

**STATE OF MICHIGAN**  
**DEPARTMENT OF TECHNOLOGY MANAGEMENT AND BUDGET**      December 7, 2011  
**PROCUREMENT**  
**P.O. BOX 30026, LANSING, MI 48909**  
 OR  
**530 W. ALLEGAN, LANSING, MI 48933**

**CHANGE NOTICE NO. 3**  
**TO**  
**CONTRACT NO. 071B7200005**  
**between**  
**THE STATE OF MICHIGAN**  
**and**

NAME & ADDRESS OF VENDOR  <b>Pro-Tech Environmental, Inc.</b> <b>15 North Park Street NW</b> <b>Grand Rapids, MI 49544</b>	TELEPHONE (616) 364-9170 <b>Bernie Vlaming</b>
	VENDOR NUMBER/MAIL CODE
	BUYER/CA (517) 241-1145 <b>Lymon C. Hunter, CPPB</b>
Contract Compliance Inspector: Karin Carver (517) 322-1499 <b>Michigan State Police Training Academy and Firing Range Lead Clean Up - DMB</b>	
CONTRACT PERIOD:                      From: <b>October 4, 2006</b> To: <b>October 3, 2012</b>	
TERMS  <p style="text-align: center;"><b>1% / 5 Days</b></p>	SHIPMENT  <p style="text-align: center;"><b>N/A</b></p>
F.O.B.  <p style="text-align: center;"><b>N/A</b></p>	SHIPPED FROM  <p style="text-align: center;"><b>N/A</b></p>
MINIMUM DELIVERY REQUIREMENTS <p style="text-align: center;"><b>N/A</b></p>	

**NATURE OF CHANGE(S):**

**Effective October 4, 2011, this contract is hereby EXTENDED to October 3, 2012 and INCREASED by \$99,950.00. All other terms, conditions, specifications and pricing will remain unchanged.**

**AUTHORITY/REASON:**

**Per agency request, Ad Board approval on 12/6/2011 and DTMB Procurement approval.**

**INCREASE: \$99,950.00**

**TOTAL REVISED ESTIMATED CONTRACT VALUE: \$599,700.00**

**STATE OF MICHIGAN**  
**DEPARTMENT OF MANAGEMENT AND BUDGET**  
**PROCUREMENT & REAL ESTATE SERVICES ADMINISTRATION**  
 P.O. BOX 30026, LANSING, MI 48909  
 OR  
 530 W. ALLEGAN, LANSING, MI 48933

November 18, 2010

**CHANGE NOTICE NO. 2**  
**TO**  
**CONTRACT NO. 071B7200005**  
**between**  
**THE STATE OF MICHIGAN**  
**and**

NAME & ADDRESS OF VENDOR  <b>Pro-Tech Environmental, Inc.</b> <b>15 North Park Street NW</b> <b>Grand Rapids, MI 49544</b>	TELEPHONE (616) 364-9170 <b>Bernie Vlaming</b>
	VENDOR NUMBER/MAIL CODE
	BUYER/CA (517) 241-1145 <b>Lymon C. Hunter, CPPB</b>
Contract Compliance Inspector: Karin Carver (517) 322-1499 <b>Michigan State Police Training Academy and Firing Range Lead Clean Up - DMB</b>	
CONTRACT PERIOD: From: <b>October 4, 2006</b> To: <b>October 3, 2011</b>	
TERMS <p style="text-align: center;"><b>1% / 5 Days</b></p>	SHIPMENT <p style="text-align: center;"><b>N/A</b></p>
F.O.B. <p style="text-align: center;"><b>N/A</b></p>	SHIPPED FROM <p style="text-align: center;"><b>N/A</b></p>
MINIMUM DELIVERY REQUIREMENTS <p style="text-align: center;"><b>N/A</b></p>	

**NATURE OF CHANGE(S):**

Effective immediately, this contract is hereby **EXTENDED** to October 3, 2011 and **INCREASED** by \$99,950.00. All other terms, conditions, specifications and pricing will remain unchanged.

**AUTHORITY/REASON:**

Per agency request, Ad Board approval on 11/16/2010 and DTMB/Procurement & Real Estate Services Administration approval.

**TOTAL REVISED ESTIMATED CONTRACT VALUE: \$499,750.00**

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

December 22, 2009

**CHANGE NOTICE NO. 1  
 TO  
 CONTRACT NO. 071B7200005  
 between  
 THE STATE OF MICHIGAN  
 and**

NAME & ADDRESS OF VENDOR  <b>Pro-Tech Environmental, Inc.          15 North Park Street NW          Grand Rapids, MI 49544</b>	TELEPHONE (616) 364-9170 <b>Bernie Vlaming</b>
	VENDOR NUMBER/MAIL CODE
	BUYER/CA (517) 241-1145 <b>Lymon C. Hunter, CPPB</b>
Contract Compliance Inspector: Karin Carver (517) 322-1499 <b>Michigan State Police Training Academy and Firing Range Lead Clean Up - DMB</b>	
CONTRACT PERIOD: From: <b>October 4, 2006</b> To: <b>October 3, 2009</b>	
TERMS <p style="text-align: center;"><b>1% / 5 Days</b></p>	SHIPMENT <p style="text-align: center;"><b>N/A</b></p>
F.O.B. <p style="text-align: center;"><b>N/A</b></p>	SHIPPED FROM <p style="text-align: center;"><b>N/A</b></p>
MINIMUM DELIVERY REQUIREMENTS <p style="text-align: center;"><b>N/A</b></p>	

**NATURE OF CHANGE(S):**

Effective October 4, 2009, the State hereby exercises the first of two (2), one-year options to extend. The new contract end date is October 3, 2010. Additionally, funds in the amount of \$99,950.00 are hereby added to this Contract.

**PLEASE NOTE:** The vendor is offering a quick pay discount of 1% if paid within 5 days after receipt of invoice.

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

**AUTHORITY/REASON:**

Per agency/vendor agreement and DMB/Purchasing Operations' approval.

**REVISED CURRENT AUTHORIZED SPEND LIMIT: \$399, 800.00**

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

September 6, 2006

**NOTICE  
 TO  
 CONTRACT NO. 071B7200005  
 between  
 THE STATE OF MICHIGAN  
 and**

NAME & ADDRESS OF VENDOR  <b>Pro-Tech Environmental, Inc.          15 North Park Street NW          Grand Rapids, MI 49544</b>	TELEPHONE (616) 364-9170 <b>Bernie Vlaming</b>
	VENDOR NUMBER/MAIL CODE
	BUYER/CA (517) 241-1916 <b>Jim Wilson</b>
Contract Compliance Inspector: Karin Carver (517) 322-1499 <b>Michigan State Police Training Academy and Firing Range Lead Clean Up - DMB</b>	
CONTRACT PERIOD: From: <b>October 4, 2006</b> To: <b>October 3, 2009</b>	
TERMS  <p style="text-align: center;"><b>N/A</b></p>	SHIPMENT  <p style="text-align: center;"><b>N/A</b></p>
F.O.B.  <p style="text-align: center;"><b>N/A</b></p>	SHIPPED FROM  <p style="text-align: center;"><b>N/A</b></p>
MINIMUM DELIVERY REQUIREMENTS  <p style="text-align: center;"><b>N/A</b></p>	

The terms and conditions of this Contract are those of ITB #07116200317, this Contract Agreement and the vendor's quoted. 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:           **\$299, 850.00**

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

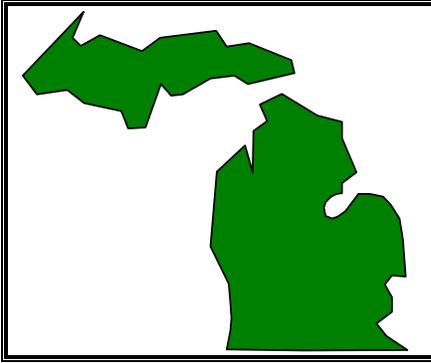
**CONTRACT NO. 071B7200005  
 between  
 THE STATE OF MICHIGAN  
 and**

NAME & ADDRESS OF VENDOR  <b>Pro-Tech Environmental, Inc.          15 North Park Street NW          Grand Rapids, MI 49544</b>	TELEPHONE (616) 364-9170 <b>Bernie Vlaming</b> VENDOR NUMBER/MAIL CODE BUYER/CA (517) 241-1916 <b>Jim Wilson</b>
Contract Compliance Inspector: Karin Carver (517) 322-1499 <b>Michigan State Police Training Academy and Firing Range Lead Clean Up - DMB</b>	
CONTRACT PERIOD: From: <b>October 4, 2006</b> To: <b>October 3, 2009</b>	
TERMS <p style="text-align: center;"><b>N/A</b></p>	SHIPMENT <p style="text-align: center;"><b>N/A</b></p>
F.O.B. <p style="text-align: center;"><b>N/A</b></p>	SHIPPED FROM <p style="text-align: center;"><b>N/A</b></p>
MINIMUM DELIVERY REQUIREMENTS <p style="text-align: center;"><b>N/A</b></p>	
MISCELLANEOUS INFORMATION:  <p><b>The terms and conditions of this Contract are those of ITB #071I6200317, this Contract Agreement and the vendor's quoted. 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.</b></p> <p><b>Estimated Contract Value:           \$299, 850.00</b></p>	

**THIS IS NOT AN ORDER:** This Contract Agreement is awarded on the basis of our inquiry bearing the ITB No. 071I6200317. Orders for delivery may be issued directly by the Michigan State Police through the issuance of a Purchase Order Form.

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

<p><b>FOR THE VENDOR:</b></p> <p style="text-align: center;"><b>Pro-Tech Environmental, Inc.</b>          _____          Firm Name</p> <p style="text-align: center;">_____          Authorized Agent Signature</p> <p style="text-align: center;">_____          Authorized Agent (Print or Type)</p> <p style="text-align: center;">_____          Date</p>	<p><b>FOR THE STATE:</b></p> <p style="text-align: center;">_____          Signature  <b>Melissa Castro, CPPB, Buyer Manager</b>          _____          Name  <b>Services Division, Purchasing Operations</b>          _____          Title</p> <p style="text-align: center;">_____          Date</p>
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**STATE OF MICHIGAN**  
**Department of Management and Budget**  
**Purchasing Operations**

Contract No. 071B7200005  
Michigan State Police Training Academy and Firing Range Lead Clean Up

Buyer Name: Jim Wilson  
Telephone Number: (517) 241-1916  
E-mail Address: [wilsonj4@michigan.gov](mailto:wilsonj4@michigan.gov)



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## Article1 – Statement of Work (SOW)

### 1.0 Introduction

#### 1.001 DEFINING DOCUMENT

The services required for this Contract are for cleaning and lead decontamination of the firing range at the Michigan State Police Training Academy.

This document contains or incorporates defined requirements, the specifications and scope of work, and all contractual terms and conditions.

#### 1.002 PROJECT TITLE AND DESCRIPTION

This is a Contract for MSP Training Academy & Firing Range Lead Clean Up.

#### 1.003 PROJECT CONTROL

##### Project Control

- a. The Contractor will carry out this project under the direction and control of the *Department of Management and Budget, Office of Facilities*.
- b. Although there will be continuous liaison with the Contractor team, the client agency's project director will meet as requested by DMB, Office of Facilities, with the Contractor's project manager for the purpose of reviewing progress and providing necessary guidance to the Contractor in solving problems that arise.
- c. The Contractor will submit brief written (monthly) summaries of progress which outline the work accomplished during the reporting period; work to be accomplished during the subsequent reporting period; problems, real or anticipated, which should be brought to the attention of the client agency's project director; and notification of any significant deviation from previously agreed-upon work plans. A copy of this report will be forwarded to the named buyer in Purchasing Operations.
- d. Within five (5) working days of the award of the Contract, the Contractor will submit to the DMB, Office of Facilities project director for final approval a work plan, which must include the following:

The Contractor's project organizational structure.

- (1) 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.
- (2) The project breakdown showing sub-projects, activities and tasks, and resources required and allocated to each.
- (3) The time-phased plan in the form of a graphic display, showing each event, task, and decision point in your work plan.

##### **Reports (Reserved)**



## 1.004 COMMENCEMENT OF WORK

Contractor shall show acceptance of this agreement by signing a copy of this contract and returning it to the Purchasing Operations. Contractor shall not proceed with performance of the work to be done under this agreement, including the purchase of necessary materials, until both parties have signed this agreement to show acceptance of its terms.

## 1.1 Product Quality

### 1.101 SPECIFICATIONS

#### SUMMARY DESCRIPTION

The specification provides detailed instructions, schedule, and requirements for cleaning and lead decontamination of the firing range, backstop, range offices, north range hallway, and two stairwells in the Michigan State Police Training Academy, 7426 N. Canal Road, Lansing, Michigan. Only areas identified in the specifications are included, all other areas are not included.

Definite Specifications - All commodities and/or services to be furnished hereunder shall conform to the specifications as noted in this contract and/or copies of specifications attached.

#### DEFINITIONS

For the purpose of clarification, the following definitions are included:

**Contractor** = The licensed lead abatement vendor hired to conduct the cleaning.

**Competent Person** = A supervisor of the Contractor's cleaning crew who meets the requirements authorized for such an individual as found in 29 CFR 1926.62 (b) and adopted by reference by the **Michigan Department of Labor and Economic Growth** Rule R325.51992.

**HEPA** = High Efficiency Particulate Air; refers to filters tested to collect a minimum of 99.97% of all particles 0.3 microns in size or larger.

**Industrial Hygiene Consultant** = Organization hired by the State of Michigan to assist with the development of project specifications, provide project oversight, conduct regular air and/or sampling, and document work procedures.

**Project Representative** = Person designated by the Department of Management and Budget (DMB) as the primary contact person to the Contractor and Industrial Hygiene Consultant.

**Waste** = Any waste generated during clean-up will be treated as lead contamination.

#### ADDITIONAL LIABILITY INSURANCE

Prior to the start of any cleaning or decontamination activities, and annually thereafter, the Contractor will provide the Project Representative and Industrial Hygiene Consultant with proof of liability insurance for lead abatement activities. Such liability insurance will provide at least \$1,000,000 worth of coverage on an occurrence basis and be issued by a firm licensed to provide such coverage in Michigan.

#### LOGBOOK

The Contractor will develop and submit, prior to work, a logbook to the State's Industrial Hygiene Consultant. The book will be in a three-ring binder format and will contain the following sections:

1. Personnel Lead Training Records and updated annual refresher training records.
2. Medical Surveillance Records
3. Respiratory Protection Program
4. Hazard Communication Program – Including any Material Safety Data Sheets (MSDS's) of chemicals brought on site by the Contractor
5. Material Disposal Receipts
6. Name and address of any recycler utilized for spent shot and other lead waste
7. State of Michigan Lead Abatement License
8. Certificate of Lead Liability Insurance

Logbook cont.

9. Blood lead levels (last three) for individuals assigned to the project
10. Lead Compliance Program (29CFR 1926.62 (e) (2))

**REGULATIONS**

All cleaning, decontamination and waste removal activities will be conducted in compliance with the applicable rules and industry standards. These include, but are not limited to:

1. Michigan Department of Labor and Economic Growth (MIOSHA) Rules 325.51991 and 325.51992 – Lead exposure in construction.
2. Occupational Safety and Health (OSHA) regulations 29 CFR 1926.62 – Lead.
3. Michigan Lead Abatement – Act of 1998 (Sections 5452-5476 of Public Act 368 of 1978).

**TRAINING**

1. The Competent Person will have had at a minimum successfully completed the EPA 32 hour Lead Contractor and Supervisor, or it's equivalent. (40 CFR 745.226)
2. All workers and the Competent Person on site will have had lead training, which covers the topics mandated by OSHA [29 CFR 1926.62 (I)]
3. All personnel working on site will maintain their training requirements and required refreshers.
4. All updated training records will be placed in the project log and will be provided to the Industrial Hygiene Consultant, in a timely manner.

**EQUIPMENT AND MATERIALS**

1. The Contractor to remove bulk spent shot and debris from behind the backstop will supply a trailer mounted HEPA vacuum unit. (Vec loader or equivalent). The unit will be capable of drawing spent shot from behind the backstop to the ground level. Supply a 4" hose with appropriate fittings to be utilized on either side of the firing range to accomplish the task. (NOTE: Any materials placed behind the backstop, including the 4" hose, will be considered lead contaminated and must be disposed of as the same).
2. The Contractor will also provide portable HEPA vacuums in quantities and sizes to accomplish the specified cleaning tasks. The Contractor will also supply all necessary brushes and floor attachments to accomplish the tasks. All HEPA vacuum accessories must be supplied by the manufacturer and used for their intended purpose.
3. The Contractor will supply the proper hand soap or decontaminating lead wipe for employee decontamination. The soap must be designed specifically for the decontamination of lead contaminated skin surfaces. Ensure that the product material safety data sheet (MSDS) is supplied for review and is maintained on site in the project logbook.
4. The Contractor will supply a lead cleaning solution for the cleanup activities (D-lead or equivalent). Ensure that the product MSDS is supplied for review and is maintained on site in the project logbook.
5. The Contractor will supply all required Personal Protective Equipment (PPE) and ensure that it is in good working condition and utilized properly. The following is a minimum list of needed equipment for the various range cleanup activities:



- a. Powered air purifying respirators with P100 filters
  - b. ½ face negative pressure respirators with P100 filters
  - c. Disposable Tyvek, or equivalent, breathable suits with attached hoods and booties
  - d. Latex or equivalent gloves (Note: Due to the concern of Latex allergies, the contractor should only utilize non-powdered latex gloves)
  - e. Rubber boots with steel toe and shank
  - f. Hardhats
  - g. Disposable booties
  - h. Hearing protection
  - i. Eye protection
6. The Contractor will ensure that there is an adequate amount of step-off pads at all times, and will be responsible for supplying and changing these as needed.
7. Miscellaneous equipment and materials to be supplied by the Contractor are as follows:
- a. Pump up water sprayers
  - b. Squeegees
  - c. Shovels
  - d. DOT approved 55-gallon drums with airtight lids
  - e. Proper signage, labels, and banner tape
  - f. Mops, mop buckets, and mop heads
  - g. Disposal bags
  - h. Portable shower decontamination unit with adjustable hot and cold water and a shower pump unit with a final stage five-micron water filter.

## SCHEDULE

1. The range area will be cleaned three (3) times a week as scheduled when training classes are in session: Monday, Wednesday and Friday. However, when training classes are not in session, then cleaning will be scheduled once a week on Friday. All cleanup activities are to take place at times to minimize disturbance of the range and its occupants. The schedule may change dependent on use and prior approval of the range master.
2. More extensive cleaning of the range will occur every month. This cleaning should be scheduled at least once a week in advance with the range master and may be conducted on Saturday.
3. More extensive cleaning of the range, backstop, and associated stairwell will take place every six (6) months. The Contractor will notify the range master at least one (1) week before work is to be conducted. The backstop will be cleaned at a minimum on a monthly basis. The Contractor will meet with the range master weekly to determine if excessive use of the range would necessitate a quicker turnaround time on the cleanup or if diminished use of the range would necessitate fewer cleanups.
4. Vec Loading Activities – During the monthly cleaning of the backstop, personal monitoring will be conducted on all Vec Loader operators. The Vec loading activities will coincide with the cleaning of the backstop.

## CLEANING PROCEDURES

The Contractor will be responsible for all of the following cleanup activities:

### Firing Range

The scope of work for Monday, Wednesday and Friday cleaning is as follows:



1. Ensure the exhaust fans are turned on
2. The appropriate PPE must be worn including, but not limited to:
  - a) Latex gloves
  - b) ½ face negative pressure respirator with P100 filters
  - c) Disposable booties
  - d) PPE may be upgraded or downgraded depending on exposure sample and blood lead sample results
3. Enter range at the step off pad locations, and working towards the backstop, HEPA vacuum the top surface of the deflector panels. Begin work at the panel nearest the firing stations and proceed with cleaning toward the backstop.
4. Spray the floor with a commercially available deleading agent from a pump up sprayer.
5. Utilizing a squeegee, push all materials to the backstop. If visible dust is observed during this process, stop work, and spray more deleading agent such that dust is no longer generated by the squeegee operation.
6. Bag all waste materials, including disposable booties, into double 6-mil bags and transport them for disposal, or place them immediately in a sealed airtight 55-gallon drum. All waste containers must be transported off site; they will not be allowed to be stored at the firing range. The scrap lead and miscellaneous lead contaminated materials may be transported to the smelter for scrap.
7. Rinse off and clean squeegees, dustpan and store appropriately.
8. HEPA vacuum the firing station floor.
9. Remove respirator and/or respirator filters, gloves and booties and dispose of as lead contaminated materials.

### Monthly Backstop Cleaning Procedures

The scope of work for **each monthly backstop cleaning** is as follows:

1. Before beginning the cleanup operations, ensure that the exhaust systems are turned on and operational.
2. The appropriate PPE must be worn including, but not limited to:
  - a) PAPR respirator with P100 filters
  - b) Disposable Tyvek suit with attached hoods and booties
  - c) Latex gloves
  - d) Rubber gloves
  - e) Rubber boots with steel toe and shank
  - f) Hearing protection
  - g) Hard hats
3. Ensure that a step off pad and a 3'x 3'x 8' airlock with overlapping flap door is in place in front of the backstop door.
4. After the appropriate PPE has been donned enter the backstop area. Ensure that the door remains closed during the cleanup procedures.
5. Attach a 4' line to the stanchion pipe inside the backstop area and after it is connected to the Vec Loader, vacuum all debris from off of the floor. Begin vacuuming the farthest point away from the backstop entrance and proceed with vacuuming toward the entrance.
6. Utilizing hand tools, clean out the swirl chamber and vacuum up all debris.
7. Double bag and remove any stored materials from the area.
8. Remove hardhats, rubber gloves, and boots and either store them in the area, or place them in a disposal bag to be utilized for the next cleaning operations.
9. Remove and dispose of suit, respirator filters, and latex gloves.
10. Ensure that the step off pad is utilized for decontamination.
11. All employees, at a minimum, must immediately wash their hands and face with a proper cleanser to remove lead contamination. NOTE: If employee representative exposures are above the Permissible Exposure Limit (PEL) ( $50 \mu\text{g}/\text{m}^3$ ), a shower facility will be established pursuant to 29 CFR 1926.62 (i) (3). For purposes of this contract, presume exposures will exceed  $50 \mu\text{g}/\text{m}^3$  during this task.
12. The stairwell landing will be wet mopped with a lead cleanser, and the mop head will be disposed of as lead contaminated waste.

**Vec Loading Activities (once per month)**

1. The Contractor will supply enough 4' hose to reach the pipe station, and 55-gallon drums to collect the accumulated waste.
2. The appropriate PPE must be worn to include:
  - a) Latex or rubber gloves during handling of the waste
  - b) Ear protection
  - c) Eye protection
3. Place all accumulated waste into 55 gallon drums, including spent shot, old suits, respirator filters, mop heads, etc.
4. The Contractor will transport all waste materials to a smelter and provide receipt of transfer to the range master and logbook within 30 days.
5. The Contractor will schedule the removal of all waste materials with the Facility Manager to maintain both sensitivity and safety to building occupants.

**Every six (6) months** the cleanup procedures at the firing range will be as follows.

1. The appropriate PPE must be worn, including, but not limited to:
  - a) Latex gloves.
  - b) ½ face respirator with P100 filters.
  - c) Disposable Tyvek suits with attached hoods and booties.
  - d) PPE may be upgraded or downgraded depending on air sample results
2. Starting at the ceiling tile and working down, utilize HEPA vacuuming and wet wiping procedures to clean all surfaces including firing stations, supply vents, etc.
3. Ensure that the manufacturer's recommendations for the proper application and mixing of the commercially available lead cleanser are followed.
4. Ensure that all mop heads and rags utilized for the wet wiping are changed frequently to prevent the spreading of lead contamination.
5. Wet buffs the range floor with a low rpm-buffing machine 300-rpm.
6. Wet mops the shooting station floor with the appropriate lead cleansing solution.
7. All stairs and landings leading down to the Vec Loader will be wet mopped with a lead cleanser and all handrails shall be similarly cleaned.
8. Remove PPE, clean that which can be cleaned (boots, respirators) and dispose of the remainder as lead contaminated materials.
9. After a thorough visual inspection by the Industrial Hygiene Consultant, all non porous surfaces will be checked with LeadCheck swabs and may be verified by wipe sampling to ensure that surface lead levels are less than or equal to 100 µg/ft<sup>2</sup>.

**Every six (6) months** the above procedures will be followed in addition to the following:

1. HEPA vacuum all surfaces with the proper brush attachments. These attachments must be specifically designated for this area, as they will not be allowed to be utilized anywhere else.
2. Wash down the entire area with a pump up sprayer and lead cleansing solution.
3. Mop the floor, changing mop heads frequently.



### Maintenance of air exhaust/filtration devices:

1. The Contractor will be responsible for review and maintenance of the roof mounted air filtration unit.
2. **Every Friday**, the Contractor will perform a visual examination of the 1<sup>st</sup> and 2<sup>nd</sup> stage filters of the unit. If any filters are loaded or damaged, replace immediately with filter spec, which is supplied by vendor.
  - a) The Contractor will check the magnehelic gauge pressure drop across the faces of the filter.
  - b) The Contractor will record all readings in the on-site project logbook.
3. The Contractor will replace all filters following the procedures in the maintenance manual for the units (a copy is located on the inside door of the control panel).
4. When replacing filters the Contractor will wear the appropriate PPE:
  - a) ½ face respirator with P-100 filters.
  - b) Latex or nitrile gloves
  - c) Disposable Tyvek suit or lab coat
5. All filters will be immediately double bagged, sealed, labeled and removed from the facility.
6. Transport all filters to a sealed 55-gallon drum.

## SUMMARY

### Cleaning Task Frequencies

#### 1. Firing Range

Normal Cleaning Activities

Frequency: 3X per week  
during specified training activities and  
1x per week when no training is scheduled.

(Monday, Wednesday, Friday as permitted by range master)

At times the range may not be used due to scheduling.  
when three (3) days a week service is not required due to lack of  
range utilization, the vendor may be asked to complete as additional  
day(s) service as per contract pricing, terms and conditions.

#### 2. Extensive Cleaning Activities

(Semi-annual service as scheduled with range master)

Frequency: 2X per year

#### 3. Vec Loading

Frequency: 1X per month

### 1.102 RESEARCH AND DEVELOPMENT

Contractor shall discuss their ability to invest in new product development and research to stay current with ongoing demands.

### 1.103 QUALITY ASSURANCE PROGRAM

Contractor to provide detail regarding any Quality Assurance Program(s) that are currently in place within their organization.

**1.104 WARRANTY FOR PRODUCTS OR SERVICES (Reserved)****1.2 Service Capabilities****1.201 CUSTOMER SERVICE/ORDERING (Reserved)****1.202 TRAINING**

The Contractor shall provide training to individual agencies, when necessary, on aspects of ordering, shipping, billing, and receiving. At the request of the Contract Administrator, the Contractor shall provide in-service training to agency personnel on products, installation, and product safety issues. The Contractor shall also provide agency training jointly with the State as needed during the period covered by the contract at no additional charge.

**1.203 REPORTING**

Contractor shall be able to provide various reports, when requested by the State. Examples include itemized report of total items (commodities and services) purchased by all agencies or individual agencies, open invoice reports, delivery compliance reports, quantity reports, service compliance reports, etc.

**1.204 SPECIAL PROGRAMS (Reserved)****1.205 SECURITY**

The Contract may require frequent deliveries to State of Michigan facilities. This shall include, but is not limited to, performance of security background checks on all personnel assigned to State of Michigan facilities (i.e. delivery people) and how they are performed, what the security check consists of, the name of the company that performs the security checks, use of uniforms and ID badges, etc. If security background checks are performed on staff, contractor shall indicate the name of the company that performs the check as well as provide a document stating that each employee has satisfactorily completed a security check and is suitable for assignment to State facilities. Upon request by the State, bidders shall provide the results of all security background checks.

Upon review of the security measures of the contractor, the State will decide whether to issue State ID badges to the contractor's delivery personnel or accept the ID badge issued to delivery personnel by the contractor.

The State may decide to also perform a security background check. If so, contractors will be required to provide to the State a list of all delivery people that will service State of Michigan facilities, including name and date of birth (social security number of driver license number would also be helpful).

The Contractor and its subcontractors shall comply with the security access requirements of individual State facilities.

**1.3 Delivery Capabilities****1.301 TIME FRAMES (Reserved)**

**1.302 MINIMUM ORDER (Reserved)****1.303 PACKAGING (Reserved)****1.304 PALLETIZING (Reserved)****1.305 DELIVERY TERM (Reserved)****1.306 RESERVED FOR ACCEPTANCE OF DELIVERABLES/PARE EXPLANATION****1.4 Project Price****1.401 PROPOSAL PRICING**

Contractors shall provide pricing for the items included on this Contract by year and for term of contract.

**1.402 QUICK PAYMENT TERMS- RESERVED****1.403 PRICE TERM**

( X ) Firm Fixed Price

Prices quoted are for the term of the contract, from the date the Contract becomes effective.

Prices are subject to review at the end of each 365-day period. Such review shall be based on changes in actual costs incurred. Documentation of such changes must be provided with the request for price change in order to substantiate any requested change. Purchasing Operations reserves the right to consider various pertinent information sources to evaluate price increase requests (such as the CPI and PPI, US City Average, as published by the US Department of Labor, Bureau of Labor Statistics). Purchasing Operations also reserves the right to consider other information related to special economic and/or industry circumstances, when evaluating a price change request. Changes may be either increases or decreases, and may be requested by either party. Approved changes shall be firm for the remainder of the contract period unless further revised at the end of the next 365-day period.

Requests for price changes shall be RECEIVED IN WRITING AT LEAST TEN DAYS PRIOR TO THEIR EFFECTIVE DATE, and are subject to written acceptance before becoming effective. In the event new prices are not acceptable, the CONTRACT may be cancelled. The 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.

**1.5 Quantity term**

( X ) Requirements – Vendor agrees to supply all that the state requires

**1.6 Other Terms and Conditions Needed for this Contract (Reserved)**



## Article 2 – General Terms and Conditions

### 2.0 Introduction

#### 2.001 GENERAL PURPOSE

The Contract is for lead related cleaning and waste disposal for the State of Michigan. Exact quantities to be purchased are unknown, however the Contractor will be required to furnish all such materials and services as may be ordered during the CONTRACT period. Quantities specified if any, are estimates based on prior purchases, and the State is not obligated to purchase in these or any other quantities. Orders for delivery will be issued directly to the Contractor by various State Agencies on the Purchase Order Contract Release Form.

#### 2.002 ISSUING OFFICE AND CONTRACT ADMINISTRATOR

The Contract is issued by Purchasing Operations, State of Michigan, Department of Management and Budget, hereinafter known as Purchasing Operations, for the Office of Facilities, hereinafter known as Office of Facilities. Where actions are a combination of those of Purchasing Operations and the State agencies, the authority will be known as the State.

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

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

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

Department of Management and Budget  
Purchasing Operations  
Attn: Jim Wilson  
2nd Floor, Mason Building  
P.O. Box 30026  
Lansing, Michigan 48909  
(517) 241-1916  
Wilsonj4@michigan.gov

#### 2.003 NOTICE

Any notice given to a party under this Contract must be written and 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.

#### 2.004 CONTRACT TERM

The term of this Contract will be for three (3) years. This will be approximately October 4, 2006 through October 3, 2009.

**Option.** The State reserves the right to exercise two (2) one-year options, at the sole option of the State. Contractor performance, quality of products, price, cost savings, and the Contractor's ability to deliver on time are some of the criteria that will be used as a basis for any decision by Purchasing Operations to exercise an option year.



**Extension.** Upon agreement of the State and the Contractor, the contract may also be extended. Contractor performance, quality of products, price, cost savings, and the Contractor's ability to deliver on time are some of the criteria that will be used as a basis for any decision by Purchasing Operations to exercise an option year.

## 2.005 GOVERNING LAW

The Contract shall in all respects be governed by, and construed in accordance with, the laws of the State of Michigan. By signing this agreement, vendor consents to personal jurisdiction in the state of Michigan. Any dispute arising herein shall be resolved in the State of Michigan.

## 2.006 APPLICABLE STATUTES

The following statutes, rules, and laws are applicable to the performance of this contract; some statutes are reflected in the clauses of this contract. This list is NOT exhaustive.

MI Uniform Commercial Code (MIUCC) MCL 440. (All sections unless otherwise altered by agreement)

MI OSHA MCL §§ 408.1001 – 408.1094

Freedom of Information Act (FIOA) MCL §§ 15.231, et seq.

Natural Resources and Environmental Protection Act MCL §§ 324.101, et seq.

MI Consumer Protection Act MCL §§ 445.901 – 445.922

Laws relating to wages, payments of wages, and fringe benefits on state projects MCL §§ 408.551 – 408.558, 408.471 – 408.490, 1965 PA 390.

Department of Civil Service Rules and regulations

Elliot Larsen Civil Rights Act MCL §§ 37.2201, et seq.

Persons with disabilities Civil Rights Act MCL §§ 37.1101, et seq.

MCL §§ 423.321, et seq.

MCL § 18.1264 (law regarding debarment)

Davis-Bacon Act (DBA) 40 USCU §§ 276(a), et seq.

Contract Work Hours and Safety Standards Act (CWHSSA) 40 USCS § 327, et seq.

Business Opportunity Act for Persons with Disabilities MCL §§ 450.791 – 450.795

Rules and regulations of the Environmental Protection Agency

Internal Revenue Code

Rules and regulations of the Equal Employment Opportunity Commission (EEOC)

The Civil Rights Act of 1964, USCS Chapter 42

Title VII, 42 USCS §§ 2000e et seq.

The Americans with Disabilities Act (ADA), 42 USCS §§ 12101 et seq.

The Age Discrimination in Employment Act of 1967 (ADEA), 29 USCS §§ 621, 623 et seq.

The Old Workers Benefit and Protection Act of 1990 (OWBPA), 29 USCS §§ 626, et seq.

The Family Medical Leave Act of 1993 (FMLA), 29 USC §§ 651 et seq.

The Fair Labor Standards Act (FLSA), 29 USC §§ 201 et seq.

Pollution Prevention Act of 1990 (PPA) 42 U.S.C. §13106

Sherman Act, 15 U.S.C.S. § 1 et seq.

Robinson-Patman Act, 15 U.S.C.S. § 13 et. seq.

Clayton Act, 15 U.S.C.S. § 14 et seq.

## 2.007 RELATIONSHIP OF THE PARTIES

The relationship between the State and the Contractor is that of client and independent Contractor. No agent, employee, or servant of the Contractor or any of its subcontractors shall be or shall be deemed to be an employee, agent, or servant of the State for any reason. The Contractor will be solely and entirely responsible for its acts and the acts of its agents, employees, servants and subcontractors during the performance of this Contract.

**2.008 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 this Contract.

**2.009 MERGER**

This document constitutes the complete, final, and exclusive agreement between the parties. All other prior writings and negotiations are ineffective.

**2.010 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.

**2.011 SURVIVORSHIP**

Any provisions of the Contract that impose continuing obligations on the parties including, but not limited to the Contractor's indemnity and other obligations shall survive the expiration or cancellation of the Contract for any reason.

**2.012 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.

**2.013 PURCHASE ORDERS**

Orders for delivery of commodities and/or services may be issued directly by the State Departments through the issuance of a Purchase Order Form referencing this Contract (Blanket Purchase Order) agreement and the terms and conditions contained herein. Contractor is asked to reference the Purchase Order Number on all invoices for payment.

**2.1 Vendor/Contractor Obligations****2.101 ACCOUNTING RECORDS**

The Contractor and all subcontractors shall maintain all pertinent financial and accounting records and evidence pertaining to the Contract in accordance with generally accepted principles of accounting and other procedures specified by the State of Michigan. Financial and accounting records shall be made available, upon request, to the State of Michigan, its designees, or the Michigan Auditor General at any time during the Contract period and any extension thereof, and for three years from expiration date and final payment on the Contract or extension thereof.

**2.102 NOTIFICATION OF OWNERSHIP**

The Contractor shall make the following notifications in writing:

1. When the Contractor becomes aware that a change in its ownership or officers has occurred, or is certain to occur, that could result in changes in the valuation of its capitalized assets in the accounting records, the Contractor shall notify Purchasing Operations within 30 days.
2. The Contractor shall also notify the Purchasing Operations within 30 days whenever changes to asset valuations or any other cost changes have occurred or are certain to occur as a result of a change in ownership or officers.



The Contractor shall:

1. Maintain current, accurate, and complete inventory records of assets and their costs;
2. Provide Purchasing Operations or designated representative ready access to the records upon request;
3. Ensure that all individual and grouped assets, their capitalized values, accumulated depreciation or amortization, and remaining useful lives are identified accurately before and after each of the Contractor's ownership or officer changes; and
4. Retain and continue to maintain depreciation and amortization schedules based on the asset records maintained before each Contractor ownership or officer change.

**2.103 SOFTWARE COMPLIANCE (Reserved)**

**2.104 RESERVED**

**2.105 PERFORMANCE AND RELIABILITY EVALUATION (PARE) (Reserved)**

**2.106 PREVAILING WAGE (Reserved)**

**2.107 PAYROLL AND BASIC RECORDS**

Payrolls and basic records relating to the performance of this contract shall be maintained by the Contractor during the course of the work and preserved for a period of three (3) years thereafter for all laborers and mechanics working at the site of the work. Such records shall contain the name, address, and social security number of each such worker, his or her correct classification, hourly rates of wages paid (including rates of contributions or costs anticipated for bona fide fringe benefits or cash equivalents thereof of the types described in section 1(b)(2)(B) of the Davis-Bacon Act), daily and weekly number of hours worked, deductions made, and actual wages paid. Contractors employing apprentices or trainees under approved programs shall maintain written evidence of the registration of apprenticeship programs and certification of trainee programs, the registration of the apprentices and trainees, and the ratios and wage rates prescribed in the applicable programs.

The Contractor shall submit a copy of all payrolls to the Contract Administrator upon request. The payrolls submitted shall set out accurately and completely all of the information required to be maintained as indicated above.

The Prime Contractor is responsible for the submission of copies of payrolls by all subcontractors upon request from the Contract Administrator

The Contractor or subcontractor shall permit the Contract Administrator or representatives of the Contract Administrator or the State of Michigan to interview employees during working hours on the job.

If the Contractor or subcontractor fails to submit required records or to make them available, the Contract Administrator may, after written notice to the Contractor, take such action as may be necessary to cause the suspension of any further payment. Furthermore, failure to submit the required records upon request or to make such records available may be grounds for debarment.

**2.108 COMPETITION IN SUB-CONTRACTING**

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.

**2.109 CALL CENTER DISCLOSURE (Reserved)**



## 2.2 Contract Performance

### 2.201 TIME IS OF THE ESSENCE

Contractor/Vendor is on notice that time is of the essence in the performance of this contract. Late performance will be considered a material breach of this contract, giving the State a right to invoke all remedies available to it under this contract.

### 2.202 CONTRACT PAYMENT SCHEDULE

The schedule should show payment amount and should reflect actual work done by the payment dates, less any penalty cost charges accrued by those dates. As a general policy statements shall be forwarded to the designated representative by the 15th day of the following month.

### 2.203 POSSIBLE PROGRESS PAYMENTS (Reserved)

### 2.204 POSSIBLE PERFORMANCE-BASED PAYMENTS (Reserved)

### 2.205 ELECTRONIC PAYMENT AVAILABILITY

Electronic transfer of funds is available to State Contractors. Vendor is required register with the State of Michigan Office of Financial Management so the State can make payments related to this Contract electronically at [www.cpexpress.state.mi.us](http://www.cpexpress.state.mi.us).

### 2.206 PERFORMANCE OF WORK BY CONTRACTOR (Reserved)

## 2.3 Contract Rights and Obligations

### 2.301 INCURRING COSTS

The State of Michigan is not liable for any cost incurred by the Contractor prior to signing of the Contract. The State fiscal year is October 1st through September 30th. The Contractor should realize that payments in any given fiscal year are contingent upon enactment of legislative appropriations. Total liability of the State is limited to terms and conditions of the Contract.

### 2.302 CONTRACTOR RESPONSIBILITIES

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

### 2.303 ASSIGNMENT AND DELEGATION

The Contractor shall not have the right to assign this Contract, to assign its rights under this contract, 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 State. Any purported assignment in violation of this Section shall be null and void. Further, the Contractor may not assign the right to receive money due under the Contract without the prior written consent of the Director of Purchasing Operations.

The Contractor shall not delegate any duties or obligations under the Contract to a subcontractor other than a subcontractor named and approved in the bid unless the Director of Purchasing Operations has given written consent to the delegation.



**Bidder must obtain the approval of the Director of Purchasing Operations before using a place of performance that is different from the address that bidder provided in the bid.**

### 2.304 TAXES

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

Federal Excise Tax: The State of Michigan may be exempt for Federal Excise Tax, or such taxes may be reimbursable, if articles purchased under this Contract are used for the State's exclusive use. Certificates exclusive use for the purposes of substantiating a tax-free, or tax-reimbursable sale will be sent to the Contractor upon request. If a sale is tax exempt or tax reimbursable under the Internal Revenue Code, prices shall not include the Federal Excise Tax.

The State's Tax Exempt Certification is available for vendor viewing upon request to the Contract Administrator.

### 2.305 INDEMNIFICATION

#### General Indemnification

To the fullest extent permitted by law, the Contractor shall indemnify, defend and hold harmless the State, its departments, divisions, agencies, sections, commissions, officers, employees and agents, from and against all losses, liabilities, penalties, fines, damages and claims (including taxes), and all related costs and expenses (including reasonable attorneys' fees and disbursements and costs of investigation, litigation, settlement, judgments, interest and penalties), arising from or in connection with any of the following:

1. Any claim, demand, action, citation or legal proceeding against the State, its employees and agents arising out of or resulting from (1) the product provided or (2) performance of the work, duties, responsibilities, actions or omissions of the Contractor or any of its subcontractors under this Contract.
2. Any claim, demand, action, citation or legal proceeding against the State, its employees and agents arising out of or resulting from a breach by the Contractor of any representation or warranty made by the Contractor in the Contract;
3. Any claim, demand, action, citation or legal proceeding against the State, its employees and agents arising out of or related to occurrences that the Contractor is required to insure against as provided for in this Contract;
4. Any claim, demand, action, citation or legal proceeding against the State, its employees and agents arising out of or resulting from the death or bodily injury of any person, or the damage, loss or destruction of any real or tangible personal property, in connection with the performance of services by the Contractor, by any of its subcontractors, by anyone directly or indirectly employed by any of them, or by anyone for whose acts any of them may be liable; provided, however, that this indemnification obligation shall not apply to the extent, if any, that such death, bodily injury or property damage is caused solely by the negligence or reckless or intentional wrongful conduct of the State;
5. Any claim, demand, action, citation or legal proceeding against the State, its employees and agents which results from an act or omission of the Contractor or any of its subcontractors in its or their capacity as an employer of a person.



#### Patent/Copyright Infringement Indemnification

To the fullest extent permitted by law, the Contractor shall indemnify, defend and hold harmless the State, its employees and agents from and against all losses, liabilities, damages (including taxes), and all related costs and expenses (including reasonable attorneys' fees and disbursements 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 or foreign patent, copyright, trade secret or other proprietary right of any person or entity, which right is enforceable under the laws of the United States. In addition, should the equipment, software, commodity, or service, or the operation thereof, become or in the 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 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.

#### 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.

#### Indemnification Obligation Not Limited

In any and all claims against the State of Michigan, or any of its agents or employees, 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 benefits acts, or other employee benefits acts. This indemnification clause is intended to be comprehensive. Any overlap in sub clauses, 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 sub clause.

#### Continuation of Indemnification Obligation

The duty to indemnify will continue in full force and affect not withstanding the expiration or early termination of the Contract with respect to any claims based on facts or conditions, which occurred prior to termination.

#### 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 so 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.

### **2.306 LIMITATION OF LIABILITY**

Except as set forth herein, neither the Contractor nor the State shall be liable to the other party for indirect or consequential damages, even if such party has been advised of the possibility of such damages. Such limitation as to indirect or consequential damages 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; to Contractor's indemnification obligations (2.305); or to court costs or attorney's fees awarded by a court in addition to damages after litigation based on this Contract.

### **2.307 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.

### **2.308 FORM, FUNCTION, AND UTILITY**

If the Contract is for use of more than one State agency and if the good or service provided under this Contract do not meet the form, function, and utility required by a State agency, that agency may, subject to State purchasing policies, procure the good or service from another source.

**2.309 ASSIGNMENT OF ANTITRUST CAUSE OF ACTION**

For and in consideration of the opportunity to submit a quotation and other good and valuable consideration, the bidder hereby assigns, sells and transfers to the State of Michigan all rights, title and interest in and to all causes of action it may have under the antitrust laws of the United States or this State for price fixing, which causes of action have accrued prior to the date of payment and which relate solely to the particular goods, commodities, or services purchased or procured by this State pursuant to this transaction.

**2.310 PURCHASING FROM OTHER STATE AGENCIES (Reserved)****2.311 TRANSITION ASSISTANCE (Reserved)****2.312 RESERVED****2.313 RESERVED****2.314 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.

**2.4 Contract Review and Evaluation****2.401 CONTRACT COMPLIANCE INSPECTOR**

Upon receipt at Purchasing Operations of the properly executed Contract Agreement(s), the person named below will be allowed to oversee the Contract performance on a day-to-day basis during the term of the Contract. However, overseeing the Contract implies **no authority to negotiate, change, modify, clarify, amend, or otherwise alter the terms, conditions, and specifications of such Contract(s). That authority is retained by Purchasing Operations.** The Contract Compliance Inspectors for this project are:

**Karin Carver**

Department of Management and Budget  
Office of Facilities  
General Office Building, Secondary Complex  
7150 Harris Drive  
Lansing, MI 48913  
[CarverK1@michigan.gov](mailto:CarverK1@michigan.gov)

and

**Gene Page**

Department of Management and Budget  
Office of Facilities  
Mason Building, 2<sup>nd</sup> Floor  
530 W. Allegan Street  
Lansing, MI 48913  
[PageG@michigan.gov](mailto:PageG@michigan.gov)



## 2.402 PERFORMANCE REVIEWS

Purchasing Operations in conjunction with the Office of Facilities may review with the Contractor their performance under the Contract. Performance reviews shall be conducted quarterly, semi-annually or annually depending on Contractor's past performance with the State. Performance reviews shall include, but not limited to, quality of products/services being delivered and provided, timeliness of delivery, percentage of completion of orders, the amount of back orders, status of such orders, accuracy of billings, customer service, completion and submission of required paperwork, the number of substitutions and the reasons for substitutions, and other requirements of the Contract.

Upon a finding of poor performance, which has been documented by Purchasing Operations, the Contractor shall be given an opportunity to respond and take corrective action. If corrective action is not taken in a reasonable amount of time as determined by Purchasing Operations, the Contract may be canceled for default. Delivery by the Contractor of unsafe and/or adulterated or off-condition products to any State agency is considered a material breach of Contract subject to the cancellation provisions contained herein.

## 2.403 AUDIT OF CONTRACT COMPLIANCE/ 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.

- (a) Inspection of Work Performed. The State's authorized representatives shall at all reasonable times and with ten (10) days prior written request, have the right to enter Contractor's premises, or any other places, where the Services are being performed, and shall have access, upon reasonable request, to interim drafts of Deliverables or work-in-progress. Upon ten (10) Days prior written notice and during business hours, the State's representatives shall be allowed to inspect, monitor, or otherwise evaluate the work being performed and to the extent that such access will not interfere or jeopardize the safety or operation of the systems or facilities. Contractor must provide all reasonable facilities and assistance for the State's representatives, so long as no security, labor relations policies and propriety information policies are violated.
- (b) Examination of Records. No more than once per year, Contractor agrees that the State, including its duly authorized representatives, until the expiration of seven (7) years following the creation of the material (collectively, the "Audit Period"), shall, upon 20 days prior written notice, have access to and the right to examine and copy any of Contractor's books, records, documents and papers pertinent to establishing Contractor's compliance with the terms and conditions of the Contract and with applicable laws and rules, including the State's procurement rules, regulations and procedures, and actual performance of the Contract for the purpose of conducting an audit, examination, excerpt and/or transcription but the State shall not have access to any information deemed confidential to Contractor to the extent such access would require such confidential information to become publicly available. This provision also applies to the books, records, accounts, documents and papers, in print or electronic form, of any parent, affiliated or subsidiary organization of Contractor, or any SubContractor of Contractor performing services in connection with the Contract.
- (c) Retention of Records. Contractor shall maintain at least until the end of the Audit Period all pertinent financial and accounting records (including time sheets and payroll records, and information pertaining to the Contract and to the Services, equipment, and commodities provided under the Contract) pertaining to the Contract in accordance with generally accepted accounting principles and other procedures specified in this Section. Financial and accounting records shall be made available, upon request, to the State at any time during the Audit Period. If an audit, litigation, or other action involving Contractor's records is initiated before the end of the Audit Period, the records must be retained until all issues arising out of the audit, litigation, or other action are resolved or until the end of the Audit Period, whichever is later.



- (d) **Audit Resolution.** If necessary, the Contractor and the State shall meet to review each audit report promptly after issuance. The Contractor will respond to each audit report in writing within 30 days from receipt of such report, unless a shorter response time is specified in such report. The Contractor and the State shall develop and agree upon an action plan to promptly address and resolve any deficiencies, concerns, and/or recommendations in such audit report.
1. **Errors.** 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 45 days of the last quarterly statement that the balance appeared on or termination of the contract, whichever is earlier.
  2. In addition to other available remedies, the difference between the payment received and the correct payment amount is greater than ten (10%) percent, then the Contractor shall pay all of the reasonable costs of the audit.

## **2.5 Quality and Warranties**

### **2.501 PROHIBITED PRODUCTS (Reserved)**

### **2.502 QUALITY ASSURANCE (Reserved)**

### **2.503 INSPECTION (Reserved)**

### **2.504 GENERAL WARRANTIES (goods) (Reserved)**

### **2.505 CONTRACTOR WARRANTIES**

The Contract will contain customary representations and warranties by the Contractor, including, without limitation, the following:

1. The Contractor will perform all services in accordance with high professional standards in the industry;
2. The Contractor will use adequate numbers of qualified individuals with suitable training, education, experience and skill to perform the services;
3. The Contractor will use its best efforts to use efficiently any resources or services necessary to provide the services that are separately chargeable to the State;
4. The Contractor will use its best efforts to perform the services in the most cost effective manner consistent with the required level of quality and performance;
5. The Contractor will perform the services in a manner that does not infringe the proprietary rights of any third party;
6. The Contractor will perform the services in a manner that complies with all applicable laws and regulations;
7. The Contractor has duly authorized the execution, delivery and performance of the Contract;
8. The Contractor is capable in all respects of fulfilling and shall fulfill all of its obligations under this contract.



9. The contract appendices, attachments, and exhibits identify all equipment and software services necessary for the deliverable(s) to perform and operate in compliance with the contract's requirements.
10. The Contractor 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 license use, as applicable, of any and all Deliverables.
11. 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 as set forth 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.
12. The contract signatory has the power and authority, including any necessary corporate authorizations, necessary to enter this contract, on behalf of Contractor.
13. The Contractor is qualified and registered to transact business in all locations where required.
14. 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.
15. All financial statements, reports, and other information furnished by Contractor to the State as part of its response to the ITB 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 have been no material adverse changes in the business, properties, financial condition, or results of operations of Contractor. All written information furnished to the State by or behalf of Contractor in connection with this Contract, including its bid, is true, accurate, and complete, and contains no untrue statement of material fact or omits any material fact necessary to make such information not misleading.

#### **2.506 STAFF**

The Contractor shall not remove or reassign, without the State's prior written approval any of the Key Personnel until such time as the Key Personnel have completed all of their planned and assigned responsibilities in connection with performance of the Contractor's obligations under this Contract. The Contractor agrees that the continuity of Key Personnel is critical and agrees to the continuity of Key Personnel. Removal of Key Personnel without the written consent of the State may be considered by the State to be a material breach of this Contract. The prohibition against removal or reassignment shall not apply where Key Personnel must be replaced for reasons beyond the reasonable control of the Contractor including but not limited to illness, disability, resignation or termination of the Key Personnel's employment.

#### **2.507 RESERVED**

#### **2.508 EQUIPMENT WARRANTY (Reserved)**

#### **2.509 RESERVED**



## 2.6 Breach of Contract

### 2.601 BREACH DEFINED

Failure to comply with articles, sections, or subsections of this agreement, or making any false statement in this agreement will be considered a material breach of this agreement giving the state authority to invoke any and all remedies available to it under this agreement.

### 2.602 NOTICE AND THE RIGHT TO CURE

In the event of a curable breach by the Contractor, the State shall provide the Contractor written notice of the breach and a time period to cure said breach described in the notice. This section requiring notice and an opportunity to cure shall not be applicable in the event of successive or repeated breaches of the same nature or if the State determines in its sole discretion that the breach poses a serious and imminent threat to the health or safety of any person or the imminent loss, damage or destruction of any real or tangible personal property.

### 2.603 EXCUSABLE FAILURE

1. Neither party shall be liable for any default or delay in the performance of its obligations under the Contract if and to the extent such default or delay is caused, directly or indirectly, by: fire, flood, earthquake, elements of nature or acts of God; riots, civil disorders, rebellions or revolutions in any country; the failure of the other party to perform its material responsibilities under the Contract (either itself or through another Contractor); 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 best efforts to recommence performance or observance whenever and to whatever extent possible without delay provided such party promptly notifies the other party in writing of the inception of the excusable failure occurrence, and also of its abatement or cessation.
2. If any of the above enumerated circumstances substantially prevent, hinder, or delay performance of the services necessary for the performance of the State's functions for more than 14 consecutive 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 from an alternate source, and the State shall not be liable for payments for the unperformed services under the Contract for so long as the delay in performance shall continue; (b) the State may cancel any portions of the Contract so affected and the charges payable hereunder shall be equitably adjusted to reflect those services canceled; or (c) the Contract will be canceled without liability of the State to the Contractor as of the date specified by the State in a written notice of cancellation to the Contractor. The Contractor will not have the right to any additional payments from the State as a result of any excusable failure occurrence or to payments for services not rendered as a result of the excusable failure condition. Defaults or delays in performance by the Contractor which are caused by acts or omissions of its subcontractors will not relieve the Contractor of its obligations under the Contract except to the extent that a subcontractor is itself subject to any excusable failure condition described above and the 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.

## 2.7 Remedies

### 2.701 CANCELLATION

The State may cancel 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:



1. Material Breach by the Contractor. In the event that the Contractor breaches any of its material duties or obligations under the Contract, 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, 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 cancellation to the Contractor, cancel this Contract in whole or in part, for cause, as of the date specified in the notice of cancellation.

In the event that this Contract is cancelled for cause, in addition to any legal remedies otherwise available to the State by law or equity, the Contractor shall be responsible for all costs incurred by the State in canceling the Contract, including but not limited to, State administrative costs, attorneys fees and court costs, and any additional costs the State may incur to procure the services required by this Contract from other sources. All excess re-procurement costs and damages shall not be considered by the parties to be consequential, indirect or incidental, and shall not be excluded by any other terms otherwise included in the Contract.

In the event the State chooses to partially cancel this Contract for cause charges payable under this Contract will be equitably adjusted to reflect those services that are cancelled.

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

2. Cancellation For Convenience By the State. The State may cancel this Contract for its convenience, in whole or part, if the State determines that such a cancellation is in the State's best interest. Reasons for such cancellation shall be left to the sole discretion of the State and may include, but not 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 Contract services no longer practical or feasible, and (c) unacceptable prices for additional services requested by the State. The State may cancel the Contract for its convenience, in whole or in part, by giving the Contractor written notice 30 days prior to the date of cancellation. If the State chooses to cancel this Contract in part, the charges payable under this Contract shall be equitably adjusted to reflect those services that are cancelled.
3. Non-Appropriation. In the event that funds to enable the State to effect continued payment under this Contract are not appropriated or otherwise made available. The 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 project. If funds are not appropriated or otherwise made available, the State shall have the right to cancel this Contract at the end of the last period for which funds have been appropriated or otherwise made available by giving written notice of cancellation to the Contractor. The State shall give the Contractor written notice of such non-appropriation or unavailability within 30 days after it receives notice of such non-appropriation or unavailability.
4. Criminal Conviction. In the event the Contractor, an officer of the Contractor, or an owner of a 25% or greater share of the Contractor, is convicted of a criminal offense incident to the application for or performance of a State, public or private Contract or subcontract; or convicted of a criminal offense including but not limited to 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 the Contractor's business integrity.
5. 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, section 5, and Civil Service Rule 7. 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.



## 2.702 RIGHTS UPON CANCELLATION

**Termination Assistance.** If this Contract (or any Statement of Work issued under it) is terminated for any reason prior to completion, Contractor agrees to provide for up to six (6) months after the termination all reasonable termination assistance requested by the State to facilitate the orderly transfer of such Services to the State or its designees in a manner designed to minimize interruption and adverse effect. Such termination assistance will be deemed by the parties to be governed by the terms and conditions of this Contract (notwithstanding its termination) other than any terms or conditions that do not reasonably apply to such termination assistance. Such termination assistance shall be at no additional charge to the State if the termination is for Contractor's Default pursuant to Section 2.602; otherwise the State shall compensate Contractor for such termination assistance on a time and materials basis in accordance with the Rates identified within this Contract agreement.

## 2.703 LIQUIDATED DAMAGES (Reserved)

## 2.704 STOP WORK

1. The State may, at any time, by written stop work order to the Contractor, require that the Contractor stop all, or any part, of the work called for by this Contract for a period of up to 90 days after the stop work order is delivered to the 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. Upon receipt of the stop work order, the 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) Cancel the work covered by the stop work order as provided in the cancellation section of this Contract.
2. If a stop work order issued under this section is canceled or the period of the stop work order or any extension thereof expires, the Contractor shall resume work. The State shall make 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 the Contractor's costs properly allocable to the performance of any part of this Contract; and
  - b) The Contractor asserts its right to an equitable adjustment within 30 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 proposal submitted at any time before final payment under this Contract.
3. If the stop work order is not canceled and the work covered by the stop work order is canceled for reasons other than material breach, the State shall allow reasonable costs resulting from the stop work order in arriving at the cancellation settlement.
4. If a stop work order is not canceled and the work covered by the stop work order is canceled for material breach, the State shall not allow, by equitable adjustment or otherwise, reasonable costs resulting from the stop work order.

An appropriate equitable adjustment may be made in any related contract of the Contractor that provides for adjustment and is affected by any stop work order under this section. The State shall not be liable to the Contractor for loss of profits because of a stop work order issued under this section.



## 2.705 SUSPENSION OF WORK

The Contract Administrator may order the Contractor, in writing, to suspend, delay, or interrupt all or any part of the work of this contract for the period of time that the Contract Administrator determines appropriate for the convenience of the Government.

If the performance of all or any part of the work is, for an unreasonable period of time, suspended, delayed, or interrupted (1) by an act of the Contract Administrator in the administration of this contract, or (2) by the Contract Administrator's failure to act within the time specified in this contract (or within a reasonable time if not specified), an adjustment shall be made for any increase in the cost of performance of this contract (excluding profit) necessarily caused by the unreasonable suspension, delay, or interruption, and the contract modified in writing accordingly. However, no adjustment shall be made under this clause for any suspension, delay, or interruption to the extent that performance would have been so suspended, delayed, or interrupted by any other cause, including the fault or negligence of the Contractor, or for which an equitable adjustment is provided for or excluded under any other term or condition of this contract.

A claim under this clause shall not be allowed:

- (1) For any costs incurred more than 20 days before the Contractor shall have notified the Contract Administrator in writing of the act or failure to act involved (but this requirement shall not apply as to a claim resulting from a suspension order); and
- (2) Unless the claim, in an amount stated, is asserted in writing as soon as practicable after the termination of the suspension, delay, or interruption, but not later than the date of final payment under the contract.

## 2.8 Changes, Modifications, and Amendments

### 2.801 APPROVALS

The Contract may not be modified, amended, extended, or augmented except by a writing executed by the parties hereto, and any breach or default by a party shall not be waived or released other than in writing signed by the other party.

### 2.802 TIME EXTENTIONS

Time extensions for contract changes will depend upon the extent, if any, by which the changes cause delay in the completion of the various elements of performance as described in the statement of work. The change order granting the time extension may provide that the contract completion date will be extended only for those specific elements related to the changed work and that the remaining contract completion dates for all other portions of the work will not be altered. The change order also may provide an equitable readjustment of liquidated damages under the new completion schedule.

### 2.803 MODIFICATION

Purchasing Operations reserves the right to modify this contract at any time during the contract term. Such modification may include changing the locations to be serviced, additional locations to be serviced, method or manner of performance of the work, number of days service is to be performed, addition or deletion of tasks to be performed, addition or deletion of items, and/or any other modifications deemed necessary. Any changes in pricing proposed by the Contractor resulting from the proposed changes are subject to acceptance by the State. Changes may be increases or decreases. **IN THE EVENT PRICES ARE NOT ACCEPTABLE TO THE STATE, THE CONTRACT SHALL BE SUBJECT TO COMPETITIVE BIDDING BASED UPON THE NEW SPECIFICATION.**

**The State reserves the right to add an item(s) that is not described on the item listing and is available from the Contract vendor.** The item(s) may be included on the Contract, only if prior written approval has been granted by Purchasing Operations.



#### 2.804 AUDIT AND RECORDS UPON MODIFICATION

DEFINITION: records includes books, documents, accounting procedures and practices, and other data, regardless of whether such items are in written form, electronic form, or in any other form

Contractor shall be required to submit cost or pricing data with the pricing of any modification of this contract to the Contract Administrator in Purchasing Operations. Data may include accounting records, payroll records, employee time sheets, and other information the state deems necessary to perform a fair evaluation of the modification proposal. Contract Administrator or authorized representative of the state shall have the right to examine and audit all of the Contractor's records, including computations and projections, related to:

1. The proposal for modification;
2. The discussions conducted on the proposal, including those related to negotiation;
3. Pricing of the modification; or
4. Performance of the modification.

Contractor shall make available at its office at all reasonable times the materials described in the paragraphs above.

If this contract is completely or partially terminated, the records relating to the work terminated shall be made available for three (3) years after any resulting final termination settlement.

#### 2.805 CHANGES

- (a) The Contract Administrator may, at any time, without notice to the sureties, if any, by written order designated or indicated to be a change order, make changes in the work within the general scope of the contract, including changes:
  - (1) In the specifications (including drawings and designs);
  - (2) In the method or manner of performance of the work;
  - (3) In the Government-furnished facilities, equipment, materials, services, or site; or
  - (4) Directing acceleration in the performance of the work.
- (a) Any other written or oral order (which, as used in this paragraph (b), includes direction, instruction, interpretation, or determination) from the Contract Administrator that causes a change shall be treated as a change order under this clause; Provided, that the Contractor gives the Contract Administrator written notice stating:
  - (1) The date, circumstances, and source of the order; and
  - (2) That the Contractor regards the order as a change order.
- (b) Except as provided in this clause, no order, statement, or conduct of the Contract Administrator shall be treated as a change under this clause or entitle the Contractor to an equitable adjustment.



### 3.000 WORKPLACE DISCRIMINATION

The Contractor represents and warrants that in performing services for the State pursuant to this Contract, the Contractor agrees not to discriminate against any employee or applicant for employment, with respect to their 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 handicap or disability. The Contractor further agrees that every subcontract entered into for the performance of any Contract or purchase order resulting here from will contain a provision requiring non-discrimination in employment, as herein specified, binding upon each subcontractor. This covenant is required pursuant to the Elliot Larsen Civil Rights Act, 1976 Public Act 453, as amended, MCL 37.2201, et seq., and the Persons With Disabilities Civil Rights Act, 1976 Public Act 220, as amended, MCL 37.1101, et seq., and any breach thereof may be regarded as a material breach of the Contract or purchase order.

Vendor hereby represents that in performing this contract it will not violate The Civil Rights Act of 1964, USCS Chapter 42, including, but not limited to, Title VII, 42 USCS §§ 2000e et seq.; the Americans with Disabilities Act (ADA), 42 USCS §§ 12101 et seq.; or The Age Discrimination in Employment Act of 1967 (ADEA), 29 USCS §§ 621, 623 et seq.; the Old Workers Benefit and Protection Act of 1990 (OWBPA), 29 USCS §§ 626 et seq.; the Family Medical Leave Act of 1993 (FMLA), 29 USC §§ 651 et seq.; or the Fair Labor Standards Act (FLSA), 29 USC §§ 201 et seq.

### 4.000 LABOR RELATIONS

Pursuant to 1980 Public Act 278, as amended, 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. 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 Public Act 278, MCL 423.324, the State may void any Contract if, subsequent to award of the Contract, the name of the Contractor as an employer, or the name of the subcontractor, manufacturer or supplier of the Contractor appears in the register.

The Contractor represents and warrants that the company does not appear in the current register of employers failing to correct an unfair labor practice.

### 5.000 LIABILITY INSURANCE

#### A. 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 provided relative to this Contract/Purchase Order is 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 [www.michigan.gov/cis](http://www.michigan.gov/cis)

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 afforded under the policies WILL NOT BE CANCELLED, MATERIALLY CHANGED, OR NOT RENEWED without 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 insureds, but only to the extent of liabilities assumed by Contractor as set forth in Indemnification Section of this Contract, 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 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.



**CONTRACT NO. 071B7200005**

**Pricing Page**

Lead Cleanup MSP Training Academy (per year) \$99,950.00/yr X 3 years = \$299,850.00