STATE OF MICHIGAN
ENTERPRISE PROCUREMENT

Department of Technology, Management, and Budget
525 W. ALLEGAN ST., LANSING, MICHIGAN 48913
P.O. BOX 30026 LANSING, MICHIGAN 48909

CONTRACT CHANGE NOTICE

Change Notice Number **5**

to

Contract Number **071B0200226**

CONTRACTOR	
	Smith Sanitation Inc.
	17097 S. Johnson Road
	Rodyard, MI 49780
	Jim Smith
	906-478-4030
	jfsmith@lighthouse.net
	*******6876

STATE			
	Program Manager	George Servarns	MDOC
		906-293-0005	
		Sevarnsg@michigan.gov	
	Contract Administrator	Lymon C. Hunter, CPPB	DTMB
		(517) 284-7015	
		hunterl@michigan.gov	

CONTRACT SUMMARY

RUBBISH REMOVAL SERVICES - MRO SUPERIOR DOC

INITIAL EFFECTIVE DATE	INITIAL EXPIRATION DATE	INITIAL AVAILABLE OPTIONS	EXPIRATION DATE BEFORE CHANGE(S) NOTED BELOW
July 1, 2010	July 1, 2015	1 - 1 Year	December 31, 2016

PAYMENT TERMS	DELIVERY TIMEFRAME
Net 45 Days	Per the specifications

ALTERNATE PAYMENT OPTIONS			EXTENDED PURCHASING	
☐ P-Card	☐ Direct Voucher (DV)	☐ Other	☐ Yes	☒ No

MINIMUM DELIVERY REQUIREMENTS

N/A

DESCRIPTION OF CHANGE NOTICE

OPTION	LENGTH OF OPTION	EXTENSION	LENGTH OF EXTENSION	REVISED EXP. DATE
☐		☒	3 Months	March 31, 2017

CURRENT VALUE	VALUE OF CHANGE NOTICE	ESTIMATED AGGREGATE CONTRACT VALUE
$328,490.00	$14,562.00	$343,052.00

DESCRIPTION

Effective 1/1/17, this contract is extended 3 months; and is increased by $14,562.00. The revised contract expiration date is 3/31/17. All other terms, conditions, specifications, and pricing remain the same. Per agency & contractor request, DTMB Procurement approval, and State Administrative Board approval on 01/10/17.

STATE OF MICHIGAN
ENTERPRISE PROCUREMENT

Department of Technology, Management, and Budget
525 W. ALLEGAN ST., LANSING, MICHIGAN 48913
P.O. BOX 30026 LANSING, MICHIGAN 48909

CONTRACT CHANGE NOTICE

Change Notice Number **4**
to
Contract Number **071B0200226**

CONTRACTOR	
	Smith Sanitation Inc.
	17097 S. Johnson Road
	Rodyard, MI 49780
	Jim Smith
	906-478-4030
	jfsmith@lighthouse.net
	*******6876

STATE			
	Program Manager	Marilyn Keto	DOC
		906.226.1804	
		KetoM@michigan.gov	
	Contract Administrator	Lymon C. Hunter, CPPB	DTMB
		(517) 284-7015	
		HunterL@michigan.gov	

CONTRACT SUMMARY

DESCRIPTION: RUBBISH REMOVAL SERVICES - MRO SUPERIOR DOC

INITIAL EFFECTIVE DATE	INITIAL EXPIRATION DATE	INITIAL AVAILABLE OPTIONS	EXPIRATION DATE BEFORE CHANGE(S) NOTED BELOW
July 1, 2010	July 1, 2015	1 - 1 Year	July 1, 2016

PAYMENT TERMS	DELIVERY TIMEFRAME
Net 45 Days	Per specifications

ALTERNATE PAYMENT OPTIONS			EXTENDED PURCHASING	
☐ P-card	☐ Direct Voucher (DV)	☐ Other	☐ Yes	☒ No

MINIMUM DELIVERY REQUIREMENTS

N/A

DESCRIPTION OF CHANGE NOTICE

OPTION	LENGTH OF OPTION	EXTENSION	LENGTH OF EXTENSION	REVISED EXP. DATE
☐		☒	6 Months	December 31, 2016

CURRENT VALUE	VALUE OF CHANGE NOTICE	ESTIMATED AGGREGATE CONTRACT VALUE
$ 328,490.00	$0.00	$ 328,490.00

DESCRIPTION: Effective 07/01/16, this contract is extended 6 months; and is increased by $0.00. The revised contract expiration date is 12/31/16. All other terms, conditions, specifications, and pricing remain the same. Per agency request, DTMB Procurement approval, and State Administrative Board approval on 06/21/16.

Form No. DTMB-3521 (Rev. 10/2015)
AUTHORITY: Act 431 of 1984
COMPLETION: Required
PENALTY: Contract change will not be executed unless form is filed

STATE OF MICHIGAN

DEPARTMENT OF TECHNOLOGY, MANAGEMENT & BUDGET

PROCUREMENT

525 W. ALLEGAN STREET
LANSING, MI 48933

P.O. BOX 30026
LANSING, MI 48909

CHANGE NOTICE NO. 3
to
CONTRACT NO. 071B0200226
between
THE STATE OF MICHIGAN
and

NAME & ADDRESS OF CONTRACTOR	PRIMARY CONTACT	EMAIL
Smith Sanitation Inc.	Jim Smith	jfsmith@lighthouse.net
3239 W. M-28	PHONE	CONTRACTOR'S TAX ID NO. (LAST FOUR DIGITS ONLY)
Brimley, MI 49715	906-635-3380	*****6876

STATE CONTACTS	AGENCY	NAME	PHONE	EMAIL
PROGRAM MANAGER / CCI	**MDOC**	See location spec sheet	906.293.0005	
CONTRACT ADMINISTRATOR	DTMB	Lymon Hunter, CPPB	(517) 284-7015	HunterL@michigan.gov

CONTRACT SUMMARY			
DESCRIPTION: Rubbish Removal Services - Mro Superior Doc			
INITIAL EFFECTIVE DATE	INITIAL EXPIRATION DATE	INITIAL AVAILABLE OPTIONS	EXPIRATION DATE BEFORE CHANGE(S) NOTED BELOW
July 1, 2010	July 1, 2015	1 - 1 Year	July 1, 2016
PAYMENT TERMS		DELIVERY TIMEFRAME	
N/A		Per Specifications	
ALTERNATE PAYMENT OPTIONS			EXTENDED PURCHASING
☐ P-card ☐ Direct Voucher (DV) ☐ Other			☐ Yes ☒ No
MINIMUM DELIVERY REQUIREMENTS			
N/A			

DESCRIPTION OF CHANGE NOTICE				
EXERCISE OPTION?	LENGTH OF OPTION	EXERCISE EXTENSION?	LENGTH OF EXTENSION	REVISED EXP. DATE
☐		☐		July 1, 2016
CURRENT VALUE	VALUE OF CHANGE NOTICE	ESTIMATED AGGREGATE CONTRACT VALUE		
$ 328,490.00	$ 0.00	$ 328,490.00		

DESCRIPTION: Effective January 28, 2016, the existing state owned 35 CY compactor is being replaced with a newer monthly rental 35 CY Self Contained Compactor per the attached revised location specification sheet. All other terms, conditions, specifications and pricing remain the same. Per Contractor proposal and agency agreement and DTMB Procurement approval.

MAINTENANCE, REPAIR & OPERATIONS (MRO)
RUBBISH REMOVAL - GENERAL – Contract: 071B0200226

REVISED LOCATION SPECIFICATION SHEET (LSS)

SECTION I – Newberry Correctional Facility

LOCATION: 3001 NEWBERRY AVE., NEWBERRY, MI 49868

7/201			
ESTIMATED CONTRACT START DATE:	7/1/2010	**CONTRACT END DATE:**	7/1/2016
PREVIOUS BPO #:			
CONTRACT INFORMATION:	Adding to Existing LLS Sheet to take Facility Owned Contained Compactor out of rotation and Replacing it with a leased 35 yd Compactor.		
CONTRACTING AGENCY NAME:	Newberry Correctional Facility		
BUILDING NAME AND NUMBER:	N/A		
BUILDING ADDRESS:	N/A		
REGION / COUNTY:	Northern Region/Luce County		
PROCUREMENT CONTACT INFORMATION			
PROCUREMENT OFFICE NAME:	Marilyn Keto		
PROCUREMENT OFFICE CONTACT NAME:	**Marilyn Keto**	**CONTACT PHONE #:**	**906 226-1804**
PROCUREMENT OFFICE CONTACT E-MAIL:	**Ketom@michigan.gov**	**CONTACT FAX #:**	906 226-1804
CONTRACT COMPLIANCE INSPECTOR (CCI) / FACILITY MANAGER (FM) NAME:	George Sevarns	**CONTACT PHONE #:**	906 293-0005
CCI / FM CONTACT E-MAIL:	SevarnsG@michigan.gov	**CONTACT FAX #:**	

LOCATION INFORMATION			
OFFICIAL WORKING DAYS OF BUILDING OCCUPANTS:	N/A	OFFICIAL WORKING HOURS OF BUILDING OCCUPANTS:	N/A
ESTIMATE OF AREA TO BE SERVICED: **(IF APPLICABLE)**	N/A	**(FILL IN IF NEEDED)**	N/A
IDENTIFY DAYS OF SERVICE:	See Below	**IDENTIFY HOURS OF SERVICE: [EXAMPLE: 8:00 A.M. TO 4:30 P.M.]**	See Below

SPECIFICATIONS

RUBBISH REMOVAL SERVICES

CONTRACT PERIOD: July 1, 2010 TO July 1, 2016 (FIVE YEARS + 1 OPTION YEAR)

AGENCY CONTACT PERSON: Marilyn Keto PHONE: 906 226-1804

1. Furnish, install, set in place, and service containers as specified on the Pricing Sheets. Facility Manager or designee will determine location of containers, collection frequency, and times.

2. Holidays will be included in pick-up times unless no pick up is required by mutual agreement with the agency.

3. The contractor must have equipment and personnel to adequately perform the specified service. In the event of mechanical breakdown of trucks or equipment the contractor will be expected to provide backup service so that pick-ups will be performed as required.

4. All containers are to be "NEW" at the beginning of this contract. Thereafter**,** containers shall be clean and well painted and kept in like new condition. Containers shall have tight fitting top loading split covers with lid positioners.

5. Any of the locations may be canceled from the proposed contract if the service is no longer required.

6. Contractor vehicles and personnel entering and leaving the facility property will be searched.

7. The State Prison of Southern Michigan owns all necessary compactor boxes. All other containers will be the property of the contractor and maintenance of those containers will be the responsibility of the contractor.

8. The agency will notify the contractor by phone of all pick-ups identified on the pricing sheets as "**on call**". The contractor is to respond to the agency **"on-call"** request for pick-up within 24-hours. This may include Saturday.

9. All refuse containers will be handled carefully and with caution to avoid damage or abuse that would cause them to be unsightly. Any contractor owned container that presents a hazard to the agency or public must be immediately removed and replaced by the contractor.

10. Refuse and accumulations spilled from container while being serviced must be immediately cleaned up by contractor's collector.

11. When excess refuse is stacked against full containers, this material must also be picked up with collection.

12. Collection vehicles shall not be parked longer than necessary to make vicinity collections.

13. Refuse accumulation shall include any and all materials that are discarded by agency during the use, operation and maintenance of the facility.

14. PICK-UPS SHALL BE BETWEEN THE HOURS OF 7:00 AM TO 4:00 PM MONDAY THROUGH FRIDAY. CONTRACTOR VEHICLES WILL NOT BE ALLOWED TO ENTER FACILITIES DURING THE LUNCH COUNT (10:45 AM – 12:15 PM).

15. Invoice billings shall be rendered on a monthly basis to the agency where the service is performed. Bill To Address: 3001 Newberry Ave, Newberry, MI 49868

PRICING SHEET - A

RUBBISH REMOVAL

COLLECTION FEE:

- **The collection fees represent all costs for the pick up and hauling for a round trip travel. The estimated pick-ups (collection frequency) indicated below represent the number of round trips anticipated for a weekly or monthly period. The One Year Collection Fee represents the price per month or price per pull multiplied by the estimated number of months or pulls.**

DISPOSAL SERVICE PRICE:

- **This incinerator/disposal rate represents the current "gate rate" or "transfer station rate" for rubbish. This unit price will be applied to the number of TONS accumulated from every container per round trip travel.**

- **The State does not own the 4 cubic yard, 6 cubic yard, or the open top containers.**

ATTACHMENT A

REVISED COLLECTION FEES

Container Size	Location	Collection Frequency	Service Required	Collection Fee	Months	Six Month Collection Fee
					.	
35 yd Self Contained Compactor	Replacing Facility Owned Compactor with lease unit	**WEEKLY**	Furnish, Pick Up & Hauling	$2,731.00/ Mo.	6 Mos.	$16,386.00
(2) 6 Cubic Yard Containers	1-Admin 1-Maintenance	**WEEKLY**	Furnish, Pick Up & Hauling	$400.00/Mo.	6 Mos.	$2,400.00
8 CY Container	Warehouse	**WEEKLY**	Furnish, Pick Up & Hauling	$230.00/Mo.	6 Mos.	$1,380.00
Total Six Months Collection Fee					**$20,166.00**	

❖ Hold delivery of container. Agency to contact vendor when this container is to be delivered.

DISPOSAL FEES

EA 35 CY Self-Contained Compactor Box

$52.00 Incinerator/disposal rate per ton x 345.76 tons (Est/yr)= **$8,970.00**

* Tonnage listed is estimated quantity for pricing purposes only.

SUMMARY PRICING

Total Six Month Collection Fee (A1)	Total Six Month Disposal Fee (A2)	Total Six Month Service Price (A1+A2)
$20,166.00	$8,970.00	**$29,136.00**

The collection fee for one additional pick up & hauling of the following containers is:

$200.00	One 8 cubic yard container.
$200.00	One 6 cubic yard container.
$550.00	One 33 cubic yard container.
$ 52.00	Current incinerator/disposal rate: (per ton)

Form No. DTMB-3521 (Rev. 4/2012)
AUTHORITY: Act 431 of 1984
COMPLETION: Required
PENALTY: Contract change will not be executed unless form is filed

STATE OF MICHIGAN
DEPARTMENT OF TECHNOLOGY, MANAGEMENT AND BUDGET
PROCUREMENT
P.O. BOX 30026, LANSING, MI 48909
OR
525 W. ALLEGAN, LANSING, MI 48933

CHANGE NOTICE NO. 2
to
CONTRACT NO. 071B0200226
between
THE STATE OF MICHIGAN
and

NAME & ADDRESS OF CONTRACTOR:	PRIMARY CONTACT	EMAIL
Smith Sanitation, Inc. **17097 S. Johnson Road** **Rudyard, MI 49780**	Jim Smith	**jfsmith@lighthouse.net**
	TELEPHONE	**CONTRACTOR #, MAIL CODE**
	(906) 478-4030	

STATE CONTACTS	AGENCY	NAME	PHONE	EMAIL
CONTRACT COMPLIANCE INSPECTOR	MDOC	See Location Specification Sheet	**906.293.0005**	
BUYER	DTMB	Lymon C. Hunter, CPPB	517.284.7015	HunterL@michigan.gov

CONTRACT SUMMARY:

DESCRIPTION: **Rubbish Removal Services – MRO – Superior Region - DOC**

INITIAL EFFECTIVE DATE	INITIAL EXPIRATION DATE	INITIAL AVAILABLE OPTIONS	EXPIRATION DATE BEFORE CHANGE(S) NOTED BELOW
July, 1, 2010	July 1, 2015	**2 one-year options**	July 1, 2015
PAYMENT TERMS	**F.O.B**	**SHIPPED**	**SHIPPED FROM**
N/A	N/A	N/A	N/A

ALTERNATE PAYMENT OPTIONS:			AVAILABLE TO MiDEAL PARTICIPANTS
☐ P-card	☐ Direct Voucher (DV)	☐ Other	☐ Yes ☒ No

MINIMUM DELIVERY REQUIREMENTS:

N/A

DESCRIPTION OF CHANGE NOTICE:

EXTEND CONTRACT EXPIRATION DATE	EXERCISE CONTRACT OPTION YEAR(S)	EXTENSION BEYOND CONTRACT OPTION YEARS	LENGTH OF OPTION/EXTENSION	EXPIRATION DATE AFTER CHANGE
☐ No ☒ Yes	☒	☐	One year	July 1, 2016

VALUE/COST OF CHANGE NOTICE:	ESTIMATED REVISED AGGREGATE CONTRACT VALUE:
$106,000.00	$328,490.00

Effective July, 2015, contract utilizes the 1st contract option year. The new contract end date is July 1, 2016. This Contract is also increased by $106,000.00. All other terms, conditions, specifications, and pricing remain the same. Per request from contractor, MDOC approval, and DTMB approval.

AUTHORITY: Act 431 of 1984
COMPLETION: Required
PENALTY: Contract will not be executed unless form is filed

STATE OF MICHIGAN
DEPARTMENT OF
TECHNOLOGY, MANAGEMENT AND BUDGET
PURCHASING OPERATIONS
P.O. BOX 30026, LANSING, MI 48909
OR
530 W. ALLEGAN, LANSING, MI 48933

July 14, 2010

CHANGE NOTICE NO. 1
TO
CONTRACT NO. 071B0200226
between
THE STATE OF MICHIGAN
and

NAME & ADDRESS OF CONTRACTOR **Smith Sanitation, Inc.** **17097 S. Johnson Road** **Rudyard, MI 49780** **jfsmith@lighthouse.net**	TELEPHONE: Jim Smith **(906) 478-4030** CONTRACTOR NUMBER/MAIL CODE BUYER/CA (517) 241-1145 **Lymon C. Hunter, CPPB**
Contract Compliance Inspector: See Location Specification Sheet **Rubbish Removal Services – MRO – Superior Region - DOC**	
CONTRACT PERIOD: 3 yrs. + 2 one-year options From: **July 1, 2010** To: **July 1, 2015**	
TERMS **N/A**	SHIPMENT **N/A**
F.O.B. **N/A**	SHIPPED FROM **N/A**
MINIMUM DELIVERY REQUIREMENTS **N/A**	
MISCELLANEOUS INFORMATION:	

NATURE OF CHANGE(S):

Effective immediately, the 33 yard self-contained compactor is properly reflected ont eh attached location specification sheet.

All other terms, conditions, specifications and pricing remain unchanged.

AUTHORITY/REASON:

Per DTMB Purchasing Operations.

TOTAL REVISED AUTHORIZED SPEND LIMIT REMAINS: $270,557.60

MAINTENANCE, REPAIR & OPERATIONS (MRO)
RUBBISH REMOVAL - GENERAL
RUBBISH REMOVAL - GENERAL – CONTRACT#: 071B0200226
LOCATION SPECIFICATION SHEET (LSS)

Consideration for award will be based on Work Plan/Price Quotation in accordance with the specifications, terms and conditions as stated within this solicitation.

SECTION I – PLACE OF SERVICES REQUESTED

LOCATION: NEWBERRY CORRECTIONAL FACILITY
REVISED 3-1-2010

CONTRACT INFORMATION			
ESTIMATED CONTRACT START DATE:	07/01/2010	***CONTRACT END DATE:***	07/01/2015
PREVIOUS BPO #:			
CONTRACT INFORMATION:	Approximately 5 Year Contract with one (1) year option		
CONTRACTING AGENCY NAME:	**NEWBERRY CORRECTIONAL FACILITY**		
BUILDING NAME AND NUMBER:	**3001 Newberry Ave**		
BUILDING ADDRESS:	**Newberry, MI 49868**		
REGION / COUNTY:	Superior/ **LUCE COUNTY**		
PROCUREMENT CONTACT INFORMATION			
PROCUREMENT OFFICE NAME:			
PROCUREMENT OFFICE CONTACT NAME:	***RUTH PAQUIN***	***CONTACT PHONE #:***	***906-495-2275 ext 53118***
PROCUREMENT OFFICE CONTACT E-MAIL:	***paquinre@ michigan.gov***	***CONTACT FAX #:***	***906-495-2967***
FACILITY MANAGER OR CONTACT NAME:	***George Sevarns***	***CONTACT PHONE #:***	***906-293-6200***
CONTACT E-MAIL:	***sevarnGB@ michigan.gov***	***CONTACT FAX #:***	***906-293-0011***

LOCATION INFORMATION			
OFFICIAL WORKING DAYS OF BUILDING OCCUPANTS:	*N/A*	OFFICIAL WORKING HOURS OF BUILDING OCCUPANTS:	N/A
ESTIMATE OF AREA TO BE SERVICED: (IF APPLICABLE)	*N/A*	**(FILL IN IF NEEDED)**	*N/A*
IDENTIFY DAYS OF SERVICE:	*Mon-Friday*	**IDENTIFY HOURS OF SERVICE: [EXAMPLE: 5:30 A.M. TO 5:30 P.M.]**	*7:00 a.m.- 3:00 p.m.*

SPECIFICATIONS

RUBBISH REMOVAL SERVICES

DEPARTMENT OF CORRECTIONS
SUPERIOR REGION AREA
MDOC REGION ONE
NEWBERRY CORRECTIONAL FACILITY

CONTRACT PERIOD: July 1, 2010 TO July 1, 2015 (FIVE YEARS)

AGENCY CONTACT PERSON: George Sevarns, Facility Manager PHONE: 906-293-6200

ALTERNATE CONTACT: Ruth Paquin, Procurement PHONE: 906-495-2275, ext 53118

6. Furnish, install, set in place, and service containers as specified on the Pricing Sheets. Facility Manager or designee will determine location of containers, collection frequency, and times.

7. Holidays will be included in pick-up times unless no pick up is required by mutual agreement with the agency.

8. The contractor must have equipment and personnel to adequately perform the specified service. In the event of mechanical breakdown of trucks or equipment the contractor will be expected to provide backup service so that pick-ups will be performed as required.

9. All containers are to be "NEW" at the beginning of this contract. Thereafter**,** containers shall be clean and well painted and kept in like new condition. Containers shall have tight fitting top loading split covers with lid positioners.

10. Any of the locations may be canceled from the proposed contract if the service is no longer required.

16. Contractor vehicles and personnel entering and leaving the facility property shall be searched.

17. All containers will be the property of the contractor and maintenance of those containers shall be the responsibility of the contractor.

18. The agency shall notify the contractor by phone of all pick-ups identified on the pricing sheets as "**on call**". The contractor is to respond to the agency **"on-call"** request for pick-up within 24-hours. This includes Saturday but historically it does not happen very often.

19. All refuse containers will be handled carefully and with caution to avoid damage or abuse that would cause them to be unsightly. Any contractor owned container that presents a hazard to the agency or public must be immediately removed and replaced by the contractor.

20. Refuse and accumulations spilled from container while being serviced must be immediately cleaned up by contractor's collector, **at no cost to the facility**

21. When excess refuse is stacked against full containers, this material must also be picked up with collection, **at no cost to the facility**.

22. Collection vehicles shall not be parked longer than necessary to make vicinity collections.

23. Refuse accumulation shall include any and all materials that are discarded by agency during the use, operation and maintenance of the facility.

24. PICK-UPS SHALL BE BETWEEN THE HOURS OF 7:00 AM TO 4:00 PM MONDAY THROUGH FRIDAY. CONTRACTOR VEHICLES WILL NOT BE ALLOWED TO ENTER FACILITIES DURING THE COUNT TIMES.

25. Invoice billings shall be rendered on a monthly basis **to the facility serviced**

FOR CORRECTIONAL FACILITIES ONLY:

1. Vendor's vehicle (truck) must be able to be locked when entering the facility. If the driver leaves the cab it must be locked.

2. *The contractor is to pick-up trash at each facility with an empty truck and proceed immediately to landfill to dispose of waste. Copies of receipts from landfill must be sent to the state prior to payment to verify tonnage disposed.*

3. Each driver must be Michigan licensed and cleared on the State Police LEIN check.

4. The possibility exists of an approximate wait of 5 to 20 minutes before vehicles will be able to enter the facility. However, every reasonable effort will be made by the facility to limit waiting time

5. If other vehicles are waiting to enter the sally-port gate, which causes a delay, vendor may **have to** return later the same day for pick-up. **This will be at no cost to the facility.**

6. If a **correctional** facility is experiencing a Lock Down, the contractor's truck may be turned away. **It may be necessary due to security reasons to reschedule the trash pick-up. This will be at no charge to the facility.**

7. **ALL UNCOMPACTED RUBBISH MUST BE COMPACTED AT CONTAINER SITE BEFORE VEHICLE LEAVES FACILITY.**

8. Vendor must meet with agency representative at site to arrange schedules and to receive necessary orientation and security clearances prior to start of any contracted service.

PRICING SHEET - A

RUBBISH REMOVAL

DEPARTMENT OF CORRECTIONS
SUPERIOR REGION AREAS

COLLECTION FEE:

- **The collection fees represent all costs for the pick up and hauling for a round trip travel. The estimated pick-ups (collection frequency) indicated below represent the number of round trips anticipated for a weekly or monthly period. The One Year Collection Fee represents the price per month or price per pull multiplied by the estimated number of months or pulls.**

DISPOSAL SERVICE PRICE:

- **This incinerator/disposal rate represents the current "gate rate" or "transfer station rate" for rubbish. This unit price will be applied to the number of TONS accumulated from every container per round trip travel.**

NOTE TO BIDDERS:

- The State does not own all necessary compactor boxes.

- **The State does not own the 4, 6 or 8 cubic yard, or the open top containers. Therefore, the bidder must include any container rental charge in the unit price quoted for collection fees.**

COLLECTION FEES – ATTACHMENT A

Container Size	Location Newberry Correctional Facility	Collection Frequency	Service Required	Collection Fee	Months or Pulls	One Year Collection Fee
33 Yard Self-Contained Compactor	Food Service	**WEEKLY**	Pick Up & Hauling furnish	$2,381.00/Month	12 Mos.	$28,572.00
(2) 6 Cubic Yard Containers	1-Admin 1-Maintenance	**WEEKLY**	Furnish, Pick Up & Hauling	$400.00/Month	12 Mos.	$4,800.00
8 CY Container	Warehouse	**WEEKLY**	Furnish, Pick Up & Hauling	$230.00/Month	12 Mos.	$2,756.00
Total One Year Collection Fee					**$36,132.00**	

DISPOSAL FEES – ATTACHMENT - A2

ONE YEAR

DISPOSAL FEE

____EA 6 OR 8 CY Containers:

$ _____Incinerator/disposal rate per ton x _____ tons (Est/yr) =

$_____

____EA 33 CY Self-Contained Compactor Box

$52.00 Incinerator/disposal rate per ton x _345.76_ tons (Est/yr)=

$17,979.52

** Tonnage listed is estimated quantity for pricing purposes only.*

SUMMARY PRICING SHEET – A3

Total One Year Collection Fee (A1)	Total One Year Disposal Fee (A2)	Total One Year Service Price (A1+A2)	Total Year Service Price (A1+A2) x 5 Years
$36,132.00	**$17,979.52**	**$54,111.52**	**$270,557.60**

THE COLLECTION FEE FOR ONE ADDITIONAL PICK UP & HAULING OF THE FOLLOWING CONTAINERS IS:

$200.00 **one 8 cubic yard container.**

$200.00 **one 6 cubic yard container.**

$550.00 **one 33 cubic yard container.**

$52.00 Current incinerator/disposal rate: (per ton)

LICENSE REQUIREMENTS

All material picked up shall be disposed of in a facility properly licensed under the requirements of Part 115, Solid Waste Management of the Natural Resources & Environmental Protection Act, 1994 PA 451, as amended (NREPA), (formerly known as Act 641 of 1978, as amended) and the administrative rules adopted pursuant to that act. Proper documentation must be provided.

AND

The disposal site shall be in compliance with applicable state and federal laws, rules, regulations, and shall not be a listed Superfund Site or on the Michigan Sites of Environmental Contamination Priority List published pursuant to Act 201 of 1994, PA 401 (formerly Act 307 of 1982). A listed Superfund Site may be used when the State generated waste is disposed of in a portion of the site which is currently engaged in appropriate remedial response activity regarding those portions of the site which are not in compliance.

AND

Solid waste haulers shall provide disposal services at licensed facilities, which are authorized in the applicable Solid Waste Management Plan(s) to accept solid waste from the locations included in this bid. These sites were identified according to Sections 11513 and 11538(6) of Part 115 and Administrative Rule 711 (e) (iii) (C) of the administrative rules promulgated for Part 115.

If at any time the disposal site is not in compliance with the requirements stipulated above, the State reserves the right to amend or cancel the contractual agreement.

Successful vendor must meet with agency representative at the site to arrange schedules and to receive necessary orientation and security clearances prior to start of any contracted service.

Department of Correction Facility Addresses

Newberry Correctional Facility
3001 Newberry Ave
Newberry, MI 49868

Contract No. 071B0200226
Change Notice No. 1
Signature Page

FOR THE CONTRACTOR:	**FOR THE STATE:**
Smith Sanitation, Inc.	
Firm Name	Signature
	Lymon C. Hunter, CPPB
Authorized Agent Signature	Name/Title
	Commodities Division, Purchasing Operations
Authorized Agent (Print or Type)	Division
Date	Date

AUTHORITY: Act 431 of 1984
COMPLETION: Required
PENALTY: Contract will not be executed unless form is filed

STATE OF MICHIGAN
DEPARTMENT OF
TECHNOLOGY, MANAGEMENT AND BUDGET
PURCHASING OPERATIONS
P.O. BOX 30026, LANSING, MI 48909
OR
530 W. ALLEGAN, LANSING, MI 48933

July 1, 2010

NOTICE
OF
CONTRACT NO. 071B0200226
between
THE STATE OF MICHIGAN
and

NAME & ADDRESS OF CONTRACTOR **Smith Sanitation, Inc.** **17097 S. Johnson Road** **Rudyard, MI 49780** **Email: jfsmith@lighthouse.net**	TELEPHONE: Jim Smith **(906) 478-4030** CONTRACTOR NUMBER/MAIL CODE BUYER/CA (517) 241-1145 **Lymon C. Hunter CPPB**
Contract Compliance Inspector: See Location Specification Sheet **Rubbish Removal Services – MRO – Superior Region - MDOC**	
CONTRACT PERIOD: 3 yrs. + 2 one-year options From: **July 1, 2010** To: **July 1, 2015**	
TERMS **N/A**	SHIPMENT **N/A**
F.O.B. **N/A**	SHIPPED FROM **N/A**
MINIMUM DELIVERY REQUIREMENTS **N/A**	
MISCELLANEOUS INFORMATION:	

The terms and conditions of this Contract are those of RFP #071I0200034, this Contract Agreement and the vendor's quote dated March 1, 2010. In the event of any conflicts between the specifications, and terms and conditions, indicated by the State and those indicated by the vendor, those of the State take precedence.

Estimated Contract Value: $222,490.00

Form No. DMB 234 (Rev. 1/96)
AUTHORITY: Act 431 of 1984
COMPLETION: Required
PENALTY: Contract will not be executed unless form is filed

STATE OF MICHIGAN
DEPARTMENT OF
TECHNOLOGY, MANAGEMENT AND BUDGET
PURCHASING OPERATIONS
P.O. BOX 30026, LANSING, MI 48909
OR
530 W. ALLEGAN, LANSING, MI 48933

CONTRACT NO. 071B0200226

between

THE STATE OF MICHIGAN

and

NAME & ADDRESS OF CONTRACTOR **Smith Sanitation, Inc.** **17097 S. Johnson Road** **Rudyard, MI 49780** **Email: jfsmith@lighthouse.net**	TELEPHONE: Jim Smith **(906) 478-4030** CONTRACTOR NUMBER/MAIL CODE BUYER/CA (517) 241-1145 **Lymon C. Hunter CPPB**
Contract Compliance Inspector: See Location Specification Sheet **Rubbish Removal Services – MRO – Superior Region - MDOC**	
CONTRACT PERIOD: **3 yrs. + 2 one-year options** From: **July 1, 2010** To: **July 1, 2015**	
TERMS **N/A**	SHIPMENT **N/A**
F.O.B. **N/A**	SHIPPED FROM **N/A**
MINIMUM DELIVERY REQUIREMENTS **N/A**	
MISCELLANEOUS INFORMATION: **The terms and conditions of this Contract are those of RFP #071I0200034, this Contract Agreement and the vendor's quote dated March 1, 2010. In the event of any conflicts between the specifications, and terms and conditions, indicated by the State and those indicated by the vendor, those of the State take precedence.** **Estimated Contract Value: $222,490.00**	

THIS IS NOT AN ORDER: This Contract Agreement is awarded on the basis of our inquiry bearing the RFP No. 071I0200034. Orders for delivery will be issued directly by the Department of Corrections through the issuance of a Purchase Order Form.

All terms and conditions of the invitation to bid are made a part hereof.

FOR THE CONTRACTOR:	**FOR THE STATE:**
Smith Sanitation, Inc. Firm Name	Signature
Authorized Agent Signature	**Lymon C. Hunter, CPPB** Name/Title
Authorized Agent (Print or Type)	**Commodities Division, Purchasing Operations** Division
Date	Date

STATE OF MICHIGAN
Department of Technology, Management and Budget
Purchasing Operations

RUBBISH/WASTE REMOVAL SERVICES
SUPERIOR, NORTH, GRAND & SOUTHWEST REGIONS
(Statewide)

Contract No. 071B0200226

Buyer Name: Lymon C. Hunter, CPPB
Telephone Number: 517.241.1145
E-Mail Address: hunterL@Michgan.gov

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Attachment A, Location Specification Sheets

DEFINITIONS

24x7x365 means 24 hours a day, seven days a week, and 365 days a year (including the 366th day in a leap year).

Additional Service means any Services within the scope of the Contract, but not specifically provided under any Statement of Work.

Audit Period means the seven year period following Contractor's provision of any work under the Contract.

Bidder(s) are those companies that submit a proposal in response to this RFP.

Business Day means any day other than a Saturday, Sunday or State-recognized legal holiday from 8:00am EST through 5:00pm EST unless otherwise stated.

Blanket Purchase Order is an alternate term for Contract and is used in the Plan Sponsors' computer system.

CCI means Contract Compliance Inspector.

Days means calendar days unless otherwise specified.

Deleted – N/A means that section is not applicable or included in this RFP. This is used as a placeholder to maintain consistent numbering.

Deliverable means physical goods and/or services required or identified in a Statement of Work.

DTMB means the Michigan Department of Technology, Management and Budget.

Environmentally Preferable Products means a product or service that has a lesser or reduced effect on human health and the environment when compared with competing products or services that serve the same purpose. Such products or services may include, but are not limited to: those which contain recycled content, minimize waste, conserve energy or water, and reduce the amount of toxics either disposed of or consumed.

Hazardous Material means any material defined as hazardous under the latest version of federal Emergency Planning and Community Right-to-Know Act of 1986 (including revisions adopted during the term of the Contract).

Incident means any interruption in any function performed for the benefit of a Plan Sponsor.

Key Personnel means any personnel identified in **Section 1.031** as Key Personnel.

New Work means any Services/Deliverables outside the scope of the Contract and not specifically provided under any Statement of Work, such that once added will result in the need to provide the Contractor with additional consideration. "New Work" does not include Additional Service.

Ozone-depleting Substance means any substance the Environmental Protection Agency designates in 40 CFR part 82 as: (1) Class I, including, but not limited to, chlorofluorocarbons, halons, carbon tetrachloride, and methyl chloroform; or (2) Class II, including, but not limited to, hydrochlorofluorocarbons.

Post-Consumer Waste means any product generated by a business or consumer which has served its intended end use; and which has been separated or diverted from solid waste for the purpose of recycling into a usable commodity or product, and which does not include post-industrial waste.

Post-Industrial Waste means industrial by-products which would otherwise go to disposal and wastes generated after completion of a manufacturing process, but does not include internally generated scrap commonly returned to industrial or manufacturing processes.

Recycling means the series of activities by which materials that are no longer useful to the generator are collected, sorted, processed, and converted into raw materials and used in the production of new products. This definition excludes the use of these materials as a fuel substitute or for energy production.

Reuse means using a product or component of municipal solid waste in its original form more than once.

RFP means a Request for Proposal designed to solicit proposals for services.

Services means any function performed for the benefit of the State.

SLA means Service Level Agreement.

Source Reduction means any practice that reduces the amount of any hazardous substance, pollutant, or contaminant entering any waste stream or otherwise released into the environment prior to recycling, energy recovery, treatment, or disposal.

State Location means any physical location where the State performs work. State Location may include state-owned, leased, or rented space.

Subcontractor means a company selected by the Contractor to perform a portion of the Services, but does not include independent contractors engaged by Contractor solely in a staff augmentation role.

Unauthorized Removal means the Contractor's removal of Key Personnel without the prior written consent of the State.

Waste Prevention means source reduction and reuse, but not recycling.

Pollution Prevention means the practice of minimizing the generation of waste at the source and, when wastes cannot be prevented, utilizing environmentally sound on-site or off-site reuse and recycling. The term includes equipment or technology modifications, process or procedure modifications, product reformulation or redesign, and raw material substitutions. Waste treatment, control, management, and disposal are not considered pollution prevention, per the definitions under Part 143, Waste Minimization, of the Natural Resources and Environmental Protection Act (NREPA), 1994 PA 451, as amended.

Work in Progress means a Deliverable that has been partially prepared, but has not been presented to the State for Approval.

Work Product refers to any data compilations, reports, and other media, materials, or other objects or works of authorship created or produced by the Contractor as a result of an in furtherance of performing the services required by the Contract.

Article 1 – Statement of Work (SOW)

1.0 PROJECT IDENTIFICATION

1.001 PROJECT REQUEST/DESCRIPTION OF SERVICES

This Contract is to establish an agreement for general rubbish removal service for various State of Michigan facilities as detailed on the attached location specification sheet.

1.1 SCOPE OF WORK AND DELIVERABLES

11. Furnish, install, set in place, and service containers as specified on the Pricing Sheets. Facility Manager or designee will determine location of containers, collection frequency, and times.

12. Holidays will be included in pick-up times unless no pick up is required by mutual agreement with the agency.

13. The Contractor must have equipment and personnel to adequately perform the specified service. In the event of mechanical breakdown of trucks or equipment the Contractor will be expected to provide backup service so that pick-ups will be performed as required.

14. All containers are to be "NEW" at the beginning of the Contract. Thereafter**,** containers shall be clean and well painted and kept in like new condition. Containers shall have tight fitting top loading split covers with lid positioners.

15. Any of the locations may be canceled from the proposed Contract if the service is no longer required.

26. The State Prison of Southern Michigan owns all necessary compactor boxes. All other containers will be the property of the Contractor and maintenance of those containers shall be the responsibility of the Contractor.

27. The agency shall notify the Contractor by phone of all pick-ups identified on the pricing sheets as "**on call**". The Contractor is to respond to the agency **"on-call"** request for pick-up within 24-hours. This may include Saturday.

28. All refuse containers will be handled carefully and with caution to avoid damage or abuse that would cause them to be unsightly. Any Contractor owned container that presents a hazard to the agency or public must be immediately removed and replaced by the Contractor.

29. Refuse and accumulations spilled from container while being serviced must be immediately cleaned up by Contractor's collector.

30. When excess refuse is stacked against full containers, this material must also be picked up with collection.

31. Collection vehicles shall not be parked longer than necessary to make vicinity collections.

32. Refuse accumulation shall include any and all materials that are discarded by agency during the use, operation and maintenance of the facility.

33. Invoice billings shall be rendered on a monthly basis to the agency where the service is performed. Please refer to individual location specification sheets (LSS) for specific invoicing addresses.

FOR CORRECTIONAL FACILITIES ONLY:

9. Contractors vehicle (truck) must be able to be locked when entering the facility. If the driver leaves the cab it must be locked.

10. *The Contractor is to pick-up trash at each facility with an empty truck and proceed immediately to landfill to dispose of waste. Copies of receipts from landfill must be sent to the state prior to payment to verify tonnage disposed.*

11. Each individual entering a correctional facility must possess a Michigan license and be cleared on the State Police LEIN check.

12. The possibility exists of an approximate wait of 5 to 20 minutes before vehicle will be able to enter the facility. However, every reasonable effort will be made by the facility to limit waiting time.

13. If other vehicles are waiting to enter the sallyport gate, which causes a delay, Contractor may return later the same day for pick-up.

14. If a facility is experiencing a Lock Down, the Contractor's truck may be turned away.

15. **ALL UNCOMPACTED RUBBISH MUST BE COMPACTED AT CONTAINER SITE BEFORE VEHICLE LEAVES FACILITY.**

16. Contractor must meet with agency representative at site to arrange schedules and to receive necessary orientation and security clearances prior to start of any contracted service.

17. PICK-UPS SHALL BE BETWEEN THE HOURS OF 7:00 AM TO 4:00 PM MONDAY THROUGH FRIDAY. CONTRACTOR VEHICLES WILL NOT BE ALLOWED TO ENTER FACILITIES DURING THE LUNCH COUNT (10:45 AM – 12:15 PM).

18. Contractor vehicles and personnel entering and leaving the facility property shall be searched.

1.020 Scope of Work and Deliverables

1.021 In Scope

The Contractor shall provide all personnel, equipment, tools, materials, supervision and other items and services necessary to perform the services as described in the attached Location Specification Sheet(s) (LSS).

1.022 Work and Deliverable

Contractor must provide Deliverables/Services and staff, and otherwise do all things necessary for or incidental to the performance of work, as set forth in the Location Specification Sheets (LSS).

1.030 Roles and Responsibilities

1.031 Contractor Staff, Roles, and Responsibilities

A. PERSONNEL – Deleted – Not applicable

2. The State reserves the right to approve personnel for this project and to require replacement of personnel found to be unacceptable at any time during the project. (See Section 2.060).

3. Contractor shall be responsible for repair, replacement or cleanup as necessary due to carelessness or negligence on the part of the Contractor and its personnel.

B. SUPERVISION
Contractor shall provide all supervision as may be necessary to oversee its personnel:

1. The Contractor's site supervisor or superintendent shall be a qualified and trained person whom, on a full time basis and is designated in writing, as the Contractor's representative at the rest area site. Any person who functions as an attendant is not considered a supervisor.

2. Contractor shall exercise all supervisory control and general control over all day-to-day operations of his/her employees, including control over all workers duties. At the conclusion of each service, the Contractor shall inspect the facility for completion and performance quality of the required services. The Contractor shall also be responsible for payment of all wages to employees, taxes and fringe benefits, sick leave, pension benefits, vacations, medical benefits, life insurance, or unemployment compensation or the like. The Contractor shall discipline his/her employees, as needed including firing and hiring.

3. Contractor must maintain a secure environment while servicing the facility. The Contractor shall comply with all security regulations and special working conditions as required by the agency:

- No one is allowed into the facility other than those individuals responsible for performing services.
- In locations that include a security alarm system, Contractor must also properly set the security alarm when leaving (if applicable).
- Failure to maintain a secure environment and set the security alarm (where applicable) will result in issuance of a complaint and possible cancellation of the Contract.
- Any cost incurred from a security service or local police for false alarms caused by failure of the Contractor to properly set the security alarm will be the responsibility of the Contractor.

4. Should the Contract be cancelled for failure to lock the building, or properly set the security alarm, the cost of changing the building locks and re-coding the security alarm, if applicable, will be charged to the Contractor. These costs may be deducted from the monthly payment due the Contractor.

5. The agency Contract Compliance Inspector (CCI) may require the Contractor to immediately remove any employee(s) from the agency's premises for just cause. The Contractor will assume any and all responsibilities relating to this removal. Any employee so removed may not be placed in another state agency.

6. The agency CCI shall make final determination of a Contractor's employee's suitability for assignment to a specific location. Problems of this nature will be addressed with the Contractor's management.

1.040 Project Plan

1.041 Project Plan Management

A. For each location, a project work plan for managing implementation of the services shall be specified and submitted to the CCI for review and approval.

B. Project management plan shall identify methods, tools and processes proposed to oversee the project, address issues and changes as may arise, and keep the appropriate parties apprised of progress.

C. Contractor will carry out this project under the direction and control of the specified CCI for the respective locations where services are to be performed.

D. Contractor shall meet with the CCI and other agency or departmental project-leads, on a basis to be established by CCI and Contractor, but shall meet quarterly, at a minimum, for the purpose of reviewing progress and providing necessary guidance to the Contractor in solving problems that arise, and to continuously communicate with the agency/departmental project-lead.

E. Contractor's Work Plan, which must be approved prior to commencement of work, must include the following:

1. Equipment List - indicating description, age, manufacturer, model and serial number of each piece. Equipment must meet or exceed all requirements defined under "Equipment Requirements" in this document. All equipment must be in the Contractor's possession, available for use and fully operational, prior to Contract award.

2. Schedule Of Operations - personnel expected to complete work on the Contract.

3. Name(s) of supervisors – 24-hour contact telephone numbers and best contact times.

4. Equipment failure **WILL NOT** constitute an acceptable reason for failure to provide service. Adjustments to providing this service, including any weather-related deviations, must be approved by the CCI or designated representative.

5. Proof of Insurance as defined in the Standard Terms and Conditions attached to this document must be provided to Purchasing Operations **prior** to Contract award.

6. Any misrepresentation by the Contractor of its ability to perform the work described in this RFP will be grounds for immediate termination. In such case, the Contract will be awarded to the next lowest bidder who can demonstrate the ability to perform the work.

1.042 Reports – Deleted - Not Applicable

1.050 Acceptance

1.051 Criteria

The following criteria will be used by the State to determine Acceptance of the Services or Deliverables provided under this SOW:

The CCI will conduct inspections for all specifications identified in the Contract and will provide performance evaluations to the Contractor noting any deficiencies. The CCI (or his/her appointed representative) shall make the final determination as to whether any task has been satisfactorily performed.

The CCI will also maintain a record comprised of complaints from agency or departmental staff and provide record of this to the Contractor; this record will identify the areas requiring special attention on that day, which must to be completed by Contractor within eight hours of its receipt.

Contractor must remain responsible to make any necessary changes if the CCI determines that any task has not been performed adequately or satisfactorily. Contractor must correct the deficiency within 24 hours from notice of the deficiency, or sooner depending on the severity of the task.

Should the Contractor fail to correct specification deficiencies, a Complaint to Vendor (Vender Performance form) will be filed by the CCI. Repeated failure to correct specification deficiencies resulting in issuance of subsequent Complaint to Vendor (Vendor Performance form) may result in cancellation of the Contract.

1.052 Final Acceptance - Deleted - Not Applicable

1.060 Proposal Pricing

1.061 Proposal Pricing

For authorized Services and Price List, see Location Specification Sheet(s) (LSS).

Contractor's out-of-pocket expenses are not separately reimbursable by the State unless, on a case-by-case basis for unusual expenses, the State has agreed in advance and in writing to reimburse Contractor for the expense at the State's current travel reimbursement rates. See **www.michigan.gov/DTMB** for current rates.

1.062 Price Term

Prices quoted are the maximum for a period of 365 days from the date the Contract becomes effective.

Prices are subject to change at the end of each 365-day period. Such changes must be based on changes in actual costs incurred. Documentation of such changes must be provided with the request for price change in order to substantiate any requested change. Purchasing Operations reserves the right to consider various pertinent information sources to evaluate price increase requests (such as the CPI and PPI, US City Average, as published by the US Department of Labor, Bureau of Labor Statistics). Purchasing Operations also reserves the right to consider

other information related to special economic and/or industry circumstances, when evaluating a price change request. Changes may be either increases or decreases, and may be requested by either party. Approved changes must be firm for the remainder of the Contract period unless further revised at the end of the next 365-day period. Requests for price changes must be RECEIVED IN WRITING AT LEAST 10 DAYS PRIOR TO THEIR EFFECTIVE DATE, and are subject to written acceptance before becoming effective. In the event new prices are not acceptable, the Contract may be cancelled. **The Contractor remains responsible for performing according to the Contract terms at the Contract price for all orders received before price revisions are approved or before the Contract is cancelled.**

1.063 Tax Excluded from Price

a) Sales Tax: For purchases made directly by the State, the State is exempt from State and Local Sales Tax. Prices must not include the taxes. Exemption Certificates for State Sales Tax will be furnished upon request.

(b) Federal Excise Tax: The State may be exempt from Federal Excise Tax, or the taxes may be reimbursable, if articles purchased under any resulting Contract are used for the State's exclusive use. Certificates showing exclusive use for the purposes of substantiating a tax-free, or tax-reimbursable sale will be sent upon request. If a sale is tax exempt or tax reimbursable under the Internal Revenue Code, prices must not include the Federal Excise Tax.

1.064 Holdback Deleted - Not Applicable

1.070 Additional Requirements – Deleted - Not Applicable

Article 2, Terms and Conditions

2.000 Contract Structure and Term

2.001 Contract Term
This Contract is anticipated to begin on July 1, 2010 for a term of five years. All outstanding Purchase Orders must also expire upon the termination (cancellation for any of the reasons listed in **Section 2.150**) of the Contract, unless otherwise extended under the Contract. Absent an early termination for any reason, Purchase Orders issued but not expired, by the end of the Contract's stated term, will remain in effect for the balance of the fiscal year for which they were issued.

2.002 Renewal(s)
This Contract may be renewed in writing by mutual agreement of the parties not less than 30 days before its expiration. The Contract may be renewed for up to one additional one year period.

2.003 Legal Effect
Contractor must show acceptance of the Contract by signing two copies of the Contract and returning them to the Contract Administrator. The Contractor must not proceed with the performance of the work to be done under the Contract, including the purchase of necessary materials, until both parties have signed the Contract to show acceptance of its terms, and the Contractor receives a Contract release/purchase order that authorizes and defines specific performance requirements.

Except as otherwise agreed in writing by the parties, the State assumes no liability for costs incurred by Contractor or payment under the Contract, until Contractor is notified in writing that the Contract (or Change Order) has been approved by the State Administrative Board (if required), approved and signed by all the parties, and a Purchase Order against the Contract has been issued.

2.004 Attachments & Exhibits
All Attachments and Exhibits affixed to any and all Statement(s) of Work, or appended to or referencing the Contract, are incorporated in their entirety and form part of the Contract.

2.005 Ordering
The State will issue a written Purchase Order, Blanket Purchase Order, Direct Voucher or Procurement Card Order, which must be approved by the Contract Administrator or the Contract Administrator's designee, to order any Services/Deliverables under the Contract. All orders are subject to the terms and conditions of the Contract. No additional terms and conditions contained on either a Purchase Order or Blanket Purchase Order apply unless they are also specifically contained in that Purchase Order's or Blanket Purchase Order's accompanying Statement of Work. Exact quantities to be purchased are unknown, however, the Contractor must furnish all such materials and services as may be ordered during the CONTRACT period. Quantities specified, if any, are estimates based on prior purchases, and the State is not obligated to purchase in these or any other quantities.

2.006 Order of Precedence
(a) The Contract, including any Statements of Work and Exhibits, to the extent not contrary to the Contract, each of which is incorporated for all purposes, constitutes the entire agreement between the parties with respect to the subject matter and supersedes all prior agreements, whether written or oral, with respect to the subject matter and as additional terms and conditions on the purchase order must apply as limited by **Section 2.005.**

(b) In the event of any inconsistency between the terms of the Contract and a Statement of Work, the terms of the Statement of Work will take precedence (as to that Statement of Work only); provided, however, that a Statement of Work may not modify or amend the terms of the Contract, which may be modified or amended only by a formal Contract amendment.

2.007 Headings
Captions and headings used in the Contract are for information and organization purposes. Captions and headings, including inaccurate references, do not, in any way, define or limit the requirements or terms and conditions of the Contract.

2.008 Form, Function & Utility
If this Contract is for use of more than one State agency and if the Deliverable/Service does not the meet the form, function, and utility required by that State agency, that agency may, subject to State purchasing policies, procure the Deliverable/Service from another source.

2.009 Reformation and Severability
Each provision of the Contract is severable from all other provisions of the Contract and, if one or more of the provisions of the Contract is declared invalid, the remaining provisions of the Contract remain in full force and effect.

2.010 Consents and Approvals
Except as expressly provided otherwise in the Contract, if either party requires the consent or approval of the other party for the taking of any action under the Contract, the consent or approval must be in writing and must not be unreasonably withheld or delayed.

2.011 No Waiver of Default
If a party fails to insist upon strict adherence to any term of the Contract then the party has not waived the right to later insist upon strict adherence to that term, or any other term, of the Contract.

2.012 Survival
Any provisions of the Contract that impose continuing obligations on the parties, including without limitation the parties' respective warranty, indemnity and confidentiality obligations, survive the expiration or termination of the Contract for any reason. Specific references to survival in the Contract are solely for identification purposes and not meant to limit or prevent the survival of any other section.

2.020 Contract Administration

2.21 Issuing Office
This Contract is issued by Purchasing Operations, State of Michigan, Department of Technology, Management and Budget, hereinafter known as Purchasing Operations, for multiple State Agencies identified within this document. Where actions are a combination of those of Purchasing Operations and the State agencies, the authority will be known as the State.

Purchasing Operations is the sole point of contact in the State with regard to all procurement and Contractual matters relating to the commodities and/or services described herein. Purchasing Operations is the only office authorized to negotiate, change, modify, amend, alter, clarify, etc., the specifications, terms, and conditions of the Contract. Purchasing Operations will remain the SOLE POINT OF CONTACT throughout the procurement process.

Contractor proceeds at its own risk if it takes negotiation, changes, modification, alterations, amendments, clarification, etc., of the specifications, terms, or conditions of the Contract from any individual or office other than Purchasing Operations and the listed Contract administrator

All communications covering this procurement must be addressed to Contract administrator indicated below:

Lymon C. Hunter, CPPB
Purchasing Operations
Department of Technology, Management and Budget
Mason Bldg, 2nd Floor
PO Box 30026
Lansing, MI 48909
HunterL@Michigan.Gov
517.241.1145

2.022 Contract Compliance Inspector
After DTMB-Purchasing Operations receives the properly executed Contract, it is anticipated that the Director of Purchasing Operations will direct the person named below, or any other person so designated, to monitor and coordinate the activities for the Contract on a day-to-day basis during its term. However, monitoring of the Contract implies **no authority to change, modify, clarify, amend, or otherwise alter the prices, terms, conditions and specifications of the Contract as that authority is retained by DTMB Purchasing Operations**. The CCI for the Contract is:

See the attached LSS Sheets.

2.023 Project Manager – Deleted - Not Applicable
The following individual will oversee the project:

2.024 Change Requests
The State reserves the right to request, from time to time, any changes to the requirements and specifications of the Contract and the work to be performed by the Contractor under the Contract. During the course of ordinary business, it may become necessary for the State to discontinue certain business practices or create Additional Services/Deliverables. At a minimum, to the extent applicable, the State would like the Contractor to provide a detailed outline of all work to be done, including tasks necessary to accomplish the services/deliverables, timeframes, listing of key personnel assigned, estimated hours for each individual per task, and a complete and detailed cost justification.

If the Contractor does not so notify the State, the Contractor has no right to claim thereafter that it is entitled to additional compensation for performing that service or providing that deliverable.

Change Requests:

(a) By giving Contractor written notice within a reasonable time, the State must be entitled to accept a Contractor proposal for Change, to reject it, or to reach another agreement with Contractor. Should the parties agree on carrying out a Change, a written Contract Change Notice must be prepared and issued under the Contract, describing the Change and its effects on the Services and any affected components of the Contract (a "Contract Change Notice").

(b) No proposed Change may be performed until the proposed Change has been specified in a duly executed Contract Change Notice issued by the Department of Technology, Management and Budget, Purchasing Operations.

(c) If the State requests or directs the Contractor to perform any activities that Contractor believes constitute a Change, the Contractor must notify the State that it believes the requested activities are a Change before beginning to work on the requested activities. If the Contractor fails to notify the State before beginning to work on the requested activities, then the Contractor waives any right to assert any claim for additional compensation or time for performing the requested activities. If the Contractor commences performing work outside the scope of the Contract and then ceases performing that work, the Contractor must, at the request of the State, retract any out-of-scope work that would adversely affect the Contract.

2.025 Notices
Any notice given to a party under this Contract must be deemed effective, if addressed to the State contact as noted in Section 2.021 and the Contractor's contact as noted on the cover page of the contract, upon: (i) delivery, if hand delivered; (ii) receipt of a confirmed transmission by facsimile if a copy of the notice is sent by another means specified in this Section; (iii) the third Business Day after being sent by U.S. mail, postage pre-paid, return receipt requested; or (iv) the next Business Day after being sent by a nationally recognized overnight express courier with a reliable tracking system.

Either party may change its address where notices are to be sent by giving notice according to this Section.

2.026 Binding Commitments
Representatives of Contractor must have the authority to make binding commitments on Contractor's behalf within the bounds set forth in the Contract. Contractor may change the representatives from time to time upon written notice.

2.027 Relationship of the Parties
The relationship between the State and Contractor is that of client and independent contractor. No agent, employee, or servant of Contractor or any of its Subcontractors must be deemed to be an employee, agent or servant of the State for any reason. Contractor is solely and entirely responsible for its acts and the acts of its agents, employees, servants and Subcontractors during the performance of the Contract.

2.028 Covenant of Good Faith
Each party must act reasonably and in good faith. Unless stated otherwise in the Contract, the parties must not unreasonably delay, condition, or withhold the giving of any consent, decision, or approval that is either requested or reasonably required of them in order for the other party to perform its responsibilities under the Contract.

2.029 Assignments
(a) Neither party may assign the Contract, or assign or delegate any of its duties or obligations under the Contract, to any other party (whether by operation of law or otherwise), without the prior written consent of the other party; provided, however, that the State may assign the Contract to any other State agency, department, division or department without the prior consent of Contractor and Contractor may assign the Contract to an affiliate so long as the affiliate is adequately capitalized and can provide adequate assurances that the affiliate can perform the requirements of the Contract. The State may withhold consent from proposed assignments, subcontracts, or novations when the transfer of responsibility would operate to decrease the State's likelihood of receiving performance on the Contract or the State's ability to recover damages.

(b) Contractor may not, without the prior written approval of the State, assign its right to receive payments due under the Contract. If the State permits an assignment, the Contractor is not relieved of its responsibility to perform any of its contractual duties, and the requirement under the Contract that all payments must be made to one entity continues.

(c) If the Contractor intends to assign the Contract or any of the Contractor's rights or duties under the Contract, the Contractor must notify the State in writing at least 90 days before the assignment. The Contractor also must provide the State with adequate information about the assignee within a reasonable amount of time before the assignment for the State to determine whether to approve the assignment.

2.030 General Provisions

2.031 Media Releases
News releases (including promotional literature and commercial advertisements) pertaining to the RFP and Contract or project to which it relates must not be made without prior written State approval, and then only in accordance with the explicit written instructions from the State. No results of the activities associated with the RFP and Contract are to be released without prior written approval of the State and then only to persons designated.

2.032 Contract Distribution
Purchasing Operations retains the sole right of Contract distribution to all State agencies and local units of government unless other arrangements are authorized by Purchasing Operations.

2.033 Permits
Contractor must obtain and pay any associated costs for all required governmental permits, licenses and approvals for the delivery, installation and performance of the Services. The State must pay for all costs and expenses incurred in obtaining and maintaining any necessary easements or right of way.

2.034 Website Incorporation
The State is not bound by any content on the Contractor's website, even if the Contractor's documentation specifically referenced that content and attempts to incorporate it into any other communication, unless the State has actual

knowledge of the content and has expressly agreed to be bound by it in a writing that has been manually signed by an authorized representative of the State.

2.035 Future Bidding Preclusion
Contractor acknowledges that, to the extent the Contract involves the creation, research, investigation or generation of a future RFP, it may be precluded from bidding on the subsequent RFP. The State reserves the right to disqualify any bidder if the State determines that the bidder has used its position (whether as an incumbent Contractor, or as a Contractor hired to assist with the RFP development, or as a Vendor offering free assistance) to gain a competitive advantage on the RFP

2.036 Freedom of Information
All information in any proposal submitted to the State by Contractor and the Contract is subject to the provisions of the Michigan Freedom of Information Act, 1976 PA 442, MCL 15.231, et seq (the "FOIA").

2.037 Disaster Recovery
Contractor and the State recognize that the State provides essential services in times of natural or man-made disasters. Therefore, except as so mandated by Federal disaster response requirements, Contractor personnel dedicated to providing Services/Deliverables under the Contract must provide the State with priority service for repair and work around in the event of a natural or man-made disaster.

2.040 Financial Provisions

2.041 Fixed Prices for Services/Deliverables - Deleted - Not Applicable

2.042 Adjustments for Reductions in Scope of Services/Deliverables
If the scope of the Services/Deliverables under any Statement of Work issued under the Contract is subsequently reduced by the State, the parties must negotiate an equitable reduction in Contractor's charges under such Statement of Work commensurate with the reduction in scope.

2.043 Services/Deliverables Covered
For all Services/Deliverables to be provided by Contractor (and its Subcontractors, if any) under the Contract, the State must not be obligated to pay any amounts in addition to the charges specified in the Contract.

2.044 Invoicing and Payment – In General
(a) Each Statement of Work issued under the Contract must list (or indicate by reference to the appropriate Contract Exhibit) the prices for all Services/Deliverables, equipment and commodities to be provided, and the associated payment milestones and payment amounts.

(b) Each Contractor invoice must show details as to charges by Service/Deliverable component and location at a level of detail reasonably necessary to satisfy the State's accounting and charge-back requirements. Invoices for Services performed on a time and materials basis must show, for each individual, the number of hours of Services performed during the billing period, the billable skill/labor category for such person and the applicable hourly billing rate. Prompt payment by the State is contingent on the Contractor's invoices showing the amount owed by the State minus any holdback amount to be retained by the State in accordance with **Section 1.064**.

(c) Correct invoices will be due and payable by the State, in accordance with the State's standard payment procedure as specified in 1984 PA 279, MCL 17.51 et seq., within 45 days after receipt, provided the State determines that the invoice was properly rendered.

(d) All invoices should reflect actual work done. Specific details of invoices and payments will be agreed upon between the CCI and the Contractor after the proposed Contract Agreement has been signed and accepted by both the Contractor and the Director of Purchasing Operations, Department of Management & Budget. This activity will occur only upon the specific written direction from Purchasing Operations.

The specific payment schedule for any Contract(s) entered into, as the State and the Contractor(s) must mutually agree upon. The schedule must show payment amount and must reflect actual work done by the payment dates, less

any penalty cost charges accrued by those dates. As a general policy, statements must be forwarded to the designated representative by the 15th day of the following month.

The State may make progress payments to the Contractor when requested as work progresses, but not more frequently than monthly, in amounts approved by the CCI, after negotiation. Contractor must show verification of measurable progress at the time of requesting progress payments.

2.045 Pro-ration
To the extent there are any Services that are to be paid for on a monthly basis, the cost of such Services must be pro-rated for any partial month.

2.046 Antitrust Assignment
The Contractor assigns to the State any claim for overcharges resulting from antitrust violations to the extent that those violations concern materials or services supplied by third parties to the Contractor, toward fulfillment of the Contract.

2.047 Final Payment
The making of final payment by the State to Contractor does not constitute a waiver by either party of any rights or other claims as to the other party's continuing obligations under the Contract, nor will it constitute a waiver of any claims by one party against the other arising from unsettled claims or failure by a party to comply with the Contract, including claims for Services and Deliverables not reasonably known until after acceptance to be defective or substandard. Contractor's acceptance of final payment by the State under the Contract must constitute a waiver of all claims by Contractor against the State for payment under the Contract, other than those claims previously filed in writing on a timely basis and still unsettled.

2.048 Electronic Payment Requirement
Electronic transfer of funds is required for payments on State contracts. The Contractor must register with the State electronically at http://www.cpexpress.state.mi.us. As stated in 1984 PA 431, all contracts that the State enters into for the purchase of goods and services must provide that payment will be made by Electronic Fund Transfer (EFT).

2.050 Taxes

2.051 Employment Taxes
Contractors are expected to collect and pay all applicable federal, state, and local employment taxes.

2.052 Sales and Use Taxes
Contractors are required to be registered and to remit sales and use taxes on taxable sales of tangible personal property or services delivered into the State. Contractors that lack sufficient presence in Michigan to be required to register and pay tax must do so as a volunteer. This requirement extends to: (1) all members of any controlled group as defined in § 1563(a) of the Internal Revenue Code and applicable regulations of which the company is a member, and (2) all organizations under common control as defined in § 414(c) of the Internal Revenue Code and applicable regulations of which the company is a member that make sales at retail for delivery into the State are registered with the State for the collection and remittance of sales and use taxes. In applying treasury regulations defining "two or more trades or businesses under common control" the term "organization" means sole proprietorship, a partnership (as defined in § 701(a)(2) of the Internal Revenue Code), a trust, an estate, a corporation, or a limited liability company.

2.060 Contract Management

2.061 Contractor Personnel Qualifications
All persons assigned by Contractor to the performance of Services under the Contract must be employees of Contractor or its majority-owned (directly or indirectly, at any tier) subsidiaries (or a State-approved Subcontractor) and must be fully qualified to perform the work assigned to them. Contractor must include a similar provision in any subcontract entered into with a Subcontractor. For the purposes of the Contract, independent contractors engaged by Contractor solely in a staff augmentation role must be treated by the State as if they were employees of Contractor for

the Contract only; however, the State understands that the relationship between Contractor and Subcontractor is an independent contractor relationship.

2.062 Contractor Key Personnel – Deleted – Not Applicable

2.063 Re-assignment of Personnel at the State's Request
The State reserves the right to require the removal from the Project of Contractor personnel found, in the judgment of the State, to be unacceptable. The State's request must be written with reasonable detail outlining the reasons for the removal request. Additionally, the State's request must be based on legitimate, good-faith reasons. Replacement personnel for the removed person must be fully qualified for the position. If the State exercises this right, and the Contractor cannot immediately replace the removed personnel, the State agrees to an equitable adjustment in schedule or other terms that may be affected by the State's required removal. If any incident with removed personnel results in delay not reasonably anticipatable under the circumstances and which is attributable to the State, the applicable SLAs for the affected Service will not be counted for a time as agreed to by the parties.

2.064 Contractor Personnel Location
All staff assigned by Contractor to work on the Contract must perform their duties either primarily at Contractor's offices and facilities or at State facilities. Without limiting the generality of the foregoing, Key Personnel must, at a minimum, spend at least the amount of time on-site at State facilities as indicated in the applicable Statement of Work. Subject to availability, selected Contractor personnel may be assigned office space to be shared with State personnel.

2.065 Contractor Identification
Contractor employees must be clearly identifiable while on State property by wearing a State-issued badge, as required. Contractor employees are required to clearly identify themselves and the company they work for whenever making contact with State personnel by telephone or other means.

2.066 Cooperation with Third Parties
Contractor must cause its personnel and the personnel of any Subcontractors to cooperate with the State and its agents and other contractors including the State's Quality Assurance personnel. As reasonably requested by the State in writing, the Contractor must provide to the State's agents and other contractors reasonable access to Contractor's Project personnel, systems and facilities to the extent the access relates to activities specifically associated with the Contract and will not interfere or jeopardize the safety or operation of the systems or facilities. The State acknowledges that Contractor's time schedule for the Contract is very specific and must not unnecessarily or unreasonably interfere with, delay, or otherwise impede Contractor's performance under the Contract with the requests for access.

2.067 Contractor Return of State Equipment/Resources
The Contractor must return to the State any State-furnished equipment, facilities, and other resources when no longer required for the Contract in the same condition as when provided by the State, reasonable wear and tear excepted.

2.068 Contract Management Responsibilities
The Contractor must assume responsibility for all contractual activities, whether or not that Contractor performs them. Further, the State considers the Contractor to be the sole point of contact with regard to contractual matters, including payment of any and all charges resulting from the anticipated Contract. If any part of the work is to be subcontracted, the Contract must include a list of Subcontractors, including firm name and address, contact person and a complete description of work to be subcontracted. The State reserves the right to approve Subcontractors and to require the Contractor to replace Subcontractors found to be unacceptable. The Contractor is totally responsible for adherence by the Subcontractor to all provisions of the Contract. Any change in Subcontractors must be approved by the State, in writing, prior to such change.

2.070 Subcontracting by Contractor

2.071 Contractor Full Responsibility
Contractor has full responsibility for the successful performance and completion of all of the Services and Deliverables. The State will consider Contractor to be the sole point of contact with regard to all contractual matters under the Contract, including payment of any and all charges for Services and Deliverables.

2.072 State Consent to Delegation
Contractor must not delegate any duties under the Contract to a Subcontractor unless the Department of Technology, Management and Budget, Purchasing Operations has given written consent to such delegation. The State reserves the right of prior written approval of all Subcontractors and to require Contractor to replace any Subcontractors found, in the reasonable judgment of the State, to be unacceptable. The State's request must be written with reasonable detail outlining the reasons for the removal request. Additionally, the State's request must be based on legitimate, good-faith reasons. Replacement Subcontractor(s) for the removed Subcontractor must be fully qualified for the position. If the State exercises this right, and the Contractor cannot immediately replace the removed Subcontractor, the State will agree to an equitable adjustment in schedule or other terms that may be affected by the State's required removal. If any such incident with a removed Subcontractor results in delay not reasonable anticipatable under the circumstances and which is attributable to the State, the applicable SLA for the affected Work will not be counted for a time agreed upon by the parties.

2.073 Subcontractor Bound to Contract
In any subcontracts entered into by Contractor for the performance of the Services, Contractor must require the Subcontractor, to the extent of the Services to be performed by the Subcontractor, to be bound to Contractor by the terms of the Contract and to assume toward Contractor all of the obligations and responsibilities that Contractor, by the Contract, assumes toward the State. The State reserves the right to receive copies of and review all subcontracts, although Contractor may delete or mask any proprietary information, including pricing, contained in such contracts before providing them to the State. The management of any Subcontractor is the responsibility of Contractor, and Contractor must remain responsible for the performance of its Subcontractors to the same extent as if Contractor had not subcontracted such performance. Contractor must make all payments to Subcontractors or suppliers of Contractor. Except as otherwise agreed in writing by the State and Contractor, the State will not be obligated to direct payments for the Services other than to Contractor. The State's written approval of any Subcontractor engaged by Contractor to perform any obligation under the Contract will not relieve Contractor of any obligations or performance required under the Contract.

2.074 Flow Down
Except where specifically approved in writing by the State on a case-by-case basis, Contractor must flow down the obligations in **Sections 2.031, 2.060, 2.100, 2.110, 2.120, 2.130, 2.200** in all of its agreements with any Subcontractors.

2.075 Competitive Selection
The Contractor must select Subcontractors (including suppliers) on a competitive basis to the maximum practical extent consistent with the objectives and requirements of the Contract.

2.080 State Responsibilities

2.081 Equipment
The State must provide only the equipment and resources identified in the Statements of Work and other Contract Exhibits.

2.082 Facilities
The State must designate space as long as it is available and as provided in the Statement of Work, to house the Contractor's personnel whom the parties agree will perform the Services/Deliverables at State facilities (collectively, the "State Facilities"). The Contractor must have reasonable access to, and, unless agreed otherwise by the parties in writing, must observe and comply with all rules and regulations relating to each of the State Facilities (including hours of operation) used by the Contractor in the course of providing the Services. Contractor must not, without the prior written consent of the State, use any State Facilities or access any State information systems provided for the Contractor's use, or to which the Contractor otherwise gains access in the course of performing the Services, for any purpose other than providing the Services to the State.

2.090 Security

2.091 Background Checks
On a case-by-case basis, the State may investigate the Contractor's personnel before they may have access to State facilities and systems. The scope of the background check is at the discretion of the State and the results will be used to determine Contractor personnel eligibility for working within State facilities and systems. The investigations will include Michigan State Police Background checks (ICHAT) and may include the National Crime Information Center (NCIC) Finger Prints. Proposed Contractor personnel may be required to complete and submit an RI-8 Fingerprint Card for the NCIC Finger Print Check. Any request for background checks will be initiated by the State and will be reasonably related to the type of work requested.

All Contractor personnel must comply with the State's security and acceptable use policies for State IT equipment and resources. See http://www.michigan.gov/dit. Furthermore, Contractor personnel must agree to the State's security and acceptable use policies before the Contractor personnel will be accepted as a resource to perform work for the State. The Contractor must present these documents to the prospective employee before the Contractor presents the individual to the State as a proposed resource. Contractor staff must comply with all Physical Security procedures in place within the facilities where they are working.

2.092 Security Breach Notification
If the Contractor breaches this Section, the Contractor must (i) promptly cure any deficiencies and (ii) comply with any applicable federal and state laws and regulations pertaining to unauthorized disclosures. Contractor and the State will cooperate to mitigate, to the extent practicable, the effects of any breach, intrusion, or unauthorized use or disclosure. Contractor must report to the State, in writing, any use or disclosure of Confidential Information, whether suspected or actual, other than as provided for by the Contract within 10 days of becoming aware of the use or disclosure or the shorter time period as is reasonable under the circumstances.

2.093 PCI Data Security Requirements – Deleted - Not Applicable

2.100 Confidentiality

2.101 Confidentiality
Contractor and the State each acknowledge that the other possesses, and will continue to possess, confidential information that has been developed or received by it. As used in this Section, "Confidential Information" of Contractor must mean all non-public proprietary information of Contractor (other than Confidential Information of the State as defined below) which is marked confidential, restricted, proprietary, or with a similar designation. "Confidential Information" of the State must mean any information which is retained in confidence by the State (or otherwise required to be held in confidence by the State under applicable federal, state and local laws and regulations) or which, in the case of tangible materials provided to Contractor by the State under its performance under the Contract, is marked as confidential, proprietary, or with a similar designation by the State. "Confidential Information" excludes any information (including the Contract) that is publicly available under the Michigan FOIA.

2.102 Protection and Destruction of Confidential Information
The State and Contractor must each use at least the same degree of care to prevent disclosing to third parties the Confidential Information of the other as it employs to avoid unauthorized disclosure, publication, or dissemination of its own confidential information of like character, but in no event less than reasonable care. Neither Contractor nor the State will (i) make any use of the Confidential Information of the other except as contemplated by the Contract, (ii) acquire any right in or assert any lien against the Confidential Information of the other, or (iii) if requested to do so, refuse for any reason to promptly return the other party's Confidential Information to the other party. Each party must limit disclosure of the other party's Confidential Information to employees and Subcontractors who must have access to fulfill the purposes of the Contract. Disclosure to, and use by, a Subcontractor is permissible where (A) use of a Subcontractor is authorized under the Contract, (B) the disclosure is necessary or otherwise naturally occurs in connection with work that is within the Subcontractor's scope of responsibility, and (C) Contractor obligates the Subcontractor in a written Contract to maintain the State's Confidential Information in confidence. At the State's request, any employee of Contractor and of any Subcontractor having access or continued access to the State's Confidential Information may be required to execute an acknowledgment that the employee has been advised of Contractor's and the Subcontractor's obligations under this Section and of the employee's obligation to Contractor or Subcontractor, as the case may be, to protect the Confidential Information from unauthorized use or disclosure.

Promptly upon termination or cancellation of the Contract for any reason, Contractor must certify to the State that Contractor has destroyed all State Confidential Information.

2.103 Exclusions
Notwithstanding the foregoing, the provisions of **Section 2.100** will not apply to any particular information which the State or Contractor can demonstrate (i) was, at the time of disclosure to it, in the public domain; (ii) after disclosure to it, is published or otherwise becomes part of the public domain through no fault of the receiving party; (iii) was in the possession of the receiving party at the time of disclosure to it without an obligation of confidentiality; (iv) was received after disclosure to it from a third party who had a lawful right to disclose the information to it without any obligation to restrict its further disclosure; or (v) was independently developed by the receiving party without reference to Confidential Information of the furnishing party. Further, the provisions of **Section 2.100** will not apply to any particular Confidential Information to the extent the receiving party is required by law to disclose the Confidential Information, provided that the receiving party (i) promptly provides the furnishing party with notice of the legal request, and (ii) assists the furnishing party in resisting or limiting the scope of the disclosure as reasonably requested by the furnishing party.

2.104 No Implied Rights
Nothing contained in this Section must be construed as obligating a party to disclose any particular Confidential Information to the other party, or as granting to or conferring on a party, expressly or impliedly, any right or license to the Confidential Information of the other party.

2.105 Respective Obligations
The parties' respective obligations under this Section must survive the termination or expiration of the Contract for any reason.

2.110 Records and Inspections

2.111 Inspection of Work Performed
The State's authorized representatives must at all reasonable times and with 10 days prior written request, have the right to enter Contractor's premises, or any other places, where the Services are being performed, and must have access, upon reasonable request, to interim drafts of Deliverables or work-in-progress. Upon 10 Days prior written notice and at all reasonable times, the State's representatives must be allowed to inspect, monitor, or otherwise evaluate the work being performed and to the extent that the access will not reasonably interfere or jeopardize the safety or operation of the systems or facilities. Contractor must provide all reasonable facilities and assistance for the State's representatives.

2.112 Examination of Records
For seven years after the Contractor provides any work under the Contract (the "Audit Period"), the State may examine and copy any of Contractor's books, records, documents and papers pertinent to establishing Contractor's compliance with the Contract and with applicable laws and rules. The State must notify the Contractor 20 days before examining the Contractor's books and records. The State does not have the right to review any information deemed confidential by the Contractor to the extent access would require the confidential information to become publicly available. This provision also applies to the books, records, accounts, documents and papers, in print or electronic form, of any parent, affiliated or subsidiary organization of Contractor, or any Subcontractor of Contractor performing services in connection with the Contract.

2.113 Retention of Records
Contractor must maintain at least until the end of the Audit Period, all pertinent financial and accounting records (including time sheets and payroll records, information pertaining to the Contract, and to the Services, equipment, and commodities provided under the Contract) pertaining to the Contract according to generally accepted accounting principles and other procedures specified in this Section. Financial and accounting records must be made available, upon request, to the State at any time during the Audit Period. If an audit, litigation, or other action involving Contractor's records is initiated before the end of the Audit Period, the records must be retained until all issues arising out of the audit, litigation, or other action are resolved or until the end of the Audit Period, whichever is later.

2.114 Audit Resolution
If necessary, the Contractor and the State will meet to review each audit report promptly after issuance. The Contractor must respond to each audit report in writing within 30 days from receipt of the report, unless a shorter response time is specified in the report. The Contractor and the State must develop, agree upon and monitor an action plan to promptly address and resolve any deficiencies, concerns, and/or recommendations in the audit report.

2.115 Errors
(a) If the audit demonstrates any errors in the documents provided to the State, then the amount in error must be reflected as a credit or debit on the next invoice and in subsequent invoices until the amount is paid or refunded in full. However, a credit or debit may not be carried for more than four invoices. If a balance remains after four invoices, then the remaining amount will be due as a payment or refund within 45 days of the last quarterly invoice that the balance appeared on or termination of the Contract, whichever is earlier.

(b) In addition to other available remedies, the difference between the payment received and the correct payment amount is greater than 10%, then the Contractor must pay all of the reasonable costs of the audit.

2.120 Warranties

2.121 Warranties and Representations
The Contractor represents and warrants:

(a) It is capable in all respects of fulfilling and must fulfill all of its obligations under the Contract. The performance of all obligations under the Contract must be provided in a timely, professional, and workman-like manner and must meet the performance and operational standards required under the Contract.

(b) The Contract Appendices, Attachments and Exhibits identify the equipment and software and services necessary for the Deliverable(s) to perform and Services to operate in compliance with the Contract's requirements and other standards of performance.

(c) It is the lawful owner or licensee of any Deliverable licensed or sold to the State by Contractor or developed by Contractor under the Contract, and Contractor has all of the rights necessary to convey to the State the ownership rights or licensed use, as applicable, of any and all Deliverables. None of the Deliverables provided by Contractor to the State under the Contract, nor their use by the State, will infringe the patent, copyright, trade secret, or other proprietary rights of any third party.

(d) If, under the Contract, Contractor procures any equipment, software or other Deliverable for the State (including equipment, software and other Deliverables manufactured, re-marketed or otherwise sold by Contractor under Contractor's name), then in addition to Contractor's other responsibilities with respect to the items in the Contract, Contractor must assign or otherwise transfer to the State or its designees, or afford the State the benefits of, any manufacturer's warranty for the Deliverable.

(e) The Contract signatory has the power and authority, including any necessary corporate authorizations, necessary to enter into the Contract, on behalf of Contractor.

(f) It is qualified and registered to transact business in all locations where required.

(g) Neither the Contractor nor any affiliates, nor any employee of either, has, must have, or must acquire, any contractual, financial, business, or other interest, direct or indirect, that would conflict in any manner or degree with Contractor's performance of its duties and responsibilities to the State under the Contract or otherwise create an appearance of impropriety with respect to the award or performance of this Agreement. Contractor must notify the State about the nature of the conflict or appearance of impropriety within two days of learning about it.

(h) If any of the certifications, representations, or disclosures made in the Contractor's original bid response change after the Contract start date, the Contractor must report those changes immediately to the Department of Technology, Management and Budget, Purchasing Operations.

2.122 Warranty of Merchantability – Deleted - Not Applicable

2.123 Warranty of Fitness for a Particular Purpose – Deleted - Not Applicable

2.124 Warranty of Title – Deleted - Not Applicable

2.125 Equipment Warranty – Deleted - Not Applicable

2.126 Equipment to be New – Deleted - Not Applicable

2.127 Prohibited Products – Deleted - Not Applicable

2.128 Consequences For Breach
In addition to any remedies available in law, if the Contractor breaches any of the warranties contained in this section, the breach may be considered as a default in the performance of a material obligation of the Contract.

2.130 Insurance

2.131 Liability Insurance
The Contractor must provide proof of the minimum levels of insurance coverage as indicated below. The insurance must protect the State from claims which may arise out of or result from the Contractor's performance of Services under the terms of the Contract, whether the Services are performed by the Contractor, or by any Subcontractor, or by anyone directly or indirectly employed by any of them, or by anyone for whose acts they may be liable.

The Contractor waives all rights against the State of Michigan, its departments, divisions, agencies, offices, commissions, officers, employees and agents for recovery of damages to the extent these damages are covered by the insurance policies the Contractor is required to maintain under the Contract.

All insurance coverage's provided relative to the Contract/Purchase Order are PRIMARY and NON-CONTRIBUTING to any comparable liability insurance (including self-insurances) carried by the State.

The insurance must be written for not less than any minimum coverage specified in the Contract or required by law, whichever is greater.

The insurers selected by Contractor must have an A.M. Best rating of A or better, or as otherwise approved in writing by the State, or if the ratings are no longer available, with a comparable rating from a recognized insurance rating agency. All policies of insurance required in the Contract must be issued by companies that have been approved to do business in the State. See www.michigan.gov/deleg.

Where specific limits are shown, they are the minimum acceptable limits. If Contractor's policy contains higher limits, the State must be entitled to coverage to the extent of the higher limits.

The Contractor is required to pay for and provide the type and amount of insurance checked ☑ below:

☑ 1. Commercial General Liability with the following minimum coverage:

$2,000,000 General Aggregate Limit other than Products/Completed Operations
$2,000,000 Products/Completed Operations Aggregate Limit
$1,000,000 Personal & Advertising Injury Limit
$1,000,000 Each Occurrence Limit

The Contractor must list the State of Michigan, its departments, divisions, agencies, offices, commissions, officers, employees and agents as ADDITIONAL INSUREDS on the Commercial General Liability certificate. The Contractor also agrees to provide evidence that insurance policies contain a waiver of subrogation by the insurance company.

☑ 2. If a motor vehicle is used to provide services or products under the Contract, the Contractor must have vehicle liability insurance on any auto including owned, hired and non-owned vehicles used in Contractor's business for bodily injury and property damage as required by law.

The Contractor must list the State of Michigan, its departments, divisions, agencies, offices, commissions, officers, employees and agents as ADDITIONAL INSUREDS on the vehicle liability certificate. The Contractor also agrees to provide evidence that insurance policies contain a waiver of subrogation by the insurance company.

☑ 3. Workers' compensation coverage must be provided according to applicable laws governing the employees and employers work activities in the state of the Contractor's domicile. If the applicable coverage is provided by a self-insurer, proof must be provided of approved self-insured authority by the jurisdiction of domicile. For employees working outside of the state of qualification, Contractor must provide appropriate certificates of insurance proving mandated coverage levels for the jurisdictions where the employees' activities occur.

Any certificates of insurance received must also provide a list of states where the coverage is applicable.

The Contractor also agrees to provide evidence that insurance policies contain a waiver of subrogation by the insurance company. This provision must not be applicable where prohibited or limited by the laws of the jurisdiction in which the work is to be performed.

☑ 4. Employers liability insurance with the following minimum limits:

$100,000 each accident
$100,000 each employee by disease
$500,000 aggregate disease

☐ 5. Employee Fidelity, including Computer Crimes, insurance naming the State as a loss payee, providing coverage for direct loss to the State and any legal liability of the State arising out of or related to fraudulent or dishonest acts committed by the employees of Contractor or its Subcontractors, acting alone or in collusion with others, in a minimum amount of $1,000,000.00 with a maximum deductible of $50,000.00.

☐ 6. Umbrella or Excess Liability Insurance in a minimum amount of ten million dollars ($10,000,000.00), which must apply, at a minimum, to the insurance required in Subsection 1 (Commercial General Liability) above.

☐ 7. Professional Liability (Errors and Omissions) Insurance with the following minimum coverage: $3,000,000.00 each occurrence and $3,000,000.00 annual aggregate.

☐ 8. Fire and Personal Property Insurance covering against any loss or damage to the office space used by Contractor for any reason under the Contract, and the equipment, software and other contents of the office space, including without limitation, those contents used by Contractor to provide the Services to the State, up to its replacement value, where the office space and its contents are under the care, custody and control of Contractor. The policy must cover all risks of direct physical loss or damage, including without limitation, flood and earthquake coverage and coverage for computer hardware and software. The State must be endorsed on the policy as a loss payee as its interests appear.

2.132 Subcontractor Insurance Coverage

Except where the State has approved in writing a Contractor subcontract with other insurance provisions, Contractor must require all of its Subcontractors under the Contract to purchase and maintain the insurance coverage as described in this Section for the Contractor in connection with the performance of work by those Subcontractors. Alternatively, Contractor may include any Subcontractors under Contractor's insurance on the coverage required in this Section. Subcontractor must fully comply with the insurance coverage required in this Section. Failure of Subcontractor to comply with insurance requirements does not limit Contractor's liability or responsibility.

2.133 Certificates of Insurance and Other Requirements

Contractor must furnish to DTMB-Purchasing Operations, certificate(s) of insurance verifying insurance coverage or providing satisfactory evidence of self-insurance as required in this Section (the "Certificates"). The Certificate must be on the standard "accord" form or equivalent. **THE CONTRACT OR PURCHASE ORDER NO. MUST BE SHOWN ON THE CERTIFICATE OF INSURANCE TO ASSURE CORRECT FILING.** All Certificate(s) are to be prepared and submitted by the Insurance Provider. All Certificate(s) must contain a provision indicating that coverages afforded under the policies MUST NOT BE CANCELLED, MATERIALLY CHANGED, OR NOT RENEWED without 30 days prior written notice, except for 10 days for non-payment of premium, having been given to the Director of Purchasing

Operations, Department of Technology, Management and Budget. The notice must include the Contract or Purchase Order number affected. Before the Contract is signed, and not less than 20 days before the insurance expiration date every year thereafter, the Contractor must provide evidence that the State and its agents, officers and employees are listed as additional insureds under each commercial general liability and commercial automobile liability policy. In the event the State approves the representation of the State by the insurer's attorney, the attorney may be required to be designated as a Special Assistant Attorney General by the Attorney General of the State of Michigan.

The Contractor must maintain all required insurance coverage throughout the term of the Contract and any extensions and, in the case of claims-made Commercial General Liability policies, must secure tail coverage for at least three years following the expiration or termination for any reason of the Contract. The minimum limits of coverage specified above are not intended, and must not be construed, to limit any liability or indemnity of Contractor under the Contract to any indemnified party or other persons. Contractor is responsible for all deductibles with regard to the insurance. If the Contractor fails to pay any premium for required insurance as specified in the Contract, or if any insurer cancels or significantly reduces any required insurance as specified in the Contract without the State's written consent, then the State may, after the State has given the Contractor at least 30 days written notice, pay the premium or procure similar insurance coverage from another company or companies. The State may deduct any part of the cost from any payment due the Contractor, or the Contractor must pay that cost upon demand by the State.

2.140 Indemnification

2.141 General Indemnification
To the extent permitted by law, the Contractor must indemnify, defend and hold harmless the State from liability, including all claims and losses, and all related costs and expenses (including reasonable attorneys' fees and costs of investigation, litigation, settlement, judgments, interest and penalties), accruing or resulting to any person, firm or corporation that may be injured or damaged by the Contractor in the performance of the Contract and that are attributable to the negligence or tortious acts of the Contractor or any of its Subcontractors, or by anyone else for whose acts any of them may be liable.

2.142 Code Indemnification – Deleted - Not Applicable

2.143 Employee Indemnification
In any claims against the State of Michigan, its departments, divisions, agencies, sections, commissions, officers, employees and agents, by any employee of the Contractor or any of its Subcontractors, the indemnification obligation under the Contract must not be limited in any way by the amount or type of damages, compensation or benefits payable by or for the Contractor or any of its Subcontractors under worker's disability compensation acts, disability benefit acts or other employee benefit acts. This indemnification clause is intended to be comprehensive. Any overlap in provisions, or the fact that greater specificity is provided as to some categories of risk, is not intended to limit the scope of indemnification under any other provisions.

2.144 Patent/Copyright Infringement Indemnification
To the extent permitted by law, the Contractor must indemnify, defend and hold harmless the State from and against all losses, liabilities, damages (including taxes), and all related costs and expenses (including reasonable attorneys' fees and costs of investigation, litigation, settlement, judgments, interest and penalties) incurred in connection with any action or proceeding threatened or brought against the State to the extent that the action or proceeding is based on a claim that any piece of equipment, software, commodity or service supplied by the Contractor or its Subcontractors, or the operation of the equipment, software, commodity or service, or the use or reproduction of any documentation provided with the equipment, software, commodity or service infringes any United States patent, copyright, trademark or trade secret of any person or entity, which is enforceable under the laws of the United States.

In addition, should the equipment, software, commodity, or service, or its operation, become or in the State's or Contractor's opinion be likely to become the subject of a claim of infringement, the Contractor must at the Contractor's sole expense (i) procure for the State the right to continue using the equipment, software, commodity or service or, if the option is not reasonably available to the Contractor, (ii) replace or modify to the State's satisfaction the same with equipment, software, commodity or service of equivalent function and performance so that it becomes non-infringing, or, if the option is not reasonably available to Contractor, (iii) accept its return by the State with appropriate credits to the State against the Contractor's charges and reimburse the State for any losses or costs incurred as a consequence of the State ceasing its use and returning it.

Notwithstanding the foregoing, the Contractor has no obligation to indemnify or defend the State for, or to pay any costs, damages or attorneys' fees related to, any claim based upon (i) equipment developed based on written specifications of the State; (ii) use of the equipment in a configuration other than implemented or approved in writing by the Contractor, including, but not limited to, any modification of the equipment by the State; or (iii) the combination, operation, or use of the equipment with equipment or software not supplied by the Contractor under the Contract.

2.145 Continuation of Indemnification Obligations
The Contractor's duty to indemnify under this Section continues in full force and effect, notwithstanding the expiration or early cancellation of the Contract, with respect to any claims based on facts or conditions that occurred before expiration or cancellation.

2.146 Indemnification Procedures
The procedures set forth below must apply to all indemnity obligations under the Contract.

(a) After the State receives notice of the action or proceeding involving a claim for which it will seek indemnification, the State must promptly notify Contractor of the claim in writing and take or assist Contractor in taking, as the case may be, any reasonable action to avoid the imposition of a default judgment against Contractor. No failure to notify the Contractor relieves the Contractor of its indemnification obligations except to the extent that the Contractor can prove damages attributable to the failure. Within 10 days following receipt of written notice from the State relating to any claim, the Contractor must notify the State in writing whether Contractor agrees to assume control of the defense and settlement of that claim (a "Notice of Election"). After notifying Contractor of a claim and before the State receiving Contractor's Notice of Election, the State is entitled to defend against the claim, at the Contractor's expense, and the Contractor will be responsible for any reasonable costs incurred by the State in defending against the claim during that period.

(b) If Contractor delivers a Notice of Election relating to any claim: (i) the State is entitled to participate in the defense of the claim and to employ counsel at its own expense to assist in the handling of the claim and to monitor and advise the State about the status and progress of the defense; (ii) the Contractor must, at the request of the State, demonstrate to the reasonable satisfaction of the State, the Contractor's financial ability to carry out its defense and indemnity obligations under the Contract; (iii) the Contractor must periodically advise the State about the status and progress of the defense and must obtain the prior written approval of the State before entering into any settlement of the claim or ceasing to defend against the claim and (iv) to the extent that any principles of Michigan governmental or public law may be involved or challenged, the State has the right, at its own expense, to control the defense of that portion of the claim involving the principles of Michigan governmental or public law. But the State may retain control of the defense and settlement of a claim by notifying the Contractor in writing within 10 days after the State's receipt of Contractor's information requested by the State under clause (ii) of this paragraph if the State determines that the Contractor has failed to demonstrate to the reasonable satisfaction of the State the Contractor's financial ability to carry out its defense and indemnity obligations under this Section. Any litigation activity on behalf of the State, or any of its subdivisions under this Section, must be coordinated with the Department of Attorney General. In the event the insurer's attorney represents the State under this Section, the insurer's attorney may be required to be designated as a Special Assistant Attorney General by the Attorney General of the State of Michigan.

(c) If Contractor does not deliver a Notice of Election relating to any claim of which it is notified by the State as provided above, the State may defend the claim in the manner as it may deem appropriate, at the cost and expense of Contractor. If it is determined that the claim was one against which Contractor was required to indemnify the State, upon request of the State, Contractor must promptly reimburse the State for all the reasonable costs and expenses.

2.150 Termination/Cancellation

2.151 Notice and Right to Cure
If the Contractor breaches the Contract, and the State, in its sole discretion, determines that the breach is curable, then the State must provide the Contractor with written notice of the breach and a time period (not less than 30 days) to cure the Breach. The notice of breach and opportunity to cure is inapplicable for successive or repeated breaches or if the State determines in its sole discretion that the breach poses a serious and imminent threat to the health or safety of any person or the imminent loss, damage, or destruction of any real or tangible personal property.

2.152 Termination for Cause

(a) The State may terminate the Contract, for cause, by notifying the Contractor in writing, if the Contractor (i) breaches any of its material duties or obligations under the Contract (including a Chronic Failure to meet any particular SLA), or (ii) fails to cure a breach within the time period specified in the written notice of breach provided by the State

(b) If the Contract is terminated for cause, the Contractor must pay all costs incurred by the State in terminating the Contract, including but not limited to, State administrative costs, reasonable attorneys' fees and court costs, and any reasonable additional costs the State may incur to procure the Services/Deliverables required by the Contract from other sources. Re-procurement costs are not consequential, indirect or incidental damages, and cannot be excluded by any other terms otherwise included in the Contract, provided the costs are not in excess of 50% more than the prices for the Service/Deliverables provided under the Contract.

(c) If the State chooses to partially terminate the Contract for cause, charges payable under the Contract will be equitably adjusted to reflect those Services/Deliverables that are terminated and the State must pay for all Services/Deliverables for which Final Acceptance has been granted provided up to the termination date. Services and related provisions of the Contract that are terminated for cause must cease on the effective date of the termination.

(d) If the State terminates the Contract for cause under this Section, and it is determined, for any reason, that Contractor was not in breach of contract under the provisions of this section, that termination for cause must be deemed to have been a termination for convenience, effective as of the same date, and the rights and obligations of the parties must be limited to that otherwise provided in the Contract for a termination for convenience.

2.153 Termination for Convenience

The State may terminate the Contract for its convenience, in whole or part, if the State determines that a termination is in the State's best interest. Reasons for the termination must be left to the sole discretion of the State and may include, but not necessarily be limited to (a) the State no longer needs the Services or products specified in the Contract, (b) relocation of office, program changes, changes in laws, rules, or regulations make implementation of the Services no longer practical or feasible, (c) unacceptable prices for Additional Services or New Work requested by the State, or (d) falsification or misrepresentation, by inclusion or non-inclusion, of information material to a response to any RFP issued by the State. The State may terminate the Contract for its convenience, in whole or in part, by giving Contractor written notice at least 30 days before the date of termination. If the State chooses to terminate the Contract in part, the charges payable under the Contract must be equitably adjusted to reflect those Services/Deliverables that are terminated. Services and related provisions of the Contract that are terminated for cause must cease on the effective date of the termination.

2.154 Termination for Non-Appropriation

(a) Contractor acknowledges that, if the Contract extends for several fiscal years, continuation of the Contract is subject to appropriation or availability of funds for the Contract. If funds to enable the State to effect continued payment under the Contract are not appropriated or otherwise made available, the State must terminate the Contract and all affected Statements of Work, in whole or in part, at the end of the last period for which funds have been appropriated or otherwise made available by giving written notice of termination to Contractor. The State must give Contractor at least 30 days advance written notice of termination for non-appropriation or unavailability (or the time as is available if the State receives notice of the final decision less than 30 days before the funding cutoff).

(b) If funding for the Contract is reduced by law, or funds to pay Contractor for the agreed-to level of the Services or production of Deliverables to be provided by Contractor are not appropriated or otherwise unavailable, the State may, upon 30 days written notice to Contractor, reduce the level of the Services or the change the production of Deliverables in the manner and for the periods of time as the State may elect. The charges payable under the Contract will be equitably adjusted to reflect any equipment, services or commodities not provided by reason of the reduction.

(c) If the State terminates the Contract, eliminates certain Deliverables, or reduces the level of Services to be provided by Contractor under this Section, the State must pay Contractor for all Work-in-Process performed through the effective date of the termination or reduction in level, as the case may be and as determined by the State, to the extent funds are available. This Section will not preclude Contractor from reducing or stopping Services/Deliverables

or raising against the State in a court of competent jurisdiction, any claim for a shortfall in payment for Services performed or Deliverables finally accepted before the effective date of termination.

2.155 Termination for Criminal Conviction
The State may terminate the Contract immediately and without further liability or penalty in the event Contractor, an officer of Contractor, or an owner of a 25% or greater share of Contractor is convicted of a criminal offense related to a State, public or private Contract or subcontract.

2.156 Termination for Approvals Rescinded
The State may terminate the Contract if any final administrative or judicial decision or adjudication disapproves a previously approved request for purchase of personal services under Constitution 1963, Article 11, § 5, and Civil Service Rule 7-1. In that case, the State must pay the Contractor for only the work completed to that point under the Contract. Termination may be in whole or in part and may be immediate as of the date of the written notice to Contractor or may be effective as of the date stated in the written notice.

2.157 Rights and Obligations upon Termination
(a) If the State terminates the Contract for any reason, the Contractor must (a) stop all work as specified in the notice of termination, (b) take any action that may be necessary, or that the State may direct, for preservation and protection of Deliverables or other property derived or resulting from the Contract that may be in Contractor's possession, (c) return all materials and property provided directly or indirectly to Contractor by any entity, agent or employee of the State, (d) transfer title in, and deliver to, the State, unless otherwise directed, all Deliverables intended to be transferred to the State at the termination of the Contract and which are resulting from the Contract (which must be provided to the State on an "As-Is" basis except to the extent the amounts paid by the State in respect of the items included compensation to Contractor for the provision of warranty services in respect of the materials), and (e) take any action to mitigate and limit any potential damages, or requests for Contractor adjustment or termination settlement costs, to the maximum practical extent, including terminating or limiting as otherwise applicable those subcontracts and outstanding orders for material and supplies resulting from the terminated Contract.

(b) If the State terminates the Contract before its expiration for its own convenience, the State must pay Contractor for all charges due for Services provided before the date of termination and, if applicable, as a separate item of payment under the Contract, for Work In Process, on a percentage of completion basis at the level of completion determined by the State. All completed or partially completed Deliverables prepared by Contractor under the Contract, at the option of the State, becomes the State's property, and Contractor is entitled to receive equitable fair compensation for the Deliverables. Regardless of the basis for the termination, the State is not obligated to pay, or otherwise compensate, Contractor for any lost expected future profits, costs or expenses incurred with respect to Services not actually performed for the State.

(c) Upon a good faith termination, the State may assume, at its option, any subcontracts and agreements for Services and Deliverables provided under the Contract, and may further pursue completion of the Services/Deliverables under the Contract by replacement contract or otherwise as the State may in its sole judgment deem expedient.

2.158 Reservation of Rights
Any termination of the Contract or any Statement of Work issued under it by a party must be with full reservation of, and without prejudice to, any rights or remedies otherwise available to the party with respect to any claims arising before or as a result of the termination.

2.160 Termination by Contractor

2.161 Termination by Contractor
If the State breaches the Contract, and the Contractor in its sole discretion determines that the breach is curable, then the Contractor will provide the State with written notice of the breach and a time period (not less than 30 days) to cure the breach. The Notice of Breach and opportunity to cure is inapplicable for successive and repeated breaches.

The Contractor may terminate the Contract if the State (i) materially breaches its obligation to pay the Contractor undisputed amounts due and owing under the Contract, (ii) breaches its other obligations under the Contract to an extent that makes it impossible or commercially impractical for the Contractor to perform the Services, or (iii) does not

cure the breach within the time period specified in a written notice of breach. But the Contractor must discharge its obligations under **Section 2.190** before it terminates the Contract.

2.170 Transition Responsibilities

2.171 Contractor Transition Responsibilities
If the State terminates the Contract, for convenience or cause, or if the Contract is otherwise dissolved, voided, rescinded, nullified, expires or rendered unenforceable, the Contractor agrees to comply with direction provided by the State to assist in the orderly transition of equipment, services, software, leases, etc. to the State or a third party designated by the State. If the Contract expires or terminates, the Contractor agrees to make all reasonable efforts to effect an orderly transition of services within a reasonable period of time that in no event will exceed 24 hours These efforts must include, but are not limited to, those listed in **Sections 2.171, 2.172, 2.173, 2.174, and 2.175.**

2.172 Contractor Personnel Transition
The Contractor must work with the State, or a specified third party, to develop a transition plan setting forth the specific tasks and schedule to be accomplished by the parties to effect an orderly transition. The Contractor must allow as many personnel as practicable to remain on the job to help the State, or a specified third party, maintain the continuity and consistency of the services required by the Contract. In addition, during or following the transition period, in the event the State requires the Services of the Contractor's Subcontractors or vendors, as necessary to meet its needs, Contractor agrees to reasonably, and with good-faith, work with the State to use the Services of Contractor's Subcontractors or vendors. Contractor must notify all of Contractor's subcontractors of procedures to be followed during transition.

2.173 Contractor Information Transition
The Contractor agrees to provide reasonable detailed specifications for all Services/Deliverables needed by the State, or specified third party, to properly provide the Services/Deliverables required under the Contract. The Contractor must provide the State with asset management data generated from the inception of the Contract through the date on which the Contractor is terminated in a comma-delineated format unless otherwise requested by the State. The Contractor must deliver to the State any remaining owed reports and documentation still in Contractor's possession subject to appropriate payment by the State.

2.174 Contractor Software Transition – Deleted - Not Applicable

2.175 Transition Payments
If the transition results from a termination for any reason, reimbursement must be governed by the termination provisions of the Contract. If the transition results from expiration, the Contractor will be reimbursed for all reasonable transition costs (i.e. costs incurred within the agreed period after contract expiration that result from transition operations) at the rates agreed upon by the State. The Contractor must prepare an accurate accounting from which the State and Contractor may reconcile all outstanding accounts.

2.176 State Transition Responsibilities
In the event that the Contract is terminated, dissolved, voided, rescinded, nullified, or otherwise rendered unenforceable, the State agrees to perform the following obligations, and any others upon which the State and the Contractor agree:
(a) Reconciling all accounts between the State and the Contractor;
(b) Completing any pending post-project reviews.

2.180 Stop Work

2.181 Stop Work Orders
The State may, at any time, by written stop work order to Contractor, require that Contractor stop all, or any part, of the work called for by the Contract for a period of up to 90 calendar days after the stop work order is delivered to Contractor, and for any further period to which the parties may agree. The stop work order must be identified as a stop work order and must indicate that it is issued under this **Section 2.180**. Upon receipt of the stop work order, Contractor must immediately comply with its terms and take all reasonable steps to minimize incurring costs allocable to the work covered by the stop work order during the period of work stoppage. Within the period of the stop work

order, the State must either: (a) cancel the stop work order; or (b) terminate the work covered by the stop work order as provided in **Section 2.150**.

2.182 Cancellation or Expiration of Stop Work Order
The Contractor must resume work if the State cancels a Stop Work Order or if it expires. The parties will agree upon an equitable adjustment in the delivery schedule, the Contract price, or both, and the Contract must be modified, in writing, accordingly, if: (a) the stop work order results in an increase in the time required for, or in Contractor's costs properly allocable to, the performance of any part of the Contract; and (b) Contractor asserts its right to an equitable adjustment within 30 calendar days after the end of the period of work stoppage; provided that, if the State decides the facts justify the action, the State may receive and act upon a Contractor proposal submitted at any time before final payment under the Contract. Any adjustment must conform to the requirements of **Section 2.024**.

2.183 Allowance of Contractor Costs
If the stop work order is not canceled and the work covered by the stop work order is terminated for reasons other than material breach, the termination must be deemed to be a termination for convenience under **Section 2.150**, and the State will pay reasonable costs resulting from the stop work order in arriving at the termination settlement. For the avoidance of doubt, the State is not liable to Contractor for loss of profits because of a stop work order issued under this **Section 2.180.**

2.190 Dispute Resolution

2.191 In General
Any claim, counterclaim, or dispute between the State and Contractor arising out of or relating to the Contract or any Statement of Work must be resolved as follows. For all Contractor claims seeking an increase in the amounts payable to Contractor under the Contract, or the time for Contractor's performance, Contractor must submit a letter, together with all data supporting the claims, executed by Contractor's Contract Administrator or the Contract Administrator's designee certifying that (a) the claim is made in good faith, (b) the amount claimed accurately reflects the adjustments in the amounts payable to Contractor or the time for Contractor's performance for which Contractor believes the State is liable and covers all costs of every type to which Contractor is entitled from the occurrence of the claimed event, and (c) the claim and the supporting data are current and complete to Contractor's best knowledge and belief.

2.192 Informal Dispute Resolution
(a) All disputes between the parties must be resolved under the Contract Management procedures in the Contract. If the parties are unable to resolve any disputes after compliance with the processes, the parties must meet with the Director of Purchasing Operations, DTMB, or designee, for the purpose of attempting to resolve the dispute without the need for formal legal proceedings, as follows:

(i) The representatives of Contractor and the State must meet as often as the parties reasonably deem necessary to gather and furnish to each other all information with respect to the matter in issue which the parties believe to be appropriate and germane in connection with its resolution. The representatives must discuss the problem and negotiate in good faith in an effort to resolve the dispute without the necessity of any formal proceeding.

(ii) During the course of negotiations, all reasonable requests made by one party to another for non-privileged information reasonably related to the Contract must be honored in order that each of the parties may be fully advised of the other's position.

(iii) The specific format for the discussions will be left to the discretion of the designated State and Contractor representatives, but may include the preparation of agreed upon statements of fact or written statements of position.

(iv) Following the completion of this process within 60 calendar days, the Director of Purchasing Operations, DTMB, or designee, must issue a written opinion regarding the issue(s) in dispute within 30 calendar days. The opinion regarding the dispute must be considered the State's final action and the exhaustion of administrative remedies.

(b) This Section must not be construed to prevent either party from instituting, and a party is authorized to institute, formal proceedings earlier to avoid the expiration of any applicable limitations period, to preserve a superior position with respect to other creditors, or under **Section 2.193**.

(c) The State will not mediate disputes between the Contractor and any other entity, except state agencies, concerning responsibility for performance of work under the Contract.

2.193 Injunctive Relief
The only circumstance in which disputes between the State and Contractor will not be subject to the provisions of **Section 2.192** is where a party makes a good faith determination that a breach of the terms of the Contract by the other party is the that the damages to the party resulting from the breach will be so immediate, so large or severe and so incapable of adequate redress after the fact that a temporary restraining order or other immediate injunctive relief is the only adequate remedy.

2.194 Continued Performance
Each party agrees to continue performing its obligations under the Contract while a dispute is being resolved except to the extent the issue in dispute precludes performance (dispute over payment must not be deemed to preclude performance) and without limiting either party's right to terminate the Contract as provided in **Section 2.150**, as the case may be.

2.200 Federal and State Contract Requirements

2.201 Nondiscrimination
In the performance of the Contract, Contractor agrees not to discriminate against any employee or applicant for employment, with respect to his or her hire, tenure, terms, conditions or privileges of employment, or any matter directly or indirectly related to employment, because of race, color, religion, national origin, ancestry, age, sex, height, weight, marital status, or physical or mental disability. Contractor further agrees that every subcontract entered into for the performance of the Contract or any purchase order resulting from the Contract must contain a provision requiring non-discrimination in employment, as specified here, binding upon each Subcontractor. This covenant is required under the Elliot Larsen Civil Rights Act, 1976 PA 453, MCL 37.2101, et seq., and the Persons with Disabilities Civil Rights Act, 1976 PA 220, MCL 37.1101, et seq., and any breach of this provision may be regarded as a material breach of the Contract.

2.202 Unfair Labor Practices
Under 1980 PA 278, MCL 423.321, et seq., the State must not award a Contract or subcontract to an employer whose name appears in the current register of employers failing to correct an unfair labor practice compiled under Section 2 of the Act. This information is compiled by the United States National Labor Relations Board. A Contractor of the State, in relation to the Contract, must not enter into a contract with a Subcontractor, manufacturer, or supplier whose name appears in this register. Under Section 4 of 1980 PA 278, MCL 423.324, the State may void any Contract if, after award of the Contract, the name of Contractor as an employer or the name of the Subcontractor, manufacturer or supplier of Contractor appears in the register.

2.203 Workplace Safety and Discriminatory Harassment
In performing Services for the State, the Contractor must comply with the Department of Civil Services Rule 2-20 regarding Workplace Safety and Rule 1-8.3 regarding Discriminatory Harassment. In addition, the Contractor must comply with Civil Service regulations and any applicable agency rules provided to the Contractor. For Civil Service Rules, see http://www.mi.gov/mdcs/0,1607,7-147-6877---,00.html.

2.204 Prevailing Wage – Deleted – Not Applicable

2.210 Governing Law

2.211 Governing Law
The Contract must in all respects be governed by, and construed according to, the substantive laws of the State of Michigan without regard to any Michigan choice of law rules that would apply the substantive law of any other jurisdiction to the extent not inconsistent with, or pre-empted by federal law.

2.212 Compliance with Laws
Contractor must comply with all applicable state, federal and local laws and ordinances in providing the Services/Deliverables.

2.213 Jurisdiction
Any dispute arising from the Contract must be resolved in the State of Michigan. With respect to any claim between the parties, Contractor consents to venue in Ingham County, Michigan, and irrevocably waives any objections it may have to the jurisdiction on the grounds of lack of personal jurisdiction of the court or the laying of venue of the court or on the basis of forum non conveniens or otherwise. Contractor agrees to appoint agents in the State of Michigan to receive service of process.

2.220 Limitation of Liability

2.221 Limitation of Liability
Neither the Contractor nor the State is liable to each other, regardless of the form of action, for consequential, incidental, indirect, or special damages. This limitation of liability does not apply to claims for infringement of United States patent, copyright, trademark or trade secrets; to claims for personal injury or damage to property caused by the gross negligence or willful misconduct of the Contractor; to claims covered by other specific provisions of the Contract calling for liquidated damages; or to court costs or attorney's fees awarded by a court in addition to damages after litigation based on the Contract.

2.230 Disclosure Responsibilities

2.231 Disclosure of Litigation
(a) Disclosure. Contractor must disclose any material criminal litigation, investigations or proceedings involving the Contractor (and each Subcontractor) or any of its officers or directors or any litigation, investigations or proceedings under the Sarbanes-Oxley Act. In addition, each Contractor (and each Subcontractor) must notify the State of any material civil litigation, arbitration or proceeding which arises during the term of the Contract and extensions, to which Contractor (or, to the extent Contractor is aware, any Subcontractor) is a party, and which involves: (i) disputes that might reasonably be expected to adversely affect the viability or financial stability of Contractor or any Subcontractor; or (ii) a claim or written allegation of fraud against Contractor or, to the extent Contractor is aware, any Subcontractor by a governmental or public entity arising out of their business dealings with governmental or public entities. The Contractor must disclose in writing to the Contract Administrator any litigation, investigation, arbitration or other proceeding (collectively, "Proceeding") within 30 days of its occurrence. Details of settlements which are prevented from disclosure by the terms of the settlement may be annotated. Information provided to the State from Contractor's publicly filed documents referencing its material litigation will be deemed to satisfy the requirements of this Section.

(b) Assurances. If any Proceeding disclosed to the State under this Section, or of which the State otherwise becomes aware, during the term of the Contract would cause a reasonable party to be concerned about:

(i) the ability of Contractor (or a Subcontractor) to continue to perform the Contract according to its terms and conditions, or
(ii) whether Contractor (or a Subcontractor) in performing Services for the State is engaged in conduct which is similar in nature to conduct alleged in the Proceeding, which conduct would constitute a breach of the Contract or a violation of Michigan law, regulations or public policy, then the Contractor must provide the State all reasonable assurances requested by the State to demonstrate that:
(a) Contractor and its Subcontractors must be able to continue to perform the Contract and any Statements of Work according to its terms and conditions, and
(b) Contractor and its Subcontractors have not and will not engage in conduct in performing the Services which is similar in nature to the conduct alleged in the Proceeding.

(c) Contractor must make the following notifications in writing:
(1) Within 30 days of Contractor becoming aware that a change in its ownership or officers has occurred, or is certain to occur, or a change that could result in changes in the valuation of its capitalized assets in the accounting records, Contractor must notify DTMB Purchasing Operations.
(2) Contractor must also notify DTMB Purchasing Operations within 30 days whenever changes to asset valuations or any other cost changes have occurred or are certain to occur as a result of a change in ownership or officers.

(3) Contractor must also notify DTMB Purchasing Operations within 30 days whenever changes to company affiliations occur.

2.232 Call Center Disclosure
Contractor and/or all Subcontractors involved in the performance of the Contract providing call or contact center services to the State must disclose the location of its call or contact center services to inbound callers. Failure to disclose this information is a material breach of the Contract.

2.233 Bankruptcy
The State may, without prejudice to any other right or remedy, terminate the Contract, in whole or in part, and, at its option, may take possession of the "Work in Process" and finish the Works in Process by whatever appropriate method the State may deem expedient if:

(a) the Contractor files for protection under the bankruptcy laws;
(b) an involuntary petition is filed against the Contractor and not removed within 30 days;
(c) the Contractor becomes insolvent or if a receiver is appointed due to the Contractor's insolvency;
(d) the Contractor makes a general assignment for the benefit of creditors; or
(e) the Contractor or its affiliates are unable to provide reasonable assurances that the Contractor or its affiliates can deliver the services under the Contract.

Contractor will fix appropriate notices or labels on the Work in Process to indicate ownership by the State. To the extent reasonably possible, materials and Work in Process must be stored separately from other stock and marked conspicuously with labels indicating ownership by the State.

2.240 Performance

2.241 Time of Performance
(a) Contractor must use commercially reasonable efforts to provide the resources necessary to complete all Services and Deliverables according to the time schedules contained in the Statements of Work and other Exhibits governing the work, and with professional quality.

(b) Without limiting the generality of **Section 2.241(a),** Contractor must notify the State in a timely manner upon becoming aware of any circumstances that may reasonably be expected to jeopardize the timely and successful completion of any Deliverables/Services on the scheduled due dates in the latest State-approved delivery schedule and must inform the State of the projected actual delivery date.

(c) If the Contractor believes that a delay in performance by the State has caused or will cause the Contractor to be unable to perform its obligations according to specified Contract time periods, the Contractor must notify the State in a timely manner and must use commercially reasonable efforts to perform its obligations according to the Contract time periods notwithstanding the State's failure. Contractor will not be in default for a delay in performance to the extent the delay is caused by the State.

2.242 Service Level Agreements (SLAs) – **Deleted - Not Applicable**

2.243 Deductions
If the Contractor fails to make a pick-up at any location listed on the collection schedule, it will result in a deduction of $100 for each occurrence.

Procedures for implementing the above:

The first time the Contractor fails to make a pick-up according to the collection schedule, the CONTRACT COMPLIANCE INSPECTOR (CCI) will call for a meeting with the Contractor and review the condition and $100 will be deducted from the invoice, if appropriate.

Should a second missed pick-up occur, a second meeting will be held, followed by a letter of warning and $100 will be deducted from the next invoice, if appropriate.

Should a third missed pick-up occur, a written notice of termination will be sent to the Contractor.

In the event of such termination, the STATE may deem appropriate to perform services similar to those so terminated. The Contractor shall be liable for the additional costs for such services. The Contractor shall not be liable for costs to continue to provide rubbish removal services if the failure to perform the Contract arises out of any cause beyond his/her control and without his/her fault or negligence.

2.244 Excusable Failure

Neither party will be liable for any default, damage, or delay in the performance of its obligations under the Contract to the extent the default, damage or delay is caused by government regulations or requirements (executive, legislative, judicial, military, or otherwise), power failure, lightning, earthquake, war, water or other forces of nature or acts of God, delays or failures of transportation, equipment shortages, suppliers' failures, or acts or omissions of common carriers, fire; riots, civil disorders; strikes or other labor disputes, embargoes; injunctions (provided the injunction was not issued as a result of any fault or negligence of the party seeking to have its default or delay excused); or any other cause beyond the reasonable control of a party; provided the non-performing party and its Subcontractors are without fault in causing the default or delay, and the default or delay could not have been prevented by reasonable precautions and cannot reasonably be circumvented by the non-performing party through the use of alternate sources, workaround plans or other means, including disaster recovery plans.

If a party does not perform its contractual obligations for any of the reasons listed above, the non-performing party will be excused from any further performance of its affected obligation(s) for as long as the circumstances prevail. but the party must use commercially reasonable efforts to recommence performance whenever and to whatever extent possible without delay. A party must promptly notify the other party in writing immediately after the excusable failure occurs, and also when it abates or ends.

If any of the above-enumerated circumstances substantially prevent, hinder, or delay the Contractor's performance of the Services/provision of Deliverables for more than 10 Business Days, and the State determines that performance is not likely to be resumed within a period of time that is satisfactory to the State in its reasonable discretion, then at the State's option: (a) the State may procure the affected Services/Deliverables from an alternate source, and the State is not be liable for payment for the unperformed Services/ Deliverables not provided under the Contract for so long as the delay in performance continues; (b) the State may terminate any portion of the Contract so affected and the charges payable will be equitably adjusted to reflect those Services/Deliverables terminated; or (c) the State may terminate the affected Statement of Work without liability to Contractor as of a date specified by the State in a written notice of termination to the Contractor, except to the extent that the State must pay for Services/Deliverables provided through the date of termination.

The Contractor will not have the right to any additional payments from the State as a result of any Excusable Failure occurrence or to payments for Services not rendered/Deliverables not provided as a result of the Excusable Failure condition. Defaults or delays in performance by Contractor which are caused by acts or omissions of its Subcontractors will not relieve Contractor of its obligations under the Contract except to the extent that a Subcontractor is itself subject to an Excusable Failure condition described above and Contractor cannot reasonably circumvent the effect of the Subcontractor's default or delay in performance through the use of alternate sources, workaround plans or other means.

2.250 Approval of Deliverables

2.251 Delivery Responsibilities

Unless otherwise specified by the State within an individual order, the following must be applicable to all orders issued under the Contract.

(a) Shipment responsibilities - Services performed/Deliverables provided under the Contract must be delivered "F.O.B. Destination, within Government Premises." The Contractor must have complete responsibility for providing all Services/Deliverables to all site(s) unless otherwise stated. Actual delivery dates must be specified on the individual purchase order.

(b) Delivery locations - Services must be performed/Deliverables must be provided at every State of Michigan location within Michigan unless otherwise stated in the SOW. Specific locations will be provided by the State or upon issuance of individual purchase orders.

(c) - Deleted - Not Applicable

2.252 Delivery of Deliverables – Deleted – Not Applicable

2.253 Testing – Deleted - Not Applicable

2.254 Approval of Deliverables, In General

(a) All Deliverables (Physical Deliverables and Written Deliverables) and Services require formal written approval by the State, according to the following procedures. Formal approval by the State requires the State to confirm in writing that the Deliverable meets its specifications. Formal approval may include the successful completion of Testing as applicable in **Section 2.253**, to be led by the State with the support and assistance of Contractor. The approval process will be facilitated by ongoing consultation between the parties, inspection of interim and intermediate Deliverables and collaboration on key decisions.

(b) The State's obligation to comply with any State Review Period is conditioned on the timely delivery of Deliverables/Services being reviewed.

(c) Before commencement of its review or testing of a Deliverable/Service, the State may inspect the Deliverable/Service to confirm that all components of the Deliverable/Service have been delivered without material deficiencies. If the State determines that the Deliverable/Service has material deficiencies, the State may refuse delivery of the Deliverable/Service without performing any further inspection or testing of the Deliverable/Service. Otherwise, the review period will be deemed to have started on the day the State receives the Deliverable or the Service begins, and the State and Contractor agree that the Deliverable/Service is ready for use and, where applicable, certification by Contractor according to **Section 2.253**.

(d) The State must approve in writing a Deliverable/Service after confirming that it conforms to and performs according to its specifications without material deficiency. The State may, but is not be required to, conditionally approve in writing a Deliverable/Service that contains material deficiencies if the State elects to permit Contractor to rectify them post-approval. In any case, Contractor will be responsible for working diligently to correct within a reasonable time at Contractor's expense all deficiencies in the Deliverable/Service that remain outstanding at the time of State approval.

(e) If, after three opportunities (the original and two repeat efforts), the Contractor is unable to correct all deficiencies preventing Final Acceptance of a Deliverable/Service, the State may: (i) demand that the Contractor cure the failure and give the Contractor additional time to cure the failure at the sole expense of the Contractor; or (ii) keep the Contract in force and do, either itself or through other parties, whatever the Contractor has failed to do, and recover the difference between the cost to cure the deficiency and the contract price plus an additional sum equal to 10% of the cost to cure the deficiency to cover the State's general expenses provided the State can furnish proof of the general expenses; or (iii) terminate the particular Statement of Work for default, either in whole or in part by notice to Contractor provided Contractor is unable to cure the breach. Notwithstanding the foregoing, the State cannot use, as a basis for exercising its termination rights under this Section, deficiencies discovered in a repeat State Review Period that could reasonably have been discovered during a prior State Review Period.

(f) The State, at any time and in its reasonable discretion, may halt the testing or approval process if the process reveals deficiencies in or problems with a Deliverable/Service in a sufficient quantity or of a sufficient severity that renders continuing the process unproductive or unworkable. If that happens, the State may stop using the Service or return the applicable Deliverable to Contractor for correction and re-delivery before resuming the testing or approval process.

2.255 Process For Approval of Written Deliverables – Deleted - Not Applicable

2.256 Process for Approval of Services

The State Review Period for approval of Services is governed by the applicable Statement of Work (and if the Statement of Work does not state the State Review Period, it is by default 30 Business Days for Services). The State agrees to notify the Contractor in writing by the end of the State Review Period either stating that the Service is approved in the form delivered by the Contractor or describing any deficiencies that must be corrected before approval of the Services (or at the State's election, after approval of the Service). If the State delivers to the

Contractor a notice of deficiencies, the Contractor must correct the described deficiencies and within 30 Business Days resubmit the Service in a form that shows all revisions made to the original version delivered to the State. The Contractor's correction efforts must be made at no additional charge. Upon implementation of a corrected Service from Contractor, the State must have a reasonable additional period of time, not to exceed the length of the original State Review Period, to review the corrected Service for conformity and that the identified deficiencies have been corrected.

2.257 Process for Approval of Physical Deliverables – Deleted - Not Applicable

2.258 Final Acceptance
Unless otherwise stated in the Article 1, Statement of Work or Purchase Order, "Final Acceptance" of each Deliverable must occur when each Deliverable/Service has been approved by the State following the State Review Periods identified in **Sections 2.251-2.257**. Payment will be made for Deliverables installed and accepted. Upon acceptance of a Service, the State will pay for all Services provided during the State Review Period that conformed to the acceptance criteria.

2.260 Ownership

2.261 Ownership of Work Product by State – Deleted - Not Applicable

2.262 Vesting of Rights – Deleted - Not Applicable

2.263 Rights in Data – Deleted - Not Applicable

2.264 Ownership of Materials – Deleted - Not Applicable

2.270 State Standards

2.271 Existing Technology Standards – Deleted - Not Applicable

2.272 Acceptable Use Policy – Deleted - Not Applicable

2.273 Systems Changes – Deleted - Not Applicable

2.280 Extended Purchasing

2.281 MIDEAL – Deleted - Not Applicable

2.282 State Employee Purchases – Deleted - Not Applicable

2.290 Environmental Provision

2.291 Environmental Provision
Hazardous Materials:
For the purposes of this Section, "Hazardous Materials" is a generic term used to describe asbestos, ACBMs, PCBs, petroleum products, construction materials including paint thinners, solvents, gasoline, oil, and any other material the manufacture, use, treatment, storage, transportation, or disposal of which is regulated by the federal, State, or local laws governing the protection of the public health, natural resources, or the environment. This includes, but is not limited to, materials such as batteries and circuit packs, and other materials that are regulated as (1) "Hazardous Materials" under the Hazardous Materials Transportation Act, (2) "chemical hazards" under the Occupational Safety and Health Administration standards, (3) "chemical substances or mixtures" under the Toxic Substances Control Act, (4) "pesticides" under the Federal Insecticide Fungicide and Rodenticide Act, and (5) "hazardous wastes" as defined or listed under the Resource Conservation and Recovery Act.

(a) The Contractor must use, handle, store, dispose of, process, transport and transfer any material considered a Hazardous Material according to all federal, State, and local laws. The State must provide a safe and suitable

environment for performance of Contractor's Work. Before the commencement of Work, the State must advise the Contractor of the presence at the work site of any Hazardous Material to the extent that the State is aware of the Hazardous Material. If the Contractor encounters material reasonably believed to be a Hazardous Material and which may present a substantial danger, the Contractor must immediately stop all affected Work, notify the State in writing about the conditions encountered, and take appropriate health and safety precautions.

(b) Upon receipt of a written notice, the State will investigate the conditions. If (a) the material is a Hazardous Material that may present a substantial danger, and (b) the Hazardous Material was not brought to the site by the Contractor, or does not result in whole or in part from any violation by the Contractor of any laws covering the use, handling, storage, disposal of, processing, transport and transfer of Hazardous Materials, the State must order a suspension of Work in writing. The State must proceed to have the Hazardous Material removed or rendered harmless. In the alternative, the State must terminate the affected Work for the State's convenience.

(c) Once the Hazardous Material has been removed or rendered harmless by the State, the Contractor must resume Work as directed in writing by the State. Any determination by the Michigan Department of Community Health or the Michigan Department of Environmental Quality that the Hazardous Material has either been removed or rendered harmless is binding upon the State and Contractor for the purposes of resuming the Work. If any incident with Hazardous Material results in delay not reasonable anticipatable under the circumstances and which is attributable to the State, the applicable SLAs for the affected Work will not be counted in **Section 2.242** for a time as mutually agreed by the parties.

(d) If the Hazardous Material was brought to the site by the Contractor, or results in whole or in part from any violation by the Contractor of any laws covering the use, handling, storage, disposal of, processing, transport and transfer of Hazardous Material, or from any other act or omission within the control of the Contractor, the Contractor must bear its proportionate share of the delay and costs involved in cleaning up the site and removing and rendering harmless the Hazardous Material according to Applicable Laws to the condition approved by applicable regulatory agency(ies).

Michigan has a Consumer Products Rule pertaining to labeling of certain products containing volatile organic compounds. For specific details visit http://www.michigan.gov/deq/0,1607,7-135-3310_4108-173523--,00.html

Refrigeration and Air Conditioning:
The Contractor must comply with the applicable requirements of Sections 608 and 609 of the Clean Air Act (42 U.S.C. 7671g and 7671h) as each or both apply to the Contract.

Environmental Performance:
Waste Reduction Program: Contractor must establish a program to promote cost-effective waste reduction in all operations and facilities covered by the Contract. The Contractor's programs must comply with applicable Federal, State, and local requirements, specifically including Section 6002 of the Resource Conservation and Recovery Act (42 U.S.C. 6962, et seq.).

2.300 Other Provisions

2.311 Forced Labor, Convict Labor, Forced or Indentured Child Labor, or Indentured Servitude Made Materials

Equipment, materials, or supplies, that will be furnished to the State under the Contract must not be produced in whole or in part by forced labor, convict labor, forced or indentured child labor, or indentured servitude.

"Forced or indentured child labor" means all work or service: exacted from any person under the age of 18 under the menace of any penalty for its nonperformance and for which the worker does not offer himself voluntarily; or performed by any person under the age of 18 under a contract the enforcement of which can be accomplished by process or penalties.

MAINTENANCE, REPAIR & OPERATIONS (MRO)

RUBBISH REMOVAL - GENERAL
RUBBISH REMOVAL - GENERAL – CONTRACT#: 071B0200226
LOCATION SPECIFICATION SHEET (LSS)

Consideration for award will be based on Work Plan/Price Quotation in accordance with the specifications, terms and conditions as stated within this solicitation.

SECTION I – PLACE OF SERVICES REQUESTED

LOCATION: **NEWBERRY CORRECTIONAL FACILITY** **REVISED 3-1-2010**

CONTRACT INFORMATION			
ESTIMATED CONTRACT START DATE:	07/01/2010	***CONTRACT END DATE:***	07/01/2015
PREVIOUS BPO #:	**071B7200250 (Waste Management)**		
CONTRACT INFORMATION:	Approximately 5 Year Contract with one (1) year option		
CONTRACTING AGENCY NAME:	**NEWBERRY CORRECTIONAL FACILITY**		
BUILDING NAME AND NUMBER:	**3001 Newberry Ave**		
BUILDING ADDRESS:	**Newberry, MI 49868**		
REGION / COUNTY:	Superior/ **LUCE COUNTY**		
PROCUREMENT CONTACT INFORMATION			
PROCUREMENT OFFICE NAME:			
PROCUREMENT OFFICE CONTACT NAME:	***RUTH PAQUIN***	***CONTACT PHONE #:***	***906-495-2275 ext 53118***
PROCUREMENT OFFICE CONTACT E-MAIL:	***paquinre@ michigan.gov***	***CONTACT FAX #:***	***906-495-2967***
FACILITY MANAGER OR CONTACT NAME:	***George Sevarns***	***CONTACT PHONE #:***	***906-293-6200***
CONTACT E-MAIL:	***sevarnGB@ michigan.gov***	***CONTACT FAX #:***	***906-293-0011***

LOCATION INFORMATION			
OFFICIAL WORKING DAYS OF BUILDING OCCUPANTS:	*N/A*	OFFICIAL WORKING HOURS OF BUILDING OCCUPANTS:	N/A
ESTIMATE OF AREA TO BE SERVICED: (IF APPLICABLE)	*N/A*	**(FILL IN IF NEEDED)**	*N/A*
IDENTIFY DAYS OF SERVICE:	*Mon-Friday*	**IDENTIFY HOURS OF SERVICE: [EXAMPLE: 5:30 A.M. TO 5:30 P.M.]**	*7:00 a.m.-3:00 p.m.*

SPECIFICATIONS

RUBBISH REMOVAL SERVICES

DEPARTMENT OF CORRECTIONS
SUPERIOR REGION AREA
MDOC REGION ONE
NEWBERRY CORRECTIONAL FACILITY

CONTRACT PERIOD: July 1, 2010 TO July 1, 2015 (FIVE YEARS)

AGENCY CONTACT PERSON: George Sevarns, Facility Manager PHONE: 906-293-6200

ALTERNATE CONTACT: Ruth Paquin, Procurement PHONE: 906-495-2275, ext 53118

16. Furnish, install, set in place, and service containers as specified on the Pricing Sheets. Facility Manager or designee will determine location of containers, collection frequency, and times.

17. Holidays will be included in pick-up times unless no pick up is required by mutual agreement with the agency.

18. The contractor must have equipment and personnel to adequately perform the specified service. In the event of mechanical breakdown of trucks or equipment the contractor will be expected to provide backup service so that pick-ups will be performed as required.

19. All containers are to be "NEW" at the beginning of this contract. Thereafter**,** containers shall be clean and well painted and kept in like new condition. Containers shall have tight fitting top loading split covers with lid positioners.

20. Any of the locations may be canceled from the proposed contract if the service is no longer required.

34. Contractor vehicles and personnel entering and leaving the facility property shall be searched.

35. All containers will be the property of the contractor and maintenance of those containers shall be the responsibility of the contractor.

36. The agency shall notify the contractor by phone of all pick-ups identified on the pricing sheets as "**on call**". The contractor is to respond to the agency **"on-call"** request for pick-up within 24-hours. This includes Saturday but historically it does not happen very often.

37. All refuse containers will be handled carefully and with caution to avoid damage or abuse that would cause them to be unsightly. Any contractor owned container that presents a hazard to the agency or public must be immediately removed and replaced by the contractor.

38. Refuse and accumulations spilled from container while being serviced must be immediately cleaned up by contractor's collector, **at no cost to the facility**

39. When excess refuse is stacked against full containers, this material must also be picked up with collection, **at no cost to the facility**.

40. Collection vehicles shall not be parked longer than necessary to make vicinity collections.

41. Refuse accumulation shall include any and all materials that are discarded by agency during the use, operation and maintenance of the facility.

42. PICK-UPS SHALL BE BETWEEN THE HOURS OF 7:00 AM TO 4:00 PM MONDAY THROUGH FRIDAY. CONTRACTOR VEHICLES WILL NOT BE ALLOWED TO ENTER FACILITIES DURING THE COUNT TIMES.

43. Invoice billings shall be rendered on a monthly basis **to the facility serviced**

FOR CORRECTIONAL FACILITIES ONLY:

19. Vendor's vehicle (truck) must be able to be locked when entering the facility. If the driver leaves the cab it must be locked.

20. The contractor is to pick-up trash at each facility with an empty truck and proceed immediately to landfill to dispose of waste. Copies of receipts from landfill must be sent to the state prior to payment to verify tonnage disposed.

21. Each driver must be Michigan licensed and cleared on the State Police LEIN check.

22. The possibility exists of an approximate wait of 5 to 20 minutes before vehicles will be able to enter the facility. However, every reasonable effort will be made by the facility to limit waiting time

23. If other vehicles are waiting to enter the sally-port gate, which causes a delay, vendor may **have to** return later the same day for pick-up. **This will be at no cost to the facility.**

24. If a **correctional** facility is experiencing a Lock Down, the contractor's truck may be turned away. **It may be necessary due to security reasons to reschedule the trash pick-up. This will be at no charge to the facility.**

25. **ALL UNCOMPACTED RUBBISH MUST BE COMPACTED AT CONTAINER SITE BEFORE VEHICLE LEAVES FACILITY.**

26. Vendor must meet with agency representative at site to arrange schedules and to receive necessary orientation and security clearances prior to start of any contracted service.

PRICING SHEET - A

RUBBISH REMOVAL

DEPARTMENT OF CORRECTIONS
SUPERIOR REGION AREAS

COLLECTION FEE:

- **The collection fees represent all costs for the pick up and hauling for a round trip travel. The estimated pick-ups (collection frequency) indicated below represent the number of round trips anticipated for a weekly or monthly period. The One Year Collection Fee represents the price per month or price per pull multiplied by the estimated number of months or pulls.**

DISPOSAL SERVICE PRICE:

- **This incinerator/disposal rate represents the current "gate rate" or "transfer station rate" for rubbish. This unit price will be applied to the number of TONS accumulated from every container per round trip travel.**

NOTE TO BIDDERS:

- The State does not own all necessary compactor boxes.

- **The State does not own the 4, 6 or 8 cubic yard, or the open top containers. Therefore, the bidder must include any container rental charge in the unit price quoted for collection fees.**

COLLECTION FEES – ATTACHMENT A

Container Size	Location Newberry Correctional Facility	Collection Frequency	Service Required	Collection Fee	Months or Pulls	One Year Collection Fee
33 Cubic Yard Compactor Box	Food Service	**WEEKLY**	Pick Up & Hauling furnish	$1,407.00/Month	12 Mos.	$16,884.00
(2) 6 Cubic Yard Containers	1-Admin 1-Maintenance	**WEEKLY**	Furnish, Pick Up & Hauling	$400.00/Month	12 Mos.	$4,800.00
8 CY Container	Warehouse	**WEEKLY**	Furnish, Pick Up & Hauling	$230.00/Month	12 Mos.	$2,760.00
Total One Year Collection Fee					**$24,444.00**	

DISPOSAL FEES – ATTACHMENT - A2

ONE YEAR DISPOSAL FEE

____EA 6 OR 8 CY Containers:

$ _____Incinerator/disposal rate per ton x _____ tons (Est/yr) = $_____

____EA 33 CY Self-Contained Compactor Box

$58.00 Incinerator/disposal rate per ton x _345.76_ tons (Est/yr)= $20,054.00

** Tonnage listed is estimated quantity for pricing purposes only.*

SUMMARY PRICING SHEET – A3

Total One Year Collection Fee (A1)	Total One Year Disposal Fee (A2)	Total One Year Service Price (A1+A2)	Total Year Service Price (A1+A2) x Years
$24,444.00	**$20,054.00**	**$44,498.00**	**$222,490.00**

THE COLLECTION FEE FOR ONE ADDITIONAL PICK UP & HAULING OF THE FOLLOWING CONTAINERS IS:

$200.00 **one 8 cubic yard container.**

$180.00 **one 6 cubic yard container.**

$325.00 **one 33 cubic yard container.**

$52.00 Current incinerator/disposal rate: (per ton)

LICENSE REQUIREMENTS

All material picked up shall be disposed of in a facility properly licensed under the requirements of Part 115, Solid Waste Management of the Natural Resources & Environmental Protection Act, 1994 PA 451, as amended (NREPA), (formerly known as Act 641 of 1978, as amended) and the administrative rules adopted pursuant to that act. Proper documentation must be provided.

AND

The disposal site shall be in compliance with applicable state and federal laws, rules, regulations, and shall not be a listed Superfund Site or on the Michigan Sites of Environmental Contamination Priority List published pursuant to Act 201 of 1994, PA 401 (formerly Act 307 of 1982). A listed Superfund Site may be used when the State generated waste is disposed of in a portion of the site which is currently engaged in appropriate remedial response activity regarding those portions of the site which are not in compliance.

AND

Solid waste haulers shall provide disposal services at licensed facilities, which are authorized in the applicable Solid Waste Management Plan(s) to accept solid waste from the locations included in this bid. These sites were identified according to Sections 11513 and 11538(6) of Part 115 and Administrative Rule 711 (e) (iii) (C) of the administrative rules promulgated for Part 115.

If at any time the disposal site is not in compliance with the requirements stipulated above, the State reserves the right to amend or cancel the contractual agreement.

Successful vendor must meet with agency representative at the site to arrange schedules and to receive necessary orientation and security clearances prior to start of any contracted service.

Department of Correction Facility Addresses

Newberry Correctional Facility
3001 Newberry Ave
Newberry, MI 49868