

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

June 17, 2009

**CHANGE NOTICE NO. 3**  
**OF**  
**CONTRACT NO. 071B7200293**  
 (Supersedes Contract No. 071B6200367)  
**between**  
**THE STATE OF MICHIGAN**  
**and**

NAME & ADDRESS OF VENDOR  <b>Manistique Papers, Inc.</b> <b>453 S. Mackinac Ave.</b> <b>Manistique, MI 49854</b>  Email: jerickson@ms.kruger.com	TELEPHONE: John Erickson <b>(269) 664-6292</b> <b>Fax: (269) 664-6293</b>
	VENDOR NUMBER/MAIL CODE
	BUYER/CA (517) 373-7374 <b>Joan Bosheff</b>
Contract Compliance Inspector: Darron Birchmeier <b>Paper for Income Tax Documents - Treasury</b>	
CONTRACT PERIOD: From: <b>May 23, 2007</b> To: <b>September 5, 2010</b>	
TERMS <b>2 % - Net 20 Days</b>	SHIPMENT <b>14 Days ARO</b>
F.O.B. <b>Delivered</b>	SHIPPED FROM <b>N/A</b>
MINIMUM DELIVERY REQUIREMENTS <b>N/A</b>	
MISCELLANEOUS INFORMATION:	

**NATURE OF CHANGE (S):**

Effective immediately this Contract is hereby **INCREASED \$111,000.00** and **EXTENDED to September 5, 2010**. Also, per the attached, addition of 35# paper to the contract. All other terms and conditions remain the same.

**AUTHORITY/REASON:**

Per DMB Purchasing Operations and the approval of the State Administrative Board on June 16, 2009.

**INCREASE: \$111,000.00**

**TOTAL REVISED ESTIMATED CONTRACT VALUE: \$576,196.00**

APPENDIX A

Item	Paper Weight	Roll Size	Core Size	Max Diam	Total Pounds	Price/Cwt	Tonnage x Price/Cwt	Mill	Opacity
1	40#	35"	3"	40"	260,000	\$37.00	\$96,200.00	Manistique	94
2	40#	26.25	3"	40"	86,000	\$37.00	\$29,600.00	Manistique	94
3	40#	17.5"	3"	40"	55,000	\$37.00	\$20,350.00	Manistique	94
4a (70 bright)	35#	35"	3"	40"	92,000	\$41.00	\$37,720.00	Manistique	91
4b (65 bright)	35#	35"	3"	40"	92,000	\$40.00	\$36,800.00	Manistique	93
<b>TOTAL</b>					487,000		\$183,870.00		

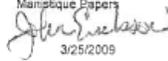
Storage cost/cwt per year

if 4b 65 bright \$182,950

**Shipping:**

Shipping locations will be in the State of Michigan and will be identified by the Contract Compliance Inspector.

\* Delivery locations may change.

John Erickson  
 Manistique Papers  
  
 3/25/2009

Proposal to Amend Contract #071B7200293  
Change Request B  
March 18, 2009

1. For Tax Year 2009, Treasury anticipates printing 5,000 of the Michigan Business Tax (MBT) book. This is a decrease from 350,000 books. This decrease is calculated into the total pounds of 40# paper needed on 35" rolls in Appendix A.

Paper for the MBT Books can be delivered at the same time as the paper for the Income Tax Books. The MBT Book is printed by Printwell Printing.

Contractor Response to Amendment:

Agreed John Erickson 3/25/09

2. Treasury prints and mails Sales, Use and Withholding Books in early November. In the past, Treasury's print vendor supplied the paper for these books. Treasury prints these books on 35# paper.

Treasury would like a price estimate to have Manistique Papers supply this 35# paper. Approximately 92,000 pounds of 35# paper would be needed by October 1, 2009.

Please indicate if this delivery will be possible. The 92,000 pounds is needed on 35" rolls and is added as items 4a and 4b on Appendix A. This 92,000 pounds of paper will be delivered to Printwell Printing in Taylor, MI.

A separate Purchase Order will be provided in early August for the 92,000 pounds of paper.

Provide price estimates for 35#, 70 bright and 35#, 65 bright. Also include the opacity with both estimates and paper samples.

Contractor Response to Amendment:

Agreed John Erickson 3/25/09

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

November 19, 2008

**CHANGE NOTICE NO. 2**  
**OF**  
**CONTRACT NO. 071B7200293**  
 (Supersedes Contract No. 071B6200367)  
**between**  
**THE STATE OF MICHIGAN**  
**and**

NAME & ADDRESS OF VENDOR  <b>Manistique Papers, Inc.</b> <b>453 S. Mackinac Ave.</b> <b>Manistique, MI 49854</b>  Email: jerickson@ms.kruger.com	TELEPHONE: John Erickson <b>(269) 664-6292</b> <b>Fax: (269) 664-6293</b>
	VENDOR NUMBER/MAIL CODE
	BUYER/CA (517) 373-7374 <b>Joan Bosheff</b>
Contract Compliance Inspector: Darron Birchmeier <b>Paper for Income Tax Documents - Treasury</b>	
CONTRACT PERIOD: From: <b>May 23, 2007</b> To: <b>September 5, 2009</b>	
TERMS <b>2 % - Net 20 Days</b>	SHIPMENT <b>14 Days ARO</b>
F.O.B. <b>Delivered</b>	SHIPPED FROM <b>N/A</b>
MINIMUM DELIVERY REQUIREMENTS <b>N/A</b>	
MISCELLANEOUS INFORMATION:	

**NATURE OF CHANGE (S):**

**Effective immediately this Contract is hereby INCREASED \$123,696.00.**

**Also, addition of new Michigan Business Tax (MBT) book, per the attached.**

**AUTHORITY/REASON:**

**Per DMB Purchasing Operations.**

**INCREASE: \$123,696.00**

**TOTAL REVISED ESTIMATED CONTRACT VALUE: \$465,196.00**



**Proposal to Amend Contract #071B7200293  
Change 2  
October 21, 2008**

1. For Tax Year 2008, Treasury will print a new Michigan Business Tax (MBT) book. As a result, Treasury will need at least an additional 298,000 pounds of 40# paper. This paper is to be produced with the same specifications listed in Contract 071B7200293. A majority (if not all) of the paper will be produced on 35" rolls, although some paper may be needed on 35" rolls. All paper is to be delivered to Printwell Printing.

Paper for the MBT Books can be delivered at the same time as the paper for the Income Tax Books which Printwell produces.

Please include with your response the cwt cost for the 40# paper. This paper is to be delivered to Printwell around the first week of December 2008.

Treasury anticipates only needing this quantity of paper for the MBT Book for 2008 only.

Contractor Response to Amendment:

I agree with this amended contract proposal

John Erickson 10/22/08

**APPENDIX B - MBT Paper (2008 only)**

Item	# Pages in MBT Book	Paper Weight	Roll Size	Core Size	Max Diam	Total Pounds	Price/Cwt	Tonnage x Price/Cwt	Mill
1	128	40#	35"	3"	40"	298,000	\$37.00	\$110,260.00	Manistique
2	136	40#	35"	3"	40"	298,000	\$37.00	\$110,260.00	Manistique
		40#	23"	3"	40"	16,737	\$37.00	\$6,932.69	Manistique
3	144	40#	35"	3"	40"	334,314	\$37.00	\$123,696.18	Manistique

**Shipping:**  
 Shipment of MBT Paper will be to Printwell Printing in Taylor, Michigan.

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

June 27, 2007

**CHANGE NOTICE NO. 1**  
**OF**  
**CONTRACT NO. 071B7200293**  
 (Supersedes Contract No. 071B6200367)  
**between**  
**THE STATE OF MICHIGAN**  
**and**

NAME & ADDRESS OF VENDOR  <b>Manistique Papers, Inc.</b> <b>453 S. Mackinac Ave.</b> <b>Manistique, MI 49854</b>	TELEPHONE: John Erickson <b>(269) 664-6292</b> <b>Fax: (269) 664-6293</b>
	VENDOR NUMBER/MAIL CODE
	BUYER/CA (517) 373-7374 <b>Joan Bosheff</b>
Contract Compliance Inspector: Darron Birchmeier <b>Paper for Income Tax Documents - Treasury</b>	
CONTRACT PERIOD: From: <b>May 23, 2007</b> To: <b>September 5, 2009</b>	
TERMS <b>2 % - Net 20 Days</b>	SHIPMENT <b>14 Days ARO</b>
F.O.B. <b>Delivered</b>	SHIPPED FROM <b>N/A</b>
MINIMUM DELIVERY REQUIREMENTS <b>N/A</b>	
MISCELLANEOUS INFORMATION:	

**NATURE OF CHANGE (S):**

**This Change Notice is to correct a typing error that occurred in the begin date on the original contract cover page.**

**The correct begin date for this Contract should read May 23, 2007 not May 23, 2006.**

**AUTHORITY/REASON:**

**Per DMB Purchasing Operations.**

**TOTAL ESTIMATED CONTRACT VALUE REMAINS: \$341,500.38**

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

June 13, 2007

**NOTICE  
 OF  
 CONTRACT NO. 071B7200293**  
 (Supersedes Contract No. 071B6200367)  
**between  
 THE STATE OF MICHIGAN  
 and**

NAME & ADDRESS OF VENDOR  <b>Manistique Papers, Inc.          453 S. Mackinac Ave.          Manistique, MI 49854</b>	TELEPHONE: John Erickson <b>(269) 664-6292</b> <b>Fax: (269) 664-6293</b>
	VENDOR NUMBER/MAIL CODE
	BUYER/CA (517) 373-7374 <b>Joan Bosheff</b>
Contract Compliance Inspector: Darron Birchmeier <b>Paper for Income Tax Documents - Treasury</b>	
CONTRACT PERIOD: From: <b>May 23, 2006</b> To: <b>September 5, 2009</b>	
TERMS <b>2 % - Net 20 Days</b>	SHIPMENT <b>14 Days ARO</b>
F.O.B. <b>Delivered</b>	SHIPPED FROM <b>N/A</b>
MINIMUM DELIVERY REQUIREMENTS <b>N/A</b>	
MISCELLANEOUS INFORMATION:	

**Note: The vendor address and mail code have been corrected per vendor.**

The terms and conditions of this Contract are those of **ITB #07116200218** this Contract Agreement and the vendor's quote dated **June 12, 2006**. 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: \$341,500.38**

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. 071B7200293**  
 (Supersedes Contract No. 071B6200367)  
 between  
**THE STATE OF MICHIGAN**  
 and

NAME & ADDRESS OF VENDOR  <b>Manistique Papers, Inc.</b> <b>Dept CH 17749</b> <b>Palatine, IL 60055-7749</b>	TELEPHONE: John Erickson <b>(269) 664-6292</b> <b>Fax: (269) 664-6293</b> <hr/> VENDOR NUMBER/MAIL CODE <hr/> BUYER/CA (517) 373-7374 <b>Joan Bosheff</b>
Contract Compliance Inspector: Darron Birchmeier <p style="text-align: center;"><b>Paper for Income Tax Documents - Treasury</b></p>	
CONTRACT PERIOD: From: <b>May 23, 2006</b> To: <b>September 5, 2009</b>	
TERMS <p style="text-align: center;"><b>2 % - Net 20 Days</b></p>	SHIPMENT <p style="text-align: center;"><b>14 Days ARO</b></p>
F.O.B. <p style="text-align: center;"><b>Delivered</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: <b>The terms and conditions of this Contract are those of <a href="#">ITB #071I6200218</a> this Contract Agreement and the vendor's quote dated <a href="#">June 12, 2006</a>. 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>	
<b>Estimated Contract Value: \$341,500.38</b>	

**THIS IS NOT AN ORDER:** This Contract Agreement is awarded on the basis of our inquiry bearing the [ITB No.071I6200367](#). Orders for delivery of equipment will be issued directly by the [Department of Treasury](#) 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>Manistique Papers, Inc.</b></p> <hr/> <p style="text-align: center;">Firm Name</p> <hr/> <p style="text-align: center;">Authorized Agent Signature</p> <hr/> <p style="text-align: center;">Authorized Agent (Print or Type)</p> <hr/> <p style="text-align: center;">Date</p>	<p><b>FOR THE STATE:</b></p> <hr/> <p style="text-align: center;">Signature</p> <p style="text-align: center;"><b><a href="#">Joan Bosheff, Buyer Specialist</a></b></p> <hr/> <p style="text-align: center;">Name/Title</p> <p style="text-align: center;"><b>Commodities Division, Acquisition Services</b></p> <hr/> <p style="text-align: center;">Division</p> <hr/> <p style="text-align: center;">Date</p>
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**STATE OF MICHIGAN**  
**Department of Management and Budget**  
**Purchasing Operations**

Contract No. 071B7200293  
Paper for Tax Documents

Buyer Name: Joan Bosheff  
Telephone Number: (517) 373-7374  
E-Mail Address: [bosheffj@michigan.gov](mailto:bosheffj@michigan.gov)

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**APPENDIX A—PRICING SHEET**



## **ARTICLE 1 – STATEMENT OF WORK**

### **1.0 Project Information**

#### **1.01 PROJECT**

This Contract is for 40# paper to be used in the printing of annual Income Tax, Sales and Use Tax, and Single Business Tax materials.

#### **1.02 BACKGROUND**

Department of Treasury is responsible for collecting income tax revenue due the State of Michigan from businesses and taxpayers. Paper for printing of tax forms and booklets is required to assist businesses and taxpayers with the filing and payment of their taxes.

### **1.1 Scope of Work and Deliverables**

#### **1.101 IN SCOPE**

The Contractor will be responsible for coordinating the production and delivery of paper to Treasury's print vendors throughout the state. The Contractor will be notified of delivery instructions and quantities by the Contract Compliance Inspector (CCI) in early October of each year.

#### **1.102 OUT OF SCOPE**

- A. The State reserves the right to add an item(s) that is not described on the paper specifications (see section 1.104-E) and is available from the Contractor. The item(s) may be included on the contract only if prior written approval has been granted by Treasury (see section 1.403). Pricing for additional items will be negotiated as needed.
- B. The Contractor may be requested to work with the State to find buyers for any saleable volumes of paper left when all printing is completed.4).

#### **1.103 RESERVED**

#### **1.104 WORK AND DELIVERABLE**

The Contractor shall provide Deliverables/Services and staff, and otherwise do all things necessary for or incidental to the performance of work, as set forth below:

##### **A. Packaging**

Paper shall be wrapped, bundled, etc. securely through delivery to Treasury's print vendor and shall meet the requirements of Department of Transportation (D.O.T.) and rail and motor carrier freight classifications in effect at time of shipment, which will permit application of the lowest freight rate.

Unless otherwise specifically noted in the Contract, the cost of all reels, drums, pallets and containers are included in the Contract price and become the property of the State of Michigan. Charges for returnable shipping containers shall be identified in Appendix A. Provide container return instructions, if applicable, for shipment to contractor's plant. Transportation charges for returnable containers shall be paid by the contractor and invoiced to the State (see section 1.601-B).



B. Palletizing

Shipments must be prepared as palletized deliveries and shall conform to the following:

Manufacturer's standard 4-way shipping pallets are acceptable.

Maximum height: 5'6" (including pallet).

Maximum weight: 3,500 pounds (including pallet).

Pallets are to be securely banded or shrink-wrapped.

The cost of palletizing shall be included in the unit price.

C. Quality Assurance

1. The contractor shall maintain a thorough quality assurance program. Procedures to ensure quality product must be provided to the CCI upon request.
2. If paper problems arise at Treasury's print vendor, the contractor shall visit the site and evaluate the problem within 24 hours, provide a report to the CCI (see section 1.302), and arrange for alternate paper if necessary, regardless of cause of damage. Alternate paper shall be approved by the CCI prior to shipment and shall be shipped within two (2) days of site visitation.
3. Disagreements regarding problems on press between Treasury's print vendor and the paper contractor will be arbitrated by the State. The contractor is responsible for evaluating the problem in accordance with industry standards. The State's decision will be made within 48 hours of the contractor's evaluation, and the decision is binding.
4. The State reserves the right to periodically test products which have been received at the printer vendor to verify compliance with specifications.

D. Customer Service

The contractor shall have a single point of contact specifically assigned to the contract that will be prepared to assist Treasury or the print vendor in any delivery, ordering or invoicing problems.

From the date the first paper order is placed until all paper obligations are fulfilled, the identified contact person or designee SHALL acknowledge telephone calls received from the State within two (2) hours and SHALL be available to be on-site within 24 hours after notification if significant paper problems arise.

E. Paper Specifications

40# Paper

Paper must be produced to meet these minimum specifications:

40# Offset, 25 x 38 basis weight, minimum brightness 65, opacity 82

The contractor must have the ability to produce paper on 17.5" and 35" rolls.

Paper must be free of wrinkles or damages when received by Treasury's print vendor.



F. Contractor's Responsibilities

1. Web breaks will become the responsibility of the contractor when they exceed the following frequency per 100 rolls. Claims for excessive web breaks for runs less than 100 rolls will be negotiated.

<u>Paper Weight</u>	<u>Breaks/100 Rolls</u>
40#	7

2. The contractor will verify the tonnage and waste at each printing plant and will monitor tonnage and pieces produced for reasonable paper use. The contractor shall report discrepancies to the State. The Contractor will need the following information from the print vendor: piece count, size of piece, number of papers and waste factor

G. Delivery

The contractor will coordinate shipping and delivery with Treasury print vendor(s) as the paper is needed. It is the contractor's responsibility to arrange shipment of paper to the printer and advise the CCI in writing (fax or e-mail notification is acceptable) when the paper is shipped to the printer. Transportation charges shall be included in the unit price.

H. Time Frames

The publications printed on 40# paper are produced in November and December. The State anticipates delivery of the majority of the 40# paper in mid- to late-December.

It is impossible to identify the exact dates of printing because Treasury cannot authorize printing until legislation is completed.

THE STATE IS REQUIRING THE CONTRACTOR TO HAVE PAPER AVAILABLE FOR PRINTING AND DELIVERED TO THE PRINTER WITHIN TWO (2) CALENDAR WEEKS AFTER RECEIPT OF EACH ORDER. SPECIAL ARRANGEMENTS THAT ARE NEEDED TO ACCOMPLISH THIS REQUEST SHALL BE INCLUDED IN THE PRICE PROPOSAL. IF THE PAPER IS TO BE DELIVERED LTL (LESS THAN TRUCK LOAD), CLOSE MONITORING BY THE CONTRACTOR IS REQUIRED INCLUDING DAILY UPDATES TO THE CONTRACT ADMINISTRATOR REGARDING EXPECTED DELIVERY. IF THE PAPER IS TO BE DELIVERED ON A SPECIFIC DATE, IT CANNOT BE SHIPPED LTL.

I. Storage

Due to possible legislative delays, some paper storage may be necessary. TREASURY WILL ONLY PAY FOR PAPER STORAGE AFTER DECEMBER 15. It is the contractor's responsibility to arrange for storage and shipping into and out of storage.

Treasury will pay the contractor directly for storage costs. Only the exact cost for storage and in/out fees billed by the warehousing company will be paid. Treasury reserves the right to select a warehouse facility.



J. Lack of Need/Service

At any time, Treasury may determine that it no longer needs an item. Treasury is not obligated to pay for any services which it does not authorize. It is also possible that the manufacturing method (i.e., different roll size, different paper weight, etc.) of an item may need to be changed due to legislation or lack of need for part of the service.

K. Overtime

Requests for overtime payment for any item on this Contract will not be paid unless the CCI specifically requests overtime and a purchase order authorizing overtime is issued.

L. Emergency Plan

The contractor has access to 1.5 million tons of paper from their parent company, Kruger Paper, located in Quebec, Canada. The contractor also has third party distributors that can provide emergency backup.

M. Manufacturing Changes

The contractor shall notify the State in writing of any proposed change in location of the site at which any portion of printing is performed. No such change shall be made without prior written approval from the CCI.

**1.2 Roles and Responsibilities**

**1.201 CONTRACTOR STAFF, ROLES, AND RESPONSIBILITIES**

Vendor sole point of contact is: John Erickson, Regional Sales Manager  
14300 Doster Road  
Plainwell, MI 49080  
Phone: (269) 664-6292  
Email: jerickson@ma.kruger.com

**1.202 STATE STAFF, ROLES, AND RESPONSIBILITIES**

All communication will be transmitted through the CCI. The CCI will organize orders and verify quantities prior to a purchase order being submitted. Invoices shall be submitted to the direction of the CCI, who will also approve any payment off the contract. The CCI shall be contacted if any problems arise throughout the course of the contract.

**1.203 OTHER ROLES AND RESPONSIBILITIES**

Other staff includes Treasury's print vendor(s), who will be identified to the contractor by the CCI in October of each year. The print vendor(s) are responsible for inspecting and accepting paper from the paper contractor. The print vendor will also coordinate delivery dates and times with the paper contractor prior to any deliveries being completed.

**1.3 Project Plan**

**1.301 PROJECT PLAN MANAGEMENT**

A. The contractor will carry out this project under the direction and control of the Department of Treasury.



- B. Although there will be continuous liaison with the contractor team, the Contract Compliance Inspector will meet as needed, 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. Within five (5) working days of the award of the Contract, the contractor will submit to the Contract Compliance Inspector for final approval a work plan, which must include the following:
  - 1. The contractor's project organizational structure.
  - 2. 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.
  - 3. The project breakdown showing sub-projects, activities and tasks, and resources and time required and allocated to each.
  - 4. The time-phased plan showing each event, task, and decision point in your work plan, including data collection time frames and estimated presentation dates.

The contractor must provide an electronic copy (Section 1.103) and paper copy of the work plan.

#### **1.302 REPORTS**

The contractor may be required to develop reports based on the CCI's request. Such reports shall include, but are not limited to, the following: (1) Quantity of paper produced and/or shipped; (2) Dates the paper was shipped; and (3) Location the paper was shipped.

### **1.4 Project Management**

#### **1.401 ISSUE MANAGEMENT**

Issues are those things that endanger the project. It includes imminent threats and events that may have already occurred. Any issues will be handled by phone and email with the mill, print vendor and Treasury by John Erickson.

#### **1.402 RISK MANAGEMENT**

Risk and Issues are not the same. Risks are those things that you can assume or anticipate in a project. Issues are imminent threats or things that have already occurred. Risk management generally involves (1) identification of the risk, (2) assigning a level of priority based on the probability of occurrence and impact to the project, (3) definition of mitigation strategies, and (4) monitoring of risk and mitigation strategy. Risk assessment review should be conducted on a regular basis.

A portion of the paper for this Contract will be made and stored in advance of the printing. From there, John Erickson will be in daily contact with the print vendor and the contractor's AS 400 system in tracking the status of the order through delivery that best accommodates the print vendor's needs.



### 1.403 CHANGE MANAGEMENT

If a proposed contract change is approved by the Contract Compliance Inspector, the Contract Compliance Inspector will submit a request for change to the Department of Management and Budget, Acquisition Services Buyer, who will make recommendations to the Director of Acquisition Services regarding ultimate approval/disapproval of change request. If the DMB Acquisition Services Director agrees with the proposed modification, and all required approvals are obtained (including State Administrative Board), the Acquisition Services Buyer will issue an addendum to the Contract, via a Contract Change Notice. **Vendors who provide products or services prior to the issuance of a Contract Change Notice by the DMB Office of Acquisition Services, risk non-payment for the out-of-scope/pricing products and/or services.**

### 1.5 Acceptance

#### 1.501 RESERVED

#### 1.502 FINAL ACCEPTANCE

Final Acceptance is when the print contractor(s) verifies the quantity of paper shipped to each location and paper meets specifications (see section 1.104-E).

### 1.6 Compensation and Payment

#### 1.601 INVOICES

The contractor provide invoices to the CCI and shall include with their invoices mill documentation indicating the amount of paper shipped to the contractor as well as invoices from the freight and/or storage companies. The contractor will not accept any orders for additional paper from the printer unless Treasury has given PRIOR approval for the order. Invoices shall be prepared in the manner requested by Treasury on the Contract release issued for ordering and shall include the following information:

- Contract number printed clearly on all copies and pages.
- Treasury "contract release number" printed clearly on all copies and pages.
- A complete description of the paper delivered. Size of rolls/sheets, quantity and price per CWT shall be expressed in the same manner as on the purchase order.
- Bills of lading signed by the printer that correspond exactly to the quantity of paper being billed.

The contractor shall include copies of the storage bills with their invoice for storage costs.

Invoices for transportation or returnable containers shall include a copy of the shipper's bill.

Payment of invoices without this information may be delayed.

### 1.7 Project Price

#### 1.701 PRICING

See Attachment 1 for pricing.

#### 1.702 QUICK PAYMENT TERMS

The contractor is offering a quick payment discount of 2% off invoice if paid within 20 days.

**1.703 PRICE TERM**

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

Prices are subject to change at the end of each 365-day period. Such changes 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. Acquisition Services 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). Acquisition Services 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 THIRTY 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.



## **ARTICLE 2 – GENERAL TERMS AND CONDITIONS**

### **2.0 Introduction**

#### **2.001 GENERAL PURPOSE**

The Contract is for the Department of Treasury for the Printing of Income Tax Booklets and Related Forms. 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 the Department of Natural Resources 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 Department of Treasury, hereinafter known as Treasury. Where actions are a combination of those of Purchasing Operations and Treasury, 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: Joan Bosheff  
2nd Floor, Mason Building  
P.O. Box 30026  
Lansing, Michigan 48909  
Phone: (517) 373-7374  
Email: bosheffj@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 and will commence with the issuance of a Contract. This will be September 5, 2006, through September 5, 2009.

**Option.** The State reserves the right to exercise two 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.** At the sole option of the State, 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.

Written notice will be provided to the Contractor before the contract expires. The preliminary notice does not commit the State to an extension. If the State exercises this option, the extended contract shall be considered to include this option clause.

#### 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.  
Public Act 451, 1994 Parts 801 and 821

## **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 RESERVED**

## **2.104 RESERVED**

## **2.105 RESERVED**

## **2.106 PREVAILING WAGE**

The rates of wages and fringe benefits to be paid each class of individuals employed by the Contractor, its subcontractors, their subcontractors, and all persons involved with the performance of this contract in privity of contract with the Contractor shall not be less than the wage rates and fringe benefits established by the Michigan Department of Consumer and Industry Service, Bureau of Safety and Regulation, Wage/Hour Division schedule of occupational classification and wage rates and fringe benefits for the local where the work is to be performed. The term Contractor shall include all general contractors, prime contractors, project managers, trade contractors, and all of their contractors or subcontractors and persons in privity of contract with them.

The Contractor, its subcontractors, their subcontractors, and all persons involved with the performance of this contract in privity of contract with the Contractor shall keep posted on the work site, in a conspicuous place, a copy of all wage rates and fringe benefits as prescribed in the contract. You must also post, in a conspicuous place, the address and telephone number of the Michigan Department of Consumer and Industry Services, the office responsible for enforcement of the wage rates and fringe benefits. You shall keep an



accurate record showing the name and occupation of the actual wage and benefits paid to each individual employed in connection with this contract. This record shall be available to the State upon request for reasonable inspection.

If any trade is omitted from the list of wage rates and fringe benefits to be paid to each class of individuals by the Contractor, it is understood that the trades omitted shall also be paid not less than the wage rate and fringe benefits prevailing in the local where the work is to be performed.

## **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 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 SUBCONTRACTING**

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 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 RESERVED****2.203 RESERVED****2.204 RESERVED****2.205 ELECTRONIC PAYMENT AVAILABILITY**

Electronic transfer of funds is available to State contractors. Vendors are encouraged to 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 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(s) 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.

**The contractor must obtain the approval of the Director of Purchasing Operations before using a place of performance that is different from the address that contractor 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 notwithstanding 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**

The Contractor's liability for damages to the State shall be limited to two times the value of the Contract. The foregoing limitation of liability shall not apply to claims for infringement of United States patent, copyright, trademarks or trade secrets; to claims for personal injury or damage to property caused by the gross negligence or willful misconduct of the Contractor; to claims covered by other specific provisions of this Contract calling for liquidated damages; 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. The State's liability for damages to the Contractor shall be limited to the value of the Contract.

**2.307 CONTRACT DISTRIBUTION**

Purchasing Operations shall retain the sole right of Contract distribution to Treasury 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 contractor 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 RESERVED****2.311 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 Inspector for this project is:

Darron Birchmeier  
Department of Treasury  
Austin Building, 2<sup>nd</sup> Floor  
430 West Allegan  
Lansing, MI 48909  
Phone: (517) 241-3548  
Fax: (517) 373-6941  
Email: [birchmeierd@michigan.gov](mailto:birchmeierd@michigan.gov)

#### **2.402 PERFORMANCE REVIEWS**

Purchasing Operations in conjunction with the Department of Natural Resources 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 RESERVED**

### **2.5 Quality and Warranties**

#### **2.501 PROHIBITED PRODUCTS**

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

#### **2.502 RESERVED**

#### **2.503 RESERVED**

#### **2.504 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 State reserves the right to approve the Contractor's assignment of Key Personnel to this project and to recommend reassignment of personnel deemed unsatisfactory by the State. The staffing numbers and qualifications proposed must be in agreement with the accepted contract resulting from the proposal.

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 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.

In addition to any remedies available in law and by the terms of this contract, such a breach may be considered as a default in the performance of a material obligation of this contract.

#### **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 RESERVED**

**2.703 LIQUIDATED DAMAGES**

1. The contractor is financially responsible for any press downtime and/or other costs that result from delivery of paper that does not meet specifications (see section 1.104-E). Costs for downtime will be charged according to the printer vendor's contract pricing with the State.
2. The contractor is obligated to replace any paper that is flawed or damaged at the mill or in transit. Replacement paper shall meet all specifications and be approved by the CCI prior to shipment. The contractor is responsible for all transportation charges arising from shipment of replacement paper.
3. If laboratory analysis shows that the product does not meet specifications or fails to perform satisfactorily at any time, the contractor shall be responsible for:
  - a. Disposal and/or replacement of all products which fail to meet specifications.
  - b. All costs of repair and/or replacement of equipment deemed to have been damaged by substandard products as determined by the State.

**2.704 RESERVED**

**2.705 RESERVED**

**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 EXTENSIONS**

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 3 years after any resulting final termination settlement.

#### **2.805 RESERVED**

## APPENDIX A

<u>Item</u>	<u>Paper Weight</u>	<u>Roll Size</u>	<u>Core Size</u>	<u>Max Diam</u>	<u>Total Annual</u>	<u>Price/Cwt</u>
1	40#	35"	3"	40"	450,000	<u>\$37.00</u>

**Storage cost/cwt**     \$0.11

### **Shipping:**

Shipping locations will be in the State of Michigan and will be identified by the Contract Compliance Inspector.

\*Delivery locations may change.