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 MANAGEMENT AND BUDGET
PURCHASING OPERATIONS
P.O. BOX 30026, LANSING, MI 48909
OR
530 W. ALLEGAN, LANSING, MI 48933

July 11, 2006

NOTICE
TO
CONTRACT NO. 071B6200213
between
THE STATE OF MICHIGAN
and

NAME & ADDRESS OF VENDOR **AYS Facilities Maintenance** **3711 Gorey Avenue** **Flint, MI 48506** **Kimg@aysfm.com**	TELEPHONE (810) 715-1100 **Kimberly Graham** VENDOR NUMBER/MAIL CODE BUYER/CA (517) 241-0684 **Laura Hischke**
Contract Compliance Inspector: See Location Spec. Sheet **Janitorial Services – Region 18 - Genesee/Saginaw County - DOS**	
CONTRACT PERIOD: From: **April 1, 2006** To: **April 1, 2009**	
TERMS **N/A**	SHIPMENT **N/A**
F.O.B. **N/A**	SHIPPED FROM **N/A**
MINIMUM DELIVERY REQUIREMENTS **N/A**	

The terms and conditions of this Contract are those of ITB #071I6200018, this Contract Agreement and the vendor's quote dated 11/21/2005. In the event of any conflicts between the specifications, terms and conditions indicated by the State and those indicated by the vendor, those of the State take precedence.

Estimated Contract Value: $20,250.00

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 MANAGEMENT AND BUDGET
PURCHASING OPERATIONS
P.O. BOX 30026, LANSING, MI 48909
OR
530 W. ALLEGAN, LANSING, MI 48933

CONTRACT NO. 071B6200213
between
THE STATE OF MICHIGAN
and

NAME & ADDRESS OF VENDOR **AYS Facilities Maintenance** **3711 Gorey Avenue** **Flint, MI 48506** **Kimg@aysfm.com**	TELEPHONE (810) 715-1100 **Kimberly Graham** VENDOR NUMBER/MAIL CODE BUYER/CA (517) 241-0684 **Laura Hischke**
Contract Compliance Inspector: See Location Spec. Sheet **Janitorial Services – Region 18 - Genesee/Saginaw County - DOS**	
CONTRACT PERIOD: From: **April 1, 2006**	To: **April 1, 2009**
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 ITB #071I6200018, this Contract Agreement and the vendor's quote dated 11/21/2005. In the event of any conflicts between the specifications, terms and conditions indicated by the State and those indicated by the vendor, those of the State take precedence.** **Estimated Contract Value: $20,250.00**	

THIS IS NOT AN ORDER: This Contract Agreement is awarded on the basis of our inquiry bearing the ITB No. 071I6200018. Orders for delivery may be issued directly by the Department of State through the issuance of a Purchase Order Form.

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

FOR THE VENDOR:	**FOR THE STATE:**
AYS Facilities Maintenance Firm Name	Signature
Authorized Agent Signature	**Kristi L. B. Thompson, Director** Name/Title
Authorized Agent (Print or Type)	**Services Division, Purchasing Operations** Department
Date	Date

STATE OF MICHIGAN
DEPARTMENT OF MANAGEMENT AND BUDGET
PURCHASING OPERATIONS

JANITORIAL SERVICES – REGION 18
For:
Saginaw Counties

Contract Locations:

SAGINAW COUNTY
Location 01: Department of State – Branch #288
4212 Dixie Hwy, Saginaw MI

Awarded to:

AYS Facilities Maintenance, Inc.
3711 Gorey Avenue
Flint, MI 48506

JANITORIAL SERVICES – REGION 18
Saginaw County

TABLE OF CONTENTS

Article 1 – Statement of Work (SOW) 7
1.0 Project Identification 7
1.001 Project Request 7
1.002 Project Background 7
1.1 Scope of Work and Deliverables 7
1.101 In-Scope 7
1.102 Out-Of-Scope 8
1.103 Environment 8
1.104 Work and Deliverable 8
1.2 Roles and Responsibilities 16
1.201 Contractor Roles & Responsibilities 16
1.202 State Staff Roles & Responsibilities 17
1.203 Contract Implementation Period / Transition / Orientation 18
1.204 Other Roles & Responsibilities - RESERVED 19
1.3 Project Plan 19
1.301 Project Plan Management 19
1.302 Reports 19
1.4 Project Management 20
1.401 Issue Management 20
1.402 Risk Management - RESERVED 20
1.403 Change Management 20
1.5 Acceptance 21
1.501 Criteria for Vendor Performance 21
1.502 Acceptance and Inspection 21
1.503 Contract Close-Out and Final Inspection 25
1.6 Compensation and Payment 25
1.601 Compensation and Payment 25
Article 2 – General Terms and Conditions 28
2.010 Contract Structure and Administration 28
2.011 Definitions 28
2.014 Issuing Office 28
2.015 Contract Compliance Inspector (CCI) 29
2.020 Contract Objectives/Scope/Background 29
2.021 Background 29
2.022 Purpose 29
2.023 Objectives and Scope 29
2.024 Interpretation 29
2.025 Form, Function and Utility 29
2.030 Legal Effect and Term 29
2.031 Legal Effect 29
2.032 Contract Term 29
2.040 Contractor Personnel 30
2.041 Contractor Personnel 30
2.042 Contractor Identification 31
2.043 Cooperation with Third Parties 31
2.044 Subcontracting by Contractor 31
2.045 Contractor Responsibility for Personnel 31
2.050 State Standards 32
2.051 Existing Technology Standards - RESERVED 32
2.52 PM Methodology Standards – RESERVED 32
2.054 Acceptable Use Policy 32

2.060 Deliverables **32**
2.061 Ordering 32
2.062 Software - RESERVED 32
2.063 Hardware - RESERVED 32
2.064 Equipment to be New and Prohibited Products 32
2.070 Performance **32**
2.071 Performance, In General 32
2.072 Time of Performance 32
2.073 Liquidated Damages 33
2.074 Bankruptcy 33
2.075 Time is of the Essence 33
2.080 Delivery and Acceptance of Deliverables **34**
2.081 Delivery Responsibilities - RESERVED 34
2.082 Delivery of Deliverables 34
2.083 Testing - RESERVED 34
2.084 Approval of Deliverables, In General 34
2.85 Process For Approval of Written Deliverables - RESERVED 35
2.086 Process for Approval of Services 35
2.087 Process for Approval of Physical Deliverables 35
2.088 Final Acceptance 35
2.090 Financial **35**
2.091 Pricing 35
2.092 Invoicing and Payment Procedures and Terms 36
2.093 State Funding Obligation 36
2.094 Holdback - RESERVED 36
2.095 Electronic Payment Availability 37
2.100 Contract Management **37**
2.101 Contract Management Responsibility 37
2.102 Problem and Contract Management Procedures 37
2.104 System Changes - RESERVED 38
2.105 RESERVED 38
2.106 Change Requests 38
2.110 Records and Inspections **39**
2.111 Records and Inspections 39
2.112 Errors 39
2.120 State Responsibilities **39**
2.121 State Performance Obligations 39
2.130 Security **40**
2.131 Background Checks 40
2.140 Reserved **40**
2.150 Confidentiality **40**
2.151 Freedom of Information 40
2.152 Confidentiality 40
2.153 Protection of Confidential Information 40
2.154 Exclusions 41
2.155 No Implied Rights 41
2.156 Remedies 41
2.157 Security Breach Notification 41
2.158 Survival 41
2.159 Destruction of Confidential Information 41
2.160 Proprietary Rights - RESERVED **41**
2.170 Warranties And Representations **41**
2.171 Warranties and Representations 42
2.172 Consequences For Breach 43
2.180 Insurance **43**
2.181 Liability Insurance 43

2.190 Indemnification 45
2.191 Indemnification 45
2.192 Continuation of Indemnification Obligations 46
2.193 Indemnification Procedures 46
2.200 Limits of Liability and Excusable Failure 47
2.201 Limits of Liability 47
2.202 Excusable Failure 47
2.203 Disaster Recovery 47
2.210 Termination/Cancellation by the State 48
2.211 Termination for Cause 48
2.212 Termination for Convenience 48
2.213 Non-Appropriation 48
2.214 Criminal Conviction 49
2.216 Rights and Obligations Upon Termination 49
2.217 Reservation of Rights 49
2.218 Contractor Transition Responsibilities 49
2.219 State Transition Responsibilities 50
2.220 Termination by Contractor 50
2.221 Termination by Contractor 50
2.230 Stop Work 50
2.231 Stop Work Orders 50
2.232 Cancellation or Expiration of Stop Work Order 51
2.233 Allowance of Contractor Costs 51
2.240 Reserved 51
2.250 Dispute Resolution 51
2.251 In General 51
2.252 Informal Dispute Resolution 51
2.253 Injunctive Relief 52
2.254 Continued Performance 52
2.260 Federal and State Contract Requirements 52
2.261 Nondiscrimination 52
2.262 Unfair Labor Practices 52
2.263 Workplace Safety and Discriminatory Harassment 52
2.270 Litigation 52
2.271 Disclosure of Litigation 52
2.272 Governing Law 53
2.273 Compliance with Laws 53
2.274 Jurisdiction 53
2.280 Environmental Provision 53
2.281 Environmental Provision 53
2.290 General 54
2.291 Amendments 54
2.292 Assignment 54
2.293 Entire Contract; Order of Precedence 54
2.294 Headings 55
2.295 Relationship of the Parties (Independent Contractor Relationship) 55
2.296 Notices 55
2.297 Media Releases and Contract Distribution 55
2.298 Reformation and Severability 55
2.299 Consents and Approvals 56
2.300 No Waiver of Default 56
2.301 Survival 56
2.302 Covenant of Good Faith 56
2.303 Permits 56
2.304 Website Incorporation 56
2.305 Taxes 56
2.306 Prevailing Wage - RESERVED 56
2.307 Call Center Disclosure 56
2.308 Future Bidding Preclusion 56

2.310 Reserved **57**
2.320 Extended Purchasing **57**
2.321 MiDEAL - RESERVED 57
2.330 Federal Grant Requirements 57
2.331 Federal Grant Requirements 57

Attachments:

LOCATION 1: SAGINAW COUNTY Branch #288 – DOS – 4212 Dixie Hwy, Saginaw, MI

Article 1 – Statement of Work (SOW)

1.0 Project Identification

1.001 Project Request

This is a Contract for Janitorial Services for Department of State (DOS), to establish a Contract(s), for location(s) identified herein in Region 18 (Saginaw County) in the State of Michigan. Article I of this document provides information about the specifications for delivering this service.

Contracts to provide Janitorial Services are also subject to the *Sheltered Workshop* Sections of P.A. 431 of 1984 (MCL 18.1293 – 18.1297) and Public Act 91 of 2005, *State Contracting for Service-Disabled Veterans* and would be identified by the location per the contract herein.

Anticipated contract effective date is listed on the Location Specification Sheet for each location. See § 2.004, Contract Term for more information.

1.002 Project Background

In an effort to streamline state government, save tax-payer dollars, and increase efficiency, the Department of Management and Budget's Purchasing Operations is offering regional solicitations for some of its Maintenance, Repair, & Operations (MRO) Service Contracts.

The MRO regionalization initiative in its official launch focuses on over 700 contracts which individually exceed $25,000 and collectively exceed $100 million dollars for services such as: Janitorial; Rubbish Removal; Grounds Maintenance; Snow Removal; and, Security Guard Services.

Janitorial Services constitutes approximately $38 million or 38% of the estimated total expenses for State of Michigan MRO services.

Goals for statewide regionalization initiative of MRO services include:

- Consolidation of similar contracted services;
- Reducing duplication and administrative costs involved in the solicitation process;
- Implementation of a proactive solicitation cycle;
- Increasing the number of competitive bidders on services by expanding the State of Michigan's contractor pool; and,
- Offering outreach opportunities to vendor communities and promoting doing business with the State of Michigan.

1.1 Scope of Work and Deliverables

1.101 In-Scope

The contractor shall provide all personnel, equipment, tools, materials, supervision, and other items and services necessary to perform the janitorial (housekeeping) services as described in the specifications herein on a per location basis. The required objective is to maintain the facility(s) in such a manner that the location provide a clean, healthy, and safe work environment for occupants and visitors of state owned or leased office facilities:

- Lighting fixtures
- Air-vents / registers (the outside)
- Waste-receptacles (including ash-receptacles)
- Restrooms
- Locker-rooms / showers
- Entrance / Lobby
- Elevators
- Corridors (including drinking fountains)
- Stairwells
- Landings
- Garages / loading areas

- Driveways
- Sidewalks
- Recycling
- Rubbish / Waste removal (to dumpster sites)
- Conference / Meeting rooms
- Auditoriums
- Staff Offices / work-stations
- Closets, File, and Storage-rooms
- Floors
- Child Play areas
- Gymnasiums
- Custody / Detention rooms
- Interior Windows (including window treatments such as blinds, etc.)
- Furniture (including desks, tables, cabinets, work-surfaces, upholstery, etc.)
- 1st Floor, exterior windows

1.102 Out-Of-Scope

The following tasks are **considered out-of-scope** (unless otherwise stated as a requirement on the Location Specification Sheet(s) (LSS)):

- Performance of personal chores for anyone (i.e., porter or courier service);
- Providing of transportation for agency staff or visitors (i.e., chauffeur service);
- Performance of non-janitorial tasks or tasks not specified in the Scope of Work and Deliverables.
- Grounds maintenance (including landscaping, such as lawn mowing, etc.)
- Rubbish Removal from facility site
- Chemical, Hazardous, or Medical Rubbish / Waste removal
- Security Guard Services
- Pest Control
- Courier / Porter Services
- Laundry
- Exterior Window cleaning (above 1st floor)
- Snow Removal (other than walkways)
- Electrical maintenance (including changing light-bulbs, etc.)
- System Control maintenance (including air/venting filter changing, cooling and heating filter systems, elevators, etc.)

1.103 Environment

The janitorial services requested involves cleaning a state-owned or leased facilities as identified herein and during the hours specified in the Location Specification Sheet (LSS) and by the Contract Compliance Inspector (CCI).

All work shall be done in accordance with all regulations governing the state agency wherein the work is to be performed and with minimum possible interference with the proper functioning of the activities of that state agency. Supplies, materials, equipment, etc. shall be confined so as not to unduly encumber the premises. The Contractor shall be held to have visited the site prior to submitting a proposal for this contract and checked with the authorities the working conditions and the methods of carrying out the work and to have included in the contract amount, all costs for meeting such working conditions. The vendor shall schedule the walk through inspection through Purchasing Operations and the Contract Compliance Inspector.

1.104 Work and Deliverable

A. Contractor, through innovation, technology, or other means, shall perform and shall provide the required cleaning services and staff to complete as frequencies determined by the State and otherwise do all things necessary for or incidental to the performance of work. Compliance will be based on the State's overall evaluation and interpretation in accordance with method of performance, frequencies and method of performance, as set forth in this document.

B. Contractor shall provide all janitorial service related items and services necessary for or incidental to the performance of work in accordance with this CONTRACT, including but not limited to:
   1. All personnel;
   2. Equipment;
   3. Tools;
   4. Supplies;
   5. Materials;
   6. Training;
   7. Supervision of Staff.

C. Contractor shall provide services at the individual locations described on the specific Location Specification Sheet(s).

D. Contractor shall perform the task descriptions that follow, which are the minimum acceptable cleaning performance standards under this Agreement:

   1. **Carpet /Rug Cleaning**: All carpets/rugs shall be clean, free of spots, gum, crusted material, spillages, and removable stains. There shall be no evidence of fuzzing caused by harsh rubbing or brushing of carpet. Carpet cleaning by hot water extraction at a temperature that will kill and eliminate bacteria. Hot water extraction by truck-mount is the preferred method.

   2. **Carpet Spot Cleaning:** Buildup, spillage or crusted material shall have been removed along with spots, smears and stains. There shall be no evidence of fuzzing caused by harsh rubbing or brushing of carpet. Spot cleaned areas shall blend with adjacent areas.

   3. **Carpet Cleaning by Thorough Vacuuming**: Carpets shall be clean and free from dust balls, dirt and other debris; nap on carpet shall lie in one direction upon completion of the vacuuming task. Note: Prior to vacuuming area, move and vacuum under all easily movable objects (chairs, waste receptacles, tables on wheels, typing stands, boxes, etc.). Be sure to replace all items moved. After vacuuming, leave all rugs clean, free from dust balls, dirt and other debris. Prior to vacuuming, broom all edges not reached by vacuum. Straight suction vacuuming is not acceptable. ***The agency requires that a motor driven Commercial grade vacuum with HEPA filtered exhaust or equipment that meet these standards be used exclusively in all carpeted areas where water and/or snow does not present a problem***. Empty dust and dirt from vacuum cleaner into a plastic trash bag, tie off and remove to a Dumpster. As part of the vacuuming process, carpet spot cleaning is required on an ongoing basis.

   4. **Dust Mop:** Thoroughly dust mops all non-carpeted areas. Move and dust mop under all easily movable objects (chairs, waste receptacles, tables on wheels, typing stands, boxes, etc.). Be sure to replace all items moved. Dust mops must be treated with water based dust control chemical. Place dust and dirt into plastic trash bag, tie off and remove to Dumpster.

   5. **Damp Mop**: Thoroughly damp mops all non-carpeted areas. Move and damp mop under all easily movable objects (chairs, waste receptacles, tables on wheels, typing stands, boxes, etc.). Be sure to replace all items after floor has dried completely. Use a clean cotton mop head that is in good condition. Use clean water at all times (change water often). Mop head must be only damp. No excess water can be left behind. Approved proper chemicals at proper dilution must be used at all times. Finished floor must be clean and streak free.

   6. **Floor Cleaning / Thorough Sweeping**: Floors shall be clean and free of trash and foreign matter. No dirt, dust shall be left in corners, behind radiators, under furniture or behind doors.

   7. **Damp Mopping and Spray Buffing:** Floors shall be slip resistant, free of marks, skipped areas, streaks, and map strands. Walls, baseboards and other surfaces shall be free of splashing and marks from the equipment. The finished area should have a uniform luster. There shall be no buildup of finish in corners. Dust mopping must be performed with a treated mop. After sweeping and damp mopping operation, all floors must be clean and free from strings, bristles and dirt streaks. Leave no dirt in corners, behind radiators, under furniture, behind doors, on stairs or landings.

Leave no dirt where sweepings were picked up. Leave no dirt, trash, or foreign matter under desks, tables or chairs.

8. **Wet Mopping and Scrubbing:** The floors must be properly prepared, thoroughly swept to remove visible dirt and debris, wads of gum, tar and foreign substances from the floor surfaces. Upon completion of the wet mopping or scrubbing, the floor must be clean and free of dirt, water streaks, mop marks, strings; properly rinsed and dry mopped to present an overall appearance of cleanliness. All surfaces must be dry and corners and cracks clean after the wet mopping or scrubbing. Chairs, wastebaskets and other similar items must not be stacked on desks, tables or windowsills, nor used in place of stepladder. All furniture readily movable by one person and intended to be moved frequently must be moved during all floor cleaning operations and replaced in original positions upon completion. Baseboards, walls, furniture and equipment must in no way be splashed, disfigured or damaged during these operations, but rather left in a clean condition.

9. **Wet Mopping:** Floors must be damp mopped and buffed between regular waxing operations. Prepare the floor by sweeping to remove all visible dirt and debris. The floor area will then be damp mopped and machine buffed to a polished appearance with a high-speed buffer.

10. **Damp Wiping:** This task consists of using a clean damp cloth or sponge to remove all dirt spots, streaks, from walls, glass and other specified surfaces and then drying to provide a polished appearance. The wetting solution must contain an appropriate cleaning agent. When damp wiping in toilet areas, use a multi-purpose disinfectant and deodorizer.

11. **Stripping and Sealing:** Completely remove all dirt, wax and other foreign substances in returning the floor to its original surface. Apply a thin coat of sealer with caution to prevent streaking or bleaching of floor surface. This application in preparation for waxing must be according to manufacturer's recommendations. The stripper, sealer and wax products used must be compatible for this activity, and wax must be a minimum of 25% solids.

12. **Waxing and Buffing:** Apply wax in a thin, even coat and machine buff with a high-speed buffer immediately after drying. The number of coats applied will depend on the type and condition of the floor. All waxed surfaces must be maintained so as to provide safe ANTI-SLIP walking conditions. Chairs, wastebaskets and other similar items must not be stacked on desks, tables or windowsills, nor used in place of stepladder. All furniture readily movable by one person and intended to be moved frequently must be moved during all floor cleaning operations and replaced in original positions upon completion. Baseboards, walls, furniture and equipment must in no way be splashed, disfigured or damaged during these operations, but rather left in a clean condition.

13. **Wet Mopping and Buffing:** Floors must be damp mopped and buffed between regular waxing operations. Prepare the floor by sweeping to remove all visible dirt and debris. The floor area will then be damp mopped and machine buffed to a polished appearance with a high-speed buffer.

14. **Empty Waste Receptacles:** Empty all containers that are provided for the disposal of waste i.e., waste baskets, torpedo type containers, sanitary napkin disposal bins, boxes, etc. into plastic bags, tie off and remove to dumpster. Dispose of items in waste containers only unless clearly marked for disposal. Liners must be used in all waste receptacles and must be changed as needed and no less than once per month. Waste containers in restrooms; break rooms, lunchrooms and conference rooms must be inspected daily and changed as needed.

15. **Restroom Cleaning:** When the CCI requests restroom cleaning during the day, an approved sign must be placed at the entrance warning tenants that the restroom is closed. A schedule for closing restrooms must be established with the Facility Manager in advance. The CCI prior to any changes made must approve any changes in this schedule.

    a. Fill Dispensers (Restroom Cleaning): Dispensers of all types must be checked daily and filled when necessary (soap, toilet tissue, paper towels, sanitary napkin, etc.).

b. Dusting (Restroom Cleaning): Completely dust all fixtures, ledges, edges, shelves, exposed pipes, partitions, door frames, tops of file cabinets, etc. Pay particular attention to the tops of these items. An approved dust cloth or dusting tool, treated with water based dust control chemical, must be used. Areas not cleared by office occupant are not to be dusted.

c. Disinfect (Restroom Cleaning): Clean and disinfect waste receptacles and dispensers inside and outside. Use proper chemicals for surface to be cleaned at proper dilution. After item has been cleaned completely, wipe item with approved *disinfectant solution and allow to air dry.

d. Clean and Disinfect Sinks (Restroom Cleaning): Thoroughly clean all sinks, including bottom, faucets, and spigots, with approved crème cleanser. Rinse thoroughly as all crème cleanser residues must be removed. Then wipe each item with approved *disinfectant solution and allow to air dry.

e. Clean Glass and Mirrors (Restroom Cleaning): Thoroughly clean all glass and mirrors using an approved alcohol based glass cleaner. Use a soft, clean cloth. Dry completely. Surface should be streak, smear, and smudge free. Make sure attached frames, edges, and shelve are also cleaned and dried as well as the glass surface. Squeegee may be used as needed.

f. Clean and Disinfect Toilets and Urinals (Restroom Cleaning): Thoroughly clean toilets, toilet seats, and urinals with approved acid free bowl cleaner, rinse thoroughly. (Approved acid cleaner may not be used more than once per month and should be used on the interior of toilet or urinal only. Great care must be taken to avoid any chrome when acid cleaner is used). Wipe each toilet, toilet seat and urinal completely with approved disinfectant solution. Buff dry to a streak, smear and smudge free "shine". Leave seats in a raised position.

g. Clean and Disinfect Walls, Doors, Partitions and Handrails (Restroom Cleaning): Thoroughly clean all walls (including switch and plug covers), doors (including entrance doors inside and outside), partitions and handrails with proper approved chemicals and proper approved dilution. Rinse thoroughly as needed, then wipe all areas with approved *disinfectant solution and allow to air dry.

h. Damp Mop - *Disinfectant (Restroom Cleaning): Thoroughly damp mops all non-carpeted areas. Move and damp mop under all easily movable objects (chairs, waste receptacles, tables on wheels, typing stands, boxes, etc.). Be sure to replace all items after floor has dried completely. Use a clean cotton mop head that is in good condition. Use clean water at all times (change water often). Mop head must be only damp. No excess water can be left behind. Approved proper chemicals at proper dilution must be used at all times. Finished floor must be clean and streak free. Thoroughly damp mop floor with approved *disinfectant solution. Allow to air dry.

*Note: *All disinfectant solutions must be changed after each restroom cleaning. The disinfectant solution used for the damp mopping process is to be emptied down the floor drain in each restroom. This practice will help reduce unpleasant odors coming from the floor drains.*

16. **Clean and disinfect Showers, shower walls and stalls (Restroom/Locker Room where applicable)**: Thoroughly clean all showers, including bottom, faucets, and spigots, with approved crème cleanser. Thoroughly clean all walls, floors, (including plug covers), doors (including entrance doors inside and outside), partitions and handrails with proper approved chemicals and proper approved dilution. Rinse thoroughly as needed, then wipe all areas with approved *disinfectant solution and allow to air dry.

17. **Service Restroom**: Visually check - dispensers must be filled, trash removed and restrooms spot cleaned as needed and as requested by the CCI.

18. **Remove Carpet Runners (as applicable)**: Carpet runners must be removed from floor to allow for proper cleaning, as needed. Be sure to remove excess water from runner with approved wet pick up vacuum before carpet runners are removed. Carpet runners must be extracted as specified during ice melt/salt usage, to maintain a clean appearance.

19. **Replace Carpet Runners (as applicable)**: After floor has been properly cleaned and is completely dry, replace carpet runners in their original locations.

20. **Cleaning / Disinfecting Drinking Fountains**: Thoroughly clean entire exterior surface with approved cream cleanser. The grain of the stainless steel must be followed at all times. Rinse thoroughly as all cream cleanser must be removed. Wipe entire surface with approved disinfectant solution and wipe dry utilizing a clean, soft cloth and wipe item dry. The grain of the stainless steel must be followed.

21. **Stainless Steel (Brass) Cleaning (Elevators, Doors, Trim, Etc.)**: Thoroughly clean all stainless steel (brass) not previously mentioned with approved cleaner and a clean soft cloth. Great care must be taken to follow the grain of the stainless steel at all times when cleaning.

22. **Cleaning, High Traffic Areas**: High traffic area is any area that would receive heavy traffic and that would require cleaning as specified. Areas would include: corridors, lobbies, waiting areas, conference rooms, or any area so designated by the CCI.

23. **Carpet Cleaning by Hot Water Extraction**: Perform vacuuming, and carpet cleaning by extraction method with commercial grade equipment only (preferably truck mounted equipment). Prior to carpet cleaning all carpeting, including carpet runners, must be thoroughly cleaned as follows:
    a. All movable items must be removed from area(s) to be cleaned (i.e., chairs, waster receptacles, all free standing tables, typing stands, boxes, plants, all temporary floor coverings, etc.) and area thoroughly vacuumed.
    b. Thoroughly spray next area to be cleaned with approved pre-treats or carpets lane cleaner used at approved dilution. Spray must be applied so those fibers remain damp until cleaned. Chemical should be left to work for 10-15 minutes
    c. Thoroughly extract all properly pretreated carpeted areas. Agitation is necessary, using an approved motor driven brush. A minimum of three cleaning passes and two vacuuming only must be used. Approved equipment and chemicals, at approved dilutions, must be used.
    d. All stains must be removed during the extraction process, using approved chemicals. Great care must be taken to completely remove stain removal chemicals from carpet fiber.
    e. Thoroughly spray all thoroughly cleaned carpet with approved carpet fiber protector at approved dilution. Application must be made with approved sprayer. Carpet track off mats and runners such as those found in building lobby areas, are exempt for this process.
    f. Replace all items removed for cleaning. All items moved back into place that have metal of any type that come in contact with carpeting must be wood blocked or tabbed to keep the metal off the carpet fiber until thoroughly dry. All blocks or tabs should be removed during the next scheduled regular area cleaning, provided the carpet is thoroughly dry. This could take more than one day.

24. **Spray Buff Hard Floors:** Hard floor must be properly prepared before spray buffing by removing carpet runners, dust mopping, and damp mopping hard floor areas. Begin spray buffing by lightly spraying area just to the left or right of approved floor machine (buffer) with approved spray buffing chemical, at approved dilution. Buffing pad must be approved and will depend on type of finish used. Rotary floor machine (buffer) will be worked back and forth over area lightly sprayed until floor has a high, streak free luster. Then proceed to the next area, until scheduled area is completed. Great care must be taken to avoid using "loaded" pad (pad full of dried finish and dirt). Flip pad over or change to another clean dry pad often.

Great care must also be taken not to allow floor machine (buffer) to run in one spot for too long to avoid burning the floor. Floor shall be dust mopped after scheduled spray buffing is completed. Replace carpet runners to original position post-cleaning.

25. **Strip and Refinish:** Close and properly mark area "closed" with approved signage. Remove all movable objects from area.
    a. Apply approved stripping solution at approved dilutions to area to be stripped. Allow solution to stand according to approved manufacturer's recommendations. Do not allow solution to dry out or stand too long. Any finish or dirt must also be removed from walls, doors, baseboards, etc. at this time.
    b. Thoroughly agitate all floor area to remove all old finish with approved strip pad.
    c. Use wet vacuum to pick up old finish and stripper.
    d. Thoroughly mop rinse areas with clean cotton mop and clean water. Make sure walls, doors, baseboards, etc. are also thoroughly rinsed.
    e. Thoroughly mop rinses areas a second time with clean cotton mop and clean water with approved neutralizer/conditioner chemical at approved dilution. Make sure walls, doors, etc. are also thoroughly rinsed.
    f. Allow floor to air dry.
    g. If any old finish remains, repeat "a" through "f".
    h. Continue "a" through "g" until scheduled area is properly stripped and/or rinsed.
    i. Apply thin coat of approved sealer with approved clean nylon or rayon mop head or approved clean applicator. Stripping solution finish and sealer must not be slopped on walls, doors, etc. Allow sealer to thoroughly dry.
    j. Apply second coat of sealer as described in "I" above. Allow sealer to thoroughly dry.
    k. Apply top coating and second coat of approved floor finish.

26. **Scrub - Restroom Floors/Hard Surface Stairwell Floors**: Close restrooms. Remove all movable objects from area and place approved “closed” signage to area prior to completion of task.
    a. Apply approved cleaning solution at approved dilution to area to be scrubbed. Do not allow solution to dry.
    b. Quickly agitate small section coated with solution with approved stiff bristle brush. Be sure grouting is clean.
    c. Use wet vacuum to pick up dirty solution.
    d. Thoroughly mop rinses area with clean cotton mop and clean water. Make sure all walls; doors, etc. are also thoroughly rinsed.
    e. Thoroughly mop rinse a second time with clean cotton mop and clean water. Make sure all walls; doors, etc. are also thoroughly rinsed a second time.
    f. After floor is thoroughly dry, replace all objects moved from area. Remove signs and reopen.
    g. Scrub all walls including partitions

27. **Wall Spot Cleaning**: Thoroughly clean all spots, smudges, stains, etc. from walls, partitions and modular partitions using approved chemicals at approved dilutions. Wipe dry with clean soft cloth. Also thoroughly clean all interior glass with approved alcohol based glass cleaner and wipe dry with clean dry cloth. All surfaces must be dirt and streak free.

28. **Dusting**: There shall be no obvious dust streaks. Corners, crevices, molding and ledges (including heating) shall be free of all obvious dust. There shall be no oils, spots or smudges on desk or dusted surfaces. Thoroughly dust all vertical and horizontal surfaces in all cleanable areas with approved dust cloth or tool treated with an approved water based dust control chemical, up to and including ceiling vents, air bars, and lighting devices, window blinds, etc. Do not move dusting residue from spot to spot, but remove directly from the areas in which dirt lies by the most effective means appropriate; treated dusting cloths or vacuum tools.

a. Leave no dust streaks.
b. Leave corners, crevices, molding and ledges free of dust and cobwebs.
c. Leave no oil spots or smudges on dusted surfaces caused by dusting tools.

29. **Horizontal surfaces:** include, but are not limited to, counter tops, file cabinets, tables, coat-racks, etc. Telephones, ashtrays, etc., must be lifted and dusted under. Do not disturb work papers. Dusting high and low includes, but is not be limited to, partition tops, pictures, chair rungs, etc. Window hangings are either Venetian blinds or drapes. Dust Venetian blinds. Lightly vacuum drapes.

30. **Remove Recyclable Paper** (as applicable): Pick up all recyclable paper from marked containers centrally located throughout the building and remove to designated containers in the loading dock area. This does not include individual boxes on desks.

31. **Clean Air Bars and Vents**: Vacuum excess dust and dirt from air bars. Damp wipes clean with approved disinfectant solution and wipe dry.

32. **Glass Cleaning (Lobby)**: Glass Cleaning is a part of the overall task of lobby cleaning. Glass cleaning shall be performed as specified. It is expected that all lobby glass, including doors, revolving doors and windows (to the limit of reach from floor level) shall be spot cleaned inside and out. All handprints, smudges, and soil are to be removed during the performance of this task. If necessary, clean the entire door, revolving door or window to accomplish clean glass.

33. **Cleaning Ash Receptacles and Surrounding Areas**: Cigarette or cigar butts, matches and other discarded material shall be removed from the receptacle and the receptacle wiped so that it is free of dust, ashes, odors, tar, streaks and nicotine stains. Ashtrays placed on the exterior of the building shall be emptied and cleaned as needed to maintain a clean appearance. The areas immediately surrounding such ashtrays and adjacent building entrances are to be included as part of this cleaning task. Sweeping and removal of cigarette butts and emptying of ashtrays as needed to clean the area**.** **Note: Sand or dry receptacles**: Contents of ash receptacles must be disposed of in a safe manner. Clean sand by sifting out and disposing of debris and replacing and replenishing sand in urns.

34. **Emergency clean up (if included as part of contract(s:)**The Contract Compliance Inspector (CCI) shall assign, when and where needed, cleanup duties to the contractor when an emergency occurs. Cleaning tasks may include: dusting, vacuuming, mopping, carpets extraction, window washing, or other tasks defined in the Task Definitions herein.

35. **Rubbish Removal:** Rubbish from a central location is the responsibility of the State. Contractor must bag all waste material and place inside containers provided for that purpose.

36. **Replenishable Supplies**: The contractor is responsible for the purchase and supply of materials listed on the Location Specification Sheet (LSS). All profits from the sale of items (i.e., sanitary napkins) belong to the contractor.

37. **Hazardous Conditions**: Conditions that may be questionable or deemed Hazardous (i.e., such as burned out lights, loose railings, ceiling tiles, exposed wiring, broken windows, etc.) must be reported by janitorial staff to contract supervisor verbally followed by written notification to CCI or building manager with date of observation.

E. LOCATION(S):

Location 01: DOS – 4212 Dixie Hwy, Saginaw, MI (04/01/06 to 03/31/09)

F. Reduction of Space (*Temporary*)

1. When blocks of space totaling 3,500 square feet (325 square meters) or more are expected to remain unoccupied for 30 calendar days or longer, deductions will be made from the monthly payments due the Contractor.

2. The CCI will give the Contractor or his representative notification no less than ten (10) full working days in advance stating when the areas are to be dropped from or returned to normal cleaning schedule. The period for deductions will begin on the effective date of the notice and end on the day before cleaning is resumed.

3. Subsequent blocks of space less than 3,500 square feet (325 square meters) may be added after the initial 3,500 square feet (325 square meters) threshold is met.

4. Periodic Services will be deducted as required due to the unoccupied space.

5. The deduction for vacant space will be computed by the agency with an example as follows:

   - Daily Deduction =
     Monthly contract price for Basic Janitorial Services divided by building cleaning area (Cleanable square foot on Location Specification Sheet); further divided by 21 workdays, regardless of the actual number of work-days in the applicable month.

   - Monthly Deduction =
     Yearly contract price for Basic Janitorial Services divided by building cleaning area (Cleanable square feet on Location Specification Sheet); further divided by 12.

G. EQUIPMENT and SUPPLIES
Contractor shall furnish all equipment and supplies, other than State provided supplies and equipment, as stated in the Contractor's Final Work Plan and as approved by the Contract Compliance Inspector per Location:

1. Contractor must utilize cleaning equipment that meets with the approval of the State Agency Contract Compliance Inspector (CCI). The use of any powdered scouring cleansers is expressly prohibited. A complete listing of equipment and products to be used shall be submitted to the CCI within 60 days after award of CONTRACT.

2. Contractor shall furnish all power equipment such as floor machines, vacuum systems, carpet cleaning systems, etc. and all other equipment.

3. Contractor's equipment used in office areas must not exceed the noise level of 68 decibels at 5 feet, which will be less disruptive to office workers.

4. In the final Work Plan (as approved by the Contract Compliance Inspector per location), Contractor must also provide a list of all equipment that includes the following information:

EQUIPMENT					
Type	Project Function / Purpose	Year made	Manufacturer	Model Number	Make

5. Contractor must supply all cleaners, finishes, etc. for the treatment of various types of flooring and/or carpeting. Use only such materials as are recommended and approved by the Contract Compliance Inspector or his designee and the flooring manufacturer.

6. Contractor shall submit a complete list, by brand names and product numbers, of all supplies to be used in fulfilling this CONTRACT, and shall submit a Materials Safety Data Sheet (MSDS) prior to starting any work.

7. Right is reserved by State to accept or reject any items listed on the MSDS.

8. Contractor must immediately furnish an acceptable substitute for any item rejected by the State.

9. In the final Work Plan (as approved by the Contract Compliance Inspector per location), Contractor shall provide a list of the janitorial supplies that it will utilize for this project, including manufacturer's name and proposed annual estimated quantities.

SUPPLIES				
Type	Project Function / Purpose	Manufacturer	Product	Quantity

1.2 Roles and Responsibilities

1.201 Contractor Roles & Responsibilities

A. PERSONNEL

1. In the Final Work Plan (as approved by the Contract Compliance Inspector per location), Contractor shall identify personnel individually by project role, including names and proposed physical location of all administrative, managerial, executive and professional personnel employed on this project, for at least the following positions:

   - Project Manager
   - Key / Security Control Manager
   - Staff Support
   - Subcontracting

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 §2.040).

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.

4. Contractor shall be responsible for all administrative functions and resources related to its personnel, including staff recruitment, interviewing, use of electronic equipment (e.g., computers, telephones), etc.

B. SUPERVISION

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

1. 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 workday, 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.

2. Contractor must maintain a secure environment while cleaning 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 janitorial services.
   - Contractor must lock the building when leaving.
   - In locations that include a security alarm system, Contractor must also properly set the security alarm when leaving the building.
   - Failure to maintain a secure environment, properly lock the building and the gates or 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.

3. In addition, 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.

4. The agency CCI may require that Contractor immediately remove any contractual 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.

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

C. EMPLOYEE CONDUCT:
Contractor-Employees shall and must:

1. Wear a badge in plain view indicating the employee's name and company name in letters not less than 1/4 inch in height.

2. Wear clean and neat clothing or uniforms, supplied by the Contractor, at all times while on the job.

3. Be required to carry an agency provided pad of "Notice of Work Required" forms and to use them daily to report potentially hazardous conditions and items in need of repair including office lighting, emergency and exit lights, plumbing and water cooler problems, etc. to the Contract Compliance Inspector.

4. Report immediately and turnover all lost and found articles recovered to the Contract Compliance Inspector.

5. Not have relatives or other personal visitors at the work site.

6. Not consume food or beverages in public view while on duty. During normal breaks and lunch periods, the cafeteria or lunchroom may be used for this purpose.

7. Not consume alcoholic beverages nor use narcotics while on duty nor be under the influence when reporting for duty.

8. Not receive or initiate personal telephone calls from state owned telephones.

9. Not play radios or other sound equipment without the Contract Compliance Inspector's approval.

10. Not fraternize with agency staff, clients, tenants, or visitors to the building nor unnecessarily disrupt tenants from their work while performing their contractual duties.

11. Turn off lights, if applicable, after cleaning is completed in an assigned area.

1.202 State Staff Roles & Responsibilities

Contract Compliance Inspector or agency / departmental designee shall:

A. Complete assignments related to this contract implementation have not been made at this time. These staff members for each State Agency or Department will be clearly identified before the contract is awarded, which is likely to be at least 90 days from this date.

B. Shall provide the Contractor, prior to the term of the contract, the general and specific orders detailing janitorial services at each contracted location, including approval of the Final Work Plan per Location.

C. Give additional written or oral instructions to clarify the desired performance as is determined by the State to be needed.

D. Provide necessary, registered and returnable keys for the Contractor's entrance to areas of the buildings necessary for the completion of described work after award of contract (Contractor must not duplicate any such keys).

E. Assure that an area is furnished, when necessary, for storage of the Contractor's equipment and supplies; however, Contractor will be held solely responsible for all items stored or secured on State premises.

F. State Agency / Departmental Contract Compliance Inspector(s) / Cite Manager(s):
The Contract Compliance Inspector is the day-to-day Facility / Site-Manager, and is identified on the Location Specification Sheet(s) now incorporated with this contract by reference.

1. This role will include:
   a. Contract compliance inspection, and monitoring;
   b. Verifying service and work product delivery;
   c. Validation of contractor invoices prior to Agency / Department approval and payment; and,
   d. Contractor performance evaluation.
2. However, management or administration of any contract implies no authority to change, modify, clarify, amend, or otherwise alter the prices, terms, conditions, and specifications to this contract: that authority is retained solely by Department of Management and Budget's Business Services Administration – Purchasing Operations.

1.203 Contract Implementation Period / Transition / Orientation

The State Contract Compliance Inspector (CCI) will administer the contract on a day-to-day basis during the term of the impending contract. However, administration of any contract implies no authority to change, modify, clarify, amend, or otherwise alter the terms, conditions and specification of such contract. That authority is retained by the DMB – Business Services Administration - Purchasing Operations.

A. Before commencement of work by a new contractor, the State CCI will:
   1. Schedule a meeting with the contractor to talk about the contract specifications and answer any questions the contractor may have.
   2. Walk-through the facility with the contractor to point out where janitorial closets are located, water sources, alarms, and any other specifics of your building.
   3. Contractor must provide name of staff authorized to be in the building, telephone numbers of any supervisors if other than the Contractor.
   4. Exchange emergency telephone numbers where the contractor can be reached day or night and where you can be reached.
   5. List of Cleaning supplies and Material Safety Data Sheets (MSDS) must be obtained. You may also request to see the products.
   6. Look at the contractor's Equipment. Equipment that has worn or ratted cords is unacceptable. Household grade equipment is unacceptable. Check to see if the equipment is in good operating condition. The contract requires that a motor driven Commercial grade vacuum with HEPA filtered exhaust or equipment that meet these stands be used exclusively in all carpeted areas where water and/or snow does not present a problem.
   7. Establish a schedule for window cleaning services and all other periodical services. Provide the contractor with a copy of the schedule.
   8. Establish a schedule for routine face-to-face meetings on site. (Especially within first 6 months.)
   9. Provide keys to the building and any security clearances.
   10. Do lien checks, as necessary. (See Article II for more information regarding Background checks).
   11. Issue approval of Contractor's Final Work Plan.

B. Once the new contractor has begun the work, the State CCI:

1. Shall provide written correspondence and feedback to the Contractor after each meeting, as Contractor shall be informed of any deficiencies and allowed the opportunity to correct any deficiencies. (However, if deficiencies continue, a formal complaint to vendor or vendor performance report will be filed.)

2. Inform contractor where to forward invoices for immediate processing and payment.

3. Be available to answer questions from the Contractor. Feedback (Communication) is critical.

1.204 Other Roles & Responsibilities - RESERVED

1.3 Project Plan

1.301 Project Plan Management

A. For each location, a project work plan for managing implementation of the janitorial 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 Contract Compliance Inspector (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 vendor 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, as well as continuously communicate with the agency/departmental project-lead.

1.302 Reports

Contractor must provide reports as requested by the State, including but not limited to:

A. **Schedule of Events Work Plan**: Within five (5) working days from the begin date of the Contract, the Contractor must submit a final work plan (based on original work plan submitted with bid proposal) to the respective State-agency CCI for final approval, which must include the following:

1. The Contractor's project organizational structure, to include:

   a. The Contractor's staffing table with names and title of personnel assigned to the project. This must be in agreement with staffing of accepted proposal. Necessary substitutions due to change of employment status and other unforeseen circumstances may only be made with prior approval of the State.

   b. The project breakdown showing schedule of days and hours for basic janitorial services and periodicals.

2. Contractor shall maintain a chronological file of all reports and correspondence related to any contract resulting from this solicitation. All reports submitted to the Agency's Contract Compliance Inspector must be submitted timely and prior to any scheduled meeting between the Contractor and the State.

B. **Operations Report** As requested by the CCI, the Contractor shall provide a written summary report of progress which outline the work accomplished during the reporting period in accordance and compliance with the Contract to include but not limited to:

1. Notification of any significant deviation from previously agreed-upon work plans
2. Service compliance reports (inspection forms)
3. Summary incident reports
4. Personnel (re) assignment reports
5. Time and attendance reports
6. Personnel disciplinary reports
7. Problems, real or anticipated and resolution

1.4 Project Management

1.401 Issue Management and Inspection and Correction of Deficiencies

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

B. CCI will also maintain a record comprised of complaints from agency or departmental staff and provide record of this to the Contractor at the beginning of each workday; this record will identify the areas requiring special attention on that day, which must to be completed by Contractor within 8 hours of its receipt.

C. 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 for a daily, weekly, or monthly task within 24 hours from notice of the deficiency and correct a periodical task deficiency within 48 hours from notice.

D. Should the Contractor fail to correct specification deficiencies, a Complaint to Vendor (Vender Performance form) will be filed by the Contract Compliance Inspector. Repeated failure to correct specification deficiencies resulting in issuance of subsequent Complaint to Vendor (Vendor Performance form) may result in cancellation of the contract and / or the assessment of liquidated damages as defined in Section 2.073 by Purchasing Operations.

1.402 Risk Management - RESERVED

1.403 Change Management

A. If a proposed contract change is requested by the Contract Compliance Inspector and approved by the agency purchasing/procurement office, then the request for change will be submitted to the Department of Management and Budget, Purchasing Operations Buyer, who will then make recommendations to the Director of Purchasing Operations regarding ultimate approval/disapproval of change request.

B. If the DMB Purchasing Administration Director agrees with the proposed modification, and all required approvals are obtained (including State Administrative Board), the assigned Buyer will issue an addendum to the Contract, via a Contract Change Notice.

C. Vendors who provide products or services prior to the issuance of a Contract Change Notice by the DMB Office of Purchasing Operations, risk non-payment for the out-of-scope/pricing products and/or services.

1.5 Acceptance

1.501 Criteria for Vendor Performance

The following criteria will be used by the State to determine "Acceptance" of the Services provided under this SOW (also see § 2.070, *Performance*).

A. Frequency of tasks (i.e., Daily, Weekly, Monthly, etc.); and,

B. Completion of the tasks as identified on the LSS, which will include:
- Staffing;
- Intermittent inspections (Refer to below examples);
- Complaints received; and,
- Agency Inspection Report.

1.502 Acceptance and Inspection

Acceptance of Vendor's Cleaning Inspection Reports will be defined as State approval and sign-off on Contractor submitted reports, and shall verify that Contractor has met minimum cleaning performance standards as stated in §1.104, *Work and Deliverable*.

EXAMPLE OF CLEANING INSPECTION REPORT

CONTRACT CLEANING INSPECTION REPORT					
INSTRUCTIONS: Form is used for inspection of contract cleaning by inspectors to record results. The condition of area (s) inspected will be rated SATISFACTORY or UNSATISFACTORY. Explain unsatisfactory rating in remarks column and complete quantity column.					
BUILDING	**REPORT NO.**			**CONTRACT NO.**	
Contract Compliance Inspector or Designee (*Print Name*)				**Inspector's Signature**	
Time Started	**Time Completed**	**Length of Inspection**		**Date of Inspection**	
Vendor Representative	**Review Date**	**Vendor's Review & Acceptance of Report**		**Time**	**Date**
WORK DESCRIPTION – LOCATION (Room No., Corridor, Lobby, or Either)		**INSPECTION FINDINGS**		**REMARKS**	
		Satisfactory	**Unsatisfactory**		

EXAMPLE CLEANING INSPECTION REPORT

CLEANING INSPECTION FORM			
LOCATION:			
LOCATION ADDRESS:			
INSPECTION DATE:			
INSPECTION TIME:			
INSPECTED BY:			
CATEGORY	**INSPECTION ITEMS**	**SCORE (1-5)**	**COMMENTS**
ROOMS	Bare Floors and Carpets Bases and Corners Vertical Surfaces Horizontal Surfaces Trash Receptacles	1 2 3 4 5 1 2 3 4 5 1 2 3 4 5 1 2 3 4 5 1 2 3 4 5	
RESTROOMS	Floors (tile and other) Fixtures (sinks, toilets, etc.) Vertical Surfaces Horizontal Surfaces Supplies	1 2 3 4 5 1 2 3 4 5 1 2 3 4 5 1 2 3 4 5 1 2 3 4 5	
ENTRANCE LOBBY	Floors, Corners, Mats, Carpets Vertical Surfaces Horizontal Surfaces	1 2 3 4 5 1 2 3 4 5 1 2 3 4 5	
CORRIDORS	Bare Floors, Mats, Carpets Vertical Surfaces Horizontal Surfaces Fixtures	1 2 3 4 5 1 2 3 4 5 1 2 3 4 5 1 2 3 4 5	
ELEVATORS ESCALATORS	Floors and Corners Vertical Surfaces Horizontal Surfaces	1 2 3 4 5 1 2 3 4 5 1 2 3 4 5	
GARAGE LOADING AREAS	Floors and Corners Vertical Surfaces Horizontal Surfaces	1 2 3 4 5 1 2 3 4 5 1 2 3 4 5	
INTEGRATED PEST MANAGEMENT	Building Other Areas	1 2 3 4 5 1 2 3 4 5	
GROUNDS LANDSCAPING	Landings Walkways Lawns Shrubbery and Other Parking Areas and Driveways	1 2 3 4 5 1 2 3 4 5 1 2 3 4 5 1 2 3 4 5 1 2 3 4 5	

CLEANING INSPECTION - SCORING CRITERIA

(Note: Allowances should be made for usage between time of cleaning and time of inspection)

SCORE = 5

- Bare floors and base moldings shine; they are bright and clean. Colors are fresh. No build up in corners or along walls. Carpets and Rugs are clean, free of debris, spots, gum, crusted material and removable stains. No evidence of deterioration or fussing from harsh scrubbing or brushing. Cleaned areas should blend with adjacent areas.
- All vertical surfaces (walls, doors, interior and exterior windows, blinds, mirrors, etc.) and horizontal surfaces (floors, ceilings, furniture, radiators, grills, etc.) are freshly cleaned and polished. They have no accumulation of dust, dirt, marks, streaks, smudges of fingerprints. This includes items above and below eye level. Fixtures are clean, polished, and lustrous and free of encrustation.
- Washroom fixtures and tile gleam and the area are odor-free. Supplies are adequate (80% full).
- Trash containers are clean, odor-free and lack spillage, dust, debris and residue.
- Lawns are well maintained, and free of weeds and trash. Walkways, landing and steps are free of trash and weeds. Shrubbery and other landscaping are trimmed and free of litter and weeds. Parking area and driveways are free of litter and weeds.
- No evidence of pests or rodents.

(Note: Allowances should be made for usage between time of cleaning and time of inspection)

Score = 4

- Bare floors and base moldings shine; they are bright and clean. No buildup in corners or along walls. Little or no evidence of dust, dirt, stains, etc. Carpet/Rugs are clean, free of debris, spots, gum, crusted material and removable stains. There is, however, slight evidence of deterioration and cleaned areas do not blend extremely well with adjacent areas.
- All vertical and horizontal surfaces are freshly cleaned and polished. Little or no accumulation of dust, dirt, marks, streaks, smudges, or fingerprints. This includes items above and below eye level. Fixtures are cleaned, polished, lustrous and free encrustation.
- Washroom fixtures and tile gleam and the area are odor-free, but there could be a few fingerprints. Supplies are adequate (80%).
- Trash containers are clean, odor-free and lack spillage, dust and residue.
- Lawns are well maintained, but may have minimal weeds or trash. Walkways, landings and steps may have minimal trash or weeds. Shrubbery and landscape are trimmed but may have minimal litter or weeds. Parking area and driveway may have minimal litter or weeds.
- No evidence of pests or rodents.

Score = 3

- Bare floors and base moldings are swept and/or vacuumed clean, but upon closer observation, they may be stains or splash marks present. Slight buildup of dirt and/or floor finish in corners and along walls may be seen. Carpet/rugs are clean, but may be slightly stained and matted, especially in high traffic areas. They are, however, free of debris, gum, crusted material and/or removable stains. Slight evidence of deterioration may be present. Cleaned areas may not blend with adjacent areas.
- All vertical and horizontal surfaces are cleaned and polished. There is, however minimal accumulation of dust, dirt, smudges, fingerprints, and marks. This includes items below and above eye level. Fixtures are cleaned and polished, but are not lustrous and/or totally free of encrustation.
- Washroom fixtures and tile have obviously been cleaned, but do not gleam. The room is odor free, but there may be conspicuous dust, dirt, smudges, and/or fingerprints. Some supplies are adequately stocked (80% full).
- Trash containers are cleaned and odor free. They may, however have slight evidence of spillage, dust, debris, and/or residue.
- Lawns are maintained, but have minimal trash and weeds. Walkways, landings, and steps have trash or weeds. Shrubbery and landscape are trimmed but have liter and weeds. Parking areas and driveways have liter and weeds.
- No evidence of pests and/or rodents.

Score = 2

- Bare floors and base molding are swept and/or vacuumed clean, but are dull, dingy and stained. There is an obvious buildup of dirt and/or floor finish in corners and along walls. Carpet/rugs are stained and matted, especially in high traffic areas. They are slightly stained and are not necessarily free of debris, gum, crusted material and/or removable stains. The cleaned areas do not blend with adjacent areas.
- Vertical and horizontal surfaces have conspicuous dust, dirt, smudges, fingerprints, and marks. Fixtures below and above eye level may have been cleaned, but are not lustrous at all and may have encrustation.
- Washroom fixtures and tile may have been cleaned, but they appear dingy and do not gleam at all. There may be a slight odor as well as a bit of dust, dirt, smudges, and/or fingerprints. Some supplies are stocked, some are not.
- Trash containers are stained, marked and have an obvious odor. They have old trash, spillage, dust, debris, and/or residue.
- Lawns aren't maintained well, and have trash and seeds. Walkways, landings, and steps have trash and weeds. Shrubbery and landscape are not trimmed and have litter and weeds. Parking areas and driveways have litter and weeds.
- Some evidence of pests and/or rodents.

Score = 1

- Bare floors and base moldings are scuffed, dingy, and smudged. There is an obvious buildup of dirt and/or floor finish in corners and along walls. Carpet/Rugs are stained and matted throughout. They are stained and are not free of debris, gum, and crusted material. There aren't many cleaned areas; there is dirt and litter throughout.
- Vertical and horizontal surfaces have major accumulations of dust, dirt, smudges, fingerprints, and marks that will be difficult to remove. Fixtures below and above eye level are covered with smudges, fingerprints, dust and encrustation.
- Washroom fixtures are covered with smudges, fingerprints, dust and encrustation, all being nearly impossible to remove. The restroom odor is obnoxious and supplies are not stocked.
- Trash containers are stained with spillage, dust, debris, and residue. They are filled with day-old trash and the odor is overwhelming.
- Lawns aren't maintained well, and have trash and weeds. Walkways, landings, and steps have an abundance of trash and weeds. Shrubbery and landscape are not trimmed and are filled with litter and weeds. Parking areas and driveways are covered in litter and weeds.
- Definite evidence of pests and/or rodents.

1.503 Contract Close-Out and Final Inspection

(Also, see § 2.210, *Termination or Cancellation by the State*.)

A. On a date not later than 30 days before expiration of the contract, the Contractor and the CCI, or a designee, shall conduct a complete inspection of all locations where services were rendered through this contract. The Contractor shall coordinate and schedule the inspection with the CCI.

B. The CCI will then prepare a Deficiency Final Inspection Report (DFIR) listing all deficiencies noted during the inspection (i.e., stripper residue on baseboard, tasks not complete, etc.) and not later than five (5) working days following the inspection, furnish a copy of the report to the Contractor.

C. Contractor will prepare a corrective action report for within ten (10) working days following notice of DFIR, identifying all actions to correct the deficiency.

D. The Contractor will, before contract expiration, pursuant to the corrective action plan as approved by the CCI, correct all deficiencies notice in the DFIR.

1.6 Compensation and Payment

1.601 Compensation and Payment

A. Payment / Reimbursement Method:

Contractor agrees that –

1. CONTRACT AGREEMENT shall be a FIXED, not to exceed, maximum amount.
2. Payment will be issued as a rate per unit of service, as described in the price-model on the LSS.
3. The unit rate(s) quoted and established shall remain FIXED for the entire period of the Agreement, except as follows:
   a. Rate/prices are subject to change at the end of each 365-day period.
   b. Such changes shall be based on changes in actual costs for delivery of services.
   c. Documentation of such changes must be provided with the request for price change in order to substantiate any requested change.
   d. Purchasing Operations reserves the right to consider various pertinent information sources to evaluate price increase requests (such as CPI, PPI, and US City Average, as published by the US Department of Labor, Bureau of Labor Statistics).
   e. Purchasing Operations also reserves the right to consider other information related to special economic and/or industry market circumstances, when evaluating a price change request.
   f. Purchasing Operations reserves the right to deny a vendor's request for a rate-change, and have the original, quoted rates remain in effect for the life of the Agreement.
   g. Changes may be either increase or decreases, and may be requested by either party.
   h. Approved changes shall be firm for the remainder of the Contract period unless further revised at the end of the next 365-day period.
   i. Requests for price changes shall be RECEIVED IN WRITING AT LEAST sixty (60) days PRIOR TO THEIR EFFECTIVE DATE, and are subject to written acceptance and approval by the State before becoming effective.
   j. In the event new prices are not acceptable, the CONTRACT may be cancelled.
   k. The continued payment of any charges due after September 30th of any fiscal year will be subject to the availability of an appropriation for this purpose.
4. The Contractor shall maintain a record system that documents the total number of units of service as defined in the Agreement and delivered during the term of the Agreement. These records shall also document the specific units billed to the State under the Agreement.
5. A monthly "Statement of Expenditures" shall accurately represent the units of service delivered, the reimbursement rate by type of service, and the total amount being claimed, must be submitted to the State, within thirty (30) days from the end of the monthly billing period.
6. For the month of September, billings shall be submitted as reasonable directed by the CCI or the State's Contract Administrator to meet fiscal year-end closing deadlines.
7. If the billing is not received as set forth above, no payment shall be made by the State for that billing period unless as exception is specifically authorized by the Department director or his/her delegated representative.
8. In no event, shall the State make payment to the Contractor for billings submitted more than 90 days after the end of the billing period, without and approval from the State Department Director or his/her representative.
9. Contractor shall provide quick payment terms to the State (

B. Maximum Amount

1. Payment / Reimbursement Method: Contractor AGEES that -

   a. CONTRACT AGREEMENT IS a FIXED, not to exceed, maximum amount.

   b. Payment will be issued as a rate per unit of service.

   c. The unit rate(s) quoted and established in this Agreement shall remain fixed for the entire period of the Agreement as initially agreed, except as follows:

- The State reserves the right to deny a Contractor's request for a rate-change, and have the original, quoted rates remain in effect for the life of the Agreement.

- Approved changes shall be firm for the remainder of a contract fiscal period, unless further revised.

- Requests for price changes shall be RECEIVED IN WRITING AT LEAST SIXTY (60) DAYS PRIOR TO THEIR EFFECTIVE DATE and are subject to written acceptance and approval by the State before becoming effective.

- In the event new prices are not acceptable, the OPTION TO EXTEND may be withdrawn and contract may be cancelled.

d. The continued payment of any charges due after September 30th of any fiscal year will be subject to the availability of an appropriation for this purpose (see Article 2).

2. The Contractor shall maintain a record system that documents the total number of units of service as defined in this Agreement and delivered during the term of this Agreement. These records shall also document the specific units billed to the State under this Agreement.

3. A monthly "Statement of Expenditures," which shall accurately represent the units of service delivered, the reimbursement rate by type of service, and the total amount being claimed, must be submitted to the State, within fifteen (15) days from the end of the monthly billing period. The invoice must include a separate cost for each appraised parcel and identify each appraised parcel.

4. ***For the month of September, billings shall be submitted as reasonably directed by the Agency / Departmental Contract Compliance Inspector or the State's Contract Administrator to meet fiscal year end closing deadlines.***

5. If the billing is not received as set forth above, no payment shall be made by the State for that billing period, unless the Department director or his/her delegated representative specifically authorizes an exception.

6. In no event, shall the State make payment to the Contractor for billings submitted more than 90 days after the end of a billing period, unless the Department director or his/her delegated representative specifically authorizes an exception.

B. Janitorial Services - Unit Definitions:

Janitorial Services:

One Unit of Service shall equal daily, weekly, monthly, semi-annually, and annually services as described on the Location Specification Sheet and on the pricing as an attachment to this contract.

Janitorial Equipment and Supplies:

One Unit of shall be defined as any equipment or supply item necessary to deliver the Janitorial Service as individually described on the Location specification Sheet, and the cost for which shall be recorded and itemized separately from the Janitorial Service.

C. Volume of Service: Estimated volume of Service for this Contract are identified as estimates on the Location Specification Sheets and the State-approved Contractor's Final Work Plan, included as part of this Contract.

Article 2 – General Terms and Conditions

2.010 Contract Structure and Administration

2.011 Definitions

Capitalized terms used in this Contract (including its Attachments and Exhibits) shall have the meanings given below, unless the context requires otherwise:

(a) "Days" means calendar days unless otherwise specified.

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

(c) "Additional Service" means any Services/Deliverables within the scope of the Contract, but not specifically provided under any Statement of Work, that once added will result in the need to provide the Contractor with additional consideration.

(d) "Business Day," whether capitalized or not, shall mean any day other than a Saturday, Sunday or State-recognized legal holiday (as identified in the Collective Bargaining Agreement for State employees) from 8:00am EST through 5:00pm EST unless otherwise stated.

(e) "Deliverable" means physical goods and/or commodities as required or identified by a Statement of Work

(f) "Key Personnel" means any Personnel designated in **Article 1, Section 1.201** as Key Personnel.

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

(h) "Subcontractor" means a company Contractor delegate's performance of a portion of the services to, but does not include independent contractors engaged by Contractor solely in a staff augmentation role.

(i) "State" means the State of Michigan.

(j) "Department" means the Department of Management and Budget of the State of Michigan.

(k) "Director" means the State Purchasing Director.

(l) "Agency" means the unit of State government covered by this contract.

(m) "Representative" means the person designated by the agency to coordinate and supervise the security service.

(n) "Contractor" means a person, firm or corporation licensed by the Michigan State Police to provide security services.

2.014 Issuing Office

This Contract is issued by the Department of Management and Budget (DMB), Purchasing Operations ("PO") and (collectively, including all other relevant State of Michigan departments and agencies, the "State") included and listed on the Location Specification Sheet(s) included as attachments with this Contract. PO is the sole point of contact in the State with regard to all procurement and contractual matters relating to the Contract. **DMB-PO is the only State office authorized to change, modify, amend, alter or clarify the prices, specifications, terms and conditions of this Contract.** The Contractor Administrator within the DMB – Purchasing Operations for this Contract is:

Laura Hischke, Buyer
Purchasing Operations
Business Services Administration
Department of Management and Budget
Mason Bldg, 2nd Floor
PO Box 30026
Lansing, MI 48909
Contact Phone: (517) 241-0684
HischkeL@michigan.gov

2.015 Contract Compliance Inspector (CCI)

Upon receipt at OAS of the properly executed Contract, it is anticipated that the Director of DMB Purchasing Operations, in consultation with the client State Agency, will direct that the person named below, or any other person so designated, be authorized to monitor and coordinate the activities for the Contract on a day-to-day basis during its term. However, monitoring of this Contract implies **no authority to change, modify, clarify, amend, or otherwise alter the prices, terms, conditions and specifications of such Contract as that authority is retained by the Office of Purchasing Operations**. The Contract Compliance Inspector for the Contract will be identified after award of the Contract.

2.016 Project Manager

The following individual(s) who will oversee the contract work to be performed will be named in the final contract(s) that will be awarded as a result of the solicitation:

2.020 Contract Objectives/Scope/Background

2.021 Background

Refer to Article 1 for background information relative to this Contract.

2.022 Purpose

Refer to Article 1 for background information relative to this Contract.

2.023 Objectives and Scope

Refer to Article 1 for background information relative to this Contract.

2.024 Interpretation

Sections 2.021 through 2.023 are intended to provide background and context for this Contract and are not intended to expand the scope of the obligations under this Contract or to alter the plain meaning of the terms and conditions of this Contract. However, to the extent the terms and conditions of this Contract are unclear or otherwise ambiguous, such terms and conditions are to be interpreted and construed in light of the provisions of this Section.

2.025 Form, Function and Utility

If the 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.

2.030 Legal Effect and Term

2.031 Legal Effect

Except as otherwise agreed in writing by the parties, the State assumes no liability for costs incurred by Contractor or payment under this Contract, until Contractor is notified in writing that this 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.

2.032 Contract Term

This Contract is for a period of up to three (3) years commencing on the date that the last signature required to make the Contract enforceable is obtained (date by which the contract is executed). All outstanding Purchase Orders shall also expire upon the termination (cancellation for any of the reasons listed in 2.210) of the Contract, unless otherwise extended pursuant to 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.

2.033 Renewal(s)

This Contract may be renewed in writing by mutual agreement of the parties not less than thirty (30) days before its expiration. No options have been included for the contract term.

2.040 Contractor Personnel

2.041 Contractor Personnel

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

(b) Key Personnel

(i) In discharging its obligations under this Contract, Contractor shall provide the named Key Personnel on the terms indicated for location(s) as identified on the Work Plan and/or LSS including an organizational chart showing the roles of certain Key Personnel, if any.

(ii) Key Personnel shall be dedicated as defined in **Article 1** to the Project for its duration in the applicable Statement of Work with respect to other individuals designated as Key Personnel for that Statement of Work.

(iii) The State will have the right to recommend and approve in writing the initial assignment, as well as any proposed reassignment or replacement, of any Key Personnel. Before assigning an individual to any Key Personnel position, Contractor will notify the State of the proposed assignment, will introduce the individual to the appropriate State representatives, and will provide the State with a resume and any other information about the individual reasonably requested by the State. The State reserves the right to interview the individual before granting written approval. In the event the State finds a proposed individual unacceptable, the State will provide a written explanation including reasonable detail outlining the reasons for the rejection. Additionally, the State's request shall be based on legitimate, good faith reasons. Proposed alternative for the individual denied, shall be fully qualified for the position.

(iv) Contractor shall not remove any Key Personnel from their assigned roles or the Contract without the prior written consent of the State. If the Contractor does remove Key Personnel without the prior written consent of the State, it shall be considered an unauthorized removal ("Unauthorized Removal"). It shall not be considered an Unauthorized Removal if Key Personnel must be replaced for reasons beyond the reasonable control of Contractor, including illness, disability, leave of absence, personal emergency circumstances, resignation or for cause

Termination of the Key Personnel's employment. It shall not be considered an Unauthorized Removal if Key Personnel must be replaced because of promotions or other job movements allowed by Contractor personnel policies or Collective Bargaining Agreement(s) as long as the State receives prior written notice before shadowing occurs and Contractor provides thirty (30) days of shadowing unless parties agree to a different time period. The Contractor with the State shall review any Key Personnel replacements, and appropriate transition planning will be established. Any Unauthorized Removal may be considered by the State to be a material breach of the Contract, in respect of which the State may elect to exercise its rights under **Section 2.210**.

(v) It is acknowledged that an Unauthorized Removal will interfere with the timely and proper completion of the Contract, to the loss and damage of the State, and that it would be impracticable and extremely difficult to fix the actual damage sustained by the State as a result of any Unauthorized Removal. Therefore, Contractor and the State agree that in the case of any Unauthorized Removal in respect of which the State does not elect to exercise its rights under **Section 2.210**, the State may assess liquidated damages against Contractor as specified below.

2.042 Contractor Identification

Contractor employees shall be clearly identifiable while on State property by wearing a issued badge, and/or uniforms as required by the CCI. 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.

2.043 Cooperation with Third Parties

Contractor agrees to 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, and, as reasonably requested by the State, to provide to the State's agents and other contractors with reasonable access to Contractor's Project personnel, systems and facilities to the extent they relate to activities specifically associated with this Contract and will not interfere or jeopardize the safety or operation of the systems or facilities and provided Contractor receives reasonable prior written notice of such request. The State acknowledges that Contractor's time schedule for the Contract is very specific and agrees not to unnecessarily or unreasonably interfere with, delay or otherwise impeded Contractor's performance under this Contract with such requests for access.

2.044 Subcontracting by Contractor

(a) Contractor shall have 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 this Contract, including payment of any and all charges for Services and Deliverables.

(b) Contractor shall not delegate any duties under this Contract to a Subcontractor unless the Department of Management and Budget, Office of Purchasing Operations has given written consent to such delegation. The State shall have 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 shall be written with reasonable detail outlining the reasons for the removal request. Additionally, the State's request shall be based on legitimate, good faith reasons. Replacement Subcontractor(s) for the removed Subcontractor shall 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 SLAs for the affected Work will not be counted in **Section 2.076** for a time agreed upon by the parties.

(c) In any subcontracts entered into by Contractor for the performance of the Services, Contractor shall require the Subcontractor, to the extent of the Services to be performed by the Subcontractor, to be bound to Contractor by the terms of this Contract and to assume toward Contractor all of the obligations and responsibilities that Contractor, by this 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 will be the responsibility of Contractor, and Contractor shall remain responsible for the performance of its Subcontractors to the same extent as if Contractor had not subcontracted such performance. Contractor shall 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 this Contract shall not relieve Contractor of any obligations or performance required under this Contract. Attached as **Exhibit A** is a list of the Subcontractors, if any, approved by the State as of the execution of this Contract, together with a copy of the applicable subcontract.

(d) Except where specifically approved in writing by the State on a case-by-case basis, Contractor shall flow down the obligations in **Sections 2.040, 2.110, 2.150, 2.160, 2.171(c), 2.172(b), 2.180, 2.260, 2.276, 2.297** in all of its agreements with any Subcontractors.

(e) The Contractor shall select subcontractors (including suppliers) on a competitive basis to the maximum practical extent consistent with the objectives and requirements of the Contract.

2.045 Contractor Responsibility for Personnel

Contractor shall be responsible for all acts and omissions of its employees, as well as the acts and omissions of any other personnel furnished by Contractor to perform the Services.

2.050 State Standards

2.051 Existing Technology Standards - RESERVED

2.52 PM Methodology Standards – RESERVED

2.053 Adherence to Portal Technology Tools - RESERVED

2.054 Acceptable Use Policy

To the extent that Contractor has access to the State computer system, Contractor must comply with the State's Acceptable Use Policy, see http://www.michigan.gov/ditservice/0,1607,7-179-25781-73760--,00.html. All Contractor employees must be required, in writing, to agree to the State's Acceptable Use Policy before accessing the State system. The State reserves the right to terminate Contractor's access to the State system if a violation occurs.

2.060 Deliverables

2.061 Ordering

(a) Any Services/Deliverables to be furnished under this Contract shall be ordered by issuance of written Purchase Orders/Blanket Purchase Order by the State after approval by the Contract Administrator or his/her designee. All orders are subject to the terms and conditions of this Contract. In the event of conflict between an order and this Contract, the Contract shall take precedence as stated in **Section 2.293**. In no event shall any additional terms and conditions contained on a Purchase Order/Blanket Purchase Order be applicable, unless specifically contained in that Purchase Order/Blanket Purchase Order's accompanying Statement of Work.

2.062 Software - RESERVED

2.063 Hardware - RESERVED

2.064 Equipment to be New and Prohibited Products

(a) Equipment to be New

If applicable, all equipment provided under this Contract by Contractor shall be new where Contractor has knowledge regarding whether the equipment is new or assembled from new or serviceable used parts that are like new in performance or has the option of selecting one or the other. Equipment that is assembled from new or serviceable used parts that are like new in performance is acceptable where Contractor does not have knowledge or the ability to select one or other, unless specifically agreed otherwise in writing by the State.

(b) Prohibited Products

The State will not accept salvage, distressed, outdated or discontinued merchandise. Shipping of such merchandise to any State agency, as a result of an order placed against the Contract, shall be considered default by the Contractor of the terms and conditions of the Contract and may result in cancellation of the Contract by the State. The brand and product number offered for all items shall remain consistent for the term of the Contract, unless Purchasing Operations has approved a change order pursuant to **Section 2.106**.

2.070 Performance

2.071 Performance, In General

The State engages Contractor to execute the Contract and perform the Services/provide the Deliverables, and Contractor undertakes to execute and complete the Contract in its entirety in accordance with the terms and conditions of this Contract and with the participation of State representatives as specified in this Contract.

2.072 Time of Performance

(a) Contractor shall use commercially reasonable efforts to provide the resources necessary to complete all Services and Deliverables in accordance with 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 2.072(a)**, Contractor shall 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, in such event, shall inform the State of the projected actual delivery date.

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

2.073 Liquidated Damages

A. The State and the Contractor hereby agree to the specific standards set forth in this Contract. It is agreed between the Contractor and the State that the actual damages to the State as a result of Contractor's failure to provide promised services would be difficult or impossible to determine with accuracy. The State and the Contractor therefore agree that liquidated damages as set out herein shall be a reasonable approximation of the damages that shall be suffered by the State as a result thereof. Accordingly, in the event of such damages, at the written direction of the State, the Contractor shall pay the State the indicated amount as liquidated damages, and not as a penalty. Amounts due the State as liquidated damages, if not paid by the Contractor within fifteen (15) days of notification of assessment, may be deducted by the State from any money payable to the Contractor pursuant to this Contract. The State will notify the Contractor in writing of any claim for liquidated damages pursuant to this paragraph on or before the date the State deducts such sums from money payable to the Contractor. No delay by the State in assessing or collecting liquidated damages shall be construed as a waiver of such rights.

B. The Contractor shall not be liable for liquidated damages when, in the opinion of the State, incidents or delays result directly from causes beyond the control and without the fault or negligence of the Contractor. Such causes may include, but are not restricted to, acts of God, fires, floods, epidemics, and labor unrest; but in every case the delays must be beyond the control and without the fault or negligence of the Contractor.

C. Liquidated damages will be assessed as follows:

Failure of janitorial services crew member(s) to report to job site on time and/or satisfactorily provide specified janitorial services as scheduled may result in an assessment of liquidated damages, which shall consist of:

(a) **$100.00 per day for periodic services** *and/or*

(b) **$200.00 per day for daily services**

for each calendar day that the work remains uncompleted.

D. The Department reserves the right to bill the Contractor for any damages due to the default of the Contractor.

2.074 Bankruptcy

If Contractor shall file for protection under the bankruptcy laws, or if an involuntary petition shall be filed against Contractor and not removed within thirty (30) days, or if the Contractor becomes insolvent, be adjudicated bankrupt, or if it should make a general assignment for the benefit of creditors, or if a receiver shall be appointed due to its insolvency, and Contractor and/or its affiliates are unable to provide reasonable assurances that Contractor and/or its affiliates can deliver the services provided herein, the State may, without prejudice to any other right or remedy, terminate this Contract, in whole or in part, and, at its option, may take possession of the "Work in Process" and finish such Works in Process by whatever appropriate method the State may deem expedient. 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 shall be stored separately from other stock and marked conspicuously with labels indicating ownership by the State.

To secure the State's progress payments before the delivery of any services or materials required for the execution of Contractor's obligations hereunder, and any work which Contractor may subcontract in the support of the performance of its obligations hereunder, title shall vest in the State to the extent the State has made progress payments hereunder.

2.075 Time is of the Essence

The Contractor agrees that time is of the essence in the performance of the Contractor's obligations under this Contract.

2.076 Service Level Agreements (SLAs)- RESERVED

2.080 Delivery and Acceptance of Deliverables

2.081 Delivery Responsibilities - RESERVED

2.082 Delivery of Deliverables

Where applicable, the Statements of Work/POs contain lists of the Deliverables to be prepared and delivered by Contractor including, for each Deliverable, the scheduled delivery date and a designation of whether the Deliverable is a document ("Written Deliverable"), a good ("Physical Deliverable") or a Service. All Deliverables shall be completed and delivered for State review and written approval and, where applicable, installed in accordance with the State-approved delivery schedule and any other applicable terms and conditions of the Contract.

2.083 Testing - RESERVED

2.084 Approval of Deliverables, In General

(a) All Deliverables (Physical Deliverables and Written Deliverables) and Services require formal written approval by the State, in accordance with the following procedures. Formal approval by the State requires that the Deliverable be confirmed in writing by the State to meet its specifications, which will include the successful completion of Testing as applicable in **Section 2.083**, to be led by the State with the support and assistance of Contractor. The parties acknowledge that the approval process set forth herein will be facilitated by ongoing consultation between the parties, visibility 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) Prior to 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 in accordance with **Section 2.083(a)**.

(d) The State will approve in writing a Deliverable/Service upon confirming that it conforms to and, performs in accordance with, its specifications without material deficiency. The State may, but shall 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 (3) opportunities (the original and two repeat efforts), Contractor is unable to correct all deficiencies preventing Final Acceptance of a Deliverable/Service, the State may: (i) demand that Contractor cure the failure and give Contractor additional time to cure the failure at the sole expense of Contractor; or (ii) keep the Contract in force and do, either itself or through other parties, whatever Contractor has failed to do, in which event Contractor shall bear any excess expenditure incurred by the State in so doing beyond the Contract price for such Deliverable/Service and will pay the State an additional sum equal to ten percent (10%) of such excess expenditure to cover the State's general expenses provided the State can furnish proof of such 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 such breach. Notwithstanding the foregoing, the State shall not 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 such process reveals deficiencies in or problems with a Deliverable/Service in a sufficient quantity or of a sufficient severity as to make the continuation of such process unproductive or unworkable. In such case, the State may stop using the Service or return the applicable Deliverable to Contractor for correction and re-delivery prior to resuming the testing or approval process.

2.85 Process For Approval of Written Deliverables - RESERVED

2.086 Process for Approval of Services

The State Review Period for approval of Services is governed by the applicable Statement of Work (failing which the State Review Period, by default, shall be thirty (30) Business Days for Services). The State agrees to notify Contractor in writing by the end of the State Review Period either stating that the Service is approved in the form delivered by Contractor or describing any deficiencies that must be corrected prior to approval of the Services (or at the State's election, subsequent to approval of the Service). If the State delivers to Contractor a notice of deficiencies, Contractor will correct the described deficiencies and within thirty (30) Business Days resubmit the Service in a form that shows all revisions made to the original version delivered to the State. Contractor's correction efforts will be made at no additional charge. Upon implementation of a corrected Service from Contractor, the State will 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.

2.087 Process for Approval of Physical Deliverables

The State Review Period for approval of Physical Deliverables is governed by the applicable Statement of Work (failing which the State Review Period, by default, shall be thirty (30) continuous Business Days for a Physical Deliverable). The State agrees to notify Contractor in writing by the end of the State Review Period either stating that the Deliverable is approved in the form delivered by Contractor or describing any deficiencies that must be corrected prior to approval of the Deliverable (or at the State's election, subsequent to approval of the Deliverable). If the State delivers to Contractor a notice of deficiencies, Contractor will correct the described deficiencies and within thirty (30) Business Days resubmit the Deliverable in a form that shows all revisions made to the original version delivered to the State. Contractor's correction efforts will be made at no additional charge. Upon receipt of a corrected Deliverable from Contractor, the State will have a reasonable additional period of time, not to exceed the length of the original State Review Period, to review the corrected Deliverable to confirm that the identified deficiencies have been corrected.

2.088 Final Acceptance

Unless otherwise stated in the Statement of Work or Purchase Order, "Final Acceptance" of each Deliverable shall occur when each Deliverable/Service has been approved by the State following the State Review Periods identified in **Sections 2.080-2.087**. 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.

2.090 Financial

2.091 Pricing

(a) Fixed Prices for Services/Deliverables

Each Statement of Work/PO issued under this Contract shall specify (or indicate by reference to the appropriate Contract Exhibit) the firm, fixed prices for all Services/Deliverables, and the associated payment milestones and payment amounts. To the extent the parties agree that certain specific Services will be provided on a time and materials basis, such Services shall be provided at the Amendment Labor Rates (**Article 1**). 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 Contract Administrator, after negotiation. Contractor must show verification of measurable progress at the time of requesting progress payments.

(b) Adjustments for Reductions in Scope of Services/Deliverables

If the scope of the Services/Deliverables under any Statement of Work issued under this Contract is subsequently reduced by the State, the parties shall negotiate an equitable reduction in Contractor's charges under such Statement of Work commensurate with the reduction in scope, using the rates in **Article 1 and the Location Specification Sheet (LSS)** unless specifically identified in an applicable Statement of Work.

(c) Services/Deliverables Covered

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

(d) Labor Rates

All time and material charges will be at the rates specified in **Article 1, and the Location Specification Sheet (LSS).**

2.092 Invoicing and Payment Procedures and Terms

(a) Invoicing and Payment – In General

(i) Each Statement of Work issued under this Contract shall 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.

(ii) Each Contractor invoice will 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. The charges for Services billed on a time and materials basis shall be determined based on the actual number of hours of Services performed, at the applicable Labor Rates specified in **Article 1 and the Location Specification Sheet (LSS)**. Invoices for Services performed on a time and materials basis will 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 2.094**.

(iii) Correct invoices will be due and payable by the State, in accordance with the State's standard payment procedure as specified in 1984 Public Act No. 279, MCL 17.51 et seq., within forty-five (45) days after receipt, provided the State determines that the invoice was properly rendered.

(b) Taxes (See Section 2.305 and Article 3, Section 3.022-3.024 for additional)

The State is exempt from Federal Excise Tax, State and Local Sales Taxes, and Use Tax with respect to the sale to and use by it of tangible personal property. Such taxes shall not be included in Contract prices as long as the State maintains such exemptions. Copies of all tax exemption certificates shall be supplied to Contractor, if requested.

(c) Out-of-Pocket Expenses

Contractor acknowledges that the out-of-pocket expenses that Contractor expects to incur in performing the Services/ providing the Deliverables (such as, but not limited to, travel and lodging, document reproduction and shipping, and long distance telephone) are included in Contractor's fixed price for each Statement of Work. Accordingly, 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 such an expense at the State's current travel reimbursement rates. See http://www.mi.gov/dmb/0,1607,7-150-9141_13132---,00.html for current rates.

(d) Pro-ration

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

(e) 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 this Contract.

(f) 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 this 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 this Contract shall constitute a waiver of all claims by Contractor against the State for payment under this Contract, other than those claims previously filed in writing on a timely basis and still unsettled.

2.093 State Funding Obligation

The State's obligation under this Contract is payable only and solely from funds appropriated for the purpose of this Contract. Contractor acknowledges and agrees that all funds for payments after the end of the current fiscal year are subject to the availability of a legislative appropriation for the purpose of this Contract. Events of non-appropriation are addressed further in **Section 2.210** of this Contract.

2.094 Holdback - RESERVED

2.095 Electronic Payment Availability

Public Act 533 of 2004 **requires** that payments under this contract be processed by electronic funds transfer (EFT). Contractor is required to register to receive payments by EFT at the Contract & Payment Express website (www.cpexpress.state.mi.us).

2.100 Contract Management

2.101 Contract Management Responsibility

(a) Contractor shall have overall responsibility for managing and successfully performing and completing the Services/Deliverables, subject to the overall direction and supervision of the State and with the participation and support of the State as specified in this Contract. Contractor's duties will include monitoring and reporting the State's performance of its participation and support responsibilities (as well as Contractor's own responsibilities) and providing timely notice to the State in Contractor's reasonable opinion if the State's failure to perform its responsibilities in accordance with **Article 1 (**Project Plan) is likely to delay the timely achievement of any Contract tasks.

(b) The Services/Deliverables will be provided by the Contractor either directly or through its affiliates, subsidiaries, subcontractors or resellers. Regardless of the entity providing the Service/Deliverable, the Contractor will act as a single point of contact coordinating these entities to meet the State's need for Services/Deliverables. Nothing in this Contract, however, shall be construed to authorize or require any party to violate any applicable law or regulation in its performance of this Contract.

2.102 Problem and Contract Management Procedures

The Contract and the applicable Statements of Work will govern problem Management and Contract Management procedures.

2.103 Reports and Meetings

(a) Reports.

Within thirty (30) days after the Effective Date, the parties shall determine an appropriate set of periodic reports to be issued by Contractor to the State. Such reports may include:

(i) separately address Contractor's performance in each area of the Services;

(ii) for each area of the Services, assess the degree to which Contractor has attained or failed to attain the pertinent objectives in that area, including on-time completion and delivery of Deliverables;

(iii) explain the reasons for any failure to achieve on-time completion and delivery of Deliverables and include a plan for corrective action where appropriate;

(iv) describe any circumstances that Contractor anticipates will impair or prevent on-time completion and delivery of Deliverables in upcoming reporting periods;

(v) include plans for corrective action or risk mitigation where appropriate and describe the status of ongoing problem resolution efforts;

(vi) provide reports setting forth a comparison of actual hours spent by Contractor (including its augmented personnel and Subcontractors) in performing the Project versus hours budgeted by Contractor.

(vii) set forth a record of the material personnel changes that pertain to the Services and describe planned changes during the upcoming month that may affect the Services.

(viii) include such documentation and other information may be mutually agreed to verify compliance with, and meeting the objectives of, this Contract.

(ix) set forth an updated schedule that provides information on the status of upcoming Deliverables, expected dates of delivery (or redelivery) of such Deliverables and estimates on timing for completion of the Project.

(b) Meetings.

Within thirty (30) days after the Effective Date, the parties shall determine an appropriate set of meetings to be held between representatives of the State and Contractor. Contractor shall prepare and circulate an agenda sufficiently in advance of each such meeting to give participants an opportunity to prepare for the meeting. Contractor shall incorporate into such agenda items that the State desires to discuss. At the State's request, Contractor shall prepare and circulate minutes promptly after a meeting.

2.104 System Changes - RESERVED

2.105 RESERVED

2.106 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 State requests or directs the Contractor to perform any Services/Deliverables that are outside the scope of the Contractor's responsibilities under the Contract ("New Work"), the Contractor must notify the State promptly, and before commencing performance of the requested activities, that it believes the requested activities are New Work. If the Contractor fails to notify the State before commencing performance of the requested activities, any such activities performed before the Contractor gives notice shall be conclusively considered to be in-scope Services/Deliverables, not New Work.

If the State requests or directs the Contractor to perform any services or provide deliverables that are consistent with and similar to the Services/Deliverables being provided by the Contractor under the Contract, but which the Contractor reasonably and in good faith believes are not included within the Statements of Work, then before performing such services or providing such deliverables, the Contractor shall notify the State in writing that it considers the services or deliverables to be an Additional Service/Deliverable for which the Contractor should receive additional compensation. If the Contractor does not so notify the State, the Contractor shall have no right to claim thereafter that it is entitled to additional compensation for performing that service or providing that deliverable. If the Contractor does so notify the State, then such a service or deliverable shall be governed by the Change Request procedure in this Section.

In the event prices or service levels are not acceptable to the State, the Additional Services or New Work shall be subject to competitive bidding based upon the specifications.

(a) Change Requests

(i) State Requests

If the State should require Contractor to perform New Work, Additional Services or make changes to the Services that would affect the Contract completion schedule or the amount of compensation due Contractor (a "Change"), the State shall submit a written request for Contractor to furnish a proposal for carrying out the requested Change (a "Change Request").

(ii) Contractor Recommendations

Contractor shall be entitled to propose a Change to the State, on its own initiative, should it be of the opinion that this would benefit the Contract.

(iii) Upon receipt of a Change Request or on its own initiative, Contractor shall examine the implications of the requested Change on the technical specifications, Contract schedule and price of the Deliverables and Services and shall submit to the State without undue delay a written proposal for carrying out the Change. Contractor's proposal will include any associated changes in the technical specifications, Contract schedule and price and method of pricing of the Services. If the Change is to be performed on a time and materials basis, the Amendment Labor Rates shall apply to the provision of such Services. If Contractor provides a written proposal and should Contractor be of the opinion that a requested Change is not to be recommended, it shall communicate its opinion to the State but shall nevertheless carry out the Change as specified in the written proposal if the State directs it to do so.

(iv) By giving Contractor written notice within a reasonable time, the State shall 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 shall be prepared and issued under this Contract, describing the Change and its effects on the Services and any affected components of this Contract (a "Contract Change Notice").

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

(vi) If the State requests or directs Contractor to perform any activities that Contractor believes constitute a Change, Contractor must notify the State that it believes the requested activities are a Change prior to commencing the performance of the requested activities. If Contractor fails to so notify the State prior to commencing performance of the requested activities, such activities shall be considered to be performed gratuitously by Contractor, and Contractor shall not have any right thereafter to assert any claim for additional compensation or time for the performance of such activities. If Contractor commences performance of gratuitous services outside the scope of this Contract and subsequently elects to stop performing such out-of-scope services, Contractor must, at the request of the State, back out or reverse any changes resulting from such performance that would adversely affect the Contract.

2.107 Management Tools - RESERVED

2.110 Records and Inspections

2.111 Records and Inspections

The Contractor agrees that the State may, upon 24-hour notice, perform an audit at Contractor's location(s) to determine if the Contractor is complying with the requirements of the Contract. The Contractor agrees to cooperate with the State during the audit and produce all records and documentation that verifies compliance with the Contract requirements.

2.112 Errors

(a) If the audit demonstrates any errors in the statements provided to the State, then the amount in error shall 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 (4) quarterly statements. If a balance remains after four (4) quarterly statements, then the remaining amount will be due as a payment or refund within forty-five (45) days of the last quarterly statement 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 ten percent (10%), then the Contractor shall pay all of the reasonable costs of the audit.

2.120 State Responsibilities

2.121 State Performance Obligations

(a) Equipment and Other Resources. To facilitate Contractor's performance of the Services/Deliverables, the State shall provide to Contractor such equipment and resources as identified in the Statements of Work or other Contract Exhibits as items to be provided by the State.

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

(c) Return. Contractor shall be responsible for returning 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.

(d) Except as otherwise provided in **Section 2.220**, the State's failure to perform its responsibilities, as set forth in this Contract shall not be deemed to be grounds for termination by Contractor. However, Contractor will not be liable for any default or delay in the performance of its obligations under this Contract to the extent such default or delay is caused by nonperformance of the State's obligations under this Contract, provided Contractor provides the State with reasonable written notice of such nonperformance and Contractor uses commercially reasonable efforts to perform notwithstanding the State's failure to perform. In addition, if the State's nonperformance of its responsibilities under this Contract materially increases the time required for Contractor's performance or Contractor's cost of performance, Contractor shall be entitled to seek an equitable extension via the Change Request process described in **Section 2.106**.

2.130 Security

2.131 Background Checks

The Contractor shall authorize the investigation of its personnel proposed to have access to State facilities and systems on a case-by-case basis.

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. Such 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 will also be expected to comply with the State's security and acceptable use policies for State IT equipment and resources. See http://www.michigan.gov/ditservice/0,1607,7-179-25781-73760--,00.html. Furthermore, Contractor personnel will be expected to 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.

It is expected the Contractor will present these documents to the prospective employee before the Contractor presents the individual to the State as a proposed resource. Contractor staff will be expected to comply with all Physical Security procedures in place within the facilities where they are working.

2.140 Reserved

2.150 Confidentiality

2.151 Freedom of Information

All information in any proposal submitted to the State by Contractor and this Contract is subject to the provisions of the Michigan Freedom of Information Act, 1976 Public Act No. 442, as amended, MCL 15.231, et seq (the "FOIA").

2.152 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 shall mean all non-public proprietary information of Contractor (other than Confidential Information of the State as defined below), which is marked confidential, restricted, and proprietary, or with a similar designation. "Confidential Information" of the State shall mean any information which is retained in confidence by the State (or otherwise required to be held in confidence by the State pursuant to applicable federal, state and local laws and regulations) or which, in the case of tangible materials provided to Contractor by the State pursuant to its performance under this Contract, is marked as confidential, proprietary or with a similar designation by the State. In the case of information of either Contractor or the State "Confidential Information" shall exclude any information (including this Contract) that is publicly available pursuant to the Michigan FOIA.

2.153 Protection of Confidential Information

The State and Contractor will 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 this 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 will limit disclosure of the other party's Confidential Information to employees and Subcontractors who must have access in order to fulfill the purposes of this Contract. Disclosure to, and use by, a Subcontractor is permissible where (A) use of a Subcontractor is authorized under this Contract, (B) such disclosure is necessary or otherwise naturally occurs in connection with work that is within such 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 such Confidential Information from unauthorized use or disclosure.

2.154 Exclusions

Notwithstanding the foregoing, the provisions of this Section 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 such 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 this Section will not apply to any particular Confidential Information to the extent the receiving party is required by law to disclose such 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 such disclosure as reasonably requested by the furnishing party.

2.155 No Implied Rights

Nothing contained in this Section shall 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.

2.156 Remedies

Each party acknowledges that, if it breaches (or attempts or threatens to breach) its obligations under this Section, the other party may be irreparably harmed. Accordingly, if a court of competent jurisdiction should find that a party has breached (or attempted or threatened to breach) any such obligations, the non-breaching party shall be entitled to seek an injunction preventing such breach (or attempted or threatened breach).

2.157 Security Breach Notification

In the event of a breach of this Section, Contractor shall take (i) prompt corrective action to cure any such deficiencies and (ii) any action pertaining to such unauthorized disclosure required by applicable federal and state laws and regulations. Contractor and the State will cooperate to mitigate, to the extent practicable, the effects of any breach, intrusion, or unauthorized use or disclosure. Contractor shall 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 ten (10) days of becoming aware of such use or disclosure or such shorter time period as is reasonable under the circumstances.

2.158 Survival

The parties' respective obligations under this Section shall survive the termination or expiration of this Contract for any reason.

2.159 Destruction of Confidential Information

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

2.160 Proprietary Rights - RESERVED

2.170 Warranties And Representations

The foregoing express warranties are in lieu of all other warranties and each party expressly disclaims all other warranties, express or implied, by operation of law or otherwise including but not limited to, the implied warranties of merchantability and fitness for a particular purpose.

2.171 Warranties and Representations

The Contractor represents and warrants:

(a) It is capable in all respects of fulfilling and shall fulfill all of its obligations under this Contract. The performance of all obligations under this Contract shall be provided in a timely, professional, and workman-like manner and shall meet the performance and operational standards required under this 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 this 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 this 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 this 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 such items in this Contract, Contractor shall 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 this 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, shall have, or shall 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 this Contract or otherwise create an appearance of impropriety with respect to the award or performance of this Agreement. Contractor shall notify the State within two (2) days of any such interest that may be incompatible with the interests of the State.

(h) Neither Contractor nor any Affiliates, nor any employee of either has accepted or shall accept anything of value based on an understanding that the actions of the Contractor or Affiliates or employee on behalf of the State would be influenced. Contractor shall not attempt to influence any State employee by the direct or indirect offer of anything of value.

(i) Neither Contractor nor any Affiliates, nor any employee of either has paid or agreed to pay any person, other than bona fide employees and consultants working solely for Contractor or such Affiliate, any fee, commission, percentage, brokerage fee, gift, or any other consideration, contingent upon or resulting from the award or making of this Contract.

(j) The prices proposed by Contractor were arrived at independently, without consultation, communication, or agreement with any other bidder for the purpose of restricting competition; the prices quoted were not knowingly disclosed by Contractor to any other bidder; and no attempt was made by Contractor to induce any other person to submit or not submit a proposal for the purpose of restricting competition.

(k) All financial statements, reports, and other information furnished by Contractor to the State as part of its response to the RFP or otherwise in connection with the award of this Contract fairly and accurately represent the business, properties, financial condition, and results of operations of Contractor as of the respective dates, or for the respective periods, covered by such financial statements, reports, other information. Since the respective dates or periods covered by such financial statements, reports, or other information, there has been no material adverse change in the business, properties, financial condition, or results of operations of Contractor.

(m) All written information furnished to the State by or behalf of Contractor in connection with this Contract, including its bid, it true, accurate, and complete, and contains no untrue statement of material fact or omits any material fact necessary to make such information not misleading.

(n) It is not in material default or breach of any other contract or agreement that it may have with the State or any of its departments, commissions, boards, or agencies. Contractor further represents and warrants that it has not been a party to any contract with the State or any of its departments that was terminated by the State or such department within the previous five (5) years for the reason that Contractor failed to perform or otherwise breached an obligation of such contract.

2.172 Consequences For Breach

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

2.180 Insurance

2.181 Liability Insurance

(a) Liability Insurance

The Contractor is required to provide proof of the minimum levels of insurance coverage as indicated below. The purpose of this coverage shall be to protect the State from claims which may arise out of or result from the Contractor's performance of services under the terms of this Contract, whether such 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 pursuant to this Contract.

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

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

The insurers selected by Contractor shall have an A.M. Best rating of A or better, or as otherwise approved in writing by the State, or if such ratings are no longer available, with a comparable rating from a recognized insurance rating agency. Companies that have been approved to do business in the State shall issue all policies of insurance required in this Contract.
See http://www.mi.gov/cis/0,1607,7-154-10555_22535---,00.html.

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

Before both parties sign the Contract or before the purchase order is issued by the State, the Contractor must furnish to the Director of Purchasing Operations, certificate(s) of insurance verifying insurance coverage ("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) shall contain a provision indicating that coverage's afforded under the policies WILL NOT BE CANCELLED, MATERIALLY CHANGED, OR NOT RENEWED without THIRTY (30) days prior written notice, except for ten (10) days for non-payment of premium, having been given to the Director of Purchasing Operations, Department of Management and Budget. The notice must include the Contract or Purchase Order number affected and be mailed to: Director, Purchasing Operations, Department of Management and Budget, P.O. Box 30026, Lansing, Michigan 48909. Failure to provide evidence of coverage, may, at the State's sole option, result in this Contract's termination.

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
$500,000 Fire Damage Limit (any one fire)

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 this 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 in accordance with applicable laws governing the employees and employers work activities in the state of the Contractor’s domicile. If a self-insurer provides the applicable coverage, 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 shall 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

(b) Subcontractors

Except where the State has approved in writing a Contractor subcontract with other insurance provisions, Contractor shall require all of its Subcontractors under this 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(s) shall fully comply with the insurance coverage required in this Section. Failure of Subcontractor(s) to comply with insurance requirements does not limit Contractor’s liability or responsibility.

(c) Certificates of Insurance and Other Requirements

Contractor shall furnish to the Office of Purchasing Operations certificate(s) of insurance verifying insurance coverage or providing satisfactory evidence of self-insurance as required in this Section (the “Certificates”). Before the Contract is signed, and not less than 20 days before the insurance expiration date every year thereafter, the Contractor shall provide evidence that the State and its agents, officers and employees are listed as additional insured’s 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.

Contractor shall maintain all required insurance coverage throughout the term of the Contract and any extensions thereto and, in the case of claims-made Commercial General Liability policies, shall secure tail coverage for at least three (3) years following the expiration or termination for any reason of this Contract. The minimum limits of coverage specified above are not intended, and shall not be construed, to limit any liability or indemnity of Contractor under this Contract to any indemnified party or other persons. Contractor shall be responsible for all deductibles with regard to such insurance. If Contractor fails to pay any premium for required insurance as specified in this Contract, or if any insurer cancels or significantly reduces any required insurance as specified in this Contract without the State's written consent, at the State's election (but without any obligation to do so) after the State has given Contractor at least thirty (30) days written notice, the State may pay such premium or procure similar insurance coverage from another company or companies; and at the State's election, the State may deduct the entire cost (or part thereof) from any payment due Contractor, or Contractor shall pay the entire cost (or any part thereof) upon demand by the State.

2.190 Indemnification

2.191 Indemnification

(a) General Indemnification

To the extent permitted by law, the Contractor shall 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 this Contract and that are attributable to the negligence or tortuous acts of the Contractor or any of its subcontractors, or by anyone else for whose acts any of them may be liable.

(b) Code Indemnification

To the extent permitted by law, the Contractor shall indemnify, defend and hold harmless the State from any claim, loss, or expense arising from Contractor's breach of the No Surreptitious Code Warranty.

(c) Employee Indemnification

In any and all 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 shall 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.

(d) Patent/Copyright Infringement Indemnification

To the extent permitted by law, the Contractor shall 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 such 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 such equipment, software, commodity or service, or the use or reproduction of any documentation provided with such 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 shall at the Contractor's sole expense (i) procure for the State the right to continue using the equipment, software, commodity or service or, if such 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 such 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 shall have 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; or (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 this Contract.

2.192 Continuation of Indemnification Obligations

The Contractor's duty to indemnify pursuant to 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 prior to expiration or cancellation.

2.193 Indemnification Procedures

The procedures set forth below shall apply to all indemnity obligations under this Contract.

(a) After receipt by the State of notice of the action or proceeding involving a claim in respect of which it will seek indemnification, the State shall promptly notify Contractor of such 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 Contractor shall relieve Contractor of its indemnification obligations except to the extent that Contractor can demonstrate damages attributable to such failure. Within ten (10) days following receipt of written notice from the State relating to any claim, Contractor shall 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 prior to the State receiving Contractor's Notice of Election, the State shall be entitled to defend against the claim, at Contractor's expense, and Contractor will be responsible for any reasonable costs incurred by the State in defending against the claim during such period.

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

2.200 Limits of Liability and Excusable Failure

2.201 Limits of Liability

The Contractor's liability for damages to the State shall be limited to insurance policy limit of liability or $200,000 or two times the Contract value, which ever is higher. The foregoing limitation of liability shall not apply to claims for infringement of United States patent, copyright, trademarks 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 this 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 this Contract.

The State's liability for damages to the Contractor shall be limited to the value of the Contract.

Neither the Contractor nor the State shall be liable to each other, regardless of the form of action, for consequential, incidental, indirect, or special damages. This limitation of liability shall 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 this 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 this Contract.

2.202 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 such default, damage or delay is caused by government regulations or requirements (executive, legislative, judicial, military or otherwise), power failure, electrical surges or current fluctuations, 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 such party; provided the non-performing party and its Subcontractors are without fault in causing such default or delay, and such 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.

In such event, the non-performing party will be excused from any further performance or observance of the obligation(s) so affected for as long as such circumstances prevail and such party continues to use its commercially reasonable efforts to recommence performance or observance whenever and to whatever extent possible without delay and provided further that such party promptly notifies the other party in writing of the inception of the excusable failure occurrence, and also of its abatement or cessation.

If any of the above-enumerated circumstances substantially prevent, hinder, or delay Contractor's performance of the Services/provision of Deliverables for more than ten (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 shall not be liable for payment for the unperformed Services/ Deliverables not provided under the Contract for so long as the delay in performance shall continue; (b) the State may terminate any portion of the Contract so affected and the charges payable there under shall 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 Contractor, except to the extent that the State shall pay for Services/Deliverables provided through the date of termination.

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.

2.203 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 this Contract will provide the State with priority service for repair and work around in the event of a natural or manmade disaster.

2.210 Termination/Cancellation by the State

The State may terminate this Contract without further liability or penalty to the State, its departments, divisions, agencies, offices, commissions, officers, agents and employees for any of the following reasons:

2.211 Termination for Cause

(a) In the event that Contractor breaches any of its material duties or obligations under this Contract (including a Chronic Failure to meet any particular SLA as defined in **Section 2.076**), which are either not capable of or subject to being cured, or are not cured within the time period specified in the written notice of breach provided by the State (such time period not to be less than thirty (30) days), or pose a serious and imminent threat to the health and safety of any person, or the imminent loss, damage or destruction of any real or tangible personal property, the State may, having provided written notice of termination to Contractor, terminate this Contract in whole or in part, for cause, as of the date specified in the notice of termination.

(b) In the event that this Contract is terminated for cause, in addition to any legal remedies otherwise available to the State by law or equity, Contractor shall be responsible for all costs incurred by the State in terminating this 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 this Contract from other sources. Re-procurement costs shall not be considered by the parties to be consequential, indirect or incidental damages, and shall not be excluded by any other terms otherwise included in this Contract, provided such costs are not in excess of fifty percent (50%) more than the prices for such Service/Deliverables provided under this Contract.

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

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

2.212 Termination for Convenience

The State may terminate this Contract for its convenience, in whole or part, if the State determines that such a termination is in the State's best interest. Reasons for such termination shall 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 ITB issued by the State. The State may terminate this Contract for its convenience, in whole or in part, by giving Contractor written notice at least thirty (30) days prior to the date of termination. If the State chooses to terminate this Contract in part, the charges payable under this Contract shall be equitably adjusted to reflect those Services/Deliverables that are terminated. Services and related provisions of this Contract that are terminated for cause shall cease on the effective date of the termination.

2.213 Non-Appropriation

(a) Contractor acknowledges that, if this Contract extends for several fiscal years, continuation of this Contract is subject to appropriation or availability of funds for this Contract. If funds to enable the State to effect continued payment under this Contract are not appropriated or otherwise made available, the State shall have the right to terminate this 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 shall give Contractor at least thirty (30) days advance written notice of termination for non-appropriation or unavailability (or such time as is available if the State receives notice of the final decision less than thirty (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 made available, the State may, upon thirty (30) days written notice to Contractor, reduce the level of the Services or the change the production of Deliverables in such manner and for such periods of time as the State may elect. The charges payable under this Contract will be equitably adjusted to reflect any equipment, services or commodities not provided by reason of such reduction.

(c) In the event the State terminates this Contract, eliminates certain Deliverables, or reduces the level of Services to be provided by Contractor pursuant to this Section, the State shall 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. For the avoidance of doubt, this Section will not preclude Contractor from reducing or stopping Services/Deliverables and/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.

2.214 Criminal Conviction

The State may terminate this 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 incident to the application for, or performance of, a State, public or private Contract or subcontract; convicted of a criminal offense, including any of the following: embezzlement, theft, forgery, bribery, falsification or destruction of records, receiving stolen property, attempting to influence a public employee to breach the ethical conduct standards for State of Michigan employees; convicted under State or federal antitrust statutes; or convicted of any other criminal offense which in the sole discretion of the State reflects upon Contractor's business integrity.

2.215 Approvals Rescinded

The State may terminate this Contract without further liability or penalty in the event any final administrative or judicial decision or adjudication disapproves a previously approved request for purchase of personal services pursuant to Constitution 1963, Article 11, § 5, and Civil Service Rule 7-1. 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 such written notice.

2.216 Rights and Obligations Upon Termination

(a) If this Contract is terminated by the State for any reason, Contractor shall (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 this 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) in the event that the Contractor maintains title in Deliverables that is intended to be transferred to the State at the termination of the Contract, Contractor will 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 shall be provided to the State on an "As-Is" basis except to the extent the amounts paid by the State in respect of such items included compensation to Contractor for the provision of warranty services in respect of such 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) In the event the State terminates this Contract prior to its expiration for its own convenience, the State shall pay Contractor for all charges due for Services provided prior to the date of termination and, if applicable, as a separate item of payment pursuant to this 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 pursuant to this Contract shall, at the option of the State, become the State's property, and Contractor shall be entitled to receive equitable fair compensation for such Deliverables. Regardless of the basis for the termination, the State shall not be 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 shall have the right to assume, at its option, any and all subcontracts and agreements for services and deliverables provided under this Contract, and may further pursue completion of the Services/Deliverables under this Contract by replacement contract or otherwise as the State may in its sole judgment deem expedient.

2.217 Reservation of Rights

Any termination of this Contract or any Statement of Work issued under it by a party shall be with full reservation of, and without prejudice to, any rights or remedies otherwise available to such party with respect to any claims arising prior to or as a result of such termination.

2.218 Contractor Transition Responsibilities

In the event this contract is terminated, for convenience or cause, dissolved, voided, rescinded, nullified, expires or is otherwise 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.

In the event of termination or the expiration of this Contract, 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 ninety (90) days. These efforts shall include, but are not limited to, the following:

(a) Personnel - The Contractor shall 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 shall 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 this 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 will notify all of Contractor's subcontractors of procedures to be followed during transition.

(b) Information - 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 this Contract. The Contractor will provide the State with asset management data generated from the inception of this Contract through the date on which this Contractor is terminated in a comma-delineated format unless otherwise requested by the State. The Contractor will deliver to the State any remaining owed reports and documentation still in Contractor's possession subject to appropriate payment by the State.

(d) Software. - The Contractor shall reasonably assist the State in the acquisition of any Contractor software required to perform the Services/use the Deliverables under this Contract. This shall include any documentation being used by the Contractor to perform the Services under this Contract. If the State transfers any software licenses to the Contractor, those licenses shall, upon expiration of the Contract, transfer back to the State at their current revision level. Upon notification by the State, Contractor may be required to freeze all non-critical changes to Deliverables/Services.

(e) Payment - If the termination provisions of this Contract shall govern the transition results from a termination for any reason, reimbursement. 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 specified by **Article 1, Attachment C**. The Contractor will prepare an accurate accounting from which the State and Contractor may reconcile all outstanding accounts.

2.219 State Transition Responsibilities

In the event that this 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.

2.220 Termination by Contractor

2.221 Termination by Contractor

If the State materially breaches its obligation to pay Contractor undisputed amounts due and owing under this Contract in accordance with **Section 2.090**, or if the State breaches its other obligations under this Contract to an extent that makes it impossible or commercially impractical for Contractor to perform the Services, and if the State does not cure the breach within the time period specified in a written notice of breach provided to the State by Contractor (such time period not to be less than thirty (30) days), then Contractor may terminate this Contract, in whole or in part based on Statement of Work for cause, as of the date specified in the notice of termination; provided, however, that Contractor must discharge its obligations under **Section 2.250** before any such termination.

2.230 Stop Work

2.231 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 ninety (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 shall be specifically identified as such and shall indicate that it is issued under this **Section 2.230**. Upon receipt of the stop work order, Contractor shall immediately comply with its terms and take all reasonable steps to minimize the incurrence of 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 shall either: (a) cancel the stop work order; or (b) terminate the work covered by the stop work order as provided in **Section 2.210**.

2.232 Cancellation or Expiration of Stop Work Order

If a stop work order issued under this **Section 2.230** is canceled or the period of the stop work order or any extension thereof expires, Contractor shall resume work. The parties shall agree upon an equitable adjustment in the delivery schedule, the Contract price, or both, and the Contract shall 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 thirty (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 will conform to the requirements of **Section 2.106.**

2.233 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, such termination shall be deemed to be a termination for convenience under **Section 2.212**, and the State shall allow reasonable costs resulting from the stop work order in arriving at the termination settlement. For the avoidance of doubt, the State shall not be liable to Contractor for loss of profits because of a stop work order issued under this **Section 2.230**.

2.240 Reserved

2.250 Dispute Resolution

2.251 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 shall 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 shall submit a letter executed by Contractor's Contract Administrator or his 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 supporting data provided with such an affidavit are current and complete to Contractor's best knowledge and belief.

2.252 Informal Dispute Resolution

(a) All operational disputes between the parties shall be resolved under the Contract Management procedures developed pursuant to **Section 2.100**. If the parties are unable to resolve any disputes after compliance with such processes, the parties shall meet with the Director of Purchasing Operations, DMB, or designee, for the purpose of attempting to resolve such dispute without the need for formal legal proceedings, as follows:

(i) The representatives of Contractor and the State shall meet as often as the parties reasonably deem necessary in order 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 shall 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 will 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 sixty (60) calendar days, the Director of Purchasing Operations, DMB, or designee, shall issue a written opinion regarding the issue(s) in dispute within thirty (30) calendar days. The opinion regarding the dispute shall be considered the State's final action and the exhaustion of administrative remedies.

(b) This **Section 2.250** will 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 pursuant to **Section 2.253**.

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

2.253 Injunctive Relief

The only circumstance in which disputes between the State and Contractor will not be subject to the provisions of **Section 2.252** is where a party makes a good faith determination that a breach of the terms of the Contract by the other party is such that the damages to such 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.

2.254 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 shall not be deemed to preclude performance) and without limiting either party's right to terminate the Contract as provided in **Section 2.210** and **2.220**, as the case may be.

2.260 Federal and State Contract Requirements

2.261 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, physical or mental disability. Contractor further agrees that every subcontract entered into for the performance of this Contract or any purchase order resulting from this Contract will contain a provision requiring non-discrimination in employment, as specified here, binding upon each Subcontractor. This covenant is required pursuant to 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.

2.262 Unfair Labor Practices

Pursuant to 1980 PA 278, MCL 423.231, *et seq*., the State shall 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 pursuant to section 2 of the Act. The United States National Labor Relations Board compiles this information. A Contractor of the State, in relation to the Contract, shall not enter into a contract with a Subcontractor, manufacturer, or supplier whose name appears in this register. Pursuant to section 4 of 1980 PA 278, MCL 423.324, the State may void any Contract if, subsequent to 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.

2.263 Workplace Safety and Discriminatory Harassment

In performing Services for the State, the Contractor shall 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 shall 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.

2.270 Litigation

2.271 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 thereto, to which Contractor (or, to the extent Contractor is aware, any Subcontractor hereunder) 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 hereunder; or (ii) a claim or written allegation of fraud against Contractor or, to the extent Contractor is aware, any Subcontractor hereunder by a governmental or public entity arising out of their business dealings with governmental or public entities. Any such litigation, investigation, arbitration or other proceeding (collectively, "Proceeding") must be disclosed in a written statement to the Contract Administrator within thirty (30) days of its occurrence. Details of settlements, which are prevented from disclosure by the terms of the settlement, may be annotated as such. 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. In the event that any such Proceeding disclosed to the State pursuant to this Section, or of which the State otherwise becomes aware, during the term of this Contract would cause a reasonable party to be concerned about:

(i) the ability of Contractor (or a Subcontractor hereunder) to continue to perform this Contract in accordance with its terms and conditions, or

(ii) whether Contractor (or a Subcontractor hereunder) in performing Services for the State is engaged in conduct which is similar in nature to conduct alleged in such Proceeding, which conduct would constitute a breach of this Contract or a violation of Michigan law, regulations or public policy, then Contractor shall be required to provide the State all reasonable assurances requested by the State to demonstrate that:

(A) Contractor and/or its Subcontractors hereunder will be able to continue to perform this Contract and any Statements of Work in accordance with its terms and conditions, and

(B) Contractor and/or its Subcontractors hereunder have not and will not engage in conduct in performing the Services which is similar in nature to the conduct alleged in such Proceeding.

(c) Contractor shall make the following notifications in writing:

(1) Within thirty (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 shall notify the Office of Purchasing Operations.

(2) Contractor shall also notify the Office of Purchasing Operations within thirty (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 shall also notify Purchasing Operations within thirty (30) days whenever changes to company affiliations occur.

2.272 Governing Law

The Contract shall in all respects be governed by, and construed in accordance with, 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.

2.273 Compliance with Laws

Contractor shall comply with all applicable state, federal, and local laws and ordinances ("Applicable Laws") in providing the Services/Deliverables.

2.274 Jurisdiction

Any dispute arising from the Contract shall 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 such jurisdiction on the grounds of lack of personal jurisdiction of such court or the laying of venue of such 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.

2.280 Environmental Provision

2.281 Environmental Provision

For the purposes of this Section, "Hazardous Materials" is a generic term used to describe asbestos, ACBMs, PCBs, petroleum products, such construction materials as paint thinners, solvents, gasoline, oil, etc., 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. This Contract does not cover the handling, removal, or disposal of all Hazardous Materials.

(a) The Contractor shall use, handle, store, dispose of, process, transport and transfer any material considered a Hazardous Material in accordance with all federal, State and local laws. The State shall provide a safe and suitable environment for performance of Contractor's Work.

Prior to the commencement of Work, the State shall advise Contractor of the presence at the work site of any Hazardous Material to the extent that the State is aware of such Hazardous Material. If the Contractor encounters material reasonably believed to be a Hazardous Material and which may present a substantial danger, the Contractor shall immediately stop all affected Work, give written notice to the State of 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 shall order a suspension of Work in writing. The State shall proceed to have the Hazardous Material removed or rendered harmless. In the alternative, the State shall terminate the affected Work for the State's convenience.

(c) Once the Hazardous Material has been removed or rendered harmless by the State, the affected Work shall be resumed as directed in writing by the State. Any determination by the Michigan Department of Community Health and/or the Michigan Department of Environmental Quality (whichever is applicable) that the Hazardous Material has either been removed or rendered harmless shall be binding upon the State and Contractor for the purposes of resuming the Work. If any such 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 2.076** 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 shall bear its proportionate share of the delay and costs involved in cleaning up the site and removing and rendering harmless the Hazardous Material in accordance with Applicable Laws to the condition approved by applicable regulatory agency(ies). If the Contractor fails to take appropriate action pursuant to Applicable Laws and consistent with the State requirements, then the State may take appropriate action.

2.290 General

2.291 Amendments

The Contract may not be modified, amended, extended, or augmented, except by a writing executed by the parties.

2.292 Assignment

(a) Neither party shall have the right to assign the Contract, or to 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 such affiliate is adequately capitalized and can provide adequate assurances that such affiliate can perform the Contract. Any purported assignment in violation of this Section shall be null and void. It is the policy of the State of Michigan to withhold consent from proposed assignments, subcontracts, or notations when such 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. In the event of any such permitted assignment, Contractor shall not be relieved of its responsibility to perform any duty imposed upon it herein, and the requirement under the Contract that all payments shall be made to one entity shall continue.

2.293 Entire Contract; 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 such subject matter and as additional terms and conditions on the purchase order shall apply as limited by **Section 2.061**.

(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 **Sections 2.110 through 2.220** of the Contract, which may be modified or amended only by a formal Contract amendment.

2.294 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.

2.295 Relationship of the Parties (Independent Contractor Relationship)

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 shall be or shall be deemed to be an employee, agent or servant of the State for any reason. Contractor will be solely and entirely responsible for its acts and the acts of its agents, employees, servants and Subcontractors during the performance of the Contract.

2.296 Notices

(a) Any notice given to a party under the Contract shall be deemed effective, if addressed to such party as addressed below, 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 (3rd) 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.

State of Michigan:

Laura Hischke, Buyer
Purchasing Operations
Business Services Administration
Department Of Management And Budget
Mason Bldg, 2nd Floor
PO Box 30026
Lansing, MI 48909
Contact Phone: (517) 241-0684
Email: HischkeL@michigan.gov

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

(b) Binding Commitments

Representatives of Contractor identified in **Article 3 B of the Invitation To Bid** shall have the authority to make binding commitments on Contractor's behalf within the bounds set forth in such table. Contractor may change such representatives from time to time upon written notice.

2.297 Media Releases and Contract Distribution

(a) Media Releases

Neither Contractor nor the State will make any news releases, public announcements or public disclosures, nor will they have any conversations with representatives of the news media, pertaining to the Contract, the Services or the Contract without the prior written approval of the other party, and then only in accordance with explicit written instructions provided by that party. In addition, neither Contractor nor the State will use the name, trademarks or other proprietary identifying symbol of the other party or its affiliates without such party's prior written consent. Prior written consent of the Contractor must be obtained from authorized representatives.

(b) Contract Distribution

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

2.298 Reformation and Severability

Each provision of the Contract shall be deemed to be severable from all other provisions of the Contract and, if one or more of the provisions of the Contract shall be declared invalid, the remaining provisions of the Contract shall remain in full force and effect.

2.299 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, such consent or approval shall be in writing and shall not be unreasonably withheld or delayed.

2.300 No Waiver of Default

The failure of a party to insist upon strict adherence to any term of the Contract shall not be considered a waiver or deprive the party of the right thereafter to insist upon strict adherence to that term, or any other term, of the Contract.

2.301 Survival

Any provisions of the Contract that impose continuing obligations on the parties including the parties' respective warranty, indemnity and confidentiality obligations, shall 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.

2.302 Covenant of Good Faith

Each party agrees that, in its dealings with the other party or in connection with the Contract, it shall act reasonably and in good faith. Unless stated otherwise in the Contract, the parties will 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.

2.303 Permits

Contractor shall 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 shall pay for all costs and expenses incurred in obtaining and maintaining any necessary easements or right of way.

2.304 Website Incorporation

State expressly states that it will not be 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 such content and has expressly agreed to be bound by it in a writing that has been manually signed by an authorized representation of the State.

2.305 Taxes

Vendors are expected to collect and pay all applicable federal, state, and local employment taxes, including the taxes defined in Section 3.022 for all persons involved in the resulting Contract.

The State may refuse to award a contract to any Vendor who has failed to pay any applicable State taxes. The State may refuse to accept Vendor's bid, if Vendor has any outstanding debt with the State. Prior to any award, the State will verify whether Vendor has any outstanding debt with the State.

2.306 Prevailing Wage - RESERVED

2.307 Call Center Disclosure

Contractor and/or all subcontractors involved in the performance of this 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 shall be a material breach of this Contract.

2.308 Future Bidding Preclusion

Contractor acknowledges that, to the extent this Contract involves the creation, research, investigation or generation of a future ITB, it may be precluded from bidding on the subsequent ITB. 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 ITB development, or as a Vendor offering free assistance) to gain a leading edge on the competitive ITB.

2.310 Reserved

2.320 Extended Purchasing

2.321 MiDEAL - RESERVED

2.322 State Employee Purchases - RESERVED

2.330 Federal Grant Requirements

2.331 Federal Grant Requirements

The following links contain certifications and terms, which may be required for some purchases paid via Federal funds. They are included below and are to be utilized as required.

Lobbying Certifications are usually for agreements over $100,000. The debarment certification is required for all agreements. The last link is where you can go and search for debarred or suspended contractors.

http://straylight.law.cornell.edu/uscode/html/uscode31/usc_sec_31_00001352----000-.html
http://www.archives.gov/federal_register/codification/executive_order/12549.html
http://www.archives.gov/federal_register/executive_orders/pdf/12869.pdf
http://www.epls.gov/epls/servlet/EPLSSearchMain/1

LOCATION 01:

PART I – PLACE OF FORMANCE

CONTRACT INFORMATION			
CONTRACT START DATE:	**04/01/06**	CONTRACT END DATE:	03/31/06
NUMBER OF EXTENSION OPTIONS:	Three (3) Year Contract with No Options		
CONTRACTING AGENCY NAME:	Department of State		
BUILDING NAME AND NUMBER:	Saginaw South #288		
BUILDING ADDRESS:	4212 Dixie Hwy, Saginaw MI 48601		
TERRITORY / REGION / COUNTY:	3/18/Saginaw		
PROCUREMENT CONTACT INFORMATION			
PROCUREMENT OFFICE NAME:	Department of State - Purchasing Unit		
PROCUREMENT OFFICE CONTACT NAME:	**Barb Mazner**	CONTACT PHONE #:	**(517) 335-2754**
PROCUREMENT OFFICE CONTACT E-MAIL:	maznerb@ Michigan.gov	CONTACT FAX #:	(517) 373-1475
CONTRACT COMPLIANCE INSPECTOR (CCI) / FACILITY MANAGER (FM) NAME:	Mary Schmidt	CONTACT PHONE #:	(989) 777-6981
CCI / FM CONTACT E-MAIL:	*SchmidtM1@* Michigan.gov	CONTACT FAX #:	*(989) 777-5897*

BUILDING LOCATION INFORMATION			
OFFICIAL WORKING DAYS OF BUILDING OCCUPANTS:	**Monday – Friday**	**OFFICIAL WORKING HOURS OF BUILDING OCCUPANTS:**	8 am - 5 pm M, T, Th, F Wed 11 am – 7 pm
NUMBER OF WORKSTATIONS AND/OR EMPLOYEES:	**13**	**APPROXIMATE VISITOR POPULATION:**	
IDENTIFY DAYS OF CLEANING SERVICE: [EXAMPLE: M/T/W/TH/F/SA/SU]	**M/T/W/Th/F**	**IDENTIFY HOURS OF CLEANING SERVICE:** [EXAMPLE: 5:30 P.M. TO 8:30 P.M.] NOTE: PLEASE INCLUDE DAYTIME SERVICES IF APPLICABLE TO THIS LOCATION.	M,T,Th, and Fr 6:30 pm – 7:30 am Wed 8 pm – 7:30 am
TOTAL BUILDING SQ. FT. TO BE CLEANED:	**3697**	**NUMBER OF STORIES:**	1

TOTAL SQ. FT. OF **CARPET** TO BE CLEANED:	3502.6		
TOTAL SQ. FT. OF "HIGH TRAFFIC" **CARPET** AREA (S) TO BE CLEANED:			
LIST HIGH TRAFFIC AREA (S):			
TOTAL SQ. FT. OF **VINYL** TO BE CLEANED:		**NUMBER OF RESTROOMS:**	**2**
TOTAL SQ. FT. OF **CERAMIC** TO BE CLEANED:	194.4	**NUMBER OF TOTAL UNITS FOR ALL BUILDING RESTROOM (S):** **NOTE:** URINALS, BABY CHANGING STATION, TOILETS, SHOWERS, SINKS	**4**
TOTAL SQ. FT. OF **CEMENT** TO BE CLEANED:		**Does location have child play area(s)?**	**NO**
TOTAL SQ. FT. OF **WOOD** TO BE CLEANED:		**Does location have a gym?**	**NO**
TOTAL SQ. FT. OF **RUBBER** TO BE CLEANED:		**Does location have a locker room?**	**NO**
Is window cleaning to be included on this contract? **Note: Specify if Interior and/or Exterior and Number of Floors – typically 1st Floor for Exterior.**	**SEE LSS SHEET**		
What is the RECOMMENDED Level of Insurance Risk for this Contract? **[EXAMPLE: LOW, MODERATE OR HIGH]** **NOTE: DMB-OAS & AGENCY to determine,**	**State Standard**		

ADDITIONAL INFORMATION: Include additional building information, including but not limited to known building environmental issues that Bidder should be aware of in performing janitorial services for this location.

Rev 10/11/05 bjn

CLEANING TASK FREQUENCIES

DAILY SERVICES:

ROOM CLEANING *(Office Areas, File Rooms, Conference Rooms)*

1. Empty waste receptacles and remove waste to designated area.
2. Wash or damp wipe, inside and outside, all waste receptacles presenting a soiled or odorous condition, as needed.
3. Replace liners when torn or soiled.
4. Dust mop all non-carpeted floors. Damp mop all spills. Buff vinyl tiled floors, applying spray wax (if needed.)
5. Thoroughly vacuum all carpeted floors including corners, and underneath partitions: (Refer to Task Definitions for quality of care expected.)
6. Spot clean all carpeted areas.
7. Remove all mats and runners and clean floor area underneath. Clean all mats and runners by best means. Replace all mats and runners.
8. Clean and disinfect drinking fountains.
9. Clean and polish all entrance glass.
10. Move all lobby chairs and clean floor area underneath and replace chairs in proper place.
11. Dust high and low, including clocks, all surfaces on which dust gathers.

RESTROOMS

l. Clean and sanitize all units. Clean pipes beneath all sinks.
2. Clean mirrors and counters and polish chrome.
3. Refill dispensers. **see Replenishable Supplies
4. Empty and disinfect all sanitary napkin receptacles.
5. Sweep and damp mop floors with a germicidal solution paying special attention around wash bowls, toilets and urinals. (Note: Damp mops used in restrooms are not to be used for non-restroom areas).
6. Empty waste receptacles.
7. Clean switch, door and kick plates.
8. Maintain floor traps free of odor.
9. Clean and sanitize wall hand-dryers.

WEEKLY SERVICE:

ROOM CLEANING *(Office Areas, File Rooms, Conference Rooms, Lobby)*

1. Clean all cleared desk and counter top areas with approved desk/counter cleaner.
2. Remove all cobwebs, clean baseboards.
3. Clean, spray wax and buff all vinyl tile floors.
4. Clean by most appropriate means all lobby furniture.

RESTROOMS

1. Clean partition walls and doors with germicidal solution, making sure to thoroughly rinse.
2. Thoroughly clean, scrub by agitation (with hand brush or mechanical machine) and disinfect ceramic tile floors, with special attention to grouting, corners of floor, baseboards, and stalls.
3. Spot clean walls around sinks, waste receptacles, behind urinals and toilets.
4. Dust radiators, grills, ledges, etc.

MONTHLY SERVICE:

ROOM CLEANING (Office Areas, File Rooms, Conference Rooms)

1. Dust/vacuum window hangings.
2. Clean all carpeted areas of heavy traffic showing noticeably greater soil than general area.
3. Spot clean walls, doors, etc., removing all cobwebs, finger prints, smears and stains.
4. Clean partition glass.
5. Vacuum exposed air vents and heating outlets.

RESTROOMS

1. Wash with germicidal solution entrance doorways, ledges, etc.

WINDOWS

1. Wash all exterior windows inside and outside (weather permitting).

Note: Window cleaning which requires the erection of scaffolding must be contracted separately and is not made part of this specification; however, windows reachable by stepladder are included.

QUARTERLY SERVICE*

1. Strip, seal, wax and buff all vinyl tile floors: Heavy traffic areas

SEMI-ANNUAL SERVICE*

ROOM CLEANING *(Office Areas, File Rooms, Conference Rooms)*

1. Shampoo or steam clean carpets by commercial methods: Full contract area.
2. Strip, seal, wax and buff all vinyl tile floors: Full contract area.
3. Clean light fixtures lenses.

SUPPLEMENTARY TASKS*

1. Extra Carpet Cleaning [unforeseen customer accidents]
2. Renovation/Construction clean up

- To be determined by Contract Compliance Inspector.

NOTES/ADDITIONAL INFORMATION

* **Schedule to be set up with Contract Compliance Inspector at beginning of contract period. Any deviation from established schedule must be pre-approved by Contract Compliance Inspector. This service is to be priced separately from estimated monthly cost**.

** **RESPONSIBILITY FOR REPLENISHABLE SUPPLIES****

Paper towels	**X** by agency	Toilet tissue	**X** by agency
Hand soap	**X** by agency	Plastic liners	**X** by agency
Sanitary napkins	**X** by contractor		

***** ALL CLEANING SUPPLIES ARE TO BE PROVIDED BY THE CONTRACTOR *****

PRICING SHEET SUMMARY

DEPARTMENT OF STATE **SAGINAW COUNTY**

4212 Dixie Hwy, Saginaw MI

Square Foot of Area to be cleaned: 3,697 sq. ft.

DAILY SERVICES

DESCRIPTION	ESTIMATED NUMBER OF SERVICES	MONTHLY PRICE	36 -MONTH CONTRACT PRICE
Basic Janitorial Services includes Daily, Weekly, Monthly Services	36	$ 500.00	$18,000.00

SEMI-ANNUAL SERVICES

DESCRIPTION	ESTIMATED NUMBER OF SERVICES	PRICE / SERVICE	PRICE/SERVICE TIMES EST. SERVICES
Shampoo or steam clean carpets by commercial methods: Full contract area	6	$300.00	$1,800.00
Clean light fixtures lenses	6	$75.00	$450.00

TOTAL ESTIMATED 12-MONTH / 1-YEAR CONTRACT PRICE	**$ 6,750.00**
TOTAL ESTIMATED 36-MONTH / 3-YEAR CONTRACT PRICE	**$ 20,250.00**