENT OR SUBCONTRACTING.** The Contractor may not assign, transfer, convey or otherwise transfer or dispose of its rights, title, or interest in, or performance under the Contract to any other person, company, corporation or entity without the prior written approval of the Commission, which approval shall not be unreasonably withheld. Any approved assignment shall not relieve the Contractor from any of its responsibilities under the Contract. All work to be done by subcontractors utilized by the Contractor is subject to pre-approval by the Commission. All subcontractors selected by the Contractor and approved by the Commission must comply with all the terms and conditions contained in this Contract.
30. **DRUG-FREE WORKPLACE.** The Contractor shall comply with all applicable federal, state, and local laws regarding drug-free workplaces, and shall make a good faith effort to ensure that its employees do not purchase, transfer, use, or possess illegal drugs or alcohol, or abuse prescription drugs in any way. The Commission requires enrollment of all Contractors in the State of Ohio Bureau of Workers Compensation “Drug Free Safety Program” or a program which is substantially similar.
31. **MEDIATION.** The Commission and the Contractor recognize that litigation is an expensive, resource-consuming process for resolving business disputes. Therefore, the Commission and the Contractor agree that if any controversy or dispute arises out of or relates to the Contract, or any breach of the Contract, they will attempt in good faith to settle the dispute expeditiously through mediation within thirty (30) days of the date the controversy or dispute arises. The Commission and the Contractor shall attempt to mutually agree as to the provider of neutral mediation services and shall share the costs of any mediation equally. In the event the parties cannot mutually agree to a neutral mediator or the deadline prescribed herein is not met, unless an extended time frame is consented to by both parties in writing, either party may commence litigation or any other legal proceeding as is appropriate.
32. **APPLICABLE LAW AND VENUE.** The Contract shall be construed under and governed by the laws of the State of Ohio, without regard to conflicts of law principles. Any litigation arising out of or relating in any way to the Contract or performance thereunder shall be litigated in its entirety only in state courts in Cuyahoga County, Ohio, and Contractor hereby irrevocably consents to such jurisdiction.
33. **NONDISCLOSURE.** The Contractor agrees that it will not disclose at any time during or after its work under the Contract, either directly or indirectly, any confidential

REVISED APPENDIX D

knowledge or information which the Contractor may acquire with respect to the Contract or the Commission's operations, except as may be required by law, or a court of competent jurisdiction.

- 34. DISREGARDING TITLES.** The titles of the Sections set forth in this Contract are inserted for the convenience of reference only and shall be disregarded when construing or interpreting any of the provisions of this Contract.
- 35. COMPLETE AGREEMENT.** This Contract contains all the terms and conditions agreed upon by the Parties, and no other agreements, oral or otherwise, regarding the subject matter of this Contract or any part thereof shall have any validity or bind any of the Parties.
- 36. SEVERABILITY.** If any clause or provision of this Contract is rendered invalid or unenforceable because of any State or Federal statute or regulation or ruling by any tribunal of competent jurisdiction, that clause or provision shall be null and void, and any such invalidity or unenforceability shall not affect the validity or enforceability of the remainder of this Contract. Where the deletion of the invalid or unenforceable provision would result in the illegality and/or unenforceability of this Contract, this Contract shall be considered to have terminated as of the date in which the provision was rendered invalid or unenforceable.
- 37. NOTICE.** All notices and other communications provided for in this Contract shall be in writing and shall be deemed to have been given (A) when delivered in person to the recipient, (B) 48 hours after deposit in the United States Mail, by certified mail, postage prepaid, addressed to the party at its address set forth above or at another address as the party shall designate by providing notice under this Section; (C) when Federal Express or comparable express delivery services delivers the notice to the recipient; (D) when the recipient receives the notice by electronic mail to the correct electronic mail address of the recipient, as confirmed in electronic notice to the sender. Notices will be directed to:

For the Commission:

Safety Services Manager  
c/o The Ohio Turnpike and Infrastructure Commission  
682 Prospect Street  
Berea, Ohio 44-17  
Telephone: (440)971-2040

For the DVS Operator:

*INSERT*

Each Party shall inform the other of who the person(s) is as designated from time to time.

- 38. THIRD PARTIES.** This Contract is for the benefit of the parties, their successors and

REVISED APPENDIX D

assigns, and is not for the benefit of any third party.

39. **AMBIGUITIES**. Any term of this Contract which is found to be ambiguous shall not be construed against either party on the basis of authorship or otherwise.
40. **CERTIFICATION OF AUTHORITY TO SIGN CONTRACT**. The persons signing on behalf of the Parties to this Contract certify by their signatures that they are duly authorized to sign this Contract on behalf of said Parties and that this Contract has been authorized by said Parties.
41. **COUNTERPART EXECUTIONS; FACSIMILES AND ELECTRONIC MAIL**. The parties may execute this Contract in any number of counterparts with the same effect as if each party had signed the same physical document. Each party may transmit the executed copies in an imaged format to the other party by facsimile or electronic mail, and the imaged copies shall have the same effect as if each party had signed the same physical document. All executed counterparts, whether originals or copies sent by facsimile, electronic mail, or a combination, shall be construed together and shall constitute one and the same Contract.
42. **ELECTRONIC SIGNATURES**. The parties agree that for purposes of facilitating the signing of this Contract, an electronic signature or an electronic or facsimile transmission of a signature shall be an original signature for all purposes.

[Signatures are located on the following page.]

REVISED APPENDIX D

IN WITNESS WHEREOF, the authorized representatives of the Parties have fully signed and entered into this Contract as of the day and year last written below.

**OHIO TURNPIKE AND INFRASTRUCTURE COMMISSION**

\_\_\_\_\_  
Ferzan M. Ahmed, P.E., Executive Director

Date: \_\_\_\_\_

APPROVED AT TO FORM:

\_\_\_\_\_  
Jennifer Stueber, Esq., General Counsel

**DVS OPERATOR**

By: \_\_\_\_\_

Name: \_\_\_\_\_

Its: \_\_\_\_\_

Date: \_\_\_\_\_



REVISED APPENDIX D

**EXHIBIT A –SCOPE OF SERVICES**