

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 16, 2009

CHANGE NOTICE NO.1
TO
CONTRACT NO. 071B9200012
between
THE STATE OF MICHIGAN
and

NAME & ADDRESS OF CONTRACTOR Skerbeck Brothers Shows P.O. Box 1062 Escanaba, MI 49829 Email: skerbeck@charter.net	TELEPHONE Joseph Skerbeck (616) 550-3147
	CONTRACTOR NUMBER/MAIL CODE
	BUYER/CA (517) 373-7374 Joan Bosheff
Contract Compliance Inspector: Scott Staelgraves Amusement and Carnival Services—Department of Agriculture	
CONTRACT PERIOD: From: October 1, 2008 To September 30, 2011	
TERMS <p style="text-align: center;">N/A</p>	SHIPMENT <p style="text-align: center;">N/A</p>
F.O.B. <p style="text-align: center;">N/A</p>	SHIPPED FROM <p style="text-align: center;">N/A</p>
MINIMUM DELIVERY REQUIREMENTS <p style="text-align: center;">N/A</p>	
MISCELLANEOUS INFORMATION:	

NATURE OF CHANGE(S):

Effective immediately this Contract is hereby CANCELLED in its entirety.

AUTHORITY/REASON:

Per Executive Directive 2009-3

STATE OF MICHIGAN
DEPARTMENT OF MANAGEMENT AND BUDGET
PURCHASING OPERATIONS
P.O. BOX 30026, LANSING, MI 48909
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October 10, 2008

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MISCELLANEOUS INFORMATION:	

The terms and conditions of this Contract are those of ITB #07118200154, this Contract Agreement and the vendor's quote dated June 1, 2008. In the event of any conflicts between the specifications, and terms and conditions, indicated by the State and those indicated by the vendor, those of the State take precedence.

This Contract value is a State revenue agreement, estimated or projected to earn \$171,400.00 per fiscal year, or a total of \$514,200.00 for fiscal years 2009, 2010, and 2011.

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

FOR THE CONTRACTOR: Skerbeck Brothers Shows Firm Name	FOR THE STATE: Signature Joan Bosheff, Buyer Specialist Name/Title
Authorized Agent Signature	Commodities Division, Purchasing Operations Division
Authorized Agent (Print or Type)	Date
Date	Date



STATE OF MICHIGAN
Department of Management and Budget
Purchasing Operations

Contract #071B92000012
Upper Peninsula State Fair Midway
Amusement and Carnival Services

Buyer Name: Joan Bosheff
Telephone Number: (517) 373-7374
Email: bosheffj@michigan.gov

UPSF: Midway Amusement and Carnival Services

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ATTACHMENT B—Games and Concessions Inventories (3 pages)



Article 1 – Statement of Work (SOW)

1.0 Introduction

1.001 PROJECT REQUEST and IDENTIFICATION

This Contract will provide the State of Michigan’s Upper Peninsula – State Fair Carnival, Rides, Games, and Concession services. This is a State revenue contract to provide entertainment rides, games, and concessions during the 2009, 2010, and 2011 UPSF. The document defines the requirements, service specifications, scope of work, and all contractual terms and conditions.

1.002 BACKGROUND AND PROJECT ABSTRACT

A. BACKGROUND/PROGRAM INTENT: Each year 125 million people attend agricultural fairs in the United States. The earliest fairs were local events, organized at the county and regional level. Later statewide fairs appeared with the financial support of legislatures.

The Upper Peninsula's State Fair (UPSF) began in April of 1927 when then governor of Michigan Fred Green signed Act 89, which reads, in part, that "An annual state fair at the City of Escanaba, which shall have for its main purpose the encouragement of improved methods in agriculture and industrial pursuits." The Board of Managers of the UPSF was also established by Act 89, P.A. 1927 (Sections 285.141 - 285.145 of the Michigan Compiled Laws). The Board conducts a Fair at Escanaba to encourage improved methods in agricultural and industrial pursuits.

The Upper Peninsula’s State Fair’s mission and its program intention is to promote the educational, cultural, recreational, and entertainment interests of the area, while stimulating interest in agriculture, and providing and promoting a quality facility that enhances the economic interests of the Upper Peninsula.

The dates of the UPSF usually occur in the third week in August.

B. OBJECTIVE: **The purpose of this contract is to provide rides, games, and concessions during the 2009, 2011, AND 2011 UPSF.**

C. LEVEL/VOLUME OF SERVICE: In 1928, the first UPSF was held in Escanaba. It’s estimated that 10,000 people attended in the first week that year. Escanaba is the home of the UPSF, "The Show Place of the Upper Peninsula. This exposition has continued to improve annually until becoming one of the outstanding fairs in the Middle West and attendance during fair week has increased to approximately 100,000 to 130,000 visitors each year.

The UPSF prides itself on showing the best of the best in country talents. The present site encompasses 120 acres of land and with 24 buildings. The office complex and grandstand, which seats 3,500 was completed in 1987, at the same time as a half-mile racetrack. A horse barn and indoor riding arena was completed in 1988. Facilities also include: the Ruth G. Butler Exhibition Building; a home/art building; maintenance shop; temporary administration office; cattle, horse, poultry, sheep, and swine barns; youth exhibit building; dining hall; dormitories; and, horse and cattle show rings.

Sections 285.143 - 285.145 of the *Michigan Compiled Laws* allow for the operation of games of skill and bingo on the fairgrounds. The UPSF features Michigan manufacturers’ industrial exhibits, youth expositions, competitive events, car racing, horse, tractor, and 4-wheel-drive-pickup pulling contests, and nationally popular musical groups. Other entertainment attractions staged in front of the grandstand and on the grounds include classic car displays; ladies’ day; honored citizens’ day, and youth and senior citizens program. The Fair recorded revenues of approximately \$1 million and expenditures of approximately \$1 million for the fiscal year ended September 30, 2007.



1.1 Scope of Work and Deliverables

1.101 IN SCOPE and PROJECT SPECIFICATIONS

A. LOCATION

All properties of the UPSF are located in the City of Escanaba, County of Delta. A chain link fence, with security provided by a private security contractor and Michigan State Police, completely encloses the fairgrounds.

B. TIME FRAMES

1. **Fair Dates**, with one preview (beginning at 3:00 PM) and six full-days, are available as follows:

Tuesday through Sunday

Preview Night: Monday preceding opening of Fair on Tuesday

August 17 – August 23, 2009

August 16 – August 22, 2010

August 15 – August 21, 2011

2. **Fair Hours** of Operation are as follows:

Hours of operation for the Contractor rides, games and concessions shall be from 10 a.m. until 11 p.m. on Tuesday, Wednesday and Thursday, 10 a.m. until midnight on Friday and Saturday, 11 a.m. until 6 p.m. on Sunday. Preview Night hours shall be from 3 p.m. until 11 p.m. All rides, games and concessions **will not** need to be available for Preview Night.

C. FEES

(Note: In this document, the term *Gross Receipts* refers to the total amount of money taken in before any deductions including, but not necessarily limited to, taxes.)

Fees charged at the UPSF are as follows:

1. Rides: A percentage (%) of Gross Receipts shall be paid by Contractor to the State.
2. Games and Concessions: \$35.00 per linear foot for games; \$42.00 per linear foot for food concessions and other non-game concessions. Contractor shall provide a minimum of 800 linear feet up to a maximum of 1,000 linear (front) feet. This shall include food, merchandise, direct sales, and any other special attractions.
3. Rental Payments for Games, Concessions, Rides and Cleaning Deposit:
 - Payments for games, concessions, and space-rental shall be paid by Contractor to the State as follows:
 - 25% not later than ten days before the start of the Annual Fair
 - 25% not later than 5:00 p.m. of the second day of the Annual Fair
 - 50% not later than 5:00 p.m. of the third day before the close of the Annual Fair
 - Payments for Rides shall be paid as follows:
 - Settlement for each day's operation shall be made by 3:00 p.m. the following day at the Fairgrounds Finance Office.
 - At settlement each day, the Contractor shall supply the UPSF with a financial re-cap / report of all tickets, coupons, and wristbands sold for the day, with the beginning and ending numbers of tickets sold by each seller and the total revenue.
 - At anytime the Contractor shall provide reasonable access to unused tickets to Fairgrounds personnel or state auditors for audit purposes. Each day at settlement, the Contractor shall pay in cash to the UPSF for its share of total revenue. By 6:00 p.m. of the day after the Fair closes, the UPSF, in conjunction with the Contractor, shall complete an audit of all remaining tickets, coupons and wristbands to determine actual sales.



- Within 30 days of the completion of the audit, any amount determined to be an overpayment will be refunded by the UPSF to the Contractor or any amount determined to be an underpayment will be paid by the Contractor to the UPSF.
- Deposit for Cleaning shall be paid as follows:
 - \$6,000 shall be paid to the UPSF before the start of the Fair to ensure that the Contractor properly cleans the grounds and disposes of trash in the proper manner at the conclusion of the Fair.
 - The deposit for cleaning shall be returned less any charges for vehicles or attractions stored on the grounds in excess of five (5) days.
 - Upon removal of all vehicles and attractions, the Fair has ten (10) days to return the deposit.

4. Admission:

a. Fair Admission (Note: *Admission fee is subject to change from year to year*)

- Adults: \$8.00
- Children 6-12: \$5.00
- Children Under 6: *Free*
- Contractor Personnel: Admission through the outside gates of the UPSF will be on an ID basis for the Contractor personnel. All IDs must be uniform and provided by the Contractor at no cost to the UPSF. No additional passes or complimentary tickets of any nature will be provided to the Contractor (staff, family members, friends, etc.) by the UPSF. Further, Contractor will provide no passes or complimentary tickets for rides, games, or concessions to any individual or group without the expressed written consent of the UPSF Manager.

b. Parking
Free

c. Entertainment

- Grounds entertainment: Free with individual admission ticket
- Grandstand events: Free with individual admission ticket. Gold circle seating is \$10.00. Headline events are planned, coordinated, and promoted through a separate contract with the UPSF.

D. FRONTAGE/SPACE

1. Areas of Operation for Contractors

- The UPSF shall provide a minimum of 800 linear (front) feet to the Contractor for the operation of all Games and Concessions (Contractor costs / fees are per linear foot, as noted above).
- No space for the Contractor concessions shall be allocated in non-Midway areas unless specifically authorized by the UPSF Manager.

2. Front Footage

- A working side is space available for preparing food or servicing customers or space occupied by games.
- The measurement is from the longest single working side from the exterior of the base, end to end. **The base shall include the total area of ground space occupied by a game or concession, excluding awnings.** The base shall include all barriers or protruding shelves that limit the customers' distance to rides, games or concessions. Front Footage assumes a depth of up to 20 feet for concessions and up to 20 feet for games.



- Contractor will be charged \$42 per foot for any footage that exceeds 20 feet (regardless of whether for game or for concession).
 - No depth footage beyond 20 feet is allowed without prior written approval of the Fairground's Project Manager.
3. Space for Contractor Trailers
- Space for location an office trailer for the Contractor shall be provided by the UPSF. There shall be no other office trailer or living trailer located in or around the midway area, unless space is specifically designated by the UPSF.
 - Camping space is allocated for Contractor's staff during the fair; water is provided, but not electricity. (Contractor may provide a generator for its staff to access electricity while camping.)

1.102 OUT OF SCOPE/PROHIBITIONS and RESTRICTIONS

- A. SALE OF NOVELTY ITEMS
The Contractor is prohibited from offering for sale items commonly referred to as "novelties."
- B. CONSESSION/GAME/RIDE/SHOW -TYPE RESTRICTIONS
- The Contractor shall not bring to the UPSF or operate any ride, game or concession, which may be deemed by the Fairgrounds Project Manager to be immoral, illegal, inappropriate, unsafe, prohibited by Act 361 of 1978, Section 12(1), Appendix B, or otherwise objectionable.
Note: The UPSF reserves the right to veto any "side-show" type of exhibits deemed inappropriate in the judgment of the UPSF management.
 - The UPSF designated personnel shall at all times have full access to all rides, games and concessions and shall have authority to immediately close any attraction that the Fairgrounds Project Manager in his/her sole discretion deem objectionable.
 - No sale or use of live animals, pets, and fish (except goldfish) shall be permitted in game operations or as games prizes.

1.103 TECHNICAL/ENVIRONMENTAL

- A. SECURITY
- The UPSF will supply security at the Fairgrounds at no expense to the Contractor. A chain link fence completely encloses the Fairgrounds with security provided by a private contractor and the Michigan State Police. All access gates will be locked at 12:00 midnight. Entry to the fairgrounds after 12:00 midnight will only be through the main gate.
- B. ELECTRICAL SERVICE
- **Electrical Service shall not be provided by the UPSF.**
 - Contractor will provide an electrical generator sufficient to properly handle all the Contractor's electrical requirements.
 - The UPSF will furnish general illumination (street lighting) in the Midway localities at no cost to the Contractor.
- C. WATER SERVICE
- The UPSF agrees to furnish water to the Contractor, at no charge, and, if available shall provide this from stationary hydrant locations. Splitters may be used on stationary hydrants at any location on the fairgrounds with approval of the fair manager.
- D. SET-UP and TEAR-DOWN (Before and After the Fair)
- Set-Up:
Move-in/set up may commence no earlier than ten (10) days preceding opening day of the Fair.



- Tear-Down:
 - The Contractor shall promptly take its rides, games, and concessions down and move them off the fairground property at the close of the Fair: Tear-down/removal must be completed no later than 72 hours following Fair closing.
 - At the close of the Fair and upon dismantling and removal of games and exhibits, the Contractor shall restore the assigned Midway area to its original condition.
 - Cleanup shall be completed within five (5) days following the closing day of the Fair. Any equipment remaining on the Fairgrounds after five (5) days without the Fairground's Project Manager's approval will result in a charge of \$100 per day per vehicle or attraction until removed.
 - In addition, a walk-thru inspection will be performed with a Contractor representative and a Fair representative to verify that proper cleanup of the grounds has been performed.

1.103 WORK AND DELIVERABLE

The Contractor shall provide set-up and operate portable amusement rides, games, and concessions during all days of the 2009, 2010, and 2011 UPSF, in areas as designated by the Fair.

A. Number of Rides and Concessions

1. The Contractor shall provide a minimum of twenty-eight (28), non-duplicate amusement rides and attractions of which:
 - a. One (1) shall be a "super spectacular" ride;
 - b. Five (5) shall be "spectacular" rides;
 - c. Eleven (11) or more major rides; and,
 - d. Eleven (11) or more kiddie rides.
2. See Attachment A (Table 1) for complete list of all rides owned by SBS. (See Table 2 for Extra Attractions Inventory.)
3. There shall no be more than one (1) unit of any one ride (no duplicates).
4. A minimum of 25% of all rides shall be rotated in each classification for each of the three years of this contract. With the approval of the fair manager, this could be changed.
5. The Contractor shall be permitted to furnish and operate no more than:
 - a. Fifteen (15) food concessions (duplicates are allowed); and,
 - b. Fourteen (14) different kinds of games of skill for a minimum of at least 800 linear feet up to a maximum of 1,000 linear feet on the Midway (duplicates are allowed).

B. Quality and Variety of Rides, Games and Concessions

1. See Attachment B, for Games (Table 3) and Concessions (Table 4) Inventory.
2. For each ride, game and concession, for prices(s) which will be charged; see 1.602, *Compensation, Fee Schedule*.
3. The Contractor owns all of the rides proposed for the UPSF. If subcontracting for rides, Contractor shall notify UPSF with its plan thirty days prior to the opening of the fair.
4. The Contractor contracts with each game and food concession owner that will be present at the UPSF for the entire season. Each game and food concession shall be identified during the run of the UPSF through the use of posted, assigned unit-numbers and every employee shall wear an identification badge designating name, employer, and assigned employee number. This information shall be on file with the Contractor's office and shall be available to authorized UPSF officials as requested.



5. The Contractor must provide, but is not limited to, the following additional equipment necessary to deliver this service:
 - Administrative office;
 - Ticket boxes (two);
 - Electric cable, cable covers, distribution boxes, and generator(s), sufficient to operate all equipment, rides, games and concessions;
 - Lighting (but not general illumination or street lighting);
 - Employee living facilities (camping space will be made available, per above);
 - Trucks, tractors, and other support equipment;
 - Signs; and
 - Employee training school (to include, but not limited to, review of “Employee Safety Guidelines,” “Safety Program Policy and Procedure Outline,” and “Ride Admission Policy” handbooks, and Guest Referral to Ombudsman procedures, etc.).

C. Ride Closing

The UPSF or the Contractor shall have the right to close any ride at any time because of weather conditions, safety, or other security reasons. Contractor shall provide a daily report of rides in operation and not in operation. Report shall include a reason or explanation for non-operation of any ride, game, or concession (see *Reporting Requirements*, below).

D. Ride Safety

1. **The Contractor shall design, implement and oversee a ride safety segment as part of its quality assurance program.**
2. The Contractor shall also provide the State Fair Project Manager with accurate copies of all independent inspection reports and/or correction orders including those of its insurance company and/or insurance underwriter relating to the Contractor’s operations at the UPSF within four (4) hours after the Contractor’s receipt of such reports. A narrative description of the process to ensure the ride safety of patrons shall also be included.

E. Approval of Contractor Ticket Price(s) for Rides and Games

The price and number of coupons to be charged for admission to each ride or device and the price of ride wristbands shall be reported in Contractor’s plan to be submitted 30-days prior to opening of the fair and must be approved by the UPSF. The Contractor understands and agrees that the price of admission posted at the outside entrance of each concession shall be the entire charge made to the public for admission.

F. Notice of Ticket Prices for Rides, Games, and Concessions

1. The Contractor shall prominently display the price of all games, food, drink, and items offered for sale within the booths furnished pursuant to this contract.
2. In addition, the coupon designation for each ride or device hereunder shall be prominently and legibly displayed for view by the public at the entrance of the ride or device, and shall be readable from any approach to the ride or device.
3. If wristbands are sold, the Contractor may have the option of one price for the entire day or split day. For split day wristbands the times when wristbands are and are not valid and any other limitations shall be prominently posted at each ticket booth selling wristbands. The Contractor may have the option of selling kiddie wristbands.
4. The Contractor shall post in a conspicuous place each ride provided by the Contractor notice of the following:



- a. The name(s), location and hours of availability of an ombudsperson(s) who shall handle complaints, concerns, inquires and the like regarding the operation of the ride; *and*
- b. The purchase of, or receipt of, a ride coupon or wristband will not necessarily allow a fair patron to ride on all rides because of safety reasons.

G. Furnishing Tickets

- 1. The Contractor shall furnish all necessary ticket stock and/or coupons and wristbands of admission in all denominations for the Contractor rides for the 2009, 2010 and 2011 fairs. The Contractor shall solely pay for the printing costs of such stock.
- 2. The Purchase Order/Contract between the Contractor and the printer must specify that all UPSF tickets printed by the printer are to be delivered only to the UPSF and accepted by the UPSF Manager.
- 3. The Contractor shall buy and have delivered to the UPSF sealed boxes of tickets, coupons, and wristbands at least five (5) days prior to the opening of the annual UPSF.
- 4. The tickets, coupons and wristbands shall be numbered consecutively.
- 5. After auditing the tickets, the UPSF shall distribute them to the Contractor.

H. Ticket Seller Staff

The Contractor shall provide booths for all ticket-seller staff.

I. Complimentary Tickets/Ride Passes

- At least 14 days prior to the opening day of the Fair, the Contractor shall provide the UPSF management with complimentary ride passes equivalent to no less than 500 rides.
- Pursuant § 1.101 (C) (4), *In-Scope, Fees, Admissions*, above, Contractor shall provide no passes or complimentary tickets for rides, games, or concessions to any individual or group without the expressed written consent of the UPSF Manager.

1.2 Roles and Responsibilities

1.201 CONTRACTOR STAFF

A. On-Site Presence of Owner

The physical, on-site presence of the current owner(s) or UPSF approved owner-representative of the Contractor is a condition precedent to the performance of this contract. In the event that the Contractor's company will be sold in whole or in part to another party during the lifetime of this Contract, the UPSF shall, at its sole option, have the right to terminate this agreement by giving thirty (30) days written notice.

The following people are identified as owners of SBS:

Joe Skerbeck
Bill Skerbeck

B. Responsibility for Clearances, Use Licenses, or Permission

The Contractor, at the Contractor's expense, shall obtain any licenses and/or permission as is required by law for music, dialogue, or other material used in presenting shows, games, concessions and rides.

C. Responsibility for Janitorial Services

The Contractor shall be responsible for maintaining and keeping the areas around their rides, games, and concessions clean and shall document that it routinely inspects the areas for cleanliness.



- D. Appearance and Conduct of Contractor Personnel**
The Contractor shall be solely and absolutely responsible for the conduct and personal appearance of all personnel in its employ. Such employees shall be neatly dressed, orderly and polite in their conduct and speech at all times. Intoxication of or illegal use of controlled substances on the part of the Contractor or its employees or impolite, discourteous or obscene speech or conduct toward or in hearing or in view of the public shall not be allowed. The Contractor concessionaires and booked in operators shall also meet the requirements mentioned herein. The personal conduct of the Contractor employees and agents, shall, at all times while on the UPSF grounds conform to socially acceptable standards of conduct, as determined by the UPSF. Any departure from these standards shall constitute grounds for the immediate removal or rejection from the fairgrounds.
- E. Appearance of Rides, Games and Concessions**
The Contractor concessionaries shall have equipment that is attractive, well maintained, and modern. The Contractor shall provide uniformity in the appearance of the game booths including canvas that shall be clean and free of obvious tears and holes.
- F. Quality Assurance and Safety of Rides, Games, and Concessions**
 - 1. The Contractor shall oversee the operations of the rides, games and concessions to ensure a high level of conduct by employees/subcontractors.
 - 2. All rides, games and food concessions shall have signs giving the name and location of the Ombudsmen during Fair operating hours.
 - a. The Contractor shall provide ombudspersons to be available to the patrons of the fair at all times that the rides, games, or concessions are scheduled to be in operation.
 - b. The Contractor shall address all complaints, comments, and concerns regarding the Contractor rides, games or concessions.
 - c. The Contractor shall designate three (3) managers to serve as Ombudsmen to supervise and assist with all guest inquiries.

1.202 STATE STAFF

The following Staff will oversee the UPSF:

Michigan Department of Agriculture - Fairs, Exhibitions, and Racing Division:

- Division Director: Mrs. Barbara Hensinger
- Upper Peninsula State Fair Manager: Mr. Scott Staelgraeve
- Upper Peninsula State Fair Financial Coordinator: Mrs. Cinda Karlik

1.203 OTHER STAFF

See § 1.701, *Independent Concessionaires/Subcontractors*.

1.3 Project Plan

1.301 PROJECT PLAN MANAGEMENT/TECHNICAL WORK PLANS

The following is a preliminary analysis of the major tasks involved for developing the end product of this project. The Contractor is not, however, constrained from supplementing this listing with additional steps, sub-tasks, reports, or elements deemed necessary to permit the development of alternative approaches or the application of proprietary techniques:

- A. Contractor shall customize the carnival midway layout on an annual basis. The Contractor shall work with the UPSF management to establish a layout that is both attractive and safe as well as offering easy access to all involved. (*Note: The UPSF retains and must issue final approval for all layout plans.*)
- B. Contractor shall maintain and administer a **quality assurance and safety program** and to make details of such program available to the State as requested. The Contractor shall agree to abide by the Contractor’s published “Employee Safety Guidelines,” “Safety Program Policy and Procedure Outline,” and “Ride Admission Policy” handbooks as submitted with the Contractor’s proposal.



- C. Contractor shall implement a technical work plan that utilizes a full-time administrator to assure its own contract compliance.
- D. At least sixty (60) days prior to the start of each Fair, the Contractor’s manager shall visit the Fair to establish the carnival midway design. At that time a preliminary diagram and list of rides, concessions, and other equipment shall be provided to the State. Contractor shall also provide at the time of its Manager’s visit (at least 60-days prior to the start of each Fair) the detail regarding any Quality Assurance Program(s) that are currently in place within its organization, including an Employee Training School.
- E. At least thirty (30) days prior to the start of the UPSF each year, the Contractor shall present to the Fair Manager for approval information which shall include, but not necessarily be limited to, the following **Work Plan**:
 1. A final diagram showing the proposed location and name of all rides, games, and concessions.
 2. A final listing describing the number, type, name and quality of rides, games and concessions to be provided (and whether it is being rotated for a subsequent year).
 3. Photographs of all rides with a listing of manufacturer, size, year of manufacture, and ride capacity per hour.
 4. Copies of inspection(s) and licensing approvals for each ride and concession.
 5. Provide the price(s) that will be charged for each ride, game and non-food concession and provide the price(s) of each menu item for all food concessions.
 6. The name and address of the owner of each ride, game and concession, if a subcontractor.
 7. The Contractor shall describe all other equipment which he/she proposes to provide including such items as electric generators, ticket booths, office/resident trailers, golf carts, etc.
 8. Provide the list of extra attractions.
- F. These lists shall not be materially different from the lists provided with the Contractor’s initial proposal. The UPSF has the final approval as to the layout of the midway and ride rotation for each year.

1.302 REPORTS

To include but not limited to:

- **Preliminary diagram and listing** of rides, games, concessions, and description of current quality assurance program at least sixty (60) days prior to preview-opening date of Fair (including items listed above).
- **Final Work Plan**, submitted for review and approval at least thirty (30) days prior to preview opening date of Fair, including all items listed above.
- **Daily Operation Report**, by 3:00 PM the following day,
 Shall include:
 - Rides closed (including time closed and reason or explanation for closing).
- **Daily Settlement/Financial Report**, by 3:00 PM the following day,
 Shall include:
 - Re-cap of all tickets, coupons, and wrist bands sold per day;
 - Beginning and ending numbers of all tickets, coupons, and wrist bands by seller;
 - Total revenue by level; and
 - Cumulative, gross total revenue.
- **Ombudsman’s Report** of Patron/Guest Inquiries, by 3:00 PM the following day,
 Shall include:
 - All complaints (date, time, and patron name);
 - How complaints were resolved;
 - Description of any injuries or damages to patrons or staff;
 - Any copies of accident report(s);
 - List of any referrals to security.



1.4 Project Management – RESERVED

1.5 Acceptance

1.501 CRITERIA

The following describes how and when the UPSF Management will advise Contractor of whether its performance is satisfactory and accepted:

- Work Plan: UPSF Manager will notify Contractor of acceptance of its Work Plan at least 21-calendar days prior to opening of the fair. (See § 1.301 (F), *Project Plan Management / Technical Work Plans, Work Plan*, for detailed description of what is required in Contractor's Work Plan.)
- Daily Operation Report: See § 1.104 (C), *Scope of Work, Ride Closing, Operational Report*, UPSF Financial Coordinator will advise within one day of receipt of report whether performance is acceptable and whether any additional fees will be charged for non-operation of rides, games, or concessions. (See § 2.703, *Liquidated Damages*, for detailed description of minimum operational requirements.)
- Daily Settlement / Financial Report: (See § 1.101(C), *In-Scope, Project Specifications*, for detailed description of Daily Settlement / Financial Report requirements.) UPSF Financial Coordinator will advise:
 - Within one day of receipt of daily report whether cash deposit reconciles;
 - Within one day of fair closing will advise whether total revenues reconcile; and
 - Within thirty days of notice of reconciliation will require settlement of balance (for either overage or shortage).
- Daily Ombudsman's Report: (See § 1.201 (F), *Quality Assurance and Safety of Rides, Games and Concessions*, for detailed description of Ombudsman's Report requirements.) UPSF Manager or Financial Coordinator will advise, within one day of receipt of report, whether resolution of complaint was adequate or whether additional safety and/or security measures are needed from Contractor for the remainder of the Fair.
- On-Going Monitoring Activities: Any concerns or issues noticed by UPSF Management will be verbally brought to the immediate attention of the Contractor. These issues and concerns will be recorded and the resolution noted in the Department's Contractor File.
- Evaluation Summary: Within ninety (90) days of fair closing, a summary of any concerns or issues resolved from the monitoring activities from the Ombudsman's Report, the Operation Report, the Settlement Report, and an overall evaluation of the work plan shall be provided to the Contractor by the UPSF Management.

1.502 FINAL ACCEPTANCE

The UPSF maintains and reserves the final approval as to the layout of the midway; see § 1.301 Project Plan Management/Technical Work Plans. The final approval will incorporate information from the Contractor's Evaluation Summary of the prior year's fair.

1.6 Compensation

1.601 COMMITMENT

- Fees, Prices, and Reimbursement Rates are the maximum for a period of three years from the date the Contract becomes effective:
 - Percentage for percentage of gross ride receipts shall be firm for the duration of the Contract Period.
 - Price(s) for fees per linear foot for games of skill and all concessions shall be firm for the duration of the Contract Period.
- Fees, Prices, and Reimbursement Rates are **Fixed** for initial term of this agreement with prospective re-determination at an agreed upon time:
 - Such prospective changes shall be based on changes in actual costs incurred to deliver service(s). 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, etc.).



- 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 that respective 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 (30) 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.
 - Prices for costs of rides and games must have approval of the UPSF Management, per §1.104 (D), *Work and Deliverable, Contractor Price(s)*. The Contractor must submit prices in writing at least thirty (30) days prior to each fair for approval by UP State Fair Project Manager in its yearly work plan (see *Reports*, above).
 - Any requests for special promotional programs shall be submitted to the fair management at least sixty (60) days prior to the Fair for review, approval, and action.
 - In the event a contractor requested promotional activity is held prior to the official opening of the Fair (special promotion for preview night, etc.), the UPSF Manager shall have the right to negotiate a percentage of rides' and games' gross revenues payable to the UPSF.

1.602 FEES, PRICES, AND RATES

Contractor agrees to pay the State of Michigan as follows:

FEES:			
(Refundable)Clean-up Deposit	\$6,000	x one deposit	= \$ 6,000
<hr/>			
Rental Space per linear foot			
Games:	\$35	x 800 ft	= \$28,000 for Games
Concessions:	\$42	x 200 ft	= \$ 8,400 for Concessions
<hr/>			
RATES:			
<i>Rides: Rate (%) of Reimbursement to the State</i>			
≤ \$250,000	37.5	%	
> \$250,000 ≤ \$500,000	37.5	%	
> \$500,000 ≤ \$750,000	42.5	%	
> \$750,000 ≤ \$1,000,000	45.0	%	
> \$1,000,000	47.5	%	
<hr/>			
Estimated reimbursement to the State for rides (based on 2007 sales of \$360,000): \$135,000			
<hr/>			
Estimated total revenue to the State: \$272,400 per fiscal year			

1.7 Additional Terms and Conditions Specific to this SOW

1.701 INDEPENDENT CONCESSIONARIES/SUBCONTRACTORS

The UPSF may separately contract with independent concessionaires for food, soft drinks, other concessions, special exhibits, entertainment, live animal rides, and shows. The Contractor shall accept these independent concessionaires and in no way interfere with their operations.



1.702 CORPORATE SPONSORSHIPS

Contractor must agree to abide by and comply with all contractual agreements made between the UP State Fair and corporate sponsors and the respective rights of those parties relative to exclusive sales and/or promotions. Specifically, if a sponsorship includes exclusive rights to sales or promotions of particular products on the Fairgrounds, the Contractor shall not sell or promote competitor's products at the UP State Fair.



Article 2 – General Terms and Conditions

2.0 Introduction

2.001 GENERAL PURPOSE

This is Revenue Contract is for the Midway Rides, Games and Concessions for the State of Michigan, Michigan Department of Agriculture, Upper Peninsula State Fair (UPSF).

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 Michigan Department of Agriculture, UPSF hereinafter known as MDA. Where actions are a combination of those of Purchasing Operations and UPSF, 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](mailto:joanbosheff@michigan.gov)
2nd Floor, Mason Building
P.O. Box 30026
Lansing, Michigan 48909
[Telephone: \(517\) 373-7374](tel:5173737374)
[Email: bosheffj@michigan.gov](mailto: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 October 1, 2008, through September 30, 2011.

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: At the sole option of the State, the contract may also be further 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 within 30 provided that the State gives the Contractor a preliminary written notice of its intent to extend at least 60 days before the contract expires. The preliminary notice does not commit the Government to an extension. If the Government 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 (FOIA) 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.
- Carnival-Amusement Safety Act of 1966, Act 225 of 1966, as amended

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 - RESERVED

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

1. The Contractor shall make the following notifications in writing:
 - a. 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.
 - b. 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.
2. The Contractor shall:
 - a. Maintain current, accurate, and complete inventory records of assets and their costs;
 - b. Provide Purchasing Operations or designated representative ready access to the records upon request;



- c. 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
- d. 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

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 CALL CENTER DISCLOSURE - RESERVED

2.2 Contract Performance

2.201 TIME IS OF THE ESSENCE

Contractor 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 - RESERVED

2.203 POSSIBLE PROGRESS PAYMENTS - RESERVED

2.204 POSSIBLE PERFORMANCE-BASED PAYMENTS (Actual performance rendered) - RESERVED

2.205 ELECTRONIC PAYMENT AVAILABILITY - RESERVED

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(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 pre-approved by the State, unless the Director of Purchasing Operations has given written consent to the delegation.

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 UPSF unless other arrangements are authorized by Purchasing Operations.

2.308 FORM, FUNCTION, AND UTILITY - RESERVED

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

If this Contract is not renewed at the end of this term, or is canceled prior to its expiration, for any reason, the **Contractor must provide for up to 270 days** after the expiration or cancellation of this Contract, all reasonable transition assistance requested by the State, to allow for the expired or canceled portion of the Services to continue without interruption or adverse effect, and to facilitate the orderly transfer of such services to the State or its designees. Such transition assistance will be deemed by the parties to be governed by the terms and conditions of this Contract, (notwithstanding this expiration or cancellation) except for those Contract terms or conditions that do not reasonably apply to such transition assistance. The State shall pay the Contractor for any resources utilized in performing such transition assistance at the most current rates provided by the Contract for Contract performance.

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 AGENCY 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:

Scott Staelgraeve
 Michigan Department of Agriculture
 Upper Peninsula State Fair
 2401 12th Avenue, N
 Escanaba, MI 49829
 Telephone: (906) 786-4193
 Email: staelgraeves@michigan.gov

2.402 PERFORMANCE REVIEWS

Purchasing Operations in conjunction with the Michigan Department of Agriculture, UPSF Management may review the Contractor's performance under the Contract. Performance reviews shall be conducted quarterly, semi-annually or annually depending on Contractor's past performance with the State and the Department's need. Performance reviews shall include, but are 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.

2.5 Quality and Warranties

2.501 PROHIBITED PRODUCTS - RESERVED

2.502 QUALITY ASSURANCE - RESERVED

2.503 INSPECTION - 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, it true, accurate, and complete, and contains no untrue statement of material fact or omits any material fact necessary to make such information not misleading.

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 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 SOFTWARE WARRANTIES - RESERVED

2.508 EQUIPMENT WARRANTY - RESERVED

2.509 PHYSICAL MEDIA WARRANTY - 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, if the Contractor breaches Sections 2.508, 2.509, or 2.510, 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 RIGHTS UPON CANCELLATION

A. Rights and Obligations Upon Termination

- (1) If this Contract is terminated by the State for any reason, Contractor shall (a) stop all work as specified in the notice of termination, (b) take any action that may be necessary, or that the State may direct, for preservation and protection of Deliverables or other property derived or



resulting from this Contract that may be in Contractor's possession, (c) return all materials and property provided directly or indirectly to Contractor by any entity, agent or employee of the State, (d) in the event that the Contractor maintains title in equipment and software that is intended to be transferred to the State at the termination of the Contract, Contractor will transfer title in, and deliver to, the State, unless otherwise directed, all Deliverables and other Developed Materials intended to be transferred to the State at the termination of the Contract and which are resulting from the Contract (which shall be provided to the State on an "As-Is" basis except to the extent the amounts paid by the State in respect of such items included compensation to Contractor for the provision of warranty services in respect of such materials), and (e) take any action to mitigate and limit any potential damages, or requests for Contractor adjustment or termination settlement costs, to the maximum practical extent, including terminating or limiting as otherwise applicable those subcontracts and outstanding orders for material and supplies resulting from the terminated Contract.

- (2) In the event the State terminates this Contract prior to its expiration for its own convenience, the State shall pay Contractor for all charges due for Services provided prior to the date of termination and, if applicable, as a separate item of payment pursuant to this Contract, for partially completed Deliverables, on a percentage of completion basis. All completed or partially completed Deliverables prepared by Contractor pursuant to this Contract shall, at the option of the State, become the State's property, and Contractor shall be entitled to receive equitable fair compensation for such Deliverables. Regardless of the basis for the termination, the State shall not be obligated to pay, or otherwise compensate, Contractor for any lost expected future profits, costs or expenses incurred with respect to Services not actually performed for the State.
- (3.) If any such termination by the State is for cause, the State shall have the right to set-off against any amounts due Contractor the amount of any damages for which Contractor is liable to the State under this Contract or pursuant to law or equity.
- (4.) Upon a good faith termination, the State shall have the right to assume, at its option, any and all subcontracts and agreements for services and materials provided under this Contract, and may further pursue completion of the Services under this Contract by replacement contract or otherwise as the State may in its sole judgment deem expedient.

B. Termination Assistance

If the Contract (or any Statement of Work issued under it) is terminated for any reason before completion, Contractor agrees to provide for up to two-hundred seventy (270) calendar days 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 the Contract (notwithstanding its termination) other than any terms or conditions that do not reasonably apply to such termination assistance. The State shall compensate Contractor for such termination assistance at the same rates and charges set forth in the Contract on a time and materials basis in accordance with the Labor Rates indicated within Contractors pricing section. If the Contract is terminated by Contractor under **Section 20**, then Contractor may condition its provision of termination assistance under this Section on reasonable assurances of payment by the State for such assistance, and any other amounts owed under the Contract.

C. Reservation of Rights

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



D. End of Contract Transition

In the event the Contract is terminated, for convenience or cause, or upon expiration, the Contractor agrees to comply with direction provided by the State to assist in the orderly transition of equipment, services, software, leases, etc. to the State or a third party designated by the State. In the event of termination or the expiration of the Contract, the Contractor agrees to make all reasonable efforts to effect an orderly transition of services within a reasonable period of time that in no event will exceed 270 calendar days. These efforts shall include, but are not limited to, the following:

- (1) Personnel - The Contractor shall work with the State, or a specified third party, to develop a transition plan setting forth the specific tasks and schedule to be accomplished by the parties, to effect an orderly transition. The Contractor shall allow as many personnel as practicable to remain on the job to help the State, or a specified third party, maintain the continuity and consistency of the services required by the Contract. In addition, during or following the transition period, in the event the State requires the Services of the Contractor's subcontractors, as necessary to meet its needs, Contractor agrees to reasonably, and with good-faith, work with the State to use the Services of Contractor's subcontractors.
- (2) Knowledgeable Personnel. Contractor will make available to the State or a Third Party Provider knowledgeable personnel familiar with the operational processes and procedures used to deliver products and services to the State. The Contractor personnel will work with the State or third party to help develop a mutually agreeable transition plan, work to transition the process of ordering, shipping and invoicing equipment and services to the State.
- (3) Information - The Contractor agrees to provide reasonable detailed specifications for all Services needed by the State, or specified third party, to properly provide the services required under the Contract. The Contractor will also provide any licenses required to perform the Services under the Contract.
- (4) Software. - The Contractor shall reasonably assist the State in the acquisition of any Contractor software required to perform the Services under the Contract. This shall include any documentation being used by the Contractor to perform the Services under the Contract. If the State transfers any software licenses to the Contractor, those licenses shall, upon expiration of the Contract, transfer back to the State at their current revision level.
- (5) Payment - If the transition results from a termination for any reason, reimbursement shall be governed by the termination provisions of the Contract. If the transition results from expiration, the Contractor will be reimbursed for all reasonable transition costs (i.e. costs incurred within the agreed period after Contract expiration that result from transition operations). The hourly rates or fixed price to be charged will be agreed upon prior to the work commencing.
- (6) Single Point of Contact - Contractor will maintain a Single Point of Contact (SPOC) for the State after termination of the Contract until all product and service obligations have expired.

E. Transition out of this Contract

- (1) In the event that this Contract is terminated, dissolved, voided, rescinded, nullified, or otherwise rendered unenforceable, the Contractor agrees to perform the following obligations, and any others upon which the State and the Contractor agree:
 - (i) Cooperating with any contractors, vendors, or other entities with which the State contracts to meet its telecommunication needs, for at **least two hundred and seventy (270) days after the termination of this Contract;**
 - (ii) Reserved.
 - (iii) Providing the State with all asset management data generated from the inception of this Contract through the date on which this Contract is terminated, in a comma-delimited format unless otherwise required by the Program Office;
 - (iv) Reconciling all accounts between the State and the Contractor;



- (v) Allowing the State to request the winding up of any pending or ongoing projects at the price to which the State and the Contractor agreed at the inception of the project;
 - (vi) Freezing all non-critical software changes;
 - (vii) Notifying all of the Contractor's subcontractors of procedures to be followed during the transition out phase;
 - (viii) Assisting with the communications network turnover, if applicable;
 - (ix) Assisting in the execution of a parallel operation until the effective date of termination of this Contract
 - (x) Answering questions regarding post-migration services;
 - (xi) Delivering to the State any remaining owed reports and documentation still in the Contractor's possession.
- (2) In the event that this Contract is terminated, dissolved, voided, rescinded, nullified, or otherwise rendered unenforceable, the State agrees to perform the following obligations, and any others upon which the State and the Contractor agree:
- (i) Reconciling all accounts between the State and the Contractor;
 - (ii) Completing any pending post-project reviews.

2.703 LIQUIDATED DAMAGES

- A. The State and the Contractor hereby agree to the specific standards set forth in this Contract. It is agreed between the Contractor and the State that the actual damages to the State as a result of Contractor's failure to provide promised services would be difficult or impossible to determine with accuracy. The State and the Contractor therefore agree that **liquidated damages as set out herein shall be a reasonable approximation of the damages that shall be suffered by the State** as a result thereof. Accordingly, in the event of such damages, at the written direction of the State, the Contractor shall pay the State the indicated amount as liquidated damages, and not as a penalty. Amounts due the State as liquidated damages, if not paid by the Contractor within fifteen (15) days of notification of assessment, may be deducted by the State from any money payable to the Contractor pursuant to this Contract. The State will notify the Contractor in writing of any claim for liquidated damages pursuant to this paragraph on or before the date the State deducts such sums from money payable to the Contractor. No delay by the State in assessing or collecting liquidated damages shall be construed as a waiver of such rights.
- B. The Contractor shall not be liable for liquidated damages when, in the opinion of the State, incidents or delays result directly from causes beyond the control and without the fault or negligence of the Contractor. Such causes may include, but are not restricted to, acts of God, fires, floods, epidemics, and labor unrest; but in every case the delays must be beyond the control and without the fault or negligence of the Contractor.
- C. Liquidated damages will be assessed as follows:

The dates for the games of skill, rides, shows, and exhibits activity have been fixed so that the service covered by this contract is consistent with the schedule of the UPSF programs.

Any delay will interfere with the proper implementation of the UPSF programs. From the nature of this case it would be impractical and extremely difficult to fix the actual damage sustained in the event of any such delay.

The Fairgrounds and the Contractor, therefore, presume that in the event of any such delay the amount of damage which will be sustained from a delay will be in the amount set forth below, and they agree that in the event of any such delay the Contractor shall pay such amount as liquidated damages and not as a penalty.

If the Contractor does not have the games and concessions ready for use on or before 10:00 a.m. of the opening day of the Fair, the Contractor shall pay to the UPSF as fixed and agreed, liquidated damages in the amount of \$10.00 per front foot per day that such game(s) and for concession(s) are not operational below the minimum of 800 front feet.



In addition, the Contractor shall pay to the UPSF, as hereby fixed and agreed, liquidated damages in the amount of \$1000 for each ride below the minimum of 28 as required by this Contract if such ride(s) are not operational during a majority of each day of the Fair for each year of this Contract. A majority of the day shall be defined as seven (7) hours. Operation shall be defined as 75% of the capacity of total patrons per ride cycle.

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 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.

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.

(a) 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.

2.806 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

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 THIRTY (30) days prior written notice, except for ten (10) days for non-payment of premium, having been given to the Director of Purchasing Operations, Department of Management and Budget. The notice must include the Contract or Purchase Order number affected and be mailed to: Director, Purchasing Operations, Department of Management and

Budget, P.O. Box 30026, Lansing, Michigan 48909. Failure to provide evidence of coverage, may, at the State's sole option, result in this Contract's termination.

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

1. Commercial General Liability with the following minimum coverage:

\$2,000,000	General Aggregate Limit other than Products/Completed Operations
\$2,000,000	Products/Completed Operations Aggregate Limit
\$1,000,000	Personal & Advertising Injury Limit
\$1,000,000	Each Occurrence Limit
\$500,000	Fire Damage Limit (any one fire)

The Contractor must list the State of Michigan, its departments, divisions, agencies, offices, commissions, officers, employees and agents as ADDITIONAL INSURED(S) 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 INSURED(S) 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



5. Employee Fidelity, including Computer Crimes, insurance naming the State as a loss payee, providing coverage for direct loss to the State and any legal liability of the State arising out of or related to fraudulent or dishonest acts committed by the employees of Contractor or its Subcontractors, acting alone or in collusion with others, in a minimum amount of one million dollars (\$1,000,000.00) with a maximum deductible of fifty thousand dollars (\$50,000.00).
6. Umbrella or Excess Liability Insurance in a minimum amount of ten million dollars (\$10,000,000.00), which shall apply, at a minimum, to the insurance required in Subsection 1 (Commercial General Liability) above.
7. Professional Liability (Errors and Omissions) Insurance with the following minimum coverage: three million dollars (\$3,000,000.00) each occurrence and three million dollars (\$3,000,000.00) annual aggregate.
8. Fire and Personal Property Insurance covering against any loss or damage to the office space used by Contractor for any reason under this Contract, and the equipment, software and other contents of such office space, including without limitation, those contents used by Contractor to provide the Services to the State, up to the replacement value thereof, where such office space and its contents are under the care, custody and control of Contractor. Such policy shall cover all risks of direct physical loss or damage, including without limitation, flood and earthquake coverage and coverage for computer hardware and software. The State shall be endorsed on the policy as a loss payee as its interests appear.

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 thirty (30) days written notice, the State may pay such premium or procure similar insurance coverage from another company or companies; and at the State’s election, the State may deduct the entire cost (or part thereof) from any payment due Contractor, or Contractor shall pay the entire cost (or any part thereof) upon demand by the State.



2.807 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.



Table 1
SBS Ride Inventory

Ride Description	Classification	Manufacturer	Year of Manufacture	Year of Major Rebuild or Other Mechanical Improvements	Ride Capacity (Passengers per Hour)
Toboggan	Super Spectacular	Chance	1972	2006	240
Mega Shot	Super Spectacular	A.R.M.	2006	N/A	360
Century Wheel	Spectacular	Chance	1995	2007	900
Twister	Spectacular	A.R.M.	1999	2007	400
Himalaya	Spectacular	Wisdom	2005	N/A	1200
High Flyer	Spectacular	A.R.M.	1996	2006	400
Cliff Hangar	Spectacular	Dartton	2000	N/A	600
Sea Ray	Major	Mulligan	1992	2006	900
Zipper	Major	Chance	1988	2005	400
Scooter (Bumper Cars)	Major	Majestic	1990	2007	450
Eli Wheel	Major	Eli Bridge Co.	1986	2003	360
Scrambler	Major	Eli Bridge Co.	1973	2002	720
Tilt-a-Whirl (1)	Major	Sellner	1997	2007	720
Tilt-a-Whirl (2)	Major	Sellner	1965	2004	720
Spider	Major	Eyerly	1974	2007	480
Gravitron (1)	Major	Wisdom	1990	2006	900
Gravitron (2)	Major	Wisdom	1991	2005	900
Swinger	Major	Watkins	1975	2005	480
Paratrooper	Major	Hrubertz	1974	2005	480
Spinner	Major	Hi Lite	1998	N/A	480
Hustler	Major	Watkins	1971	2005	840
Super Slide	Major	Dartton	1996	2004	900



Ride Description	Classification	Manufacturer	Year of Manufacture	Year of Major Rebuild or Other Mechanical Improvements	Ride Capacity (Passengers per Hour)
Loop-o-Plane	Major	Eyerly	1963	2008	240
Glass House (1)	Major	ASPT	1994	2005	800
Glass House (2)	Major	Show Me	1993	N/A	800
German Fun House	Major	ASPT	1984	2006	600
Fun House	Kiddie	Show Me	1992	2004	800
Bulgy-the-Whale	Kiddie	Eyerly	1956	2005	200
Merry-go-Round (1)	Kiddie	San Antonio Roller Works	1990	2008	400
Merry-go-Round (2)	Kiddie	SAWR	1967	2008	480
Berry-go-Round	Kiddie	Selner	1996	2002	320
Apple-go-Round	Kiddie	Selner	1991	2004	320
Critter Track	Kiddie	Venture	1989	2005	320
Central Park	Kiddie	Majestic	1998	2004	400
Mighty-Mac	Kiddie	Hi Lite	1999	2004	320
Convoy	Kiddie	Satori	1990	2006	320
Inflatable Circus Slide	Kiddie	Cutting Edge Creations	2008	N/A	400
Columbia Space Shuttle	Kiddie	King	1950's	2003	480
Sky Fighter	Kiddie	Allen Herchel	1959	2004	480
Raiders	Kiddie	Wisdom	1990	2008	800
Boat Ride	Kiddie	Hampton	1979	2007	320
Motorcycle Ride	Kiddie	Hampton	1987	2006	320
Roller Coaster	Kiddie	Molina	1987	2007	240
Flying Saucer	Kiddie	SAWR	1977	2001	320



Extra Attractions

Table 2 below includes the inventory of SBS extra attractions and other “family-friendly” amenities proposed to be provided for the UPSF.

**Table 2
Extra Attractions Inventory**

Description
(8) covered “rest areas” - Includes matching tops, benches for seating, landscaping, and colorfully painted garbage disposal cans
(30) park benches for patron seating
(4) Photo-op stations
Telescoping 40 foot light tower providing 11,000 watts of illumination
(24) Garbage receptacles placed throughout midway area
(2) covered “food courts” – Includes shaded area for seated food consumption. Each food court has space for 8 picnic tables for family-style sit-down eating. Each food court area includes a hand-washing station. Food concession employees continuously monitor the picnic tables to clean off and disinfect eating surfaces with dilute bleach water, pick up garbage from the ground, and dispose of collected garbage from the storage receptacles.
Office complex “V.I.P. area” – Includes a landscaped, shaded seating area with a view of the midway for use by UPSF personnel, fair volunteers, and other “V.I.P.” guests of the UPSF.
Midway entertainment – Face painting and balloon blowing provided at no charge during afternoon operating hours in the “Fun Dome” midway area to promote and encourage a family-friendly atmosphere.
“Kiddie-land” play area – Colorful, fenced “safe-zone” play area stocked with age-appropriate toys (ages 3 and under). The play area is to be used by children who are too young to enjoy the “kiddie-land” rides to play in with their parents’ supervision.



Games

Table 3 below includes the inventory of SBS games.

**Table 3
Games Inventory**

Description	Classification	Footage
Golf Ball Derby (1)	Trailer-mounted line-up	28
Golf Ball Derby (2)	Trailer-mounted line-up	28
Shoot-out-the-Star Dart Throw at Balloons for Mirrors	Trailer-mounted line-up	28
Skee-ball	Trailer-mounted line-up	24
Dart Throw at Balloons for Plush Cork Air-Gun	Trailer-mounted line-up	36
Dart Throw at Posters Pub Dart Game	Trailer-mounted line-up	28
Dart Throw at Balloons for Plush	Trailer-mounted line-up	36
Basketball Gun Ball Pub Dart	Trailer-mounted line-up	38
Cork Gun	Trailer-mounted line-up	20
Water Race	Trailer-mounted line-up	24
Break a Bottle	Aluminum frame line-up	16
One Ball	Aluminum frame line-up	16
Block Buster	Aluminum frame line-up	16
Bank a Ball	Aluminum frame line-up	16
Wacky Wire	Aluminum frame line-up	16
Cork Gun	Stick frame line-up	16
Break Three Balloons	Stick frame line-up	16
Bull-Dozer Token-Drop (1)	Trailer-mounted center	32
Bull-Dozer Token-Drop (2)	Trailer-mounted center	28
Long-Range Basketball	Stick frame mounted center	22
Crazy Ball	Aluminum frame center	30
Candy game	Aluminum frame center	30
Bottle Ring (1)	Aluminum frame center	30
Bottle Ring (2)	Aluminum frame center	30
Duck Pond	Aluminum frame center	30



Description	Classification	Footage
Frog Bog	Aluminum frame center	30
Bank a Ball	Aluminum frame center	30
Gun Ball	Aluminum frame center	30
Dime Pitch	Aluminum frame center	30
Gold Fish Game	Aluminum frame center	30
Milk Can	Aluminum frame center	30

Total Footage: 810 feet

Concessions

Table 4 below includes the inventory of SBS concessions.

**Table 4
Concessions Inventory**

Description	Menu Item	Footage
Sausage Unit (No. 1)	Polish Sausage Italian Sausage Corn Dog Chili Dog Hot Dog Fresh Cut Curly Fries Nachos Soda Pop Bottled Water Coffee	28
Sausage Unit (No. 2)	Polish Sausage Italian Sausage Corn Dog Chili Dog Hot Dog Straight Cut Fries Chili/Cheese Soda Pop Bottled Water Coffee	28
Popper Unit (No. 1)	Cotton Candy Caramel Apple	28



Description	Menu Item	Footage
	Candy Apple Sno-Cone Popcorn Caramel Corn Soda Pop Bottled Water	
Popper Unit (No 2)	Cotton Candy Caramel Apple Candy Apple Sno-Cone Popcorn Caramel Corn Soda Pop Bottled Water	28
Elephant Ears Unit (No. 1)	Elephant Ears Fresh Squeezed Lemonade Coffee	28
Elephant Ears Unit (No 2)	Elephant Ears Fresh Squeezed Lemonade Nachos Bottled Water Coffee	28
Rock Climbing Wall	N/A	14
Euro-Bungy Assisted Trampoline	N/A	32

Total Footage: 218 feet