



# Commonwealth of Kentucky

## MASTER AGREEMENT

### CONTRACT INFORMATION

**MASTER AGREEMENT NUMBER:** MA 605 2200000706

Effective Date: 6/1/22

Record Date: 6/1/22

Expiration Date: 5/31/23

Procurement Folder: 862866

Document Description: Partial Depth Repair

Procurement Type: Standard Goods and Services

Cited Authority: Competitive Sealed Bidding-Goods and Services

Version Number: 1

### CONTACT INFORMATION

**ISSUER:**

Amanda Lewis

502-782-4003

Amanda.Lewis2@ky.gov

### VENDOR INFORMATION

**Name /Address:**

**Contact:**

KY0017441: GORDON COMPANY INC

Fletcher Watkins

105 KAYLAN LANE

336-382-2536

Caddmax3553@gmail.com

THOMASVILLE NC 27360

### COMMODITY / SERVICE INFORMATION

Line	Quantity	UOM	Unit Price	Service Amount	Service From	Service To	Line Total
1	0.00000	CUFT	\$297.000000	\$0.00			\$0.00

Partial Depth Repair

**Extended Description:**

Vendor Rep: Fletcher Watkins

Vendor Phone: 336-382-2536

Vendor Email: caddmax3553@gmail.com

See Section 1.00 for specifications.

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The General Conditions and Instructions for Solicitations and Contracts shall be incorporated by reference in each solicitation and resulting contract. Therefore, it is the bidder's responsibility to access and read these General Conditions at: : <https://finance.ky.gov/office-of-the-secretary/office-of-policy-and-audit/Pages/Finance-Policies.aspx> scroll down to Procurement Services- Procurement, double click on the file named FAP 110-10-00 General Conditions and Instructions for Solicitations and Contracts or request a copy by contacting the KYTC Division of Purchases buyer named in Section 3.01. Every person submitting a bid to the Commonwealth shall be deemed to have assented to these conditions by the act of bidding.

## **Section 1 - Scope of Work - Service**

### **1.00 - Specifications of Service Requirements**

#### **Purpose**

This master agreement is for preparing and repairing spalls and potholes in JPC pavement. Except as provided herein; conform to all requirements of the Transportation Cabinet's current edition of Standard Specifications for Road and Bridge Construction. Section references are to the Standard Specifications.

#### **Materials**

**Partial Depth Repair Materials shall be Fibercrete G.**

#### **Method of Delivery**

Locations and an estimate of repairs will be furnished to the Contractor through the issuance of a written Transportation Delivery Order. Locations of repairs will be marked by the Engineer.

Provide all labor, equipment, and materials necessary including concrete saws, jackhammers, and Partial Depth Repair material to prepare and repair spalls and potholes in JPC pavement. All loose or damaged concrete shall be removed prior to placing the Partial Depth Repair. Install Partial Depth Repair according to manufacturer's specifications.

Traffic Control shall be supplied by the Vendor according to the Manual on Uniform Traffic Control Devices, current edition, and conform to Section 112.03.12, at no additional cost to the Department. Work may be required during night, weekend, and other off peak hours and available work shifts may be less than 8 hours. Notify the Engineer a minimum of 48 hours prior to beginning work and obtain approval of proposed work schedule.

The minimum quantity for a Delivery Order will be two hundred (200) cubic feet. Work in multiple counties may be combined on the same Delivery Order. The minimum quantity may be adjusted if mutually agreed upon by the Engineer and Vendor.

Perform work at any location(s) within the Commonwealth of Kentucky as directed by the Engineer.

Warrant workmanship and materials for the vendor's guaranteed warranty period. In no event shall the warranty be less than one year.

Specify the length of time required before the repaired areas can be opened to traffic. In no event shall the time exceed two hours.

Contract pay items shall consist of:

**Partial Depth Repair, Unit = Cubic Foot**

#### **Sampling and Testing**

Partial Depth Repair materials shall be certified and/or sampled, tested and accepted in accordance with the Department's Sampling Manual. All rejected materials shall be acceptably corrected by the Vendor at no additional cost to the Department.

#### **Method of Measurement and Basis of Payment**

Payment at the contract unit price per cubic foot shall be full compensation for all labor, materials, equipment, and incidentals for the preparation of repair areas and placing the Partial Depth Repair. Partial Depth Repair will be measured in cubic feet.

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The Vendor shall be paid upon the submission of the proper invoices to the receiving unit at the prices stipulated for the materials and services delivered and accepted. Payment will not be made for partial deliveries.

#### **Warranty Period**

Warranty period will be the number of months the work is warranted by the vendor. The vendor agrees to repair or replace all failed materials, as determined by the Engineer, during the warranty period at no additional cost to the Cabinet.

**Vendor guarantees that the work will be warranted for 60 months after completion.**

#### **Time to Open to Traffic**

Time to open to traffic will be the number of minutes required to open to traffic, beginning from the time the last patch within a single lane closure is placed and finished. The Vendor agrees to and further authorizes the Transportation Cabinet to deduct as a penalty, \$20.00 per cubic foot for each cubic foot of material that is placed and not ready to open traffic within the Vendor's guaranteed time to open to traffic.

**Vendor guarantees traffic will be reopened within 29 minutes from the time the last patch is finished.**

#### **1.01 – Insurance Requirements:**

The successful bidder shall be responsible for maintaining this coverage through the entire contract term:

1. Contractor's General Liability Insurance with limits of liability of \$1,000,000.00 per occurrence.
2. Kentucky worker's compensation insurance in accordance with the requirements of KRS 45A.480 and KRS Chapter 342.

The successful bidder shall furnish an ACORD Certificate within ten (10) days of notice of intent to award with:

A. The certificate holder listed as:

Kentucky Transportation Cabinet  
Division of Purchases 4th Floor East  
200 Mero Street  
Frankfort, KY 40622

B. The Endorsement indicating the Commonwealth and its agents as an Additional Insured for the contract resulting from this solicitation.

C. The contract number in the Description of Operations box.

Failure to furnish said certificates or to indicate the contract number shall be grounds for cancellation of the contract.

The successful bidder shall provide an up-to-date copy of the certificate upon renewal of the policy. Failure to do so shall result in cancellation of the contract.

The insurance shall be endorsed to state that coverage shall not be suspended, voided, cancelled by either party, reduced in coverage limits, except after thirty (30) days prior written notice by certified mail, return receipt requested, has been given to the agencies.

The insurance coverage shall be in compliance with the laws of the Commonwealth of Kentucky and shall be placed with a licensed resident or non-resident agent who represents insurance companies authorized to do business in Kentucky. A list of authorized companies can be found at <http://insurance.ky.gov/company>. Failure to meet this requirement may result in the bid being deemed non-responsive.

The insurer shall have an AM Best rating of B+ or higher. Visit [www.ambest.com](http://www.ambest.com) for verification. Failure to meet this requirement may result in the bid being deemed non-responsive.

## **Section 2 - Terms and Conditions of the Contract**

### **2.00 – Scope of the Contract**

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The Kentucky Transportation Cabinet Division of Purchases issues this solicitation on behalf of the [Division of Maintenance](#) to award a master agreement contract for: Partial Depth Repair

## **2.01 - Contract Components and Order of Precedence**

The Commonwealth's acceptance of the offer indicated by the issuance of an Award by the KYTC Division of Purchases shall create a valid Master Agreement consisting of the following:

1. The written Master Agreement between the Parties;
2. Any Addenda to the Solicitation;
3. Any provisions of the Solicitation and all attachments thereto;
4. The Bidder's response to the Solicitation, and
5. The Kentucky Revised Statutes KRS 45A.

In the event of an inconsistency between provisions of the solicitation, the inconsistency shall be resolved by giving precedence in the following order: (a) the Specifications; (b) other provisions of the Solicitation, whether incorporated by reference or otherwise; (c) Contract or Master Agreement Terms and Conditions; (d) FAP 110-10-00 – General Conditions and Instructions for Solicitations and Contracts.

## **2.02 - Initial Contract Period**

The Master Agreement will be for the initial period beginning upon award and expiring May 31, 2023.

## **2.03 - Optional Renewal Period**

This Master Agreement may be extended at the completion of the initial contract period for four (4) additional one-year periods. This extension must have the written approval of the vendor and the KYTC Division of Purchases. The Commonwealth of Kentucky reserves the right to renegotiate any terms and/or conditions as may be necessary to meet requirements for the extended period. The vendor will be advised of any proposed revisions prior to the renewal periods. In the event proposed revisions cannot be agreed upon, either party shall have the right to withdraw without prejudice from either exercising the option or continuing the contract in an extended period.

## **2.04 - Divisions/Agencies to Be Served**

This contract shall be for use by the following Divisions/Agencies of the Kentucky Transportation Cabinet:  
[Division of Maintenance and Districts 1-12](#)

No shipments or services are authorized until an official Delivery Order has been fully processed by an authorized agency.

## **2.05 - Quantity Basis of Contract**

Any and all quantities mentioned in this solicitation are purely estimates, and are not to be implied nor inferred as being guarantees. The State is obligated to buy only that quantity needed by its agencies during the term of the contract. Requirements may exceed the quantities shown and the contractor will be required to furnish all requirements shown on Delivery Orders dated during the life of the contract.

## **2.06 - Exception to Required Use of Contract**

The establishment of this Master Agreement is not intended to preclude the use of similar products when requested by the agency. The Commonwealth of Kentucky reserves the right to acquire large requirements through other competitive processes.

## **2.07 - Basis of Price Revisions**

PRICE ADJUSTMENTS: Unless otherwise specified, the prices established by the Master Agreement shall be firm for the contract period subject to the following:

A. Price Increases: A price increase will not be allowed during the first twelve (12) months of the contract. Only one price increase will be allowed during the contract period. The price increase must be based on industry wide price changes. The contract holder must request in writing a price increase at least thirty (30) days prior to the effective date, and shall provide firm proof that the price increase(s) is justified. The KYTC Division of Purchases may request additional information or justification. If the price increase is

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denied, the contract holder may withdraw from the contract without prejudice upon written notice and approval by the KYTC Division of Purchases. Notice of withdrawal must be provided a minimum of forty-five (45) days prior to the effective date however the vendor must continue service at the contract prices until a new contract can be established (usually within sixty (60) days).

B. Price Decreases: The contract price shall be reduced to reflect any industry wide price decreases. The contract holder is required to furnish the KYTC Division of Purchases with notice of any price decreases as soon as such decreases are available.

C. Extended Contract Periods: If the contract provides for an optional renewal period, a price adjustment may be granted at the time the contract is renewed, subject to price increase justification as required "A. Price Increases". One (1) additional price increase may be granted during the extended contract period. This price increase will not be allowed during the first six (6) months of the extended contract period and will be subject to the conditions in "A" above.

## **2.08 - Addition or Deletion of Items or Services**

The KYTC Division of Purchases reserves the right to add new and similar items, with the consent of the vendor, to the contract. If an addition is agreeable to both parties, the KYTC Division of Purchases will issue a Modification. Until such time as the vendor receives a Modification, the vendor shall not accept Delivery Orders from any agency referencing such items or services.

## **2.09 - Changes and Modifications to the Contract**

During the period of the contract, a modification shall not be permitted in any of its conditions and specifications, unless the contractor receives electronic or written approval from the KYTC Division of Purchases. If the contractor finds at any time that existing conditions make modification in requirements necessary, the contractor shall report the matter promptly to the KYTC Division of Purchases for consideration and decision. All contract modifications shall be subject to the provisions of 200 KAR 5:311.

## **2.10 - Reduction in Contract Worker Hours/Employee Furlough**

The Kentucky General Assembly may allow for a reduction in contract worker hours in conjunction with a budget balancing measure for some professional and non-professional service contracts. If under such authority the agency is required by Executive Order or otherwise to reduce contract hours, the contract will be reduced by the amount specified in that document. The reduction of hours may be applicable to those contract workers that provide a service in state government buildings on a regularly scheduled basis, such as janitorial, security guard, mailing services, and food services. These services will be reduced in hours only in those circumstances where the buildings will be closed. A notification will be sent to the contract holder in advance of any scheduled reduction in contract hours.

## **2.11 - Basis of Shipment**

Quotations of unit prices on this solicitation shall be F.O.B. Destination Freight Prepaid and Allowed to the receiving agency. The vendor shall be fully responsible for all shipments and freight charges involved to the ordering agency. The responsibility for filing freight claims lies with the vendor.

## **2.12 - Delivery Orders for Services**

No services are authorized until an official Delivery Order has been fully processed by an authorized agency or payment has been made via Pro-Card.

Penalties assessed for delays in response or completion time will be calculated based on the date of the Delivery Order and the response/completion time stated in Section 2.13

Payment shall be made against the actual quantities of work performed. The Delivery Order shall be modified to adjust quantities if needed.

Any work assigned prior to contract expiration will be considered cancelled if the work has not been initiated at the time of expiration. There will be no claim for damages allowed by reason of cancellation thereof.

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If additional time is needed to complete assigned work, please send a request to the Division of Purchases two weeks prior to expiration date. Per Section 2.28, this extension shall not exceed ninety (90) days.

### **2.13 - Notices**

The Division of Purchases Buyer identified below shall be the sole point of contact throughout the procurement process. All communications, oral and written (regular, express, or electronic mail) concerning this procurement shall be submitted to:

Dustin Rowland  
KYTC Division of Maintenance  
Phone: 502-564-4538  
Email: [Dustin.Rowland@ky.gov](mailto:Dustin.Rowland@ky.gov)

With a copy to:

Amanda Lewis  
Division of Purchases  
Kentucky Transportation Cabinet  
Phone: 502-782-4003  
E-mail: [Amanda.Lewis2@ky.gov](mailto:Amanda.Lewis2@ky.gov)

After the award of a contract, all programmatic communications are to be made to the Agency Contact Person identified in the contract document with a copy to the Division of Purchases Buyer.

After the Award of a contract, all communications of a contractual or legal nature are to be made to the KYTC Division of Purchases Buyer.

### **2.14 - Response**

Response at the earliest possible date is desired.

**Vendor guarantees a response time of 1 calendar day to begin work after the receipt of a delivery order.**

The Vendor agrees that when response is not made within the contracted due date, one percent (1%) per day shall be deducted from the Vendor's invoice for each day the Vendor fails to meet the contracted delivery date.

The Vendor is not responsible for, and shall not be penalized for delays in its delivery when caused by factors or events outside Vendor's control, including but not limited to acts or omissions of the Commonwealth or third parties, acts of civil or military authority, civil disturbance, war, terrorism, pandemics, explosions, fire, floods, tornadoes or other natural disasters or acts of God.

### **2.15 - Inspection**

All supplies, equipment and services shall be subject to inspection or tests by the Commonwealth prior to acceptance. In the event supplies, equipment or services are defective in material or workmanship or otherwise not in conformity with specified requirements, the Commonwealth shall have the right to reject the items or services or require acceptable correction at the vendor's expense.

### **2.16 - Invoices**

Invoices, if required, shall be prepared and transmitted to the agency receiving the goods or services. One copy shall be marked "original" unless otherwise specified. Each invoice shall contain at least the following information:

- a. Contract and Delivery Order number;
- b. Item numbers;
- c. Description of supplies or services;
- d. Sizes;
- e. Quantities;
- f. Service Dates;
- g. Unit prices; and

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h. Extended totals.

## **2.17 - Payments**

The vendor shall be paid, upon the submission of proper invoices to the receiving agency at the prices stipulated for the supplies delivered and accepted, or services rendered. Unless otherwise specified, payment will not be made for partial deliveries accepted. Payments will be made within thirty (30) working days after receipt of goods and vendor's invoice in accordance with KRS 45.453 and KRS 45.454. A penalty payment of one percent (1%) per month shall be added to the amount due the vendor for each full or partial month that the payment exceeds 30 working days.

## **2.18 - Vendor's Report**

The vendor(s) may be asked to furnish the KYTC Division of Purchases, a report showing volume which has been sold to the Commonwealth and its using agencies each six (6) months of the contract period. The report will include political subdivisions and university purchases. This report may be the vendor's computer printout sheet or form. This shall apply to all items, which are to become a part of this contract. This report must reference usage by brief description, product number or other format designated by the KYTC Division of Purchases.

## **2.19 - Post Contract Agreements**

The Master Agreement shall represent the entire agreement between the parties. Prior negotiations, representations, or agreements, either written or oral, between the parties hereto relating to the subject matter hereof shall be of no effect upon this contract. Unless, contractually provided, the Commonwealth shall not be required to enter into nor sign further agreements, leases, company orders or other documents to complete or initiate the terms of the contract. Any such documents so obtained will be non-binding on the State and be cause for breach of contract.

## **2.20-Subcontracts**

The contractor is permitted to make subcontract(s) with any other party for furnishing any of the work or services herein. The contractor shall be solely responsible for performance of the entire contract whether or not subcontractors are used. The Commonwealth shall not be involved in the relationship between the prime contractor and the subcontractor. Any issues that arise as a result of this relationship shall be resolved by the prime contractor.

All references to the contractor shall be construed to encompass both the contractor and any subcontractors of the contractor.

The vendor shall notify the Commonwealth of any planned use of subcontractors in regards to the resulting contract. If the KYTC Division of Purchases is provided evidence of the vendor making such an arrangement without submitting the proper information prior to use of the subcontractor, the contract may be cancelled immediately.

All payments will be made directly to the contracted vendor. It is the vendor's responsibility to make payment to the subcontract. Payments shall not be made to the subcontractor by the Commonwealth. Subcontractors having nonpayment issues that could not be resolved with the Vendor, should report in detail these incidents to the buyer of record for this solicitation.

The Vendor shall ensure that all contractors or subcontractors comply with all applicable Federal, State, and Local laws, regulation, mandates, and terms of this solicitation and resulting contract.

## **2.21 - Service Performance**

All services performed under contract shall be in accordance with the terms and conditions of the contract. It will be the agency's responsibility to ensure that such services rendered are performed and are acceptable.

The relationship between the State and the Contractor is that of client and independent Contractor. No agent, employee, or servant of the Contractor or any of its subcontractors shall be or shall be deemed to be an employee, agent, or servant of the State for any reason. The Contractor will be solely and entirely



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responsible for its acts and the acts of its agents, employees, servants and subcontractors during the performance of this Contract.

Deviations of services performed will not be made without the written approval of the KYTC Division of Purchases. Problems that arise under any aspect of performance should first be resolved between the vendor and the agency. If such problems and/or disagreements cannot be resolved they should be referred to the KYTC Division of Purchases for mediation.

## **2.22 - Assignment**

The vendor shall not assign this Master Agreement in whole or in part to another vendor at any time during the initial or optional renewal terms of the contract, without the consent, guidance and approval of the Commonwealth. Any assignment hereunder entered into, subsequent to the execution of the contract with the prime vendor, must be annotated and approved by the Commonwealth. Any purported assignment without this consent shall be null and void.

## **2.23 – Ethics Compliance**

Contractor certifies that contractor and its employees will not offer or provide gifts to KYTC employees in excess of \$25.00 in any single calendar year as defined in KRS 11A.045 (1) and KYTC General Administration and Personnel Policy GAP-808. Moreover, contractor certifies that contractor and its employees will not offer any ticket to a sporting event to a KYTC employee without being reimbursed the face value amount for said ticket as defined in KRS 11A.045 (2).

It is agreed and understood that non-compliance with the above provisions may result in the suspension of vendor procurement participation, contract termination, and/or debarment.

## **2.24 - Termination of Contracts**

A contract may be terminated for default by the vendor, for the convenience of the Commonwealth, or for lack of appropriation in accordance with 200 KAR 5:312.

## **2.25 - Endorsements**

The Contractor shall not refer to the Award of Contract in commercial advertising in such a manner as to state or imply that the firm or its services are endorsed or preferred by the Commonwealth of Kentucky.

## **2.26 - Registration with the Secretary of State by a Foreign Entity**

Pursuant to KRS 45A.480(1)(b), an agency, department, office, or political subdivision of the Commonwealth of Kentucky shall not award a state contract to a person that is a foreign entity required by KRS 14A.9-010 to obtain a certificate of authority to transact business in the Commonwealth ("certificate") from the Secretary of State under KRS 14A.9-030.

For all foreign entities required to obtain a certificate of authority to transact business in the Commonwealth, if a copy of the certificate is not received within the time specified by the Division of Purchases, the foreign entity's solicitation response may be deemed non-responsive. If the foreign entity is not required to obtain a certificate as provided in KRS 14A.9-010, the foreign entity should identify the applicable exception in its solicitation response. Foreign entity is defined within KRS 14A.1-070.

Vendors are required to remain in active and good standing during the life of the contract.

[Businesses can register with the Secretary of State at https://onestop.ky.gov/Pages/default.aspx](https://onestop.ky.gov/Pages/default.aspx)

## **2.27 - Discrimination**

Discrimination (because of race, religion, color, national origin, sex, sexual orientation, gender identity, age, or disability) is prohibited. This section applies only to contracts utilizing federal funds, in whole or in part. During the performance of this contract, the contractor agrees as follows:

1. The contractor will not discriminate against any employee or applicant for employment because of race, religion, color, national origin, sex, sexual orientation, gender identity or age. The contractor further agrees to comply with the provisions of the Americans with Disabilities Act (ADA), Public Law 101-336, and applicable federal regulations relating thereto prohibiting discrimination against otherwise qualified disabled individuals under any program or activity. The contractor agrees to provide, upon



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request, needed reasonable accommodations. The contractor will take affirmative action to ensure that applicants are employed and that employees are treated during employment without regard to their race, religion, color, national origin, sex, sexual orientation, gender identity, age or disability. Such action shall include, but not be limited to the following; employment, upgrading, demotion or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensations; and selection for training, including apprenticeship. The contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices setting forth the provisions of this non-discrimination clause.

2. The contractor will, in all solicitations or advertisements for employees placed by or on behalf of the contractor, state that all qualified applicants will receive consideration for employment without regard to race, religion, color, national origin, sex, sexual orientation, gender identity, age or disability.

3. The contractor will send to each labor union or representative of workers with which he has a collective bargaining agreement or other contract or understanding, a notice advising the said labor union or workers' representative of the contractor's commitments under this section, and shall post copies of the notice in conspicuous places available to employees and applicants for employment. The contractor will take such action with respect to any subcontract or purchase order as the administering agency may direct as a means of enforcing such provisions, including sanctions for noncompliance.

4. The contractor will comply with all provisions of Executive Order No. 11246 of September 24, 1965 as amended, and of the rules, regulations and relevant orders of the Secretary of Labor.

5. The contractor will furnish all information and reports required by Executive Order No. 11246 of September 24, 1965, as amended, and by the rules, regulations and orders of the Secretary of Labor, or pursuant thereto, and will permit access to his books, records and accounts by the administering agency and the Secretary of Labor for purposes of investigation to ascertain compliance with such rules, regulations and orders.

6. In the event of the contractor's noncompliance with the nondiscrimination clauses of this contract or with any of the said rules, regulations or orders, this contract may be cancelled, terminated or suspended in whole or in part and the contractor may be declared ineligible for further government contracts or federally-assisted construction contracts in accordance with procedures authorized in Executive Order No. 11246 of September 24, 1965, as amended, and such other sanctions may be imposed and remedies invoked as provided in or as otherwise provided by law.

7. The contractor will include the provisions of paragraphs (1) through (7) of section 202 of Executive Order 11246 in every subcontract or purchase order unless exempted by rules, regulations or orders of the Secretary of Labor, issued pursuant to section 204 of Executive Order No. 11246 of September 24, 1965, as amended, so that such provisions will be binding upon each subcontractor or vendor. The contractor will take such action with respect to any subcontract or purchase order as the administering agency may direct as a means of enforcing such provisions including sanctions for noncompliance; provided, however, that in the event a contractor becomes involved in, or is threatened with, litigation with a subcontractor or vendor as a result of such direction by the agency, the contractor may request the United States to enter into such litigation to protect the interests of the United States.

## **2.28 - Kentucky Sales and Use Taxes**

Sales of tangible personal property or services to the State of Kentucky and its agencies are not subject to state sales or use taxes.

## **2.29 - Extension Period**

This contract may be extended at the termination of all contract renewal periods for additional time not to exceed 90 days. This extension must be accompanied by the written approval of the vendor and the Division of Purchases

## **2.30 – Extension to Other Agencies**

The Division of Purchases reserves the right, with the consent of the vendor, to offer this master agreement to other state agencies who may have need for the product(s) and/or service(s). Each state agency must obtain prior approval from the Finance Cabinet Office of Procurement Services.

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If Contracts are used by state agencies other than the Transportation Cabinet, such responsibilities will be assumed by the user agency. All billing and payments for materials/services purchased from an agreement will be directly between the user agencies and Vendors.

### **2.31 - Extension to Political Subdivisions**

The Division of Purchases reserves the right, with the consent of the vendor, to offer this master agreement to political subdivisions and local government entities who may have need for the product(s) and/or service(s). Prior approval from the Finance Cabinet is not required.

If Contracts are used by political subdivisions, such responsibilities will be assumed by the user agency. All billing and payments for materials/services purchased from an agreement will be directly between the user agencies and Vendors.

### **2.32 - Access to Records**

The contractor, as defined in KRS 45A.030 (9) agrees that the contracting agency, the Finance and Administration Cabinet, the Auditor of Public Accounts, and the Legislative Research Commission, or their duly authorized representatives, shall have access to any books, documents, papers, records, or other evidence, which are directly pertinent to this contract for the purpose of financial audit or program review. Records and other prequalification information confidentially disclosed as part of the bid process shall not be deemed as directly pertinent to the contract and shall be exempt from disclosure as provided in KRS 61.878(1)(c). The contractor also recognizes that any books, documents, papers, records, or other evidence, received during a financial audit or program review shall be subject to the Kentucky Open Records Act, KRS 61.870 to 61.884.

### **2.33 - Records Retention**

The Finance and Administration Cabinet may inspect the place of business of the Vendor or any sub Vendor under the master Agreement contract awarded or to be awarded by the Commonwealth. In accordance with KRS 45A.150, the Finance and Administration Cabinet may audit the books and records of any person who has submitted cost or pricing data under KRS 45A.120 at any time until three years from the date of final payment under the prime contract, and by any subcontractor for a period of three years from the date of final payment under the subcontract. Such books and records shall be maintained by the contractor for a period of three years from the date of final payment under the contract and by any subcontractor for a period of three years from the date of final payment under the subcontract. The Finance and Administration Cabinet shall be entitled to audit the books and records of a contractor or any subcontractor under any negotiated contract or subcontract other than a firm fixed-price type contract, provided, however, that this provision shall not limit the right to audit stated above. Such books and records shall be maintained by the contractor for a period of three years from the date of final payment under the prime contract and by the subcontractor for a period of three years from the date of final payment under the subcontract. The contractor shall place such the same audit requirement in any agreement it may have with a subcontractor under this contract.

### **2.34 - Governing Law**

This Contract shall be governed by and construed in accordance with the laws of the Commonwealth of Kentucky and any litigation with respect to this Contract shall be brought in state or federal court in Franklin County, Kentucky in accordance with KRS 45A.