



**STATE OF MICHIGAN**  
**CENTRAL PROCUREMENT SERVICES**  
 Department of Technology, Management, and Budget  
 525 W. ALLEGAN ST., LANSING, MICHIGAN 48913  
 P.O. BOX 30026 LANSING, MICHIGAN 48909

**CONTRACT CHANGE NOTICE**

Change Notice Number **13**  
 to  
 Contract Number **18000000879**

<b>CONTRACTOR</b>	KPMG CORPORATE FINANCE, LLC
	55 Second Street , Suite 1400
	San Francisco, CA 94105
	Liam Kelly
	415-932-9040
	liamkelly@kpmg.com
	CV0059169

<b>STATE</b>	Program Manager	Various	SW
Contract Administrator	Courtney Powell	DTMB	
	(517) 249-0452		
	powellc11@michigan.gov		

**CONTRACT SUMMARY**

**FINANCIAL & STRATEGIC CONSULTING AND ADVISORY SERV**

INITIAL EFFECTIVE DATE	INITIAL EXPIRATION DATE	INITIAL AVAILABLE OPTIONS	EXPIRATION DATE BEFORE
August 20, 2018	August 19, 2021	5 - 1 Year	August 19, 2023
PAYMENT TERMS		DELIVERY TIMEFRAME	
2%NET15, NET45		N/A	
ALTERNATE PAYMENT OPTIONS			EXTENDED PURCHASING
<input type="checkbox"/> P-Card <input type="checkbox"/> PRC <input type="checkbox"/> Other			<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No

**MINIMUM DELIVERY REQUIREMENTS**

N/A

**DESCRIPTION OF CHANGE NOTICE**

OPTION	LENGTH OF OPTION	EXTENSION	LENGTH OF EXTENSION	REVISED EXP. DATE
<input type="checkbox"/>		<input type="checkbox"/>		N/A
CURRENT VALUE	VALUE OF CHANGE NOTICE	ESTIMATED AGGREGATE CONTRACT VALUE		
\$3,297,870.00	\$2,000,000.00	\$5,297,870.00		

**DESCRIPTION**

Effective October 12, 2021, this Contract is hereby increased by \$2,000,000.00 for Statewide use. All other terms, conditions, specifications, and pricing remain the same. Per Agency and Contractor agreement, DTMB Central Procurement Services approval, and State Administrative Board approval on October 12, 2021.

**Program Managers  
for  
Multi-Agency and Statewide Contracts**

<b>AGENCY</b>	<b>NAME</b>	<b>PHONE</b>	<b>EMAIL</b>
EXEC	Wenona Singel	517-000-0000	SingelW@michigan.gov
EXEC	Corina Andorfer	517-335-2005	AndorferC1@michigan.gov
MDOT	Ryan Mitchell	000-000-0000	MitchellR13@michigan.gov

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



**CONTRACT CHANGE NOTICE**

Change Notice Number 12  
 to  
 Contract Number 18000000879

<b>CONTRACTOR</b>	KPMG LLP
	55 Second Street , Suite 1400
	San Francisco, CA 94105
	Liam Kelly
	415-932-9040
	liamkelly@kpmg.com
	CV0059169

<b>STATE</b>	Program Manager	Various	SW
	Contract Administrator	Courtney Powell (517) 249-0452 powellc11@michigan.gov	DTMB

**CONTRACT SUMMARY**

**FINANCIAL & STRATEGIC CONSULTING AND ADVISORY SERV**

INITIAL EFFECTIVE DATE	INITIAL EXPIRATION DATE	INITIAL AVAILABLE OPTIONS	EXPIRATION DATE BEFORE
August 20, 2018	August 19, 2021	5 - 1 Year	August 19, 2023
PAYMENT TERMS		DELIVERY TIMEFRAME	
2%NET15, NET45		N/A	
ALTERNATE PAYMENT OPTIONS			EXTENDED PURCHASING
<input type="checkbox"/> P-Card <input type="checkbox"/> PRC <input type="checkbox"/> Other			<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No

**MINIMUM DELIVERY REQUIREMENTS**

N/A

**DESCRIPTION OF CHANGE NOTICE**

OPTION	LENGTH OF OPTION	EXTENSION	LENGTH OF EXTENSION	REVISED EXP. DATE
<input type="checkbox"/>	N/A	<input type="checkbox"/>	N/A	N/A
CURRENT VALUE	VALUE OF CHANGE NOTICE	ESTIMATED AGGREGATE CONTRACT VALUE		
\$3,297,870.00	\$0.00	\$3,297,870.00		

**DESCRIPTION**

Effective April 26, 2021 the following amendments are hereby incorporated:

- The task order exclusively for the Michigan Department of Transportation (MDOT) for Detroit Intermodal Transportation Facility – Phase I extension is incorporated into the Contract per the attached Statement of Work (SOW), previously added as Change Notice 9, to cover services through May 31, 2021 with a not to exceed amount of \$70,000.00 for the additional scope.
- The authorizing document for future MDOT task orders or revisions to task orders will be issued through a Delivery Order (DO) instead of a Change Notice to the Contract/Master Agreement.

All other terms, conditions, specifications and pricing remain the same. Per Contractor and Agency agreement, and DTMB Central Procurement Services approval.

**Program Managers  
for  
Multi-Agency and Statewide Contracts**

<b>AGENCY</b>	<b>NAME</b>	<b>PHONE</b>	<b>EMAIL</b>
EXEC	Wenona Singel	517-000-0000	SingelW@michigan.gov
EXEC	Corina Andorfer	517-335-2005	AndorferC1@michigan.gov
MDOT	Ryan Mitchell	000-000-0000	MitchellR13@michigan.gov

## Statement of Work – Michigan Department of Transportation (MDOT)

### Advisory Services – New Center Intermodal Facility Feasibility Analysis - Detroit Intermodal Transportation Facility – Phase I extension

#### Contract 071-18000000879 Change Notice 12

#### 1. Background

The Michigan Department of Transportation (MDOT) is considering developing a New Center Intermodal Facility (NCIF) in the Detroit area. Select studies have been conducted in support of IPTF development over the past several years and a draft RFQ/P has been drafted to commence the procurement of a developer for the project. An initial phase of feasibility analysis is being conducted and MDOT is looking to proceed with further project development and implementation activities.

#### 2. Services to be provided

MDOT has requested KPMG's support and assistance with respect to Phase I qualitative and high-level quantitative assessment of potential development options for the project and testing the potential market appetite and development options with market participants. Additional scope and budget is being added to this work order due to an extended stakeholder consultation process and longer on-boarding period for technical advisor.

KPMG will assist MDOT with the following key activities:

- i. Finalize business case
  - a. Assist with site analysis for intercity bus station including up to 4 site options. This will include a cost analysis. In conjunction with the technical advisor, review and incorporate the transportation requirements and needs.
  - b. Complete briefing presentation for MDOT leadership on site options, financial analysis and procurement options.
  - c. Assist with finalizing project scope including up to 3 development options.
  - d. Assist with identifying key components and considerations of a governance model for the project

Proposed deliverables: finalized options analysis and project implementation roadmap

#### 3. Excluded Services

The scope of services will exclude the following services:

- Accounting policy review or advice, including constituting acceptance, endorsement or approval of any accounting application or compliance with any accounting standard or requirement;
- Providing guidance on cost accounting activities related on-going operations of the Project;
- Audit or valuation of historical financial performance relating to the Project;
- Tax advice including provision of a formal opinion, although KPMG will be pleased to discuss separate terms of engagement for these services if required;
- Preparation of cash flows for the Project and other technical projections required for project delivery, except as provided by the State; and
- Legal advice.

#### **4. Fees**

The State will compensate KPMG based on the established hourly rate of \$413 per hour for services KPMG performs, as established in Contract number 180000000879. This budget will cover the period of services through May 31, 2021.

The anticipated fees for Phase I services outlined above are as follows:

- KPMG additional scope: not to exceed \$70,000

#### **5. Use of Member Firms and Third Parties**

Use of member firms (“Member Firms”) includes references to member firms of KPMG International, other independent firms licensed by KPMG International to use the KPMG name and, in each case, firms controlled by them and third party service providers:

a) The State acknowledges that in connection with the performance of services under this Task Order, KPMG and Member Firms, in their discretion or at State’s direction, may utilize the services of third party service providers within and without the United States to complete the services under this task order.

b) KPMG uses third party service providers within and without the United States to provide at the direction of KPMG administrative and clerical services to the KPMG Parties. These third party service providers may in the performance of such services have limited access to information, including but not limited to Confidential Information, received by KPMG from or at the request or direction of the State. KPMG represents that each such third party service provider has agreed to conditions of confidentiality with respect to the State’s information to the same or similar extent as KPMG has agreed. KPMG has full responsibility to cause these third party service providers to comply with such conditions of confidentiality and KPMG shall be responsible for any consequences of their failure to comply.

c) Accordingly, the State consents to KPMG’s disclosure to a Member Firm or third party service provider and the use by such Member Firm and third party service provider of data and information, including but not limited to Confidential Information, received from or at the requestor direction of the State.

d) Any services performed by a Member Firm, affiliate or third party service provider shall be performed in accordance with the terms of this task order and these Standard Terms and Conditions, but KPMG shall remain responsible to the State for the performance of such services. The State agrees that any claim relating to the services under this task order may only be made against KPMG and not any other Member Firm or third party service provider referred to above.

#### **6. Other**

- KPMG will require the support of the State and associated personnel in order to achieve timely completion of the aforementioned services. Support includes, but is not limited to, the collection of all relevant documents (paper or electronic) and the scheduling of interviews and coordination of meetings.
- The State will designate a management level individual to oversee the conduct of these services, including coordination of project resources needed and review of draft deliverables. State personnel assigned to the project will review draft deliverables on a timely basis.
- Additionally, the State and its other advisers will provide KPMG with underlying cost data for the Project as appropriate.
- KPMG’s services as outlined in this task order constitute an advisory engagement conducted under the American Institute of Certified Public Accountants (“AICPA”) Standards for Consulting Services.

Such services are not intended to be an audit, examination, attestation, special report or agreed-upon procedures engagements as those services are defined in AICPA literature applicable to such engagements conducted by independent auditors. Accordingly, these services shall not result in the issuance of a written communication to third parties by KPMG directly reporting on financial data or internal control or expressing a conclusion or any other form of assurance.

- The State and MDOT represent that they will not seek legal services or legal advice from KPMG or Nossaman under this Task Order, and they will solely rely on the Office of the Attorney General for such legal services and advice.
- It is understood and agreed that KPMG is not registered with the SEC as a municipal advisor and that the State is not asking KPMG to provide, and KPMG will not provide, any services to the State which would require registration as a municipal advisor, including but not limited to advice with respect to municipal financial products or the issuance of municipal securities. Accordingly, KPMG will not make recommendations relating to municipal financial products or the issuance of municipal securities, and KPMG will not owe a fiduciary duty to the State under Section 15B of the Securities Exchange Act of 1934. The State represents to KPMG that if the State desires municipal advisor services in connection with or related to the subject matter of this engagement, it will obtain such services from another party.

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**CONTRACT CHANGE NOTICE**

Change Notice Number 11  
 to  
 Contract Number 180000000879

<b>CONTRACTOR</b>	KPMG LLP
	55 Second Street , Suite 1400
	San Francisco, CA 94105
	Liam Kelly
	415-932-9040
	liamkelly@kpmg.com
	CV0059169

<b>STATE</b>	Program Manager	Various	SW
	Contract Administrator	Courtney Powell	DTMB
		(517) 249-0452 powellc11@michigan.gov	

**CONTRACT SUMMARY**

**FINANCIAL & STRATEGIC CONSULTING AND ADVISORY SERV**

INITIAL EFFECTIVE DATE	INITIAL EXPIRATION DATE	INITIAL AVAILABLE OPTIONS	EXPIRATION DATE BEFORE
August 20, 2018	August 19, 2021	5 - 1 Year	August 19, 2023
PAYMENT TERMS		DELIVERY TIMEFRAME	
2%NET15, NET45		N/A	
ALTERNATE PAYMENT OPTIONS			EXTENDED PURCHASING
<input type="checkbox"/> P-Card <input type="checkbox"/> PRC <input type="checkbox"/> Other			<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No

**MINIMUM DELIVERY REQUIREMENTS**

N/A

**DESCRIPTION OF CHANGE NOTICE**

OPTION	LENGTH OF OPTION	EXTENSION	LENGTH OF EXTENSION	REVISED EXP. DATE
<input type="checkbox"/>	N/A	<input type="checkbox"/>	N/A	N/A
CURRENT VALUE	VALUE OF CHANGE NOTICE	ESTIMATED AGGREGATE CONTRACT VALUE		
\$3,297,870.00	\$0.00	\$3,297,870.00		

**DESCRIPTION**

Effective March 17, 2021, the following task order exclusively for the Michigan Department of Transportation (MDOT) for Financial and Commercial Advisory Services – Michigan Connected Corridor Project is incorporated into the Contract per the attached Statement of Work (SOW).

All other terms, conditions, specifications and pricing remain the same. Per Contractor and Agency agreement, and DTMB Central Procurement Services approval.



**Program Managers  
for  
Multi-Agency and Statewide Contracts**

<b>AGENCY</b>	<b>NAME</b>	<b>PHONE</b>	<b>EMAIL</b>
EXEC	Wenona Singel	517-000-0000	SingelW@michigan.gov
EXEC	Corina Andorfer	517-335-2005	AndorferC1@michigan.gov
MDOT	Ryan Mitchell	000-000-0000	MitchellR13@michigan.gov

## **Statement of Work – Michigan Department of Transportation (MDOT)**

### **Financial and Commercial Advisory Services – Michigan Connected Corridor Project**

**Contract 071-18000000879 Change Notice 11**

#### **I. Financial and Commercial Advisory Services – Michigan Connected Corridor Project**

##### **a. Scope of Work**

As part of KPMG’s advisory services for the Michigan Connected Corridor Project (the “project”), the State of Michigan (“State”) and the Michigan Department of Transportation (“MDOT”) have requested that KPMG provide support and assistance on an as needed basis with respect to (i) a preliminary assessment, and (ii) transaction development.

##### Phase 1: Preliminary Assessment Support

- i. Review of relevant information and material developed by Cavvue on the project
- ii. Facilitate discussions to identify policy objectives and limitations for the project
- iii. Assist with financial aspects of the project and potential funding sources
- iv. Assist with identifying key commercial risks and potential mitigation strategies
- v. Support MDOT on assessment of commercial structures
- vi. Review and comment on the business case/feasibility study developed by Cavvue
- vii. Support in discussions between MDOT and other stakeholders.

##### Phase 2 (subject to separate NTP): Transaction Development Support

- i. Support MDOT in discussions on transaction process
- ii. Assist MDOT on development/review of scope of work
- iii. Advise MDOT on funding and financial analysis, including the financial structure proposed by Cavvue
- iv. Advise on assessment of commercial risks, business opportunities and development of commercial structure
- v. Assist with development of term sheets
- vi. Support in development of commercial agreements
- vii. Assist MDOT coordinate with other stakeholders
- viii. Advise MDOT on negotiations with Cavvue
- ix. Assist with funding and financing applications/negotiations

## **b. Budget**

A budget of \$225,000 is requested to perform the services of Phase 1. This budget will cover the period of services through December 31, 2022.

Should NTP be given by MDOT to proceed with Phase 2, a contract amendment will be provided with the budget to provide Phase 2 services.

## **II. Excluded Services**

The scope of services will exclude the following services:

- Accounting policy review or advice, including constituting acceptance, endorsement or approval of any accounting application or compliance with any accounting standard or requirement;
- Providing guidance on cost accounting activities related on-going operations of the Project;
- Audit or valuation of historical financial performance relating to the Project;
- Tax advice including provision of a formal opinion, although KPMG will be pleased to discuss separate terms of engagement for these services if required;
- Preparation of cash flows for the Project and other technical projections required for project delivery, except as provided by the State; and
- Legal advice.

## **III. Use of Firms and Third Parties**

Use of member firms (“Member Firms”) includes references to member firms of KPMG International, other independent firms licensed by KPMG International to use the KPMG name and, in each case, firms controlled by them and third party service providers:

- a) The State acknowledges that in connection with the performance of services under this Task Order, KPMG and Member Firms, in their discretion or at State’s direction, may utilize the services of third party service providers within and without the United States to complete the services under this task order.
- b) KPMG uses third party service providers within and without the United States to provide at the direction of KPMG administrative and clerical services to the KPMG Parties. These third party service providers may in the performance of such services have limited access to information, including but not limited to Confidential Information, received by KPMG from or at the request or direction of the State. KPMG represents that each such third party service provider has agreed to conditions of confidentiality with respect to the State’s information to the same or similar extent as KPMG has agreed. KPMG has full responsibility to cause these third party service providers to comply with such conditions of confidentiality and KPMG shall be responsible for any consequences of their failure to comply.
- c) Accordingly, the State consents to KPMG’s disclosure to a Member Firm or third party service provider and the use by such Member Firm and third party service provider of data and information, including but not limited to Confidential Information, received from or at the requestor direction of the State.

- d) Any services performed by a Member Firm, affiliate or third party service provider shall be performed in accordance with the terms of this task order and these Standard Terms and Conditions, but KPMG shall remain responsible to the State for the performance of such services. The State agrees that any claim relating to the services under this task order may only be made against KPMG and not any other Member Firm or third party service provider referred to above.

#### **IV. Other**

KPMG will require the support of the State and associated personnel in order to achieve timely completion of the aforementioned services. Support includes, but is not limited to, the collection of all relevant documents (paper or electronic) and the scheduling of interviews and coordination of meetings.

The State will designate a management level individual to oversee the conduct of these services, including coordination of project resources needed and review of draft deliverables. State personnel assigned to the project will review draft deliverables on a timely basis. Additionally, the State and its other advisers will provide KPMG with underlying cost data for the Project as appropriate. KPMG's services may include advice and recommendations; but all decisions in connection with the implementation of such advice and recommendations shall be the responsibility of, and made by, MDOT. KPMG will not perform management functions or make management decisions for MDOT. KPMG's services as outlined in this task order constitute an advisory engagement conducted under the American Institute of Certified Public Accountants ("AICPA") Standards for Consulting Services. Such services are not intended to be an audit, examination, attestation, special report or agreed-upon procedures engagements as those services are defined in AICPA literature applicable to such engagements conducted by independent auditors. Accordingly, these services shall not result in the issuance of a written communication to third parties by KPMG directly reporting on financial data or internal control or expressing a conclusion or any other form of assurance.

It is understood and agreed that KPMG is not registered with the SEC as a municipal advisor and that the State is not asking KPMG to provide, and KPMG will not provide, any services to the State which would require registration as a municipal advisor, including but not limited to advice with respect to municipal financial products or the issuance of municipal securities. Accordingly, KPMG will not make recommendations relating to municipal financial products or the issuance of municipal securities, and KPMG will not owe a fiduciary duty to the State under Section 15B of the Securities Exchange Act of 1934. The State represents to KPMG that if the State desires municipal advisor services in connection with or related to the subject matter of this engagement, it will obtain such services from another party.

MDOT is aware that Contractor may be providing assurance, tax and/or advisory services to other actual or potential third parties working with MDOT. KPMG will perform an internal search for any potential client conflicts relating to any such third parties identified by MDOT as having a role in connection with KPMG's performance of this Contract. KPMG will disclose, subject to confidentiality restrictions, to MDOT of any conflicts of interest and obtain your consent to proceed with the services. However, KPMG is a large firm that is engaged by new clients on a daily basis and as a result it cannot guarantee that, following its conflict search, an engagement for a third party will not be accepted somewhere else in KPMG. Should any new information come to KPMG's attention, KPMG will promptly inform MDOT. KPMG shall perform this Contract in accordance with applicable professional standards. In

the event a potential conflict is identified, in order to mitigate such a conflict, KPMG will cease work until your consent is received or an alternative course of action is mutually agreed upon.



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**CONTRACT CHANGE NOTICE**

Change Notice Number 10  
 to  
 Contract Number 18000000879

<b>CONTRACTOR</b>	KPMG LLP
	55 Second Street , Suite 1400
	San Francisco, CA 94105
	Liam Kelly
	415-932-9040
	liamkelly@kpmg.com
	CV0059169

<b>STATE</b>	Program Manager	Various	SW
	Contract Administrator	Courtney Powell (517) 249-0452 powellc11@michigan.gov	DTMB

**CONTRACT SUMMARY**

**FINANCIAL & STRATEGIC CONSULTING AND ADVISORY SERV**

INITIAL EFFECTIVE DATE	INITIAL EXPIRATION DATE	INITIAL AVAILABLE OPTIONS	EXPIRATION DATE BEFORE
August 20, 2018	August 19, 2021	5 - 1 Year	August 19, 2021
PAYMENT TERMS		DELIVERY TIMEFRAME	
2%NET15, NET45		N/A	
ALTERNATE PAYMENT OPTIONS			EXTENDED PURCHASING
<input type="checkbox"/> P-Card <input type="checkbox"/> PRC <input type="checkbox"/> Other			<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No

**MINIMUM DELIVERY REQUIREMENTS**

N/A

**DESCRIPTION OF CHANGE NOTICE**

OPTION	LENGTH OF OPTION	EXTENSION	LENGTH OF EXTENSION	REVISED EXP. DATE
<input checked="" type="checkbox"/>	2 Years	<input type="checkbox"/>	N/A	August 19, 2023
CURRENT VALUE	VALUE OF CHANGE NOTICE	ESTIMATED AGGREGATE CONTRACT VALUE		
\$2,697,870.00	\$600,000.00	\$3,297,870.00		

**DESCRIPTION**

Effective December 9, 2020, the following amendments are incorporated into this Contract:

- The State is exercising two option years. The revised contract expiration date is August 19, 2023.
- The Michigan Department of Transportation (MDOT) Financial and Commercial Advisory Services-I-75 Modernization Project Statement of Work(SOW), previously added as Change Notice 5, is hereby extended through November 30, 2022, and is increased by \$600,000.00 to complete the project.

All other terms, conditions, specifications, and pricing remain the same. Per Contractor and Agency agreement, DTMB Central Procurement Services approval, and State Administrative Board approval on December 8, 2020.

**Program Managers  
for  
Multi-Agency and Statewide Contracts**

<b>AGENCY</b>	<b>NAME</b>	<b>PHONE</b>	<b>EMAIL</b>
EXEC	Wenona Singel	517-000-0000	SingelW@michigan.gov
EXEC	Corina Andorfer	517-335-2005	AndorferC1@michigan.gov
MDOT	Ryan Mitchell	000-000-0000	MitchellR13@michigan.gov



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

**CONTRACT CHANGE NOTICE**

Change Notice Number **9**  
 to  
 Contract Number **18000000879**

<b>CONTRACTOR</b>	KPMG CORPORATE FINANCE, LLC
	55 Second Street , Suite 1400
	San Francisco, CA 94105
	Liam Kelly
	415-932-9040
	liamkelly@kpmg.com
	CV0059169

<b>STATE</b>	Program Manager	Various	SW
	Contract Administrator	Courtney Powell	DTMB
		(517) 249-0452 powellc11@michigan.gov	

**CONTRACT SUMMARY**

**FINANCIAL & STRATEGIC CONSULTING AND ADVISORY SERV**

INITIAL EFFECTIVE DATE	INITIAL EXPIRATION DATE	INITIAL AVAILABLE OPTIONS	EXPIRATION DATE BEFORE
August 20, 2018	August 19, 2021	5 - 1 Year	August 19, 2021
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2%NET15, NET45		N/A	
ALTERNATE PAYMENT OPTIONS			EXTENDED PURCHASING
<input type="checkbox"/> P-Card <input type="checkbox"/> PRC <input type="checkbox"/> Other			<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No

**MINIMUM DELIVERY REQUIREMENTS**

N/A

**DESCRIPTION OF CHANGE NOTICE**

OPTION	LENGTH OF OPTION	EXTENSION	LENGTH OF EXTENSION	REVISED EXP. DATE
<input type="checkbox"/>	N/A	<input type="checkbox"/>	N/A	N/A
CURRENT VALUE	VALUE OF CHANGE NOTICE	ESTIMATED AGGREGATE CONTRACT VALUE		
\$2,697,870.00	\$0.00	\$2,697,870.00		

**DESCRIPTION**

Effective November 2, 2020, the following task order exclusively for the Michigan Department of Transportation (MDOT) for the New Center Intermodal Facility Feasibility Analysis is incorporated into the Contract per the attached Statement of Work (SOW).  
 All other terms, conditions, specifications and pricing remain the same. Per Contractor and Agency agreement, and DTMB Central Procurement Services approval.



**Program Managers  
for  
Multi-Agency and Statewide Contracts**

<b>AGENCY</b>	<b>NAME</b>	<b>PHONE</b>	<b>EMAIL</b>
EXEC	Wenona Singel	517-000-0000	SingelW@michigan.gov
EXEC	Corina Andorfer	517-335-2005	AndorferC1@michigan.gov
MDOT	Ryan Mitchell	000-000-0000	MitchellR13@michigan.gov

## **Statement of Work – Michigan Department of Transportation (MDOT)**

### **Advisory Services – New Center Intermodal Facility Feasibility Analysis**

#### **Contract 071-18000000879 Change Notice 9**

##### **1. Background**

The Michigan Department of Transportation (MDOT) is considering developing a New Center Intermodal Facility (NCIF) in the Detroit area. Select studies have been conducted in support of NCIF development over the past several years and a draft RFQ/P has been drafted to commence the procurement of a developer for the project.

##### **2. Services to be provided**

MDOT has requested KPMG's support and assistance with respect to qualitative and high-level quantitative assessment of potential development options for the project and testing the potential market appetite and development options with market participants. MDOT has also requested that a technical advisor be brought in as subcontractor to KPMG to assist with the technical aspects of the work, including scoping, cost estimates, and technical feasibility. The selection and onboarding of the technical advisor is subject to mutual agreement between MDOT and KPMG. Onboarding of technical advisor will be contingent upon completion of KPMG's onboarding process, which includes conflicts checks, and the selected consultant's acceptance of KPMG's terms and conditions. As appropriate, and at the request of MDOT, KPMG may also onboard another commercial advisor to assist with drafting procurement documents during the Project Implementation phase.

The delivery of services will be provided in two phases:

- Phase I: Project Development
- Phase II: Project Implementation

##### **Phase I – Project Development**

KPMG will work with MDOT to conduct the following task and activities:

1. Qualitative Assessment
  - Confirm key project stakeholders
  - Support MDOT in preparing for and facilitation of the stakeholder meeting
  - Discuss project needs as well as key goals and objectives for MDOT and other project stakeholders
    - Outline assumptions defined in the Quandel study, confirming, soliciting further needs, wants, constraints, objectives
    - Define what constitutes project success (development options will be evaluated against these criteria)
  - Review and discuss zoning requirements with the City of Detroit
  - Identify key project challenges and constraints
  - Define high-level project scope and minimum scope requirements for MDOT (as well as other stakeholders)
  - Outline initial development options for evaluation, including pros and cons and evaluate each option against project goals

Proposed Deliverables: preparation of materials for stakeholder meeting; memo summarizing project goals and objectives and success factors; project scope definition; analysis of potential development options against project success criteria.

## 2. Onboarding of Technical Advisor

- Assist with the development of scope of services
- Assist with the evaluation process<sup>1</sup>
- Onboard technical advisor consistent with KPMG's onboarding process
- Work closely with technical advisor on the following scope items:
  - Help facilitate risk workshop sessions;
  - Assist MDOT in updating and compiling a risk matrix that reflects critical commercial considerations;
  - Support MDOT with risk quantification considerations;
  - Define project scope, estimates of capital and on-going costs within the project limits, project delivery timeline, and financial inputs for various delivery options

Proposed Deliverables: input for technical advisory scope; inputs into project risk matrix; input in risk evaluation memo; updates to project scope based on additional technical inputs.

## 3. Funding Assessment

- Identify existing and potential project funding and financing options based on preferred project scope
- If existing project information allows, conduct high-level financial analysis of the project, using cost data provide by the technical advisor, to estimate potential project cost and to assess project affordability and potential public subsidy requirements

Proposed Deliverables: based on available information, memo summarizing high-level financial analysis

## 4. Market Sounding

- Develop a short project teaser to distribute to select market participants with high-level scope, goals and envisioned approach
- Organize and conduct a market sounding exercise to solicit industry feedback on the potential delivery options to help guide the project development and procurement process

Proposed Deliverables: project teaser for market sounding; market sounding questions and memo summarizing market feedback on project scope, structure, and delivery options; report summarizing project scope, cost, delivery options, and recommended implementation roadmap.

## **Phase II – Project Implementation**

KPMG will assist MDOT with project implementation (subject to separate notice to proceed) if MDOT reaches an agreement for the procurement of the project. KPMG will work with MDOT to:

- Advise on project development, including development of heads of terms
- Assist with development of procurement documents and procurement strategy

---

<sup>1</sup> KPMG will not have a role in the selection of the technical advisor.

- Perform financial analysis and advice on different funding and financing options and processes
- Support in the evaluation of statements of qualifications and proposals
- Provide support in negotiations with market players
- Assist with reaching commercial and financial close

Proposed deliverables: inputs into RFQ and updates based on market input; assistance with SOQ evaluations, including financial capacity evaluation; inputs into RFP drafting and updates based on market input; assistance with proposal evaluations; assistance with commercial and financial closing.

### **3. Excluded Services**

The scope of services will exclude the following services:

- Accounting policy review or advice, including constituting acceptance, endorsement or approval of any accounting application or compliance with any accounting standard or requirement;
- Providing guidance on cost accounting activities related on-going operations of the Project;
- Audit or valuation of historical financial performance relating to the Project;
- Tax advice including provision of a formal opinion, although KPMG will be pleased to discuss separate terms of engagement for these services if required;
- Preparation of cash flows for the Project and other technical projections required for project delivery, except as provided by the State; and
- Legal advice.

### **4. Fees**

The State will compensate KPMG based on the established hourly rate of \$413 per hour for services KPMG performs, as established in Contract number 180000000879. This budget will cover the period of services through May 31, 2021.

The anticipated fees for Phase I services outlined above are as follows:

- Phase I
  - KPMG scope: \$300,000
  - Technical advisor scope: TBD
- Phase II scope to be priced/agreed separately

### **5. Use of Member Firms and Third Parties**

Use of member firms (“Member Firms”) includes references to member firms of KPMG International, other independent firms licensed by KPMG International to use the KPMG name and, in each case, firms controlled by them and third party service providers:

a) The State acknowledges that in connection with the performance of services under this Task Order, KPMG and Member Firms, in their discretion or at State’s direction, may utilize the services of third party service providers within and without the United States to complete the services under this task order.

b) KPMG uses third party service providers within and without the United States to provide at the direction of KPMG administrative and clerical services to the KPMG Parties. These third party service providers may in the performance of such services have limited access to information, including but not limited to Confidential Information, received by KPMG from or at the request or direction of the State. KPMG represents that each such third party service provider has agreed to conditions of confidentiality

with respect to the State's information to the same or similar extent as KPMG has agreed. KPMG has full responsibility to cause these third party service providers to comply with such conditions of confidentiality and KPMG shall be responsible for any consequences of their failure to comply.

c) Accordingly, the State consents to KPMG's disclosure to a Member Firm or third party service provider and the use by such Member Firm and third party service provider of data and information, including but not limited to Confidential Information, received from or at the requestor direction of the State.

d) Any services performed by a Member Firm, affiliate or third party service provider shall be performed in accordance with the terms of this task order and these Standard Terms and Conditions, but KPMG shall remain responsible to the State for the performance of such services. The State agrees that any claim relating to the services under this task order may only be made against KPMG and not any other Member Firm or third party service provider referred to above.

## **6. Other**

- KPMG will require the support of the State and associated personnel in order to achieve timely completion of the aforementioned services. Support includes, but is not limited to, the collection of all relevant documents (paper or electronic) and the scheduling of interviews and coordination of meetings.
- The State will designate a management level individual to oversee the conduct of these services, including coordination of project resources needed and review of draft deliverables. State personnel assigned to the project will review draft deliverables on a timely basis.
- Additionally, the State and its other advisers will provide KPMG with underlying cost data for the Project as appropriate.
- KPMG's services as outlined in this task order constitute an advisory engagement conducted under the American Institute of Certified Public Accountants ("AICPA") Standards for Consulting Services. Such services are not intended to be an audit, examination, attestation, special report or agreed-upon procedures engagements as those services are defined in AICPA literature applicable to such engagements conducted by independent auditors. Accordingly, these services shall not result in the issuance of a written communication to third parties by KPMG directly reporting on financial data or internal control or expressing a conclusion or any other form of assurance.
- The State and MDOT represent that they will not seek legal services or legal advice from KPMG or Nossaman under this Task Order, and they will solely rely on the Office of the Attorney General for such legal services and advice.
- It is understood and agreed that KPMG is not registered with the SEC as a municipal advisor and that the State is not asking KPMG to provide, and KPMG will not provide, any services to the State which would require registration as a municipal advisor, including but not limited to advice with respect to municipal financial products or the issuance of municipal securities. Accordingly, KPMG will not make recommendations relating to municipal financial products or the issuance of municipal securities, and KPMG will not owe a fiduciary duty to the State under Section 15B of the Securities Exchange Act of 1934. The State represents to KPMG that if the State desires municipal advisor services in connection with or related to the subject matter of this engagement, it will obtain such services from another party.



**STATE OF MICHIGAN**  
**CENTRAL PROCUREMENT SERVICES**  
 Department of Technology, Management, and Budget  
 525 W. ALLEGAN ST., LANSING, MICHIGAN 48913  
 P.O. BOX 30026 LANSING, MICHIGAN 48909

**CONTRACT CHANGE NOTICE**

Change Notice Number **8**  
 to  
 Contract Number **18000000879**

<b>CONTRACTOR</b>	KPMG CORPORATE FINANCE, LLC
	55 Second Street , Suite 1400
	San Francisco, CA 94105
	Liam Kelly
	415-932-9040
	liamkelly@kpmg.com
	CV0059169

<b>STATE</b>	Program Manager	Various	SW
STATE	Contract Administrator	Courtney Powell	DTMB
		(517) 249-0452	
		powellc11@michigan.gov	

**CONTRACT SUMMARY**

**FINANCIAL & STRATEGIC CONSULTING AND ADVISORY SERV**

INITIAL EFFECTIVE DATE	INITIAL EXPIRATION DATE	INITIAL AVAILABLE OPTIONS	EXPIRATION DATE BEFORE
August 20, 2018	August 19, 2021	5 - 1 Year	August 19, 2021
PAYMENT TERMS		DELIVERY TIMEFRAME	
2%NET15, NET45		N/A	
ALTERNATE PAYMENT OPTIONS			EXTENDED PURCHASING
<input type="checkbox"/> P-Card <input type="checkbox"/> PRC <input type="checkbox"/> Other			<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No

**MINIMUM DELIVERY REQUIREMENTS**

N/A

**DESCRIPTION OF CHANGE NOTICE**

OPTION	LENGTH OF OPTION	EXTENSION	LENGTH OF EXTENSION	REVISED EXP. DATE
<input type="checkbox"/>	N/A	<input type="checkbox"/>	N/A	N/A
CURRENT VALUE	VALUE OF CHANGE NOTICE	ESTIMATED AGGREGATE CONTRACT VALUE		
\$2,697,870.00	\$0.00	\$2,697,870.00		

**DESCRIPTION**

Effective June 1, 2020, the Michigan Department of Transportation (MDOT) Bridge Bundling Project's Statement of Work (SOW), previously added as Change Notice 1 and Change Notice 3, is hereby extended through August 31, 2020, to complete the project.

All other terms, conditions, specifications and pricing remain the same. Per Contractor and Agency agreement, and DTMB Central Procurement Services approval.

**Program Managers  
for  
Multi-Agency and Statewide Contracts**

<b>AGENCY</b>	<b>NAME</b>	<b>PHONE</b>	<b>EMAIL</b>
EXEC	Wenona Singel	517-000-0000	SingelW@michigan.gov
EXEC	Corina Andorfer	517-335-2005	AndorferC1@michigan.gov
MDOT	Ryan Mitchell	000-000-0000	MitchellR13@michigan.gov



**STATE OF MICHIGAN**  
**CENTRAL PROCUREMENT SERVICES**  
 Department of Technology, Management, and Budget  
 525 W. ALLEGAN ST., LANSING, MICHIGAN 48913  
 P.O. BOX 30026 LANSING, MICHIGAN 48909

**CONTRACT CHANGE NOTICE**

Change Notice Number 7  
 to  
 Contract Number 180000000879

<b>CONTRACTOR</b>	KPMG CORPORATE FINANCE, LLC
	55 Second Street , Suite 1400
	San Francisco, CA 94105
	Liam Kelly
	415-932-9040
	liamkelly@kpmg.com
	CV0059169

<b>STATE</b>	Program Manager	Various	SW
	Contract Administrator	Courtney Powell	DTMB
		(517) 249-0452	
		powellc11@michigan.gov	

**CONTRACT SUMMARY**

**FINANCIAL & STRATEGIC CONSULTING AND ADVISORY SERV**

INITIAL EFFECTIVE DATE	INITIAL EXPIRATION DATE	INITIAL AVAILABLE OPTIONS	EXPIRATION DATE BEFORE
August 20, 2018	August 19, 2021	5 - 1 Year	August 19, 2021
PAYMENT TERMS		DELIVERY TIMEFRAME	
2%NET15, NET45		N/A	
ALTERNATE PAYMENT OPTIONS			EXTENDED PURCHASING
<input type="checkbox"/> P-Card <input type="checkbox"/> PRC <input type="checkbox"/> Other			<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No

**MINIMUM DELIVERY REQUIREMENTS**

N/A

**DESCRIPTION OF CHANGE NOTICE**

OPTION	LENGTH OF OPTION	EXTENSION	LENGTH OF EXTENSION	REVISED EXP. DATE
<input type="checkbox"/>	N/A	<input type="checkbox"/>	N/A	N/A
CURRENT VALUE	VALUE OF CHANGE NOTICE	ESTIMATED AGGREGATE CONTRACT VALUE		
\$2,697,870.00	\$0.00	\$2,697,870.00		

**DESCRIPTION**

Effective February 18, 2020, this Contract is hereby amended as follows:

The following task order exclusively for the Michigan Department of Transportation (MDOT) for the I-69 Project is incorporated into the Contract per the attached Statement of Work (SOW).

All other terms, conditions, specifications and pricing remain the same. Per Contractor and Agency agreement, and DTMB Central Procurement Services approval.



**Statement of Work – Michigan Department of Transportation (MDOT)  
Advisory Services – I-69 Project  
Contract 171 18000000879 - Change Notice 7**

**1. Background**

The Michigan Department of Transportation (“MDOT”) released a Request for Qualifications (“RFQ”) for the Project on January 8, 2020 requesting Statements of Qualifications (“SOQs”) from entities interested in submitting proposals for freeway rehabilitation of I-69 in the Southwest and University Regions using a Design-Build contract.

**2. Services to be provided**

MDOT has requested KPMG’s support and assistance with respect to (i) reviewing the Project procurement documents, and (ii) providing input on improvements to MDOT’s Design-Build procurement process. For these activities, KPMG will also utilize services of a subcontractor, Nossaman LLP, for certain commercial items related to the review of Project documents. Activities will include:

- i. I-69 Project procurement documents review
  - Review one version of the Project procurement documents including RFQ and RFP;
  - Provide observations, discussion items and recommendations for areas of improvement in the procurement documents
  - KPMG with Nossaman’s support will participate as requested on phone calls related to procurement document review
  - KPMG with Nossaman’s support will coordinate with Michigan AG on legal issues relevant to comments on procurement documents
- ii. General On-Call Advisory Services
  - KPMG will support MDOT staff, as needed, with commercial questions related to Design-Build projects

**3. Excluded Services**

The scope of services will exclude the following services:

- Accounting policy review or advice, including constituting acceptance, endorsement or approval of any accounting application or compliance with any accounting standard or requirement;
- Providing guidance on cost accounting activities related on-going operations of the Project;
- Audit or valuation of historical financial performance relating to the Project;
- Tax advice including provision of a formal opinion, although KPMG will be pleased to discuss separate terms of engagement for these services if required;
- Preparation of cash flows for the Project and other technical projections required for project delivery, except as provided by the State; and
- Legal advice.

**4. Engagement Team**

The engagement team must be approved by the Program Manager.

**5. Fees**

The State will compensate KPMG based on the established hourly rate of \$413 per hour for services KPMG performs and at an established hourly rate of \$605 per hour for the services Nossaman performs.

The estimate of total hours to complete this work is between 40-60 hours for KPMG and 40-60 for Nossaman, pending confirmation of scope, for an estimated total of ~\$40,720 - \$61,080.

The total not to exceed budget within this Task Order is \$61,080.00.

## **6. Use of Member Firms and Third Parties**

Use of member firms (“Member Firms”) includes references to member firms of KPMG International, other independent firms licensed by KPMG International to use the KPMG name and, in each case, firms controlled by them and third party service providers:

- a) The State acknowledges that in connection with the performance of services under this Task Order, KPMG and Member Firms, in their discretion or at State’s direction, may utilize the services of third party service providers within and without the United States to complete the services under this task order.
- b) KPMG uses third party service providers within and without the United States to provide at the direction of KPMG administrative and clerical services to the KPMG Parties. These third party service providers may in the performance of such services have limited access to information, including but not limited to Confidential Information, received by KPMG from or at the request or direction of the State. KPMG represents that each such third party service provider has agreed to conditions of confidentiality with respect to the State’s information to the same or similar extent as KPMG has agreed. KPMG has full responsibility to cause these third party service providers to comply with such conditions of confidentiality and KPMG shall be responsible for any consequences of their failure to comply.
- c) Accordingly, the State consents to KPMG’s disclosure to a Member Firm or third party service provider and the use by such Member Firm and third party service provider of data and information, including but not limited to Confidential Information, received from or at the requestor direction of the State.
- d) Any services performed by a Member Firm, affiliate or third party service provider shall be performed in accordance with the terms of this task order and these Standard Terms and Conditions, but KPMG shall remain responsible to the State for the performance of such services. The State agrees that any claim relating to the services under this task order may only be made against KPMG and not any other Member Firm or third party service provider referred to above.

## **7. Other**

KPMG will require the support of the State and associated personnel in order to achieve timely completion of the aforementioned services. Support includes, but is not limited to, the collection of all relevant documents (paper or electronic) and the scheduling of interviews and coordination of meetings.

The State will designate a management level individual to oversee the conduct of these services, including coordination of project resources needed and review of draft deliverables. State personnel assigned to the project will review draft deliverables on a timely basis.

Additionally, the State and its other advisers will provide KPMG with underlying cost data for the Project as appropriate.

KPMG’s services as outlined in this task order constitute an advisory engagement conducted under the American Institute of Certified Public Accountants (“AICPA”) Standards for Consulting Services. Such services are not intended to be an audit, examination, attestation, special report or agreed-upon procedures engagements as those services are defined in AICPA literature applicable to such engagements conducted by independent auditors. Accordingly, these services shall not result in the issuance of a written communication to third parties by KPMG directly reporting on financial data or internal control or expressing a conclusion or any other form of assurance. Additionally, such services provided by KPMG or Nossaman are not intended to be legal services or the provision of

legal advice, nor will such services result in the formation of the attorney-client relationship. The State and MDOT represent that they will not seek legal services or legal advice from KPMG or Nossaman under this Task Order, and they will solely rely on the Office of the Attorney General for such legal services and advice.

It is understood and agreed that KPMG is not registered with the SEC as a municipal advisor and that the State is not asking KPMG to provide, and KPMG will not provide, any services to the State which would require registration as a municipal advisor, including but not limited to advice with respect to municipal financial products or the issuance of municipal securities. Accordingly, KPMG will not make recommendations relating to municipal financial products or the issuance of municipal securities, and KPMG will not owe a fiduciary duty to the State under Section 15B of the Securities Exchange Act of 1934. The State represents to KPMG that if the State desires municipal advisor services in connection with or related to the subject matter of this engagement, it will obtain such services from another party.

In accordance with the terms of the original Engagement Letter, KPMG, in their discretion or at State's direction, may utilize the services of third party service providers within and without the United States to complete the services under the Engagement Letter in connection with the performance of services under the Engagement Letter. In consultation with the State and MDOT, services of Nossaman LLP (Address: 777 South Figueroa Street, 34th Floor, Los Angeles, CA 90017) are being retained in support of the expanded project scope to the scope. With respect to retaining services of Nossaman:

Nossaman is a subcontractor to KPMG. As such, all terms as applicable, from Contract No. 071 180000000879 will flow down from KPMG to Nossaman and all other subcontractors to KPMG.

All legal services are outside of the scope of Contract No. 071 180000000879, and neither KPMG nor Nossaman will be providing legal services to the State, pursuant to Contract No. 071 180000000879 and this Task Order/Statement of Work. The State and MDOT also acknowledge and agree that Nossaman is not licensed to practice law in the State of Michigan, Nossaman's work will not create attorney-client privilege with the State or MDOT.



**STATE OF MICHIGAN**  
**CENTRAL PROCUREMENT SERVICES**  
 Department of Technology, Management, and Budget  
 525 W. ALLEGAN ST., LANSING, MICHIGAN 48913  
 P.O. BOX 30026 LANSING, MICHIGAN 48909

**CONTRACT CHANGE NOTICE**

Change Notice Number **6**  
 to  
 Contract Number **180000000879**

<b>CONTRACTOR</b>	KPMG, LLP
	55 Second Street , Suite 1400
	San Francisco, CA 94105
	Liam Kelly
	415-932-9040
	liamkelly@kpmg.com
	CV0059169

<b>STATE</b>	Program Manager	Various	SW
	Contract Administrator	Courtney Powell	DTMB
		(517) 249-0452	
		powellc11@michigan.gov	

<b>CONTRACT SUMMARY</b>				
<b>FINANCIAL &amp; STRATEGIC CONSULTING AND ADVISORY SERVICES INCLUDING P3 CONSULTING</b>				
INITIAL EFFECTIVE DATE	INITIAL EXPIRATION DATE	INITIAL AVAILABLE OPTIONS	EXPIRATION DATE BEFORE	
August 20, 2018	August 19, 2021	5 - 1 Year	August 19, 2021	
PAYMENT TERMS		DELIVERY TIMEFRAME		
2%NET15, NET45		N/A		
ALTERNATE PAYMENT OPTIONS			EXTENDED PURCHASING	
<input type="checkbox"/> P-Card <input type="checkbox"/> PRC <input type="checkbox"/> Other			<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	
MINIMUM DELIVERY REQUIREMENTS				
N/A				
DESCRIPTION OF CHANGE NOTICE				
OPTION	LENGTH OF OPTION	EXTENSION	LENGTH OF EXTENSION	REVISED EXP. DATE
<input type="checkbox"/>	N/A	<input type="checkbox"/>	N/A	N/A
CURRENT VALUE	VALUE OF CHANGE NOTICE	ESTIMATED AGGREGATE CONTRACT VALUE		
\$2,697,870.00	\$0.00	\$2,697,870.00		
DESCRIPTION				
Effective December 6, 2019, pricing on this contract is hereby updated, per revised Attachment, Schedule B, Pricing.				
All other terms, conditions, specifications and pricing remain the same. Per Contractor and Agency agreement, and DTMB Central Procurement Services approval.				

# STATE OF MICHIGAN

Contract No. 18000000879

Financial & Strategic Consulting and Advisory Services including Public-Private Partnership (P3)  
Consulting

## SCHEDULE B PRICING MATRIX

1. Pricing below lists hourly rate, inclusive of all expenses.
2. The Contractor offers the following quick payment terms. The number of days must not include processing time for payment to be received by the Contractor's financial institution.

Quick payment terms: 2 % discount off invoice if paid within 15 days after receipt of invoice.

Blended Hourly Rate for All Positions

Category/Title	Estimated* Hours per Year	Hourly Rate
All Positions (e.g., Project Manager, Consultant, Senior Consultant, Associate/Analyst and Para- Professional/Support)	2,100	\$413
<b>TOTAL YEARLY PRICE</b>		<b>\$850,500</b>

<b>TOTAL THREE YEAR PRICE</b>	<b>\$2,602,870**</b>
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\*Hours are an estimate only. The actual number of hours that will be needed for each project will vary and are not guaranteed.

\*\*Total Three Year Price includes a rate increase for years 2 and 3 (assumed at 2%). Increase in hourly rate must be requested by the Contractor and approved by the State via a Change Notice; increase in hourly rate must not exceed 2% annually.



**STATE OF MICHIGAN**  
**CENTRAL PROCUREMENT SERVICES**  
 Department of Technology, Management, and Budget  
 525 W. ALLEGAN ST., LANSING, MICHIGAN 48913  
 P.O. BOX 30026 LANSING, MICHIGAN 48909

**CONTRACT CHANGE NOTICE**

Change Notice Number **5**  
 to  
 Contract Number **180000000879**

<b>CONTRACTOR</b>	KPMG, LLP
	55 Second Street, Suite 1400
	San Francisco, CA 94105
	Liam Kelly
	415-932-9040
	liamkelly@kpmg.com
	CV0059169

<b>STATE</b>	<b>Program Manager</b>	Various	SW
	<b>Contract Administrator</b>	Courtney Powell	DTMB
		(517) 249-0452	
		powellc11@michigan.gov	

**CONTRACT SUMMARY**

**FINANCIAL & STRATEGIC CONSULTING AND ADVISORY SERVICES INCLUDING P3 CONSULTING**

INITIAL EFFECTIVE DATE	INITIAL EXPIRATION DATE	INITIAL AVAILABLE OPTIONS	EXPIRATION DATE BEFORE
August 20, 2018	August 19, 2021	5 - 1 Year	August 19, 2021
PAYMENT TERMS		DELIVERY TIMEFRAME	
2%NET15, NET45		N/A	
ALTERNATE PAYMENT OPTIONS			EXTENDED PURCHASING
<input type="checkbox"/> P-Card <input type="checkbox"/> PRC <input type="checkbox"/> Other			<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No

**MINIMUM DELIVERY REQUIREMENTS**

N/A

**DESCRIPTION OF CHANGE NOTICE**

OPTION	LENGTH OF OPTION	EXTENSION	LENGTH OF EXTENSION	REVISED EXP. DATE
<input type="checkbox"/>	N/A	<input type="checkbox"/>	N/A	N/A
CURRENT VALUE	VALUE OF CHANGE NOTICE	ESTIMATED AGGREGATE CONTRACT VALUE		
\$2,697,870.00	\$0.00	\$2,697,870.00		

**DESCRIPTION**

Effective December 4, 2019, this Contract is hereby amended as follows:

- The following task order exclusively for the Michigan Department of Transportation (MDOT) for the I-75 Mega-Project is incorporated into the Contract per the attached Statement of Work (SOW),
- Standard Contract Terms, Section 4 ,the Program Manager for the State for MDOT is changed to Ryan Mitchell, MitchellR13@michigan.gov, 517-614-7025.

All other terms, conditions, specifications and pricing remain the same. Per Contractor and Agency agreement, and DTMB Central Procurement Services approval.

**Program Managers  
for  
Multi-Agency and Statewide Contracts**

<b>AGENCY</b>	<b>NAME</b>	<b>PHONE</b>	<b>EMAIL</b>
MDOT	Ryan Mitchell	517-614-7025	MitchellR13@michigan.gov
MDHHS	Jessica Van Winkle	517-284-2996	vanwinklej@michigan.gov

## Statement of Work – Michigan Department of Transportation (MDOT)

### Advisory Services – I-75 Modernization DBFM Segment 3 Project

#### Contract 071-18000000879 Change Notice 5

KPMG LLP ("KPMG") is pleased to submit this task order letter ("task order") to provide advisory services to the Michigan Department of Transportation ("MDOT"), including financial and commercial advice with respect to contract administration support for the I-75 Modernization DBFM Segment 3 Project (the "Project").

This task order will form a purchase order under the contract between the State of Michigan and KPMG, contract number 071 18000000879 signed on September 20, 2018 (the "Contract"), and will confirm the basis upon which the State has engaged KPMG to provide advisory services for the Project. These tasks are highlighted in Schedule A, section 1.1 of the Contract. This task order will form the statement of work required pursuant to section 5.1 of the Contract for the services summarized above and described herein. This task order outlines our intended scope of work, our estimated fees, team structure, and terms of the engagement. This task order is subject to KPMG's standard client and engagement acceptance procedures.

#### **1. Background**

The Michigan Department of Transportation ("MDOT") has reached financial close on the I-75 Segment 3 DBFM project ("Project") in November 2018. The Notice to Proceed has been issued by MDOT and construction activities have commenced. MDOT Project level staff has changed and a new Project Governance structure is being implemented.

#### **2. Services to be provided**

MDOT has requested KPMG's support and assistance with respect to (i) conducting training to new MDOT Project team on contract administration and payment mechanism, (ii) providing contract administration support through the issuance of the first milestone payment, and (iii) general on-call advisory services related to contract issues that arise. KPMG will utilize services of a subcontractor, Nossaman LLP,

##### i. Contract Administration and Payment Mechanism Training

- KPMG with Nossaman's support will conduct a training workshop, in collaboration with Nossaman, with respect to administering the Project Agreement and Payment Mechanism for the relevant MDOT staff. This training will include information on the following key provisions/areas:
  - Overview of the procurement process for the Project
  - Key commercial terms and reasons behind them
  - Overview of noncompliance point and deduction regime
  - Timing of invoicing and payment
  - Milestone Payments
  - Calculation of first availability payment
  - General provisions impacting the D&C Work and O&M Work
  - Scope of D&C and O&M Work
  - Overview of monitoring and reporting requirements for D&C and O&M Term
  - Obligations to correct nonconforming work
  - Key personnel and subcontract requirements
  - Submittal and approval process for O&M Term documents
  - Handback requirements



- Change orders process
- Claims process
- Dispute resolution process
- Restriction on assignment and transfer during O&M Term
- Performance and payment security during O&M Term
- Default remedies and termination
- Insurance
- Overview of management of potential claims, change orders and disputes
- During the workshop history of procurement and lessons learned will also be discussed.

ii. Contract Administration Support

- KPMG and Nossaman will support MDOT on the following activities:
- Participate in bi-weekly I-75 project team status update calls/meetings, including a kickoff meeting for the first three months from issuance of NTP for this task order
- Participate in periodic project leadership status update calls to discuss key issues/concerns for the first three months after issuance of NTP for this task order
- Assist with review of the first Milestone payment calculations, including any payment deduction calculations
- Advise on any relevant financial and business contract management issues agreed between MDOT and KPMG that may arise including the payment of the first Milestone payment and the first Availability Payment

iii. P3 Guidance Manual

- KPMG will assist MDOT in documenting lessons learned from I-75 procurement and in developing a P3 guidelines document for its program, including:
  - the current planning and project selection process used by MDOT
  - the MDOT specific criteria for evaluation of alternative delivery candidates
  - project development and approval process
  - key procurement processes and considerations
  - key contract administration processes
  - information on practices from MDOT experience and experience of other successful P3 programs around project screening, evaluation, procurement, and contract administration

iv. General On-Call Advisory Services

- KPMG will support MDOT staff, as needed, with contract management activities including:
  - Updates to the Payment Mechanism model (“Model”)
  - Calculations of non-compliance points and deductions
  - Review correspondence and provide financial and business advice regarding contract administration items, such as change orders, claims, potential disputes
  - Review potential refinancings

**3. Excluded Services**

The scope of services will exclude the following services:

- Accounting policy review or advice, including constituting acceptance, endorsement or approval of any accounting application or compliance with any accounting standard or requirement;
- Providing guidance on cost accounting activities related on-going operations of the Project;
- Audit or valuation of historical financial performance relating to the Project;
- Tax advice including provision of a formal opinion, although KPMG will be pleased to discuss separate terms of engagement for these services if required;
- Preparation of cash flows for the Project and other technical projections required for project delivery, except as provided by the State; and
- Legal advice.

#### **4. Engagement Team**

The team we expect to deliver these services includes:

George Spakouris, Core Team - Engagement oversight/ Strategy  
 Alex Seleznyov, Core Team – Day-to-day engagement lead  
 Dan Adelman, Core Team – Engagement team  
 member Blair Trame, Core Team – Engagement team  
 member Corey Boock, Core Team – Nossaman  
 Elizabeth Cousins, Core Team -  
 Nossaman Other resources as needed

If needed, KPMG will also rely on KPMG International Cooperative's network of Member Firms to identify subject matter professionals who may bring international experience on similar projects.

California Accountancy Act – For engagements where services will be provided by the Contractor through offices located in California, the State acknowledges that certain of Contractor's personnel who may be considered "owners" under the California Accountancy act and implementing regulations (California Business and Professions Code section 5079(a); 16 Cal. Code Regs. sections 51 and 51.1) and who may provide services in connection with this engagement, may not be licensed as certified public accountants under the laws of any of the various states.

#### **5. Fees**

The State will compensate KPMG based on the established hourly rate of \$405 per hour for services KPMG performs and at an established hourly rate of \$605 per hour for the services Nossaman performs.

The total not to exceed budget within this Task Order is \$375,000.

The above budget attempts to incorporate experience from other similar work efforts. Please note in case additional budget is required, KPMG shall notify MDOT's Program Manager and coordinate to develop a supplemental task order as appropriate.

#### **6. Use of Member Firms and Third Parties**

Use of member firms ("Member Firms") includes references to member firms of KPMG International, other independent firms licensed by KPMG International to use the KPMG name and, in each case, firms controlled by them and third party service providers:

- a) The State acknowledges that in connection with the performance of services under this Task Order, KPMG and Member Firms, in their discretion or at State's direction, may utilize the services of third party service providers within and without the United States to complete the services under this task order.
- b) KPMG uses third party service providers within and without the United States to provide at the direction of KPMG administrative and clerical services to the KPMG Parties. These third party service providers may in the performance of such services have limited access to information, including but not limited to Confidential Information, received by KPMG from or at the request or direction of the State. KPMG represents that each such third party service provider has agreed to conditions of confidentiality with respect to the State's information to the same or similar extent as KPMG has agreed. KPMG has full responsibility to cause these third party service providers to comply with such conditions of confidentiality and KPMG shall be responsible for any consequences of their failure to comply.
- c) Accordingly, the State consents to KPMG's disclosure to a Member Firm or third party service provider and the use by such Member Firm and third party service provider of data and information, including but not limited to Confidential Information, received from or at the request or direction of the State.
- d) Any services performed by a Member Firm, affiliate or third party service provider shall be performed in accordance with the terms of this task order and these Standard Terms and Conditions, but KPMG shall remain responsible to the State for the performance of such services. The State agrees that any claim relating to the services under this task order may only be made against KPMG and not any other Member Firm or third party service provider referred to above.

#### **7. Intellectual Property, Third Party Use**

- a) KPMG shall retain ownership of any and all intellectual property rights in the product of KPMG's services performed hereunder, whether oral or written, and ownership of KPMG's work papers. The State shall acquire ownership of any product of the services performed in its tangible form upon payment in full of KPMG's fees. For the purposes of delivering services to the State and other KPMG clients, KPMG and its related entities shall be entitled to use, develop or share with each other knowledge, experience and skills of general application gained through performing the services hereunder. Any advice rendered by KPMG pursuant to this task order, written or oral, will be solely for the information and use of the State and treated by the State as confidential to the extent permitted by law and may not be disclosed in any manner to any other person, unless otherwise required by law (including, but not limited to Michigan's Freedom of Information Act), without KPMG's prior written approval.
- b) The advice, recommendations, work product, and deliverables provided as part of this task order will be developed for State management, and are not intended for use by any other party or for any other purpose, and may only be relied upon by State management and will be so marked. We disclaim any intention or obligation to update or revise the observations whether as a result of new information, future events or otherwise. Should additional documentation or other information become available which impacts upon the observations reached in our deliverables, we reserve the right to amend our observations and summary documents, including deliverables.

## **8. Other**

KPMG will require the support of the State and associated personnel in order to achieve timely completion of the aforementioned services. Support includes, but is not limited to, the collection of all relevant documents (paper or electronic) and the scheduling of interviews and coordination of meetings.

The State will designate a management level individual to oversee the conduct of these services, including coordination of project resources needed and review of draft deliverables. State personnel assigned to the project will review draft deliverables on a timely basis.

Additionally, the State and its other advisers will provide KPMG with underlying cost data for the Project as appropriate.

KPMG's services as outlined in this task order constitute an advisory engagement conducted under the American Institute of Certified Public Accountants ("AICPA") Standards for Consulting Services. Such services are not intended to be an audit, examination, attestation, special report or agreed-upon procedures engagements as those services are defined in AICPA literature applicable to such engagements conducted by independent auditors. Accordingly, these services shall not result in the issuance of a written communication to third parties by KPMG directly reporting on financial data or internal control or expressing a conclusion or any other form of assurance. Additionally, such services provided by KPMG or Nossaman are not intended to be legal services or the provision of legal advice, nor will such services result in the formation of the attorney-client relationship. The State and MDOT represent that they will not seek legal services or legal advice from KPMG or Nossaman under this Task Order, and they will solely rely on the Office of the Attorney General for such legal services and advice.

It is understood and agreed that KPMG is not registered with the SEC as a municipal advisor and that the State is not asking KPMG to provide, and KPMG will not provide, any services to the State which would require registration as a municipal advisor, including but not limited to advice with respect to municipal financial products or the issuance of municipal securities. Accordingly, KPMG will not make recommendations relating to municipal financial products or the issuance of municipal securities, and KPMG will not owe a fiduciary duty to the State under Section 15B of the Securities Exchange Act of 1934. The State represents to KPMG that if the State desires municipal advisor services in connection with or related to the subject matter of this engagement, it will obtain such services from another party.

In accordance with the terms of the original Engagement Letter, KPMG, in their discretion or at State's direction, may utilize the services of third party service providers within and without the United States to complete the services under the Engagement Letter in connection with the performance of services under the Engagement Letter. In consultation with the State and MDOT, services of Nossaman LLP (Address: 777 South Figueroa Street, 34th Floor, Los Angeles, CA 90017) are being retained in support of the expanded project scope to the scope. With respect to retaining services of Nossaman:

Nossaman is a subcontractor to KPMG. As such, all terms as applicable, from Contract No. 071 180000000879 will flow down from KPMG to Nossaman and all other subcontractors to KPMG.

All legal services are outside of the scope of Contract No. 071 180000000879, and neither KPMG nor Nossaman will be providing legal services to the State, pursuant to Contract No. 071 180000000879 and this Task Order/Statement of Work. The State and MDOT also acknowledge and agree that Nossaman is not licensed to practice law in the State of Michigan, Nossaman's work will not create attorney-client privilege with the State or MDOT.

**STATE OF MICHIGAN**  
**CENTRAL PROCUREMENT SERVICES**  
 Department of Technology, Management, and Budget  
 525 W. ALLEGAN ST., LANSING, MICHIGAN 48913  
 P.O. BOX 30026 LANSING, MICHIGAN 48909



**CONTRACT CHANGE NOTICE**

Change Notice Number **4 - REVISED**

to

Contract Number **17118000000879**

<b>CONTRACTOR</b>	KPMG, LLP
	55 Second Street , Suite 1400
	San Francisco, CA 94105
	Liam Kelly
	415-932-9040
	liamkelly@kpmg.com
	CV0059169

<b>STATE</b>	Program Manager	Various	
	Contract Administrator	Courtney Flores	DTMB
		(517) 249-0452	
		floresc@michigan.gov	

**CONTRACT SUMMARY**

**FINANCIAL & STRATEGIC CONSULTING AND ADVISORY SERV**

INITIAL EFFECTIVE DATE	INITIAL EXPIRATION DATE	INITIAL AVAILABLE OPTIONS	EXPIRATION DATE BEFORE
August 20, 2018	August 19, 2021	5 - 1 Year	August 19, 2021
PAYMENT TERMS		DELIVERY TIMEFRAME	
2%NET10, NET45		N/A	
ALTERNATE PAYMENT OPTIONS			EXTENDED PURCHASING
<input type="checkbox"/> P-Card <input type="checkbox"/> PRC <input type="checkbox"/> Other			<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No

**MINIMUM DELIVERY REQUIREMENTS**

N/A

**DESCRIPTION OF CHANGE NOTICE**

OPTION	LENGTH OF OPTION	EXTENSION	LENGTH OF EXTENSION	REVISED EXP. DATE
<input type="checkbox"/>	N/A	<input type="checkbox"/>	N/A	N/A
CURRENT VALUE	VALUE OF CHANGE NOTICE	ESTIMATED AGGREGATE CONTRACT VALUE		
\$2,602,870.00	\$95,000.00	\$2,697,870.00		

**DESCRIPTION**

Effective May 10, 2019, this Contract is increased \$95,000.00 and the following task order exclusively for the State of Michigan Executive Office is hereby incorporated into the Contract per the attached Statement of Work (SOW).

All other terms, conditions, specifications and pricing remain the same. Per Contractor and Agency agreement, and DTMB Central Procurement Services approval.

**Program Managers  
for  
Change Notice 4**

<b>AGENCY</b>	<b>NAME</b>	<b>PHONE</b>	<b>EMAIL</b>
Executive Office	Wenona Singel	517-241-5598	SingelW@michigan.gov
Executive Office	Corina Andorfer	517-335-2005	AndorferC1@michigan.gov,

**Statement of Work – Executive Office**  
**Advisory Services – Contract Document Compilation Project**  
**Contract 171 18000000879 - Change Notice 4**

KPMG LLP ("KPMG") is pleased to submit this task order letter ("task order") to review and work with agencies to help identify in-scope contracts (estimate 100 or less) for purposes of helping excerpt and compile certain defined contracting elements/attributes into a collectively agreed upon reporting format ("the Compilation").

This task order will form a delivery order under the contract between the State of Michigan and KPMG, contract number 171 18000000879 signed on September 20, 2018 (the "Contract"), and will confirm the basis upon which the State has engaged KPMG to provide advisory services for the Project. This task order will form the statement of work required pursuant to section 5.1 of the Contract for the services summarized above and described herein. This task order outlines our intended scope of work, our estimated fees, team structure, and terms of the engagement that will be performed exclusively for the State of Michigan Executive Office. This task order is subject to KPMG's standard client and engagement acceptance procedures.

**1. Background**

The State of Michigan is seeking to identify contracts that contain legal services and to compile certain attributes into a single spreadsheet, along with a summary of findings report. KPMG will review and work with agencies to help identify in-scope contracts (estimate 100 or less) for purposes of helping excerpt and compile certain defined elements/attributes into a collectively agreed upon reporting format ("the Compilation"); and complete the compilation on, or before, May 20, 2019.

**2. Services to be provided**

KPMG proposes that the approach for the Compilation will generally include:

- The review by KPMG Review Resources of each in-scope contract and additional information provided to KPMG to identify and record certain defined contract elements/attributes into a collectively agreed upon reporting format;
- KPMG U.S. Project Lead will oversee and conduct quality reviews to assess the accuracy of the compiled information; and

**Deliverables:** Final reporting in agreed-upon format – MS Excel document and a summary report of findings. The final report and any draft reports must only be sent to the Program Managers of this engagement, listed below:

- o Wenona Singel – SingelW@michigan.gov, 517-241-5598
- o Corina Andorfer - AndorferC1@michigan.gov, 517-335-2005

**3. Excluded Services**

The scope of services will exclude the following services:

- Accounting policy review or advice, including constituting acceptance, endorsement or approval of any accounting application or compliance with any accounting standard or requirement;
- Providing guidance on cost accounting activities;
- Audit or valuation of historical financial performance;
- Tax advice including provision of a formal opinion; and
- Legal advice.

**4. Engagement Team**

The team we expect to deliver these services includes:

- Jonathan Zdimal – U.S. Project Lead for overall engagement coordination, status updates and deliverables
- Alex Seleznyov - Engagement administration manager (contractual and administrative matters)
- Several U.S.-based resources to complete the Compilation (“KPMG Review Resources”)

KPMG’s Team must not have any conflict of interest with the contracts being reviewed. If a conflict of interest is identified during the project, the Program Manager must be notified immediately.

## 5. Fees

KPMG blended rate per the Contract – including discounted rate for KPMG Review Resources – shall be used for the purposes of this task order, based on actual hours incurred. Total estimated cost may be amended upon mutual agreement between the State and KPMG.

- KPMG blended rate per MSA:	<b>\$405 USD/hour</b>
- KPMG Review Resource rate	<b>\$250 USD/hour (discounted from MSA)</b>
- <b>Estimated total cost:</b>	<b>\$95,000 USD</b>

The target date for completion of the work described herein is May 20, 2019, but it is subject to factors such as availability of the necessary information, availability of senior State resources to provide data and guidance in relation to the Compilation, and requests for additional analysis.

## 6. Other

KPMG will require the support of the State and associated personnel in order to achieve timely completion of the aforementioned services. Support includes, but is not limited to, the collection of all relevant documents (paper or electronic) and the scheduling of interviews and coordination of meetings.

The State will designate a management level individual to oversee the conduct of these services, including coordination of project resources needed and review of draft deliverables. State personnel assigned to the project will review draft deliverables on a timely basis.

Additionally, the State and its other advisers will provide KPMG with underlying cost data for the Project as appropriate. If the foregoing correctly sets forth the agreement between the State and KPMG, please sign and return the enclosed copy of this proposal letter. If you have any questions with regard to our proposal, please reach out to me at your convenience.

KPMG’s services as outlined in this task order constitute an advisory engagement conducted under the American Institute of Certified Public Accountants (“AICPA”) Standards for Consulting Services. Such services are not intended to be an audit, examination, attestation, review, compilation, special report or agreed-upon procedures engagements as those services are defined in AICPA literature applicable to such engagements conducted by independent auditors.

Accordingly, these services shall not result in the issuance of a written communication to third parties by KPMG directly reporting on financial data or internal control or expressing a conclusion or any other form of assurance.

It is understood and agreed that KPMG is not registered with the SEC as a municipal advisor and that the State is not asking KPMG to provide, and KPMG will not provide, any services to the State which would require registration as a municipal advisor, including but not limited to advice with respect to municipal financial products or the issuance of municipal securities.

KPMG can offer no view or undertake any role that could be considered public policy advocacy or lobbying. This engagement letter will be incorporated by reference into the contract.



**STATE OF MICHIGAN**  
**CENTRAL PROCUREMENT SERVICES**  
 Department of Technology, Management, and Budget  
 525 W. ALLEGAN ST., LANSING, MICHIGAN 48913  
 P.O. BOX 30026 LANSING, MICHIGAN 48909



**CONTRACT CHANGE NOTICE**

Change Notice Number **3**  
 to  
 Contract Number **17118000000879**

<b>CONTRACTOR</b>	KPMG LLP
	55 Second Street Suite 1400
	San Francisco, CA 94105
	Liam Kelly
	415-932-9040
	liamkelly@kpmg.com
	CV0059169

<b>STATE</b>	Program Manager	Various	
	Contract Administrator	Courtney Flores	DTMB
		(517) 249-0452	floresc@michigan.gov

**CONTRACT SUMMARY**

**FINANCIAL & STRATEGIC CONSULTING AND ADVISORY SERV**

INITIAL EFFECTIVE DATE	INITIAL EXPIRATION DATE	INITIAL AVAILABLE OPTIONS	EXPIRATION DATE BEFORE
August 20, 2018	August 19, 2021	5 - 1 Year	August 19, 2021
PAYMENT TERMS		DELIVERY TIMEFRAME	
2%NET10, NET45		N/A	
ALTERNATE PAYMENT OPTIONS			EXTENDED PURCHASING
<input type="checkbox"/> P-Card <input type="checkbox"/> PRC <input type="checkbox"/> Other			<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No

**MINIMUM DELIVERY REQUIREMENTS**

N/A

**DESCRIPTION OF CHANGE NOTICE**

OPTION	LENGTH OF OPTION	EXTENSION	LENGTH OF EXTENSION	REVISED EXP. DATE
<input type="checkbox"/>	N/A	<input type="checkbox"/>	N/A	N/A
CURRENT VALUE	VALUE OF CHANGE NOTICE	ESTIMATED AGGREGATE CONTRACT VALUE		
\$2,602,870.00	\$0.00	\$2,602,870.00		

**DESCRIPTION**

Effective April 29, 2019, the following task order amendment for the Michigan Department of Transportation (MDOT) Bridge Bundling Project's Statement of Work (SOW), previously added as Change Notice 1, is hereby incorporated into the Contract.

All other terms, conditions, specifications and pricing remain the same. Per Contractor and Agency agreement, and DTMB Central Procurement Services approval.

**Program Managers  
for  
Multi-Agency and Statewide Contracts**

<b>AGENCY</b>	<b>NAME</b>	<b>PHONE</b>	<b>EMAIL</b>
MDOT	Greg Losch	517-719-2037	loschg@michigan.gov
MDHHS	Jessica Van Winkle	517-284-2996	vanwinklej@michigan.gov

**Statement of Work for the Michigan Department of Transportation  
Financial and Commercial Advisory Services – Bridge Bundling Project  
Contract 171 18000000879 - Change Notice 3**

KPMG LLP ("KPMG") is pleased to submit this amendment ("Amendment 1") to task order letter ("task order") to provide advisory services to the Michigan Department of Transportation ("MDOT"), including financial, strategic advice and program management support with respect to options analysis and initial project scoping and structuring for the reconstruction of a number of bridges owned by local agencies across the State of Michigan ("Project" or "Bridge Bundling Project").

This Amendment 1 will modify the existing task order under the contract between the State and KPMG, contract number 071 18000000879 signed on September 20, 2018 (the "Contract") and is subject to KPMG's standard client and engagement acceptance procedures. All other terms and conditions of the initial task order apply.

**1. Time and Scope Extension**

As part of advisory services to MDOT in support of the bundled bridges project, significant additional effort was required for the stakeholder engagement and support tasks, including building and educating the stakeholders on the survey tool, which was distributed to the local bridge owner agencies to confirm certain information with respect to their bridge program, to solicit additional information that is not currently known to MDOT, and to further secure the commitment of local agencies for the broader MDOT Local Agency Bridge Program.

Further, due to the stated project objective of greater collaboration and coordination with the local agencies, it took longer than expected to schedule a risk workshop with local bridge owner agency representatives.

As a result of the aforementioned items, additional time is required to complete the scope of services outlined in the original task order. It is anticipated that the core scope be completed by April 30, 2019, with some additional potential follow-up services, on as needed basis, to be provided through May 31, 2019.

**2. Budget Extension**

Due to the increase in the scope and the extension of time required to complete certain tasks in the subject task order, the total authorized budget is increased by \$225,000 of which \$175,000 is allocated for HNTB and \$50,000 – for KPMG.

The State and MDOT shall not be obligated to pay for, and KPMG shall not be obligated to incur, hours or fees which exceed the total not-to-exceed price of this Amendment 1, as may be amended by the parties from time to time.



**STATE OF MICHIGAN**  
**CENTRAL PROCUREMENT SERVICES**  
 Department of Technology, Management, and Budget  
 525 W. ALLEGAN ST., LANSING, MICHIGAN 48913  
 P.O. BOX 30026 LANSING, MICHIGAN 48909

**CONTRACT CHANGE NOTICE**

Change Notice Number 2  
 to  
 Contract Number 180000000879

<b>CONTRACTOR</b>	KPMG CORPORATE FINANCE, LLC
	303 East Wacker Drive
	Chicago, IL 60601
	Liam Kelly
	312-665-1204
	liamkelly@kpmg.com
	CV0059169

<b>STATE</b>	<b>Program Manager</b>	Courtney Flores	DTMB
		517-249-0452	
		floresc@michigan.gov	
	<b>Contract Administrator</b>	Courtney Flores	DTMB
		(517) 249-0452	
		floresc@michigan.gov	

**CONTRACT SUMMARY**

FINANCIAL & STRATEGIC CONSULTING AND ADVISORY SERVICES INCLUDING PUBLIC-PRIVATE PARTNERSHIP (P3) CONSULTING

INITIAL EFFECTIVE DATE	INITIAL EXPIRATION DATE	INITIAL AVAILABLE OPTIONS	EXPIRATION DATE BEFORE
August 20, 2018	August 19, 2021	5 - 1 Year	August 19, 2021
PAYMENT TERMS		DELIVERY TIMEFRAME	
2%NET10, NET45		N/A	
ALTERNATE PAYMENT OPTIONS			EXTENDED PURCHASING
<input type="checkbox"/> P-Card <input type="checkbox"/> PRC <input type="checkbox"/> Other			<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No

**MINIMUM DELIVERY REQUIREMENTS**

N/A

**DESCRIPTION OF CHANGE NOTICE**

OPTION	LENGTH OF OPTION	EXTENSION	LENGTH OF EXTENSION	REVISED EXP. DATE
<input type="checkbox"/>	N/A	<input type="checkbox"/>	N/A	
CURRENT VALUE	VALUE OF CHANGE NOTICE	ESTIMATED AGGREGATE CONTRACT VALUE		
\$2,602,870.00	\$0.00	\$2,602,870.00		

**DESCRIPTION**

Effective November 5, 2018, this following amendment is hereby incorporated into the Contract per the attached Statement of Work (SOW) for the Michigan Infrastructure Council.

All other terms, conditions, specifications, and pricing remain the same. Per Contractor and Agency agreement, and DTMB Procurement approval.

**Program Managers  
for  
Multi-Agency and Statewide Contracts**

<b>AGENCY</b>	<b>NAME</b>	<b>PHONE</b>	<b>EMAIL</b>
MDOT	Greg Losch	517-719-2037	loschg@michigan.gov
MDHHS	Jessica Van Winkle	517-284-2996	vanwinklej@michigan.gov

**Statement of Work for the Michigan Department of Transportation  
Financial and Commercial Advisory Services – Michigan Infrastructure Council  
Contract 171 18000000879 - Change Notice 2**

KPMG LLP ("KPMG") is pleased to submit this task order letter ("task order") to provide advisory services to the Michigan Infrastructure Council.

This task order will form a purchase order under the contract between the State of Michigan and KPMG, contract number 071 18000000879 signed on September 20, 2018 (the "Contract") and will confirm the basis upon which the State has engaged KPMG to provide advisory services for the Project. These tasks are highlighted in Schedule A, section 1.1 of the Contract. This task order will form the statement of work required pursuant to section 5.1 of the Contract for the services summarized above and described herein. This task order outlines our intended scope of work, our estimated fees, team structure, and terms of the engagement. This task order is subject to KPMG's standard client and engagement acceptance procedures.

**1. Services to be provided**

At the request of the State of Michigan Department of Treasury, KPMG may assist with presentation, facilitation, or written assistance to the Michigan Infrastructure Council.

**2. Engagement Team**

The team we expect to deliver these services includes:

Gareth Lifton – Engagement lead

If needed, KPMG will also rely on KPMG International Cooperative's network of Member Firms to identify subject matter professionals who may bring international experience on similar projects.

**3. Fees**

The State will compensate KPMG based on the established hourly rate of \$405 per hour.

Total fees are not to exceed \$25,000

**4. Use of Member Firms and Third Parties**

Use of member firms ("Member Firms") includes references to member firms of KPMG International, other independent firms licensed by KPMG International to use the KPMG name and, in each case, firms controlled by them and third party service providers:

- a) The State acknowledges that in connection with the performance of services under this Task Order, KPMG and Member Firms, in their discretion or at State's direction, may utilize the services of third party service providers within and without the United States to complete the services under this task order.
- b) KPMG uses third party service providers within and without the United States to provide at the direction of KPMG administrative and clerical services to the KPMG Parties. These third party service providers may in the performance of such services have limited access to information, including but not limited to Confidential Information, received by KPMG from or at the request or direction of the State. KPMG represents that each such third party service provider has agreed to conditions of confidentiality with respect to the State's information to the same or similar extent as KPMG has agreed. KPMG has full responsibility to cause these third party service providers to comply with such conditions of confidentiality and KPMG shall be responsible for any consequences of their failure to comply.
- c) Accordingly, the State consents to KPMG's disclosure to a Member Firm or third party service provider

and the use by such Member Firm and third party service provider of data and information, including but not limited to Confidential Information, received from or at the request or direction of the State.

- d) Any services performed by a Member Firm, affiliate or third party service provider shall be performed in accordance with the terms of this task order and these Standard Terms and Conditions, but KPMG shall remain responsible to the State for the performance of such services. The State agrees that any claim relating to the services under this task order may only be made against KPMG and not any other Member Firm or third party service provider referred to above.

## **5. Intellectual Property, Third Party Use**

- a) KPMG shall retain ownership of any and all intellectual property rights in the product of KPMG's services performed hereunder, whether oral or written, and ownership of KPMG's work papers. The State shall acquire ownership of any product of the services performed in its tangible form upon payment in full of KPMG's fees. For the purposes of delivering services to the State and other KPMG clients, KPMG and its related entities shall be entitled to use, develop or share with each other knowledge, experience and skills of general application gained through performing the services hereunder. Any advice rendered by KPMG pursuant to this task order, written or oral, will be solely for the information and use of the State and treated by the State as confidential and may not be disclosed in any manner to any other person without KPMG's prior written approval.
- b) The advice, recommendations, work product, and deliverables provided as part of this task order will be developed for State management, and are not intended for use by any other party or for any other purpose, and may only be relied upon by State management and will be so marked. We disclaim any intention or obligation to update or revise the observations whether as a result of new information, future events or otherwise. Should additional documentation or other information become available which impacts upon the observations reached in our deliverables, we reserve the right to amend our observations and summary documents, including deliverables, accordingly

## **6. Other**

KPMG's services as outlined in this task order constitute an advisory engagement conducted under the American Institute of Certified Public Accountants ("AICPA") Standards for Consulting Services. Such services are not intended to be an audit, examination, attestation, special report or agreed-upon procedures engagements as those services are defined in AICPA literature applicable to such engagements conducted by independent auditors. Accordingly, these services shall not result in the issuance of a written communication to third parties by KPMG directly reporting on financial data or internal control or expressing a conclusion or any other form of assurance.

It is understood and agreed that KPMG is not registered with the SEC as a municipal advisor and that the State is not asking KPMG to provide, and KPMG will not provide, any services to the State which would require registration as a municipal advisor, including but not limited to advice with respect to municipal financial products or the issuance of municipal securities. Accordingly, KPMG will not make recommendations relating to municipal financial products or the issuance of municipal securities, and KPMG will not owe a fiduciary duty to the State under Section 15B of the Securities Exchange Act of 1934. The State represents to KPMG that if the State desires municipal advisor services in connection with or related to the subject matter of this engagement, it will obtain such services from another party.

KPMG can offer no view or undertake any role that could be considered public policy advocacy or lobbying.

This engagement letter will be incorporated by reference into the contract.



**STATE OF MICHIGAN**  
**CENTRAL PROCUREMENT SERVICES**  
 Department of Technology, Management, and Budget  
 525 W. ALLEGAN ST., LANSING, MICHIGAN 48913  
 P.O. BOX 30026 LANSING, MICHIGAN 48909

**CONTRACT CHANGE NOTICE**

Change Notice Number 1  
 to  
 Contract Number 17118000000879

<b>CONTRACTOR</b>	KPMG CORPORATE FINANCE, LLC
	303 East Wacker Drive
	Chicago, IL 60601
	Liam Kelly
	312-665-1204
	liamkelly@kpmg.com
	CV0059169

<b>STATE</b>	<b>Program Manager</b>	Courtney Flores	DTMB
		517-249-0452	
		floresc@michigan.gov	
	<b>Contract Administrator</b>	Courtney Flores	DTMB
		(517) 249-0452	
		floresc@michigan.gov	

**CONTRACT SUMMARY**

FINANCIAL & STRATEGIC CONSULTING AND ADVISORY SERVICES INCLUDING PUBLIC-PRIVATE PARTNERSHIP (P3) CONSULTING

INITIAL EFFECTIVE DATE	INITIAL EXPIRATION DATE	INITIAL AVAILABLE OPTIONS	EXPIRATION DATE BEFORE
August 20, 2018	August 19, 2021	5 - 1 Year	August 19, 2021
PAYMENT TERMS		DELIVERY TIMEFRAME	
2%NET10, NET45		N/A	
ALTERNATE PAYMENT OPTIONS			EXTENDED PURCHASING
<input type="checkbox"/> P-Card <input type="checkbox"/> Direct Voucher (DV) <input type="checkbox"/> Other			<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No

**MINIMUM DELIVERY REQUIREMENTS**

N/A

**DESCRIPTION OF CHANGE NOTICE**

OPTION	LENGTH OF OPTION	EXTENSION	LENGTH OF EXTENSION	REVISED EXP. DATE
<input type="checkbox"/>	N/A	<input type="checkbox"/>	N/A	
CURRENT VALUE	VALUE OF CHANGE NOTICE	ESTIMATED AGGREGATE CONTRACT VALUE		
\$2,602,870.00	\$0.00	\$2,602,870.00		

**DESCRIPTION**

Effective September 27, 2018, the following amendment is hereby incorporated into the Contract per the attached Statement of Work (SOW) for the Michigan Department of Transportation (MDOT).

Please note the Contract Administrator has been changed to Courtney Flores: Phone 517-249-0452; Email: floresc@michigan.gov, per Section 2 and 3 of the Standard Contract Terms.

All other terms, conditions, specifications and pricing remain the same. Per Contractor and Agency agreement, and DTMB Procurement approval.



**Statement of Work for the Michigan Department of Transportation  
Financial and Commercial Advisory Services – Bridge Bundling Project  
Contract 171 18000000879 - Change Notice 1**

KPMG LLP ("KPMG") is pleased to submit this task order letter ("task order") to provide advisory services to the Michigan Department of Transportation ("MDOT"), including financial, strategic advice and program management support with respect to options analysis and initial project scoping and structuring for the reconstruction of a number of bridges owned by local agencies across the State of Michigan ("Project"). KPMG's participation in the work described herein will not preclude KPMG from participation in the future qualification process for program management services in relation to this Project.

This task order will form a purchase order under the contract between the State of Michigan and KPMG, contract number 171 18000000879 signed on September 20, 2018 (the "Contract"), and will confirm the basis upon which the State has engaged KPMG to provide advisory services for the Project. These tasks are highlighted in Schedule A, section 1.1 of the Contract. This task order will form the statement of work required pursuant to section 5.1 of the Contract for the services summarized above and described herein. This task order outlines our intended scope of work, our estimated fees, team structure, and terms of the engagement. This task order is subject to KPMG's standard client and engagement acceptance procedures.

**1. Background**

MDOT is seeking to address a number of closed, serious or critical local agency bridges, and bring them to a good condition state, while also developing and implementing an effective bridge management system to optimize bridge condition, and investments in the local agency bridge network. The project may include increased involvement of the private sector through a type of Private-Public-Partnership (P3) and private investment.

This program will require coordination between the Michigan Department of Transportation, as the lead agency, and the various Michigan Local Agencies, and their advocacy groups, such as the County Road Association (CRA), and the Michigan Municipal League (MML). This partnership already exists as part of Public Act of 1951, which denotes the share of Michigan Transportation Funds (MTF) distributed to each entity.

**2. Services to be provided**

The scope of services involves assistance to MDOT with respect to the initial analysis of scope and delivery options for the project, asset management strategy, as well as helping MDOT conduct a market sounding to test the potential solutions with industry participants. MDOT has requested that a technical advisor be brought in as subcontractor to KPMG to assist with the program management aspects of the work, including network level analysis, development of screening tier levels, and bundling options. The selection and onboarding of the technical advisor is subject to mutual agreement between MDOT and KPMG. Onboarding of Technical Advisor will be contingent upon completion of KPMG's onboarding process, which includes conflicts checks, and the selected consultant's acceptance of KPMG's terms and conditions.

The delivery of services will be provided in two phases:

- Phase I: Project Assessment
- Phase II: Project Implementation

**Phase I – Project Assessment**

**Qualitative project delivery options analysis**

KPMG will work with MDOT to:

- Discuss a set of key project objectives against which all potential delivery and scope options will be evaluated;
- Review with MDOT key challenges and constraints associated with the bridge bundling project;
- Assist in defining at a high level the project(s) scope options;
- Identify and discuss at a high level potential project delivery options subject to MDOT policy limitations;
- Analysis will consider:
  - Geography of the bridge bundles
  - Opportunity for technical innovation
  - Coordination with other agencies and stakeholders
  - Funding sources and limitations
  - Various alternative delivery options
  - Schedule considerations and limitations

- Identify and discuss relevant bundling options for some of the project segments subject to MDOT policy limitations; and
- Outline potential pros and cons for each of the options;
- Provide qualitative assessment of each of the potential scope and delivery options against the key project objectives;
- Participate in meetings with MDOT as requested.

#### **Network level review of MiBRIDGE data**

Technical Advisor will review the data on network level based on the following criteria, among others:

- Bridge replacements for serious, critical and closed bridges
- Deck replacements and other major rehabilitation activities for poor bridges
- Strengthening and other major rehabilitation activities for load posted, or restricted bridges
- Maintenance and Preservation activities for fair bridges

#### **Develop project and bundle screening criteria**

Technical advisor, in collaboration with KPMG will review and screen project bundles based on the following potential criteria, among others:

- Tier I: Construction within 6 months:
  - Categorical Exclusion
  - Rural location
  - Limited to no utility impacts
  - No ROW needs
  - Full closure versus part-width construction
  - No major geometric improvements
  - Not over a waterway
  - Not over a railroad
- Tier II: Construction within 12 months:
  - Categorical Exclusion
  - Rural location
  - Easily resolvable utility impacts
  - Limited ROW needs, consent to grade, etc.
  - Minor geometric improvements – widening, underclearance, etc.
  - Over a waterway, with existing waterway adequacy
  - Not over a railroad
- Tier III: Construction within 24 months:
  - Categorical Exclusion
  - Urban location
  - Significant utility relocations
  - Major impacts to mobility – need staged construction
  - Major geometric improvements, approach roadway improvements
  - Over a waterway, requires bridge lengthening for waterway adequacy
  - Not over a railroad
- Tier IV: Construction within 36 months
  - Possible Environmental Assessment
  - Urbanized area, downtown gateway, requiring context sensitive solutions
  - Railroad bridges

#### **Quantitative options analysis and whole life cost assessment**

KPMG will work with MDOT and the technical advisor to:

- Help facilitate risk workshop sessions in conjunction with MDOT and technical advisor;
- Assist MDOT in updating and compiling a risk matrix that reflects critical commercial considerations;
- Support MDOT and its technical advisor on risk quantification considerations;
- Work with MDOT and technical advisor to define project scope, estimates of capital and on-going costs including the one proposed pump station within the project limits, project delivery timeline, and financial inputs for a traditional vs more integrated project delivery;

- Advise on the development of different financial analysis scenarios;
- Perform a high level value for money analysis comparing the risk-adjusted whole life cost of the project a traditional vs more integrated project delivery;
- Identify funding/financing tools available for each option to be part of the quantitative analysis
- Conduct high level financial analysis of the various delivery and segment bundling options to estimate potential project cost under each option to help MDOT assess overall affordability.

**Market sounding (subject to separate notice to proceed)**

KPMG will work with MDOT to:

- Organize and conduct a market sounding exercise to solicit industry feedback on the potential solutions to help further guide project development process.

**Phase II – Project Implementation**

**Implementation (subject to separate notice to proceed)**

If MDOT reaches an agreement for the procurement of the project, KPMG will work with MDOT to:

- Advice on project development, including development of heads of terms
- Assist with development of procurement documents and procurement strategy
- Advice on asset management strategy for bridges portfolio and performance incentives
- Perform financial analysis and advice on different funding and financing options and processes
- Support in the evaluation of statements of qualifications and proposals
- Provide support in negotiations with market players
- Assist with reaching commercial and financial close
- Advice on contract administration phases

**Deliverables:** Qualitative and quantitative analysis summaries, network analysis, screening framework, cost inputs, draft project scope, financial analysis results. Interim and draft deliverables related to qualitative, quantitative analysis, market sounding, and technical work, will be provided to MDOT on ongoing basis for review and feedback.

**3. Excluded Services**

The scope of the optional additional services will continue to exclude the following services:

- Accounting policy review or advice, including constituting acceptance, endorsement or approval of any accounting application or compliance with any accounting standard or requirement;
- Providing guidance on cost accounting activities related on-going operations of the Project;
- Audit or valuation of historical financial performance relating to subject bridge assets;
- Tax advice including provision of a formal opinion, although KPMG will be pleased to discuss separate terms of engagement for these services if required;
- Audit or validation of the financial model provided by bidders for the Project. Recommendations arising from model outputs are the sole responsibility of State management to evaluate and implement;
- Preparation of cash flows for the network of bridges and other technical projections required for project delivery, except as provided by the State; and
- Legal advice.

**4. Engagement Team**

The team we expect to deliver these services includes:

Liam Kelly, QA/QC – Strategic advice  
 George Spakouris, Core Team - Engagement lead  
 Alex Seleznyov, Core Team - Engagement manager  
 Hugh Campbell, Core Team - Engagement team member  
 Blair Trame, Core Team – Engagement team member  
 Dan Adelman, Core Team –Engagement team member  
 Technical Advisor team - TBD  
 Other resources as needed

If needed, KPMG will also rely on KPMG International Cooperative's network of Member Firms to identify subject

matter professionals who may bring international experience on similar projects.

California Accountancy Act – For engagements where services will be provided by the Contractor through offices located in California, the State acknowledges that certain of Contractor's personnel who may be considered "owners" under the California Accountancy act and implementing regulations (California Business and Professions Code section 5079(a); 16 Cal. Code Regs. sections 51 and 51.1) and who may provide services in connection with this engagement, may not be licensed as certified public accountants under the laws of any of the various states.

## **5. Fees**

The State will compensate KPMG based on the established hourly rate of \$405 per hour. The anticipated fees for the services outlined above are as follows:

- Phase I
  - KPMG scope: \$400,000
  - KPMG scope – Market Sounding: \$40,000
  - Technical advisor scope: \$300,000
- Phase II
  - KPMG scope – Implementation: 1,200,000

The target date for completion of the work described herein for Phase I is January 31, 2019, but it is subject to factors such as availability of the necessary information, availability of senior MDOT management provide guidance in relation to the project, and requests for additional analysis.

## **6. Use of Member Firms and Third Parties**

Use of member firms ("Member Firms") includes references to member firms of KPMG International, other independent firms licensed by KPMG International to use the KPMG name and, in each case, firms controlled by them and third party service providers:

- a) The State acknowledges that in connection with the performance of services under this Task Order, KPMG and Member Firms, in their discretion or at State's direction, may utilize the services of third party service providers within and without the United States to complete the services under this task order.
- b) KPMG uses third party service providers within and without the United States to provide at the direction of KPMG administrative and clerical services to the KPMG Parties. These third party service providers may in the performance of such services have limited access to information, including but not limited to Confidential Information, received by KPMG from or at the request or direction of the State. KPMG represents that each such third party service provider has agreed to conditions of confidentiality with respect to the State's information to the same or similar extent as KPMG has agreed. KPMG has full responsibility to cause these third party service providers to comply with such conditions of confidentiality and KPMG shall be responsible for any consequences of their failure to comply.
- c) Accordingly, the State consents to KPMG's disclosure to a Member Firm or third party service provider and the use by such Member Firm and third party service provider of data and information, including but not limited to Confidential Information, received from or at the request or direction of the State.
- d) Any services performed by a Member Firm, affiliate or third party service provider shall be performed in accordance with the terms of this task order and these Standard Terms and Conditions, but KPMG shall remain responsible to the State for the performance of such services. The State agrees that any claim relating to the services under this task order may only be made against KPMG and not any other Member Firm or third party service provider referred to above.

## **7. Intellectual Property, Third Party Use**

- a) KPMG shall retain ownership of any and all intellectual property rights in the product of KPMG's services performed hereunder, whether oral or written, and ownership of KPMG's work papers. The State shall acquire ownership of any product of the services performed in its tangible form upon payment in full of KPMG's fees. For the purposes of delivering services to the State and other KPMG clients, KPMG and its related entities shall be entitled to use, develop or share with each other knowledge, experience and skills of general application gained through performing the services hereunder. Any advice rendered by KPMG pursuant to this task order, written or oral, will be solely for the information and use of the State and treated by the State as confidential and may not be disclosed

in any manner to any other person without KPMG's prior written approval.

- b) The advice, recommendations, work product, and deliverables provided as part of this task order will be developed for State management, and are not intended for use by any other party or for any other purpose, and may only be relied upon by State management and will be so marked. We disclaim any intention or obligation to update or revise the observations whether as a result of new information, future events or otherwise. Should additional documentation or other information become available which impacts upon the observations reached in our deliverables, we reserve the right to amend our observations and summary documents, including deliverables, accordingly

## **8. Other**

We will require the support of the State and associated personnel in order to achieve timely completion of the aforementioned services. Support includes, but is not limited to, the collection of all relevant documents (paper or electronic) and the scheduling of interviews and coordination of meetings.

The State will designate a management level individual to oversee the conduct of these services, including coordination of project resources needed and review of draft deliverables. State personnel assigned to the project will review draft deliverables on a timely basis.

Additionally, the State and its other advisers will provide KPMG with underlying cost data for the Project as appropriate. If the foregoing correctly sets forth the agreement between the State and KPMG, please sign and return the enclosed copy of this proposal letter. If you have any questions with regard to our proposal, please reach out to me at your convenience.

KPMG's services as outlined in this task order constitute an advisory engagement conducted under the American Institute of Certified Public Accountants ("AICPA") Standards for Consulting Services. Such services are not intended to be an audit, examination, attestation, special report or agreed-upon procedures engagements as those services are defined in AICPA literature applicable to such engagements conducted by independent auditors. Accordingly, these services shall not result in the issuance of a written communication to third parties by KPMG directly reporting on financial data or internal control or expressing a conclusion or any other form of assurance.

It is understood and agreed that KPMG is not registered with the SEC as a municipal advisor and that the State is not asking KPMG to provide, and KPMG will not provide, any services to the State which would require registration as a municipal advisor, including but not limited to advice with respect to municipal financial products or the issuance of municipal securities. Accordingly, KPMG will not make recommendations relating to municipal financial products or the issuance of municipal securities, and KPMG will not owe a fiduciary duty to the State under Section 15B of the Securities Exchange Act of 1934. The State represents to KPMG that if the State desires municipal advisor services in connection with or related to the subject matter of this engagement, it will obtain such services from another party.

KPMG can offer no view or undertake any role that could be considered public policy advocacy or lobbying.

This engagement letter will be incorporated by reference into the contract.



**STATE OF MICHIGAN  
ENTERPRISE PROCUREMENT**

Department of Technology Management and Budget, Procurement  
525 West Allegan, Lansing MI 48933

**NOTICE OF CONTRACT**

NOTICE OF CONTRACT NO. **171 180000000879**

between  
THE STATE OF MICHIGAN  
and

<b>CONTRACTOR</b>	KPMG LLP
	303 East Wacker Drive
	Chicago, IL 60601
	Liam Kelly
	(312) 665-1204
	liamkelly@kpmg.com
	CV0059169

<b>STATE</b>	Program Manager	Lisa Spitzley	DTMB
		517-249-0440	
		SpitzleyL4@michigan.gov	
	Contract Administrator	Lisa Spitzley	DTMB
		517-249-0440	
		SpitzleyL4@michigan.gove	

<b>CONTRACT SUMMARY</b>			
<b>DESCRIPTION:</b> Financial & Strategic Consulting and Advisory Services including Public-Private Partnership (P3) Consulting			
INITIAL EFFECTIVE DATE	INITIAL EXPIRATION DATE	INITIAL AVAILABLE OPTIONS	EXPIRATION DATE BEFORE CHANGE(S) NOTED BELOW
August 20, 2018	August 19, 2021	5 – 1 Year Options	
PAYMENT TERMS		DELIVERY TIMEFRAME	
2%NET10, NET45		N/A	
ALTERNATE PAYMENT OPTIONS			EXTENDED PURCHASING
<input type="checkbox"/> P-card <input type="checkbox"/> Direct Voucher (DV) <input type="checkbox"/> Other			<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
MINIMUM DELIVERY REQUIREMENTS			
N/A			
MISCELLANEOUS INFORMATION			
<b>THIS IS NOT AN ORDER. This Contract Agreement is awarded on the basis of our inquiring RFP No. 180000002028. Orders for delivery will be issued directly by Departments through the issuance of a Delivery Order (DO) Form.</b>			
ESTIMATED CONTRACT VALUE AT TIME OF EXECUTION			<b>\$2,602,870.00</b>

**FOR THE CONTRACTOR:**

**KPMG LLP**  
Company Name

\_\_\_\_\_  
Authorized Agent Signature

\_\_\_\_\_  
Authorized Agent (Print or Type)

\_\_\_\_\_  
Date

**FOR THE STATE:**

\_\_\_\_\_  
Signature

**Chelsea Edgett, Service Manager**  
Name & Title

**DTMB Central Procurement Services**  
Agency

\_\_\_\_\_  
Date



# STATE OF MICHIGAN

## STANDARD CONTRACT TERMS

This STANDARD CONTRACT (“**Contract**”) is agreed to between the State of Michigan (the “**State**”) and KPMG LLP (“**Contractor**”), a Delaware registered Limited Liability Partnership. This Contract is effective on August 20, 2018 (“**Effective Date**”), and unless terminated, expires on August 19, 2021.

This Contract may be renewed for up to 5 additional one-year period(s). Renewal is at the sole discretion of the State and will automatically extend the Term of this Contract. The State will document its exercise of renewal options via Contract Change Notice.

The parties agree as follows:

- 1. Duties of Contractor.** Contractor must perform the services and provide the deliverables described in **Schedule A – Statement of Work** (the “**Contract Activities**”). An obligation to provide delivery of any commodity is considered a service and is a Contract Activity.

Contractor must furnish all labor, equipment, materials, and supplies necessary for the performance of the Contract Activities, and meet operational standards, unless otherwise specified in Schedule A.

Contractor must: (a) perform the Contract Activities in a timely, professional, safe, and workmanlike manner consistent with standards in the trade, profession, or industry; (b) meet or exceed the performance and operational standards, and specifications of the Contract; (c) provide all Contract Activities in good quality, with no material defects; (d) not interfere with the State’s operations; (e) obtain and maintain all necessary licenses, permits or other authorizations necessary for the performance of the Contract; (f) cooperate with the State, including the State’s quality assurance personnel, and any third party to achieve the objectives of the Contract; (g) return to the State any State-furnished equipment or other resources in the same condition as when provided when no longer required for the Contract; (h) not make any media releases without prior written authorization from the State; (i) assign to the State any claims resulting from state or federal antitrust violations to the extent that those violations concern materials or services supplied by third parties toward fulfillment of the Contract; (j) comply with all State physical and IT security policies and standards which will be made available upon request; and (k) provide the State priority in performance of the Contract except as mandated by federal disaster response requirements. Any breach under this paragraph is considered a material breach.

Contractor must also be clearly identifiable while on State property by wearing identification issued by the State, and clearly identify themselves whenever making contact with the State.

- 2. Notices.** All notices and other communications required or permitted under this Contract must be in writing and will be considered given and received: (a) when verified by written receipt if sent by courier; (b) when actually received if sent by mail without verification of receipt; or (c) when verified by automated receipt or electronic logs if sent by facsimile or email.

If to State:	If to Contractor:
Lisa Spitzley 525 W. Allegan 1 <sup>st</sup> Floor Lansing MI 48913 spitzleyl4@michigan.gov (517) 249-0440	Liam Kelly 55 Second Street Suite 1400 San Francisco, CA 94105 +1 415-932-9040 liamkelly@kpmg.com



3. **Contract Administrator.** The Contract Administrator for each party is the only person authorized to modify any terms of this Contract, and approve and execute any change under this Contract (each a "Contract Administrator"):

<b>State:</b> Lisa Spitzley 525 W. Allegan 1 <sup>st</sup> Floor Lansing MI 48913 spitzleyl4@michigan.gov (517) 249-0440	<b>Contractor:</b> Liam Kelly 55 Second Street Suite 1400 San Francisco, CA 94105 +1 415-932-9040 liamkelly@kpmg.com
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4. **Program Manager.** The Program Manager for each party will monitor and coordinate the day-to-day activities of the Contract (each a "Program Manager"):

<b>State:</b> <b>MDOT:</b> Greg Losch 425 W. Ottawa St. Lansing MI 48933 LoschG@michigan.gov (517) 719-2037  <b>MDHHS:</b> Jessica Van Winkle 235 S. Grand Ave. Lansing, MI 48933 vanwinklej@michigan.gov	<b>Contractor:</b> Liam Kelly 55 Second Street Suite 1400 San Francisco, CA 94105 +1 415-932-9040 liamkelly@kpmg.com
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5. **Performance Guarantee.** Contractor must at all times have financial resources sufficient, in the opinion of the State, to ensure performance of the Contract and must provide proof upon request.
6. **Insurance Requirements.** Contractor must maintain the insurances identified below and is responsible for all deductibles. All required insurance must: (a) protect the State from claims that may arise out of, are alleged to arise out of, or result from Contractor's or a subcontractor's performance; (b) be primary and non-contributing to any comparable liability insurance (including self-insurance) carried by the State; and (c) be provided by a company with an A.M. Best rating of "A" or better, and a financial size of VII or better.

Required Limits	Additional Requirements
<b>Commercial General Liability Insurance</b>	
<u>Minimal Limits:</u> \$1,000,000 Each Occurrence Limit \$1,000,000 Personal & Advertising Injury Limit \$2,000,000 General Aggregate Limit \$2,000,000 Products/Completed Operations  <u>Deductible Maximum:</u> \$50,000 Each Occurrence	Contractor must have their policy endorsed to add "the State of Michigan, its departments, divisions, agencies, offices, commissions, officers, employees, and agents" as additional insureds using endorsement CG 20 10 11 85, or both CG 2010 07 04 and CG 2037 07 0.
<b>Automobile Liability Insurance</b>	
<u>Minimal Limits:</u> \$1,000,000 Per Occurrence	Contractor must have their policy: (1) endorsed to add "the State of Michigan, its departments, divisions, agencies, offices, commissions, officers, employees, and agents" as additional insureds; and (2)

	include Hired and Non-Owned Automobile coverage.
<b>Workers' Compensation Insurance</b>	
<u>Minimal Limits:</u> Coverage according to applicable laws governing work activities.	Waiver of subrogation, except where waiver is prohibited by law.
<b>Employers Liability Insurance</b>	
<u>Minimal Limits:</u> \$500,000 Each Accident \$500,000 Each Employee by Disease \$500,000 Aggregate Disease.	
<b>Crime (Fidelity) Insurance</b>	
<u>Minimal Limits:</u> \$1,000,000 Employee Theft Per Loss	Contractor must have their policy: (1) cover forgery and alteration, theft of money and securities, robbery and safe burglary, computer fraud, funds transfer fraud, money order and counterfeit currency, and (2) endorsed to add "the State of Michigan, its departments, divisions, agencies, offices, commissions, officers, employees, and agents" as Loss Payees.

<b>Professional Liability (Errors and Omissions) Insurance, Including Cyber Liability</b>	
<u>Minimal Limits:</u> \$3,000,000 Each Occurrence \$3,000,000 Annual Aggregate	Contractor must have their policy cover information security and privacy liability, privacy notification costs, regulatory defense and penalties, and website media content liability.
<u>Deductible Maximum:</u> \$50,000 Per Loss	

If any of the required policies provide **claims-made** coverage, the Contractor must: (a) provide coverage with a retroactive date before the effective date of the contract or the beginning of Contract Activities; (b) maintain coverage and provide evidence of coverage for at least three (3) years after completion of the Contract Activities; and (c) if coverage is canceled or not renewed, and not replaced with another claims-made policy form with a retroactive date prior to the contract effective date, Contractor must purchase extended reporting coverage for a minimum of three (3) years after completion of work.

Contractor must: (a) provide insurance certificates to the Contract Administrator, containing the agreement or purchase order number, at Contract formation and within 20 calendar days of the expiration date of the applicable policies; (b) require that subcontractors maintain the required insurances contained in this Section; (c) notify the Contract Administrator within 5 business days if any insurance is cancelled; and (d) waive all rights against the State for damages covered by insurance. Failure to maintain the required insurance does not limit this waiver.

This Section is not intended to and is not be construed in any manner as waiving, restricting or limiting the liability of either party for any obligations under this Contract (including any provisions hereof requiring Contractor to indemnify, defend and hold harmless the State).

- Administrative Fee and Reporting.** Contractor must pay an administrative fee of 1% on all payments made to Contractor under the Contract including transactions with the State (including its departments, divisions, agencies, offices, and commissions), MiDEAL members, and other states (including governmental subdivisions and authorized entities). Administrative fee payments must be made by check payable to the State of Michigan and mailed to:

Department of Technology, Management and Budget  
Cashiering  
P.O. Box 30681  
Lansing, MI 48909

Contractor must submit an itemized purchasing activity report, which includes at a minimum, the name of the purchasing entity and the total dollar volume in sales. Reports should be mailed to DTMB-Procurement.

The administrative fee and purchasing activity report are due within 30 calendar days from the last day of each calendar quarter.

- 8. Extended Purchasing Program** This contract is extended to MiDEAL members. MiDEAL members include local units of government, school districts, universities, community colleges, and nonprofit hospitals. A current list of MiDEAL members is available at [www.michigan.gov/mideal](http://www.michigan.gov/mideal). Upon written agreement between the State and Contractor, this contract may also be extended to: (a) State of Michigan employees and (b) other states (including governmental subdivisions and authorized entities).

If extended, Contractor must supply all Contract Activities at the established Contract prices and terms. The State reserves the right to impose an administrative fee and negotiate additional discounts based on any increased volume generated by such extensions.

Contractor must submit invoices to, and receive payment from, extended purchasing program members on a direct and individual basis.

- 9. Independent Contractor.** Contractor is an independent contractor and assumes all rights, obligations and liabilities set forth in this Contract. Contractor, its employees, and agents will not be considered employees of the State. No partnership or joint venture relationship is created by virtue of this Contract. Contractor, and not the State, is responsible for the payment of wages, benefits and taxes of Contractor's employees and any subcontractors. Prior performance does not modify Contractor's status as an independent contractor. Contractor hereby acknowledges that the State is and will be the sole and exclusive owner of all right, title, and interest in the Contract Activities and all associated intellectual property rights, if any. Such Contract Activities are works made for hire as defined in Section 101 of the Copyright Act of 1976. To the extent any Contract Activities and related intellectual property do not qualify as works made for hire under the Copyright Act, Contractor will, and hereby does, immediately on its creation, assign, transfer and otherwise convey to the State, irrevocably and in perpetuity, throughout the universe, all right, title and interest in and to the Contract Activities, including all intellectual property rights therein.
- 10. Subcontracting.** Contractor may not delegate any of its obligations under the Contract without the prior written approval of the State. Contractor must notify the State at least 90 calendar days before the proposed delegation, and provide the State any information it requests to determine whether the delegation is in its best interest. If approved, Contractor must: (a) be the sole point of contact regarding all contractual matters, including payment and charges for all Contract Activities; (b) make all payments to the subcontractor; and (c) incorporate the terms and conditions contained in this Contract in any subcontract with a subcontractor. Contractor remains responsible for the completion of the Contract Activities, compliance with the terms of this Contract, and the acts and omissions of the subcontractor. The State, in its sole discretion, may require the replacement of any subcontractor.
- 11. Staffing.** The State's Contract Administrator may require Contractor to remove or reassign personnel by providing a notice to Contractor.
- 12. Background Checks.** Upon request, Contractor must perform background checks on all employees and subcontractors and its employees prior to their assignment. The scope is at the discretion of the State and documentation must be provided as requested. Contractor is responsible for all costs associated with the requested background checks. The State, in its sole discretion, may also perform background checks.
- 13. Assignment.** Contractor may not assign this Contract to any other party without the prior approval of the State. Upon notice to Contractor, the State, in its sole discretion, may assign in whole or in part, its rights or responsibilities under this Contract to any other party. If the State determines that a novation of the

Contract to a third party is necessary, Contractor will agree to the novation and provide all necessary documentation and signatures.

- 14. Change of Control.** Contractor will notify, at least 90 calendar days before the effective date, the State of a change in Contractor's organizational structure or ownership. For purposes of this Contract, a change in control means any of the following: (a) a sale of more than 50% of Contractor's stock; (b) a sale of substantially all of Contractor's assets; (c) a change in a majority of Contractor's board members; (d) consummation of a merger or consolidation of Contractor with any other entity; (e) a change in ownership through a transaction or series of transactions; (f) or the board (or the stockholders) approves a plan of complete liquidation. A change of control does not include any consolidation or merger effected exclusively to change the domicile of Contractor, or any transaction or series of transactions principally for bona fide equity financing purposes.

In the event of a change of control, Contractor must require the successor to assume this Contract and all of its obligations under this Contract.

- 15. Ordering.** Contractor is not authorized to begin performance until receipt of authorization as identified in Schedule A.
- 16. Acceptance.** Contract Activities are subject to inspection and testing by the State within 30 calendar days of the State's receipt of them ("**State Review Period**"), unless otherwise provided in Schedule A. If the Contract Activities are not fully accepted by the State, the State will notify Contractor by the end of the State Review Period that either: (a) the Contract Activities are accepted, but noted deficiencies must be corrected; or (b) the Contract Activities are rejected. If the State finds material deficiencies, it may: (i) reject the Contract Activities without performing any further inspections; (ii) demand performance at no additional cost; or (iii) terminate this Contract in accordance with Section 23, Termination for Cause. Within 10 business days from the date of Contractor's receipt of notification of acceptance with deficiencies or rejection of any Contract Activities, Contractor must cure, at no additional cost, the deficiency and deliver unequivocally acceptable Contract Activities to the State. If acceptance with deficiencies or rejection of the Contract Activities impacts the content or delivery of other non-completed Contract Activities, the parties' respective Program Managers must determine an agreed to number of days for re-submission that minimizes the overall impact to the Contract. However, nothing herein affects, alters, or relieves Contractor of its obligations to correct deficiencies in accordance with the time response standards set forth in this Contract. If Contractor is unable or refuses to correct the deficiency within the time response standards set forth in this Contract, the State may cancel the order in whole or in part. The State, or a third party identified by the State, may perform the Contract Activities and recover the difference between the cost to cure and the Contract price plus an additional 10% administrative fee.
- 17. Delivery.** Contractor must deliver all Contract Activities F.O.B. destination, within the State premises with transportation and handling charges paid by Contractor, unless otherwise specified in Schedule A. All containers and packaging becomes the State's exclusive property upon acceptance.
- 18. Risk of Loss and Title.** Until final acceptance, title and risk of loss or damage to Contract Activities remains with Contractor. Contractor is responsible for filing, processing, and collecting all damage claims. The State will record and report to Contractor any evidence of visible damage. If the State rejects the Contract Activities, Contractor must remove them from the premises within 10 calendar days after notification of rejection. The risk of loss of rejected or non-conforming Contract Activities remains with Contractor. Rejected Contract Activities not removed by Contractor within 10 calendar days will be deemed abandoned by Contractor, and the State will have the right to dispose of it as its own property. Contractor must reimburse the State for costs and expenses incurred in storing or effecting removal or disposition of rejected Contract Activities.
- 19. Warranty Period.** The warranty period, if applicable, for Contract Activities is a fixed period commencing on the date specified in Schedule A. If the Contract Activities do not function as warranted during the warranty period the State may return such non-conforming Contract Activities to the Contractor for a full refund.
- 20. Terms of Payment.** Invoices must conform to the requirements communicated from time-to-time by the State. All undisputed amounts are payable within 45 days of the State's receipt. Contractor may only charge for Contract Activities performed as specified in Schedule A. Invoices must include an itemized statement of all charges. The State is exempt from State sales tax for direct purchases and may be exempt from federal excise tax, if Services purchased under this Agreement are for the State's exclusive

use. Notwithstanding the foregoing, all prices are inclusive of taxes, and Contractor is responsible for all sales, use and excise taxes, and any other similar taxes, duties and charges of any kind imposed by any federal, state, or local governmental entity on any amounts payable by the State under this Contract.

The State has the right to withhold payment of any disputed amounts until the parties agree as to the validity of the disputed amount. The State will notify Contractor of any dispute within a reasonable time. Payment by the State will not constitute a waiver of any rights as to Contractor's continuing obligations, including claims for deficiencies or substandard Contract Activities. Contractor's acceptance of final payment by the State constitutes a waiver of all claims by Contractor against the State for payment under this Contract, other than those claims previously filed in writing on a timely basis and still disputed.

The State will only disburse payments under this Contract through Electronic Funds Transfer (EFT). Contractor must register with the State at <http://www.michigan.gov/SIGMAVSS> to receive electronic fund transfer payments. If Contractor does not register, the State is not liable for failure to provide payment. Without prejudice to any other right or remedy it may have, the State reserves the right to set off at any time any amount then due and owing to it by Contractor against any amount payable by the State to Contractor under this Contract.

21. **Liquidated Damages.** Liquidated damages, if applicable, will be assessed as described in Schedule A.
22. **Stop Work Order.** The State may suspend any or all activities under the Contract at any time. The State will provide Contractor a written stop work order detailing the suspension. Contractor must comply with the stop work order upon receipt. Within 90 calendar days, or any longer period agreed to by Contractor, the State will either: (a) issue a notice authorizing Contractor to resume work, or (b) terminate the Contract or purchase order. The State will not pay for Contract Activities, Contractor's lost profits, or any additional compensation during a stop work period.
23. **Termination for Cause.** The State may terminate this Contract for cause, in whole or in part, if Contractor, as determined by the State: (a) endangers the value, integrity, or security of any location, data, or personnel; (b) becomes insolvent, petitions for bankruptcy court proceedings, or has an involuntary bankruptcy proceeding filed against it by any creditor; (c) engages in any conduct that may expose the State to liability; (d) breaches any of its material duties or obligations; or (e) fails to cure a breach within the time stated in a notice of breach. Any reference to specific breaches being material breaches within this Contract will not be construed to mean that other breaches are not material.

If the State terminates this Contract under this Section, the State will issue a termination notice specifying whether Contractor must: (a) cease performance immediately, or (b) continue to perform for a specified period. If it is later determined that Contractor was not in breach of the Contract, the termination will be deemed to have been a Termination for Convenience, effective as of the same date, and the rights and obligations of the parties will be limited to those provided in Section 24, Termination for Convenience.

The State will only pay for amounts due to Contractor for Contract Activities accepted by the State on or before the date of termination, subject to the State's right to set off any amounts owed by the Contractor for the State's reasonable costs in terminating this Contract. The Contractor must pay all reasonable costs incurred by the State in terminating this Contract for cause, including administrative costs, attorneys' fees, court costs, transition costs, and any costs the State incurs to procure the Contract Activities from other sources.

24. **Termination for Convenience.** The State may immediately terminate this Contract in whole or in part without penalty and for any reason, including but not limited to, appropriation or budget shortfalls. The termination notice will specify whether Contractor must: (a) cease performance of the Contract Activities immediately, or (b) continue to perform the Contract Activities in accordance with Section 25, Transition Responsibilities. If the State terminates this Contract for convenience, the State will pay all reasonable costs, as determined by the State, for State approved Transition Responsibilities.
25. **Transition Responsibilities.** Upon termination or expiration of this Contract for any reason, Contractor must, for a period of time specified by the State (not to exceed 180 calendar days), provide all reasonable transition assistance requested by the State, to allow for the expired or terminated portion of the Contract Activities to continue without interruption or adverse effect, and to facilitate the orderly transfer of such Contract Activities to the State or its designees. Such transition assistance may include, but is not limited to: (a) continuing to perform the Contract Activities at the established Contract rates; (b) taking all reasonable and necessary measures to transition performance of the work, including all applicable

Contract Activities, training, equipment, software, leases, reports and other documentation, to the State or the State's designee; (c) taking all necessary and appropriate steps, or such other action as the State may direct, to preserve, maintain, protect, or return to the State all materials, data, property, and confidential information provided directly or indirectly to Contractor by any entity, agent, vendor, or employee of the State; (d) transferring title in and delivering to the State, at the State's discretion, all completed or partially completed deliverables prepared under this Contract as of the Contract termination date; and (e) preparing an accurate accounting from which the State and Contractor may reconcile all outstanding accounts (collectively, "**Transition Responsibilities**"). This Contract will automatically be extended through the end of the transition period.

- 26. General Indemnification.** Contractor must defend, indemnify and hold the State, its departments, divisions, agencies, offices, commissions, officers, and employees harmless, without limitation, from and against any and all actions, claims, losses, liabilities, damages, costs, attorney fees, and expenses (including those required to establish the right to indemnification), arising out of or relating to: (a) any breach by Contractor (or any of Contractor's employees, agents, subcontractors, or by anyone else for whose acts any of them may be liable) of any of the promises, agreements, representations, warranties, or insurance requirements contained in this Contract; (b) any infringement, misappropriation, or other violation of any intellectual property right or other right of any third party; (c) any bodily injury, death, or damage to real or tangible personal property occurring wholly or in part due to action or inaction by Contractor (or any of Contractor's employees, agents, subcontractors, or by anyone else for whose acts any of them may be liable); and (d) any acts or omissions of Contractor (or any of Contractor's employees, agents, subcontractors, or by anyone else for whose acts any of them may be liable).

The State will notify Contractor in writing if indemnification is sought; however, failure to do so will not relieve Contractor, except to the extent that Contractor is materially prejudiced. Contractor must, to the satisfaction of the State, demonstrate its financial ability to carry out these obligations.

The State is entitled to: (i) regular updates on proceeding status; (ii) participate in the defense of the proceeding; (iii) employ its own counsel; and to (iv) retain control of the defense if the State deems necessary. Contractor will not, without the State's written consent (not to be unreasonably withheld), settle, compromise, or consent to the entry of any judgment in or otherwise seek to terminate any claim, action, or proceeding. To the extent that any State employee, official, or law may be involved or challenged, the State may, at its own expense, control the defense of that portion of the claim.

Any litigation activity on behalf of the State, or any of its subdivisions under this Section, must be coordinated with the Department of Attorney General. An attorney designated to represent the State may not do so until approved by the Michigan Attorney General and appointed as a Special Assistant Attorney General.

- 27. Infringement Remedies.** If, in either party's opinion, any piece of equipment, software, commodity, or service supplied by Contractor or its subcontractors, or its operation, use or reproduction, is likely to become the subject of a copyright, patent, trademark, or trade secret infringement claim, Contractor must, at its expense: (a) procure for the State the right to continue using the equipment, software, commodity, or service, or if this option is not reasonably available to Contractor, (b) replace or modify the same so that it becomes non-infringing; or (c) accept its return by the State with appropriate credits to the State against 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.
- 28. Limitation of Liability and Disclaimer of Damages.** **NEITHER THE STATE'S NOR THE CONTRACTOR'S AGGREGATE LIABILITY UNDER THIS CONTRACT, REGARDLESS OF THE FORM OF ACTION, WHETHER IN CONTRACT, TORT, NEGLIGENCE, STRICT LIABILITY OR BY STATUTE OR OTHERWISE, FOR ANY CLAIM RELATED TO OR ARISING UNDER THIS CONTRACT, EXCEED THE GREATER OF (i)\$5,000,000.00 (ii) OR THE MAXIMUM AMOUNT OF FEES PAYABLE UNDER THIS CONTRACT.** Neither the State nor the Contractor will be liable for consequential, incidental, indirect, or special damages, regardless of the nature of the action.
- 29. Disclosure of Litigation, or Other Proceeding.** Contractor must notify the State within 14 calendar days of receiving notice of any litigation, investigation, arbitration, or other proceeding (collectively, "**Proceeding**") that would materially affect the Contractor's ability to perform under this Contract.
- 30. Reserved**

### 31. State Data.

- a. Ownership. The State's data ("**State Data**," which will be treated by Contractor as Confidential Information) includes: (a) the State's data collected, used, processed, stored, or generated as the result of the Contract Activities; (b) personally identifiable information ("**PII**") collected, used, processed, stored, or generated as the result of the Contract Activities, including, without limitation, any information that identifies an individual, such as an individual's social security number or other government-issued identification number, date of birth, address, telephone number, biometric data, mother's maiden name, email address, credit card information, or an individual's name in combination with any other of the elements here listed; and, (c) personal health information ("**PHI**") collected, used, processed, stored, or generated as the result of the Contract Activities, which is defined under the Health Insurance Portability and Accountability Act (HIPAA) and its related rules and regulations. State Data is and will remain the sole and exclusive property of the State and all right, title, and interest in the same is reserved by the State. This Section survives the termination of this Contract.
- b. Contractor Use of State Data. Contractor is provided a limited license to State Data for the sole and exclusive purpose of providing the Contract Activities, including a license to collect, process, store, generate, and display State Data only to the extent necessary in the provision of the Contract Activities. Contractor must: (a) keep and maintain State Data in strict confidence, using such degree of care as is appropriate and consistent with its obligations as further described in this Contract and applicable law to avoid unauthorized access, use, disclosure, or loss; (b) use and disclose State Data solely and exclusively for the purpose of providing the Contract Activities, such use and disclosure being in accordance with this Contract, any applicable Statement of Work, and applicable law; and (c) not use, sell, rent, transfer, distribute, or otherwise disclose or make available State Data for Contractor's own purposes or for the benefit of anyone other than the State without the State's prior written consent. This Section survives the termination of this Contract.
- c. Extraction of State Data. Contractor must, within five (5) business days of the State's request, provide the State, without charge and without any conditions or contingencies whatsoever (including but not limited to the payment of any fees due to Contractor), an extract of the State Data in the format specified by the State.
- d. Backup and Recovery of State Data. Unless otherwise specified in Schedule A, Contractor is responsible for maintaining a backup of State Data and for an orderly and timely recovery of such data. Unless otherwise described in Schedule A, Contractor must maintain a contemporaneous backup of State Data that can be recovered within two (2) hours at any point in time.
- e. Loss or Compromise of Data. In the event of any act, error or omission, negligence, misconduct, or breach on the part of Contractor that compromises or is suspected to compromise the security, confidentiality, or integrity of State Data or the physical, technical, administrative, or organizational safeguards put in place by Contractor that relate to the protection of the security, confidentiality, or integrity of State Data, Contractor must, as applicable: (a) notify the State as soon as practicable but no later than twenty-four (24) hours of becoming aware of such occurrence; (b) cooperate with the State in investigating the occurrence, including making available all relevant records, logs, files, data reporting, and other materials required to comply with applicable law or as otherwise required by the State; (c) in the case of PII or PHI, at the State's sole election, (i) with approval and assistance from the State, notify the affected individuals who comprise the PII or PHI as soon as practicable but no later than is required to comply with applicable law, or, in the absence of any legally required notification period, within five (5) calendar days of the occurrence; or (ii) reimburse the State for any costs in notifying the affected individuals; (d) in the case of PII, provide third-party credit and identity monitoring services to each of the affected individuals who comprise the PII for the period required to comply with applicable law, or, in the absence of any legally required monitoring services, for no less than twenty-four (24) months following the date of notification to such individuals; (e) perform or take any other actions required to comply with applicable law as a result of the occurrence; (f) pay for any costs associated with the occurrence, including but not limited to any costs incurred by the State in investigating and resolving the occurrence, including reasonable

attorney's fees associated with such investigation and resolution; (g) without limiting Contractor's obligations of indemnification as further described in this Contract, indemnify, defend, and hold harmless the State for any and all claims, including reasonable attorneys' fees, costs, and incidental expenses, which may be suffered by, accrued against, charged to, or recoverable from the State in connection with the occurrence; (h) be responsible for recreating lost State Data in the manner and on the schedule set by the State without charge to the State; and (i) provide to the State a detailed plan within ten (10) calendar days of the occurrence describing the measures Contractor will undertake to prevent a future occurrence. Notification to affected individuals, as described above, must comply with applicable law, be written in plain language, not be tangentially used for any solicitation purposes, and contain, at a minimum: name and contact information of Contractor's representative; a description of the nature of the loss; a list of the types of data involved; the known or approximate date of the loss; how such loss may affect the affected individual; what steps Contractor has taken to protect the affected individual; what steps the affected individual can take to protect himself or herself; contact information for major credit card reporting agencies; and, information regarding the credit and identity monitoring services to be provided by Contractor. The State will have the option to review and approve any notification sent to affected individuals prior to its delivery. Notification to any other party, including but not limited to public media outlets, must be reviewed and approved by the State in writing prior to its dissemination. This section survives termination or expiration of this Contract.

**32. Non-Disclosure of Confidential Information.** The parties acknowledge that each party may be exposed to or acquire communication or data of the other party that is confidential, privileged communication not intended to be disclosed to third parties. The provisions of this Section survive the termination of this Contract.

- a. Meaning of Confidential Information. For the purposes of this Contract, the term "**Confidential Information**" means all information and documentation of a party that: (a) has been marked "confidential" or with words of similar meaning, at the time of disclosure by such party; (b) if disclosed orally or not marked "confidential" or with words of similar meaning, was subsequently summarized in writing by the disclosing party and marked "confidential" or with words of similar meaning; and, (c) should reasonably be recognized as confidential information of the disclosing party. The term "Confidential Information" does not include any information or documentation that was: (a) subject to disclosure under the Michigan Freedom of Information Act (FOIA); (b) already in the possession of the receiving party without an obligation of confidentiality; (c) developed independently by the receiving party, as demonstrated by the receiving party, without violating the disclosing party's proprietary rights; (d) obtained from a source other than the disclosing party without an obligation of confidentiality; or, (e) publicly available when received, or thereafter became publicly available (other than through any unauthorized disclosure by, through, or on behalf of, the receiving party). For purposes of this Contract, in all cases and for all matters, State Data is deemed to be Confidential Information.
- b. Obligation of Confidentiality. The parties agree to hold all Confidential Information in strict confidence and not to copy, reproduce, sell, transfer, or otherwise dispose of, give or disclose such Confidential Information to third parties other than employees, agents, or subcontractors of a party who have a need to know in connection with this Contract or to use such Confidential Information for any purposes whatsoever other than the performance of this Contract. The parties agree to advise and require their respective employees, agents, and subcontractors of their obligations to keep all Confidential Information confidential. Disclosure to a subcontractor is permissible where: (a) use of a subcontractor is authorized under this Contract; (b) the disclosure is necessary or otherwise naturally occurs in connection with work that is within the subcontractor's responsibilities; and (c) Contractor obligates the subcontractor in a written contract to maintain the State's Confidential Information in confidence. At the State's request, any employee of Contractor or any subcontractor may be required to execute a separate agreement to be bound by the provisions of this Section.
- c. Cooperation to Prevent Disclosure of Confidential Information. Each party must use its best efforts to assist the other party in identifying and preventing any unauthorized use or disclosure of any Confidential Information. Without limiting the foregoing, each party must



advise the other party immediately in the event either party learns or has reason to believe that any person who has had access to Confidential Information has violated or intends to violate the terms of this Contract and each party will cooperate with the other party in seeking injunctive or other equitable relief against any such person.

- d. Remedies for Breach of Obligation of Confidentiality. Each party acknowledges that breach of its obligation of confidentiality may give rise to irreparable injury to the other party, which damage may be inadequately compensable in the form of monetary damages. Accordingly, a party may seek and obtain injunctive relief against the breach or threatened breach of the foregoing undertakings, in addition to any other legal remedies which may be available, to include, in the case of the State, at the sole election of the State, the immediate termination, without liability to the State, of this Contract or any Statement of Work corresponding to the breach or threatened breach.
- e. Surrender of Confidential Information upon Termination. Upon termination of this Contract or a Statement of Work, in whole or in part, each party must, within 5 calendar days from the date of termination, return to the other party any and all Confidential Information received from the other party, or created or received by a party on behalf of the other party, which are in such party's possession, custody, or control; provided, however, that Contractor must return State Data to the State following the timeframe and procedure described further in this Contract. Should Contractor or the State determine that the return of any Confidential Information is not feasible, such party must destroy the Confidential Information and must certify the same in writing within 5 calendar days from the date of termination to the other party. However, the State's legal ability to destroy Contractor data may be restricted by its retention and disposal schedule, in which case Contractor's Confidential Information will be destroyed after the retention period expires.

### **33. Data Privacy and Information Security.**

- a. Undertaking by Contractor. Without limiting Contractor's obligation of confidentiality as further described, Contractor is responsible for establishing and maintaining a data privacy and information security program, including physical, technical, administrative, and organizational safeguards, that is designed to: (a) ensure the security and confidentiality of the State Data; (b) protect against any anticipated threats or hazards to the security or integrity of the State Data; (c) protect against unauthorized disclosure, access to, or use of the State Data; (d) ensure the proper disposal of State Data; and (e) ensure that all employees, agents, and subcontractors of Contractor, if any, comply with all of the foregoing. In no case will the safeguards of Contractor's data privacy and information security program be less stringent than the safeguards used by the State, and Contractor must at all times comply with all applicable State IT policies and standards, which are available to Contractor upon request.
- b. Audit by Contractor. No less than annually, Contractor must conduct a comprehensive independent third-party audit of its data privacy and information security program and provide such audit findings to the State.
- c. Right of Audit by the State. Without limiting any other audit rights of the State, the State has the right to review Contractor's data privacy and information security program prior to the commencement of Contract Activities and from time to time during the term of this Contract. During the providing of the Contract Activities, on an ongoing basis from time to time and without notice, the State, at its own expense, is entitled to perform, or to have performed, an on-site audit of Contractor's data privacy and information security program. In lieu of an on-site audit, upon request by the State, Contractor agrees to complete, within 45 calendar days of receipt, an audit questionnaire provided by the State regarding Contractor's data privacy and information security program.
- d. Audit Findings. Contractor must implement any required safeguards as identified by the State or by any audit of Contractor's data privacy and information security program.
- e. State's Right to Termination for Deficiencies. The State reserves the right, at its sole election, to immediately terminate this Contract or a Statement of Work without limitation

and without liability if the State determines that Contractor fails or has failed to meet its obligations under this Section.

34. **Reserved.**

35. **Reserved.**

36. **Records Maintenance, Inspection, Examination, and Audit.** The State or its designee may audit Contractor to verify compliance with this Contract. Contractor must retain, and provide to the State or its designee and the auditor general upon request, all financial and accounting records related to the Contract through the term of the Contract and for 4 years after the latter of termination, expiration, or final payment under this Contract or any extension ("**Audit Period**"). If an audit, litigation, or other action involving the records is initiated before the end of the Audit Period, Contractor must retain the records until all issues are resolved.

Within 10 calendar days of providing notice, the State and its authorized representatives or designees have the right to enter and inspect Contractor's premises or any other places where Contract Activities are being performed, and examine, copy, and audit all records related to this Contract. Contractor must cooperate and provide reasonable assistance. If any financial errors are revealed, the amount in error must be reflected as a credit or debit on subsequent invoices until the amount is paid or refunded. Any remaining balance at the end of the Contract must be paid or refunded within 45 calendar days.

This Section applies to Contractor, any parent, affiliate, or subsidiary organization of Contractor, and any subcontractor that performs Contract Activities in connection with this Contract.

37. **Warranties and Representations.** Contractor represents and warrants: (a) Contractor is the owner or licensee of any Contract Activities that it licenses, sells, or develops and Contractor has the rights necessary to convey title, ownership rights, or licensed use; (b) all Contract Activities are delivered free from any security interest, lien, or encumbrance and will continue in that respect; (c) the Contract Activities will not infringe the patent, trademark, copyright, trade secret, or other proprietary rights of any third party; (d) Contractor must assign or otherwise transfer to the State or its designee any manufacturer's warranty for the Contract Activities; (e) the Contract will be performed in accordance with applicable professional standards; (f) the Contract signatory has the authority to enter into this Contract; (g) all information furnished by Contractor in connection with the Contract fairly and accurately represents Contractor's business, properties, finances, and operations as of the dates covered by the information, and Contractor will inform the State of any material adverse changes; (h) all information furnished and representations made in connection with the award of this Contract is true, accurate, and complete, and contains no false statements or omits any fact that would make the information misleading; and that (i) Contractor is neither currently engaged in nor will engage in the boycott of a person based in or doing business with a strategic partner as described in 22 USC 8601 to 8606. A breach of this Section is considered a material breach of this Contract, which entitles the State to terminate this Contract under Section 23, Termination for Cause.

38. **Conflicts and Ethics.** Contractor will uphold high ethical standards and is prohibited from: (a) holding or acquiring an interest that would conflict with this Contract; (b) doing anything that creates an appearance of impropriety with respect to the award or performance of the Contract; (c) attempting to influence or appearing to influence any State employee by the direct or indirect offer of anything of value; or (d) paying or agreeing to pay any person, other than employees and consultants working for Contractor, any consideration contingent upon the award of the Contract. Contractor must immediately notify the State of any violation or potential violation of these standards. This Section applies to Contractor, any parent, affiliate, or subsidiary organization of Contractor, and any subcontractor that performs Contract Activities in connection with this Contract.

39. **Compliance with Laws.** Contractor must comply with all federal, state and local laws, rules and regulations.

40. **Reserved.**

41. **Reserved.**

42. **Nondiscrimination.** Under the Elliott-Larsen Civil Rights Act, 1976 PA 453, MCL 37.2101, *et seq.*, and the Persons with Disabilities Civil Rights Act, 1976 PA 220, MCL 37.1101, *et seq.*, Contractor and its

subcontractors agree not to discriminate against an employee or applicant for employment with respect to hire, tenure, terms, conditions, or privileges of employment, or a matter directly or indirectly related to employment, because of race, color, religion, national origin, age, sex, height, weight, marital status, or mental or physical disability. Breach of this covenant is a material breach of this Contract.

43. **Unfair Labor Practice.** Under MCL 423.324, the State may void any Contract with a Contractor or subcontractor who appears on the Unfair Labor Practice register compiled under MCL 423.322.
44. **Governing Law.** This Contract is governed, construed, and enforced in accordance with Michigan law, excluding choice-of-law principles, and all claims relating to or arising out of this Contract are governed by Michigan law, excluding choice-of-law principles. Any dispute arising from this Contract must be resolved in Michigan Court of Claims. Contractor consents to venue in Ingham County, and waives any objections, such as lack of personal jurisdiction or *forum non conveniens*. Contractor must appoint agents in Michigan to receive service of process.
45. **Non-Exclusivity.** Nothing contained in this Contract is intended nor will be construed as creating any requirements contract with Contractor. This Contract does not restrict the State or its agencies from acquiring similar, equal, or like Contract Activities from other sources.
46. **Force Majeure.** Neither party will be in breach of this Contract because of any failure arising from any disaster or acts of god that are beyond their control and without their fault or negligence. Each party will use commercially reasonable efforts to resume performance. Contractor will not be relieved of a breach or delay caused by its subcontractors. If immediate performance is necessary to ensure public health and safety, the State may immediately contract with a third party.
47. **Dispute Resolution.** The parties will endeavor to resolve any Contract dispute in accordance with this provision. The dispute will be referred to the parties' respective Contract Administrators or Program Managers. Such referral must include a description of the issues and all supporting documentation. The parties must submit the dispute to a senior executive if unable to resolve the dispute within 15 business days. The parties will continue performing while a dispute is being resolved, unless the dispute precludes performance. A dispute involving payment does not preclude performance.  
  
Litigation to resolve the dispute will not be instituted until after the dispute has been elevated to the parties' senior executive and either concludes that resolution is unlikely, or fails to respond within 15 business days. The parties are not prohibited from instituting formal proceedings: (a) to avoid the expiration of statute of limitations period; (b) to preserve a superior position with respect to creditors; or (c) where a party makes a determination that a temporary restraining order or other injunctive relief is the only adequate remedy. This Section does not limit the State's right to terminate the Contract.
48. **Media Releases.** News releases (including promotional literature and commercial advertisements) pertaining to the Contract or project to which it relates must not be made without prior written State approval, and then only in accordance with the explicit written instructions of the State.
49. **Website Incorporation.** The State is not bound by any content on Contractor's website unless expressly incorporated directly into this Contract.
50. **Entire Agreement and Order of Precedence.** This Contract, which includes Schedule A – Statement of Work, and expressly incorporated schedules and exhibits, is the entire agreement of the parties related to the Contract Activities. This Contract supersedes and replaces all previous understandings and agreements between the parties for the Contract Activities. If there is a conflict between documents, the order of precedence is: (a) first, this Contract, excluding its schedules, exhibits, and Schedule A – Statement of Work; (b) second, Schedule A – Statement of Work as of the Effective Date; and (c) third, schedules expressly incorporated into this Contract as of the Effective Date. NO TERMS ON CONTRACTOR'S INVOICES, ORDERING DOCUMENTS, WEBSITE, BROWSE-WRAP, SHRINK-WRAP, CLICK-WRAP, CLICK-THROUGH OR OTHER NON-NEGOTIATED TERMS AND CONDITIONS PROVIDED WITH ANY OF THE CONTRACT ACTIVITIES WILL CONSTITUTE A PART OR AMENDMENT OF THIS CONTRACT OR IS BINDING ON THE STATE FOR ANY PURPOSE. ALL SUCH OTHER TERMS AND CONDITIONS HAVE NO FORCE AND EFFECT AND ARE DEEMED REJECTED BY THE STATE, EVEN IF ACCESS TO OR USE OF THE CONTRACT ACTIVITIES REQUIRES AFFIRMATIVE ACCEPTANCE OF SUCH TERMS AND CONDITIONS.

51. **Severability.** If any part of this Contract is held invalid or unenforceable, by any court of competent jurisdiction, that part will be deemed deleted from this Contract and the severed part will be replaced by agreed upon language that achieves the same or similar objectives. The remaining Contract will continue in full force and effect.
52. **Waiver.** Failure to enforce any provision of this Contract will not constitute a waiver.
53. **Survival.** The provisions of this Contract that impose continuing obligations, including warranties and representations, termination, transition, insurance coverage, indemnification, and confidentiality, will survive the expiration or termination of this Contract.
54. **Contract Modification.** This Contract may not be amended except by signed agreement between the parties (a "**Contract Change Notice**"). Notwithstanding the foregoing, no subsequent Statement of Work or Contract Change Notice executed after the Effective Date will be construed to amend this Contract unless it specifically states its intent to do so and cites the section or sections amended.

# STATE OF MICHIGAN

Contract No.171 180000000879

Financial & Strategic Consulting and Advisory Services including Public-Private Partnership (P3)  
Consulting

## SCHEDULE A STATEMENT OF WORK CONTRACT ACTIVITIES

This schedule identifies the requirements of this Contract.

The Contractor must respond to each requirement or question and explain how it will fulfill each requirement. Attach any supplemental information and appropriately reference within your response.

### BACKGROUND

Many state and local governments as well as the federal government are partnering with private sector firms in new ways to make better use of assets and receive a greater return. The State of Michigan (State) is looking for ways to partner with private sector firms to extract more value from the State's assets with minimum up-front expenditure of its own funds. As such, the State is seeking a Contractor to provide Public-Private Partnership (P3) consulting/advice on a wide variety of public private partnerships. The work tasks will involve a full range of activities to coordinate ongoing activities and focus on new ventures.

### SCOPE

The Contractor must provide financial & strategic and advisory consulting services, including P3 consulting, to the State and its staff to assist with the assessment of governance and financial models, assist in securing necessary advisors, and provide leadership to the advisors on behalf of the State. These services shall be subject to reasonable deadlines established by the State and the requirements of Michigan statutes. In fulfilling this Contract, the Contractor will be responsible to take direction from the State and designated staff.

The scope of work will include strategic, financial, feasibility, assessment, recommendation, implementation and post-implementation consulting services.

### REQUIREMENTS

#### 1. General Requirements

##### 1.1 Assessment

The Contractor must provide the following:

- A. Written, objective advice to the State on options and the appropriate structure for each individual transaction (e.g. asset, concession, financial transaction, etc.). This advice must be provided in a written format approved by the respective State Program Manager. The advice may include, but not be limited to the following:
  1. Assessment of the governance related to the transaction:
    - a. Verify that a transaction is right for a P3 model.
    - b. Assist the State in demonstrating it will be an effective and reliable partner to its private sector counterpart.
    - c. Work closely with State staff to help craft policy and project benefits messages and develop supporting materials that Michigan leadership and elected officials need to make the case for a project delivery approach.
  2. Assessment of the financial models and estimated value to be received by the transaction.
  3. Assessment of the feasibility of the transaction.
  4. Assessment of the strengths, weaknesses, opportunities and threats in undertaking a transaction relating to the operations of State government.
- B. Assistance with program and project risk analysis and strategy.

The Contractor will work with the State to develop a detailed risk assessment approach for each project, and this may be the opportune time to engage technical advisors to help inform the risk assessment. Below we outline our risk analysis approach, which has been tested and refined with a variety of clients and previously employed with the State:

- Identify key project risks, including technical, commercial, financial, policy and legal, that could impact the project
- Review, with your other advisors, project capital cost and revenue forecasts (if any), and evaluate potential scope refinements and risk allocation
- Evaluate Operations and Maintenance and lifecycle cost estimates and risk factors, e.g., long-term inflation, construction cost escalation, etc.
- Quantify base cost and time implications based on probability of occurrence and magnitude

— Review and help identify available insurance coverages and other mitigation factors  
A well-constructed risk analysis will be fundamental to State's decision of whether and how to move forward with each project and should inform your decision-making by answering the following questions:

- How can the project be implemented without exposing the State to undue financial or commercial risk?
- Would the project attract sufficient competitive interest from the developer community to drive value for the State?
- Are there specific risks that need to be addressed in order to minimize impact on schedule?
- Is the project likely to attract adequate financing and at competitive pricing?
- If implemented as a P3, would the project support the State's public policy objectives?

Following the selection of the preferred delivery option, this analysis will also allow the State to develop the term sheet and the project procurement documents and to inform activities that need to take place in order to meet the desired schedule.

- C. Assistance with organizational, service delivery and asset performance strategy.
- D. Project-specific market sounding for P3 projects which includes communication of information prior to an announcement of a transaction in order to gauge the interest of potential investors in a possible transaction and the conditions (potential size or pricing).

## **1.2 Recommendation/Findings**

The Contractor must provide the following:

- A. Recommendations for which options should be implemented in a format approved by the respective Program Manager that includes, but is not limited to, the following requirements:
  - 1. Return on Investment (ROI);  
Given a specific project, the Contractor's economic professionals can help develop a Benefit-Cost-Analyses (BCA) model that estimates the potential benefits of the project to the society including capturing the impacts on travel time or delay reductions, vehicle costs impacts, safety impacts (e.g., accident increase/decrease), environmental impacts (e.g., carbon impacts on society), and impacts of travel time reliability of the transportation network.
  - 2. Impact on Michigan's Economy (Direct impacts + Indirect impacts);  
The Contractor's professionals work with economic impact modeling tools such as IMPLAN (Impact analysis for Planning), a well-recognized impact modeling framework developed by MIG, Inc., or the RIMS II (Regional Industrial Multiplier System) multipliers developed by the U.S. Bureau of Economic Analysis.
  - 3. Risk identification, assessment and framework;

Depending on the scope of the analysis – specific project cost and schedule – or overall programmatic risks, the Contractor can develop a quantitative or qualitative risk analysis to identify key risks to the project. Quantitative risk analysis would seek to develop a frequency of the risk materializing and the associated cost and schedule impact of the risk. Qualitative risk analysis focuses on developing the risk register and a likely score to identify the scale and magnitude of the impact. Regardless of the chosen focus (qualitative or quantitative), the methodological approach would consist of developing a risk register to identify all risks to the project. Once all risks to the project have been identified, the next step would consist of developing appropriate mitigations. These may include for example transfer of risk to the bidder or other mitigations such as purchasing insurance or allowing for additional time in the schedule or budget should these risks materialize. Once mitigations have been developed a mitigated risk register will be developed – which include specific mitigations and where mitigations cannot be implemented the acceptance of risks.

4. Strengths, Weaknesses, Opportunities and Threats (SWOT) analysis for the proposed recommendation(s);

The SWOT analysis brings together all the aspects of the analysis that have been qualitatively or quantitatively identified. These will include the financial return on investment, direct and indirect economic impacts and jobs generated from projects, the potential social benefits of projects (earlier delivery, improved service outcomes etc.) and potential risks to the project that would be identified as part of the risk identification process. Unmitigated risks would continue to impact the project and these would need to be identified and monitored. The SWOT analysis will be structured so as to help the State develop a public case around specific initiatives.

- B. Advice on development of Alternative Project Delivery models (APD) (procedures, policies, processes).
- C. Financial, commercial, and strategic advice on infrastructure and capital projects and associated services.  
This advice may come in a number of forms depending on the project, including:
- **Physical scope options development**
  - **Commercial options assessment**
  - **Funding Strategy**
  - **Financing options review**
  - **Financial Analysis**
  - **Procurement options analysis**
  - **Best Value Analysis**
  - **Development of business case**
  - **Communications and approvals**
- D. Financial, commercial, and strategic advice on alternative project delivery and P3 projects, including DBFOM (i.e. Design, Build, Finance, Operate, Maintain), DBFM and DBF, and Availability Payment or user pay.
- E. Financial and business case analysis for potential projects, including affordability and Value for Money analysis (Value for money is based not only on the minimum purchase price (economy) but also on the maximum efficiency and effectiveness of the purchase).
- F. Assistance with commercial and financial close activities for projects:
- Coordinate with banks and/or underwriters to close financing.
  - Facilitate the financial close process for the State.

- G. Asset management strategy; provide maintenance and rehabilitation plan of an asset.
- H. Assistance with identification of revenue enhancements and cost reduction opportunities.
- I. Assistance with identification of P3 and alternative project delivery opportunities.
- J. Assistance with procurement support including P3 and alternative delivery options.
- K. Assistance with procurement of other advisors; including technical and legal, when necessary.  
Contractor will work with the State officials to:
  - Identify the need of advisors and the specific disciplines;
  - Make recommendations on roles and responsibilities for advisors;
  - Assist in determining the selection criteria;
  - Support in the evaluation of the submitted proposals.

### **1.3 Implementation**

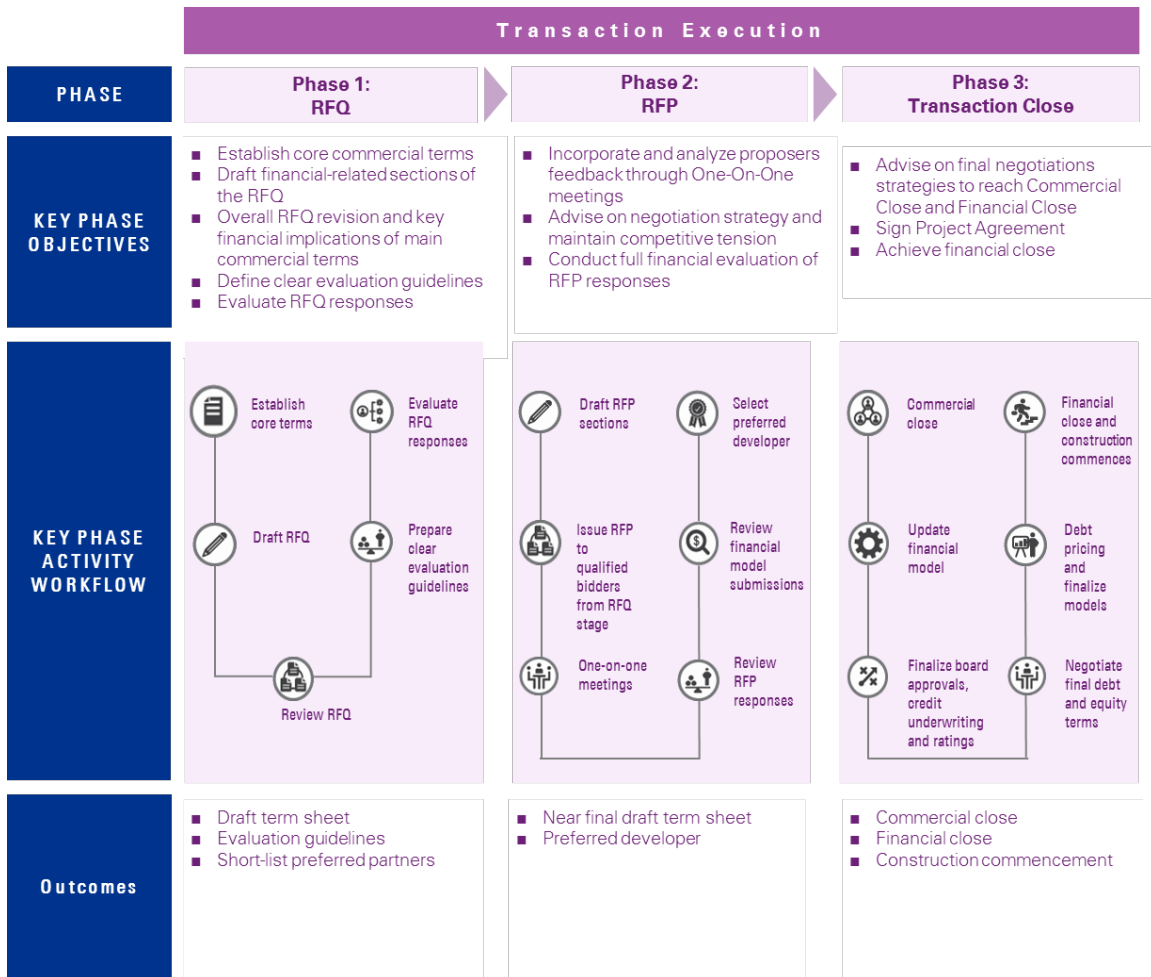
- A. The Contractor must provide consultation for implementation of an approved recommendation(s).  
The Program Manager will approve recommendation(s).

Consultation includes, but is not limited to, the following:

- B. The Contractor must provide project implementation support and benchmark achievement analysis for recommendation(s) as needed, including reviewing periodic progress reports and recommending actions. The Program Manager must approve the format.
- C. The Contractor must assist the State in securing the necessary advisors for assessing and implementing recommendation(s) (e.g. financial, legal, business, etc. advisors). Assistance with securing the necessary advisors may include, but not limited to, identification, selection criteria development and selection. Also, the Contractor must provide project management to these advisors with and on behalf of the State.
- D. The Contractor must provide as needed, assistance to the State in the purchasing process for the approved recommendation(s) for Requests for Information, Requests for Qualifications, Requests for Proposal, Requests for Qualifications, (e.g. RFI, RFQ, RFP and/or other applicable documents). The Contractor would assist in the process from recognition of need through implementation of contractual deliverables. Assistance may include, but not limited to, the following:
  - Development of RFI, RFQ, RFP and/or ITB documents with involvement from State staff and advisors
  - Contribute to the bidder evaluation and selection process
  - Work with State staff to execute contract(s) for recommendation(s)
  - Provide project management consultation of the contract and/or concession from implementation until the final milestone is achieved.

The following graphic displays Contractor's general approach to identifying, developing and implementing transactions.





Additional details on key tasks the Contractor will provide to guide the execution phase include the following:

**Procurement Development Phase:**

- Organize and conduct market sounding meetings or telephone calls to inform structuring of some of the more complex projects, or release RFI, if appropriate.
- Develop draft Request for Qualifications (if applicable) and/or Request for Proposals, depending on the procurement approach selected
- Assist the State with RFQ evaluation and selection of shortlist (if applicable)
- Work closely with the Attorney General's office and legal counsel (if applicable) with respect to commercial and financial aspects of the RFP including key commercial, financial and business terms, financial submittal requirements and financial evaluation criteria
- Help ensure that submittal requirements will allow for a normalized comparison across all teams
- Help ensure that the evaluation criteria enables the State to assess whether and how the goals and objectives of the project will be accomplished
- Work closely with the Attorney General's office and external legal counsel (if applicable) on the project agreement from a commercial and financial perspective
- Complete a final review of procurement documents for consistency with the State's project objectives, commercial requirements, and procurement guidelines
- Leverage precedent transaction experience and documents to develop an initial term sheet in conjunction with the State's counsel that includes the key commercial and financial terms to be negotiated with the developer

- Key terms could include: contract/lease term, responsibility and risk allocation, payment mechanism, revenue share, rate setting policies, maintenance reserve, handback provisions, default and termination provisions
- Review term sheet with the State and refine as necessary to meet requirements and objectives

**Procurement Execution Phase:**

- Assist the State in the industry review process involving the negotiation of key commercial and financial terms of the P3 or lease agreement
- Provide input to the State with respect to market precedent in support of its position as well as the impact of potential changes in terms and conditions
- Attend one-on-one meetings between the State and the bidders and assist in meeting preparation
- Assist the State in developing an evaluation manual that defines review team structure, committee members, timelines, scoring parameters, etc.
- Host evaluation training session for evaluation committee members
- Review proposals against pass/fail and responsiveness to the RFP requirements
- Perform financial capacity analysis for each developer and its key team members, using financial statements/information to assess the teams' likelihood of meeting the proposed funding and performance commitments on the respective project
- Assist the State in conducting reference checks
- Assist State's evaluation committee members with assessing proposals against technical and financial evaluation criteria
- Facilitate requests for clarification process and developer team responses
- Review bid financial models for accuracy and normalize outputs for comparison
- Refresh financial analysis as necessary to assess whether delivery approach still provides value to the State
- Facilitate committee meetings as required
- Advise the State as it makes a decision on its preferred developer
- Summarize each proposal at a high level including the structure of the team, the proposed approach and key strengths and weakness observed in the proposals, interviews and term sheet negotiations
- Document the State's selection of the preferred developer and the rationale behind the recommendation

Assist with facilitating the commercial and financial close process and coordinate with the State on next steps for contract monitoring and oversight.

E. The Contractor must work with the State to establish effective performance standards for the contracts resulting from the assessment(s) and/or recommendation(s) of this Contract, other financial transaction, asset, etc. The contractors resulting from the assessment(s) and/or recommendation(s) must provide the State with the same or better service to customers (internal and external) once the asset is in the hands of a service provider.

Some of the specific activities that will go into developing performance standards include:

- Assist the State and its technical advisor(s) in compiling relevant State policies and performance guidelines with an emphasis on identifying the key requirements and minimum performance levels that need to be adhered to.
- Using the information above, along with benchmark information from previous similar projects, identify the operations and maintenance specifications and key performance indicators for the specific project

- Help ensure that the State's specifications for a given project strike the appropriate balance between prescriptive and allowing the service provider opportunities for innovation and efficiency
- Help the State draft a performance regime that links with the payment mechanism in a way that incents the service provider to meet or exceed performance specifications.
- The following are the types of facilities management performance specifications that our team has experience with:
  - On-time financial close
  - On-time substantial completion of construction
  - On-time occupancy of project
  - Meeting availability conditions for an asset owned or occupied by the State
  - Incident response and rectification times
  - Facilities management specifications including plant management, cleaning, pest control, utilities services, parking services, waste removal and recycling services, environmental and sustainability services
  - Customer satisfaction surveys
  - Adherence to reporting requirements
  - Adherence to scheduled maintenance plans

F. The Contractor must assist in the development of procedures to provide oversight and performance monitoring of contractors/advisors and State resources related to implementation resulting from recommendation(s) and/or implementation(s). This includes establishing the requisite resources and training needed.

#### **1.4 Post Implementation**

- A. The Contractor must provide assistance with smart infrastructure initiatives including autonomous vehicles.
- B. The Contractor must provide program and task management, including quality control and assurance for monitoring strategy.

## **2. Acceptance**

### **2.1. Acceptance, Inspection and Testing**

The State will use the following criteria to determine acceptance of the Contract Activities: Section 16, Acceptance, of the Standard Contract Terms.

### **2.2. Training**

The Contractor must provide the following training: transfer the oversight and performance monitoring function knowledge of implemented recommendation(s) to specified State staff, if applicable. Documentation and training materials must be provided to the State for knowledge transfer.

## **3. Staffing**

### **3.1. Contractor Representative**

The Contractor must appoint a Contractor Representative, specifically assigned to State of Michigan accounts, that will respond to State inquiries regarding the Contract Activities, answering questions related to ordering and delivery, etc. (the "Contractor Representative").

The Contractor Representative is:

Liam Kelly  
Principal  
KPMG LLP  
[liamkelly@kpmg.com](mailto:liamkelly@kpmg.com)  
Phone: +1 415 932 9040

The Contractor must notify the Contract Administrator at least 30 calendar days before removing or assigning a new Contractor Representative.

### **3.2. Work Hours**

The Contractor must provide Contract Activities during the State's normal working hours Monday – Friday, 7:00 a.m. to 6:00 p.m. EST, and possible night and weekend hours depending on the requirements of the project.

### **3.3. Key Personnel**

The Contractor must appoint up to 6 individuals (senior staff members) who will be directly responsible for the day-to-day operations of the Contract (“Key Personnel”). Key Personnel must be knowledgeable on the contractual requirements and respond to State inquiries within 24 hours.

The Key Personnel must demonstrate that they have experience in the following areas:

- Experience in advising state agencies on DBFM, DBFOM, DBF projects and alternative project delivery models
- Experience in advising US state agencies across key sectors
- Experience in advising US public sector agencies on tolling and revenue risk DBFOM, DBFOM, DBF projects and alternative project delivery models
- Experience in advising US state agencies on P3 programs and alternative project delivery models
- Experience in advising US state agencies on range of federal funding and financing tools
- Experience in advising public sector agencies on asset management
- Experience in advising US agencies on performance, operational efficiencies and alternative revenue sources
- Experience in advising public sector agencies on smart technology

Key Personnel:

#### **Key Personnel/Core Team**

Declan McManus  
Gareth Lifton  
George Spakouris  
Alex Seleznyov  
Piyush Mishra  
Ted Hamer

#### **Project Manager**

Alex Seleznyov

#### **Specialist Team**

Brian Shea, Economic Impact Analysis  
Gary Silberg, Autonomous Vehicles  
Iain Tester, Water Utilities  
Ian McPherson, Justice  
Kate Stusrud, Federal Funding and Policy  
Oscar Bedolla, Data Analytics  
Raj Shelat, Smart Technologies  
Richard Threfall, International P3 experience  
Tim Wilschetz, Financing  
Tom Harmening, Real Estate Valuations  
Tom Hiddemen, Strategy and Performance

#### **Extended Team**

Bryan Bungo  
Casey Bush

Jimmy Driscoll  
Jonny Scholes  
JP O'Hare  
Lauren Wilson  
Prakash Ganesh

The State has the right to recommend and approve in writing the initial assignment, as well as any proposed reassignment or replacement, of any Key Personnel. Before assigning an individual to any Key Personnel position, Contractor will notify the State of the proposed assignment, introduce the individual to the State's Project Manager, and provide the State with a resume and any other information about the individual reasonably requested by the State. The State reserves the right to interview the individual before granting written approval. In the event the State finds a proposed individual unacceptable, the State will provide a written explanation including reasonable detail outlining the reasons for the rejection. The State may require a 30-calendar day training period for replacement personnel.

Contractor will not remove any Key Personnel from their assigned roles on this Contract without the prior written consent of the State. The Contractor's removal of Key Personnel without the prior written consent of the State is an unauthorized removal ("Unauthorized Removal"). An Unauthorized Removal does not include replacing Key Personnel for reasons beyond the reasonable control of Contractor, including illness, disability, leave of absence, personal emergency circumstances, resignation, or for cause termination of the Key Personnel's employment. Any Unauthorized Removal may be considered by the State to be a material breach of this Contract, in respect of which the State may elect to terminate this Contract for cause under Termination for Cause in the Standard Terms. It is further acknowledged that an Unauthorized Removal will interfere with the timely and proper completion of this Contract, to the loss and damage of the State, and that it would be impracticable and extremely difficult to fix the actual damage sustained by the State as a result of any Unauthorized Removal. Therefore, Contractor and the State agree that in the case of any Unauthorized Removal in respect of which the State does not elect to exercise its rights under Termination for Cause, Contractor will issue to the State the corresponding credits set forth below (each, an "Unauthorized Removal Credit"):

(i) For the Unauthorized Removal of any Key Personnel designated in the applicable Statement of Work, the credit amount will be \$25,000.00 per individual if Contractor identifies a replacement approved by the State and assigns the replacement to shadow the Key Personnel who is leaving for a period of at least 30 calendar days before the Key Personnel's removal.

(ii) If Contractor fails to assign a replacement to shadow the removed Key Personnel for at least 30 calendar days, in addition to the \$25,000.00 credit specified above, Contractor will credit the State \$833.33 per calendar day for each day of the 30 calendar-day shadow period that the replacement Key Personnel does not shadow the removed Key Personnel, up to \$25,000.00 maximum per individual. The total Unauthorized Removal Credits that may be assessed per Unauthorized Removal and failure to provide 30 calendar days of shadowing will not exceed \$50,000.00 per individual.

Contractor acknowledges and agrees that each of the Unauthorized Removal Credits assessed above: (i) is a reasonable estimate of and compensation for the anticipated or actual harm to the State that may arise from the Unauthorized Removal, which would be impossible or very difficult to accurately estimate; and (ii) may, at the State's option, be credited or set off against any fees or other charges payable to Contractor under this Contract.

#### **3.4. Organizational Chart**

The Contractor must provide an overall organizational chart that details staff members, by name and title, and subcontractors.



**3.5. Disclosure of Subcontractors**

If the Contractor intends to utilize subcontractors, the Contractor must disclose the following in a subsequent work plan or Statement of Work provided based on the project:

The legal business name; address; telephone number; a description of subcontractor’s organization and the services it will provide; and information concerning subcontractor’s ability to provide the Contract Activities.

The relationship of the subcontractor to the Contractor.  
 Whether the Contractor has a previous working experience with the subcontractor. If yes, provide the details of that previous relationship.

A complete description of the Contract Activities that will be performed or provided by the subcontractor.

**3.6. Security**

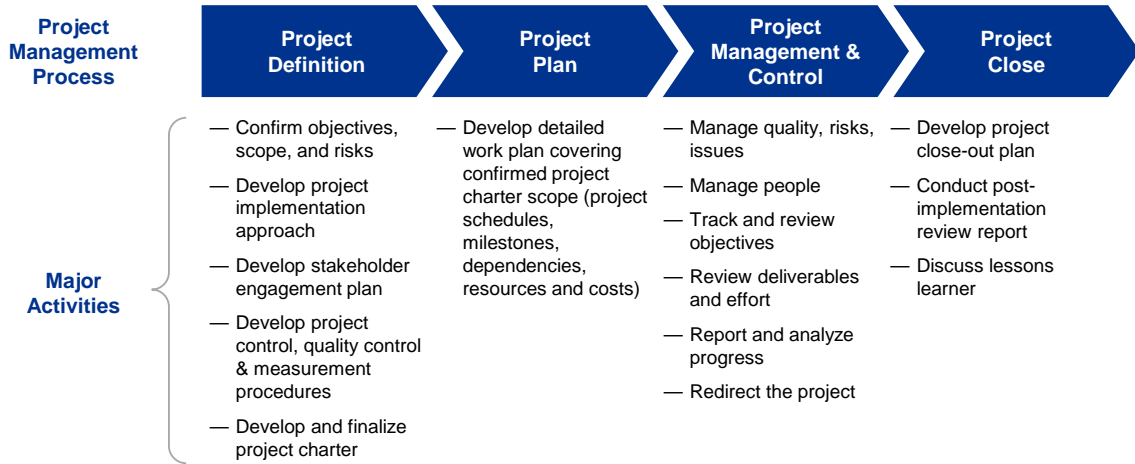
The Contractor must explain any additional security measures in place to ensure the security of State facilities.  
 The bidder’s staff may be required to make deliveries to or enter State facilities. The bidder must: (a) explain how it intends to ensure the security of State facilities, (b) whether it uses uniforms and ID badges, etc., (c) identify the company that will perform background checks, and (d) the scope of the background checks. The State may require the Contractor’s personnel to wear State issued identification badges.

**4. Project Management**

**4.1. Project Plan**

The Contractor will carry out each project under the direction and control of the Program Manager. Within 30 calendar days of the start date of a new project, the Contractor must submit a project plan to the Program Manager for final approval for each project. The plan must include: (a) the Contractor’s organizational chart with names and title of personnel assigned to the project, which must align with the staffing stated in accepted proposals; and (b) the project breakdown showing sub-projects, tasks, and resources required.

Contractor's Project Plan Methodology is shown below:



#### 4.2. Meetings

A. The Contractor must attend the following meetings:

- Kick off meeting
- Project Status meetings – frequency to be determined with each project
- Project Wrap-up meetings – post project timeframe to be determined with each project.

The State may request other meetings, as it deems appropriate.

B. Participate and/or represent the State at public meetings, legislative hearings, regulatory meetings and trade group meetings, etc. Inspire and facilitate a positive public perception. This includes addressing legislative and regulatory requirements of the recommendation(s).

#### 4.3. Reporting

A. Dependent on the work being done, the Contractor will be expected to provide weekly updates (via e-mail) as well as monthly progress reports to the respective State Program Manager. Additional reports may be requested.

Each weekly progress report must contain the following:

- **Hours:** Indicate the number of hours expended during the past two weeks, and the cumulative total to date for the project. Also state whether the remaining hours are sufficient to complete the project.
- **Accomplishments:** Indicate the status of each task that has been worked on, what task was completed, and deliverables provided during the current reporting period.
- **Funds:** Indicate the amount of funds expended during the current reporting period by category, and the cumulative total to date for the project.

\*The Contractor will meet with the Project Manager (SOM staff as appropriate/necessary) on a weekly basis to review weekly progress report, open issues and plans to address any concerns.

\*The Contractor will identify and explain any deviations from the required reporting as stated above in this contractual agreement. The Contractor should and will be required to identify standard reports available and noting where customization is necessary.

B. The following reports may be required and will be determined with each project:

Assessment and Recommendation

- White papers: identify global commercial and financial issues in the P3 marketplace to

assist the State in making informed decisions on policy.

- Screening reports: reports that screen early State projects for potential P3 delivery.

#### Implementation

- Financial model data book: provide a summary of the project scope, inputs and financial assumptions.
- Public Sector Comparator: benchmark of a public scenario, typically a state bonding solution to the project.
- Research reports: provide detailed summaries of global practices on P3 and project finance related issues.

Reports must be sent to the respective Program Manager.

## **5. Ordering**

### **5.1. Authorizing Document**

The appropriate authorizing document for the Contract will be a delivery order (DO), which will be issued for each Administration that is utilizing this Contract.

## **6.. Invoice and Payment**

### **6.1. Invoice Requirements**

All invoices submitted to the State must include: (a) date; (b) delivery order; (c) quantity; (d) description of the Contract Activities; (e) unit price; (f) shipping cost (if any); and (g) total price. Overtime, holiday pay, and travel expenses will not be paid and international calling when required must be included and will not be paid.

### **6.2. Payment Methods**

The State will make payment for Contract Activities via EFT based on monthly invoices submitted by the Contractor.

### **6.3. Procedure**

Contractor must submit invoices to the respective State Program Manager for acceptance determination.

## **7. Liquidated Damages**

Late or improper completion of the Contract Activities will cause loss and damage to the State and it would be impracticable and extremely difficult to fix the actual damage sustained by the State. Therefore, if there is late or improper completion of the Contract Activities the State is entitled to collect liquidated damages in the amount of \$5,000 and an additional \$100 per day for each day Contractor fails to remedy the late or improper completion of the Work.



# STATE OF MICHIGAN

Contract No.171 18000000879

Financial & Strategic Consulting and Advisory Services including Public-Private Partnership (P3)  
Consulting

## SCHEDULE B PRICING MATRIX

1. Pricing below lists hourly rate, inclusive of all expenses.
2. The Contractor offers the following quick payment terms. The number of days must not include processing time for payment to be received by the Contractor's financial institution.

Quick payment terms: 2 % discount off invoice if paid within 15 days after receipt of invoice.

Blended Hourly Rate for All Positions

Category/Title	Estimated* Hours per Year	Hourly Rate
All Positions (e.g., Project Manager, Consultant, Senior Consultant, Associate/Analyst and Para-Professional/Support)	2,100	\$405
<b>TOTAL YEARLY PRICE</b>		<b>\$850,500</b>

<b>TOTAL THREE YEAR PRICE</b>	<b>\$2,602,870**</b>
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\*Hours are an estimate only. The actual number of hours that will be needed for each project will vary and are not guaranteed.

\*\*Total Three Year Price includes a rate increase for years 2 and 3 (assumed at 2%). Increase in hourly rate must be requested and approved by the State via a Change Notice; increase in hourly rate must not exceed 2% annually.

## Schedule C Federal Provisions

The provisions in this addendum may apply if the purchase will be paid for in whole or in part with funds obtained from the federal government. If any provision below is not required by federal law for this Contract, then it does not apply and must be disregarded. If any provision below is required to be included in this Contract by federal law, then the applicable provision applies and the language is not negotiable. If any provision below conflicts with the State's terms and conditions, including any attachments, schedules, or exhibits to the State's Contract, the provisions below take priority to the extent a provision is required by federal law; otherwise, the order of precedence set forth in the Contract applies. Hyperlinks are provided for convenience only; broken hyperlinks will not relieve Contractor from compliance with the law.

### 1. Federally Assisted Construction Contracts

If this contract is a "**federally assisted construction contract**" as defined in [41 CFR Part 60-1.3](#), and except as otherwise may be provided under [41 CFR Part 60](#), then during performance of this Contract, the Contractor agrees as follows:

(1) The Contractor will not discriminate against any employee or applicant for employment because of race, color, religion, sex, sexual orientation, gender identity, or national origin. The Contractor will take affirmative action to ensure that applicants are employed, and that employees are treated during employment without regard to their race, color, religion, sex, sexual orientation, gender identity, or national origin. Such action shall include, but not be limited to the following:

Employment, upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. The Contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided setting forth the provisions of this nondiscrimination clause.

(2) The Contractor will, in all solicitations or advertisements for employees placed by or on behalf of the Contractor, state that all qualified applicants will receive consideration for employment without regard to race, color, religion, sex, sexual orientation, gender identity, or national origin.

(3) The Contractor will not discharge or in any other manner discriminate against any employee or applicant for employment because such employee or applicant has inquired about, discussed, or disclosed the compensation of the employee or applicant or another employee or applicant. This provision shall not apply to instances in which an employee who has access to the compensation information of other employees or applicants as a part of such employee's essential job functions discloses the compensation of such other employees or applicants to individuals who do not otherwise have access to such information, unless such disclosure is in response to a formal complaint or charge, in furtherance of an investigation, proceeding, hearing, or action, including an investigation conducted by the employer, or is consistent with the Contractor's legal duty to furnish information.

(4) The Contractor will send to each labor union or representative of workers with which he has a collective bargaining agreement or other contract or understanding, a notice to be provided advising the said labor union or workers' representatives of the Contractor's commitments under this section, and shall post copies of the notice in conspicuous places available to employees and applicants for employment.

(5) The Contractor will comply with all provisions of [Executive Order 11246](#) of September 24, 1965, and of the rules, regulations, and relevant orders of the Secretary of Labor.

(6) The Contractor will furnish all information and reports required by [Executive Order 11246](#) of September 24, 1965, and by rules, regulations, and orders of the Secretary of Labor, or pursuant thereto, and will permit access to his books, records, and accounts by the administering agency and the Secretary of Labor for purposes of investigation to ascertain compliance with such rules, regulations, and orders.

(7) In the event of the Contractor's noncompliance with the nondiscrimination clauses of this contract or with any of the said rules, regulations, or orders, this Contract may be canceled, terminated, or suspended in whole or in part and the Contractor may be declared ineligible for further Government contracts or federally assisted construction contracts in accordance with procedures authorized in [Executive Order 11246](#) of

September 24, 1965, and such other sanctions may be imposed and remedies invoked as provided in [Executive Order 11246](#) of September 24, 1965, or by rule, regulation, or order of the Secretary of Labor, or as otherwise provided by law.

(8) The Contractor will include the portion of the sentence immediately preceding paragraph (1) and the provisions of paragraphs (1) through (8) in every subcontract or purchase order unless exempted by rules, regulations, or orders of the Secretary of Labor issued pursuant to section 204 of [Executive Order 11246](#) of September 24, 1965, so that such provisions will be binding upon each subcontractor or vendor. The Contractor will take such action with respect to any subcontract or purchase order as the administering agency may direct as a means of enforcing such provisions, including sanctions for noncompliance:

Provided, however, that in the event a Contractor becomes involved in, or is threatened with, litigation with a subcontractor or vendor as a result of such direction by the administering agency, the Contractor may request the United States to enter into such litigation to protect the interests of the United States.

## **2. Davis-Bacon Act (Prevailing Wage)**

If applicable, the Contractor (and its subcontractors) for **prime construction contracts** in excess of \$2,000 must comply with the Davis-Bacon Act ([40 USC 3141-3148](#)) as supplemented by Department of Labor regulations ([29 CFR Part 5](#), "Labor Standards Provisions Applicable to Contracts Covering Federally Financed and Assisted Construction").

## **3. Copeland "Anti-Kickback" Act**

If applicable, the Contractor must comply with the [Copeland "Anti-Kickback" Act \(40 USC 3145\)](#), as supplemented by Department of Labor regulations ([29 CFR Part 3](#), "Contractors and Subcontractors on Public Building or Public Work Financed in Whole or in Part by Loans or Grants from the United States"), which prohibits the Contractor and subrecipients from inducing, by any means, any person employed in the construction, completion, or repair of public work, to give up any part of the compensation to which he or she is otherwise entitled.

## **4. Contract Work Hours and Safety Standards Act**

If the Contract is **in excess of \$100,000** and **involves the employment of mechanics or laborers**, the Contractor must comply with [40 USC 3702](#) and [3704](#), as supplemented by Department of Labor regulations ([29 CFR Part 5](#)), as applicable.

## **5. Rights to Inventions Made Under a Contract or Agreement**

If the Contract is funded by a federal "funding agreement" as defined under 37 CFR §401.2 (a) and the recipient or subrecipient wishes to enter into a contract with a small business firm or nonprofit organization regarding the substitution of parties, assignment or performance of experimental, developmental, or research work under that "funding agreement," the recipient or subrecipient must comply with 37 CFR Part 401, "Rights to Inventions Made by Nonprofit Organizations and Small Business Firms Under Government Grants, Contracts and Cooperative Agreements," and any implementing regulations issued by the awarding agency.

## **6. Clean Air Act**

If this Contract is **in excess of \$150,000**, the Contractor must comply with all applicable standards, orders, and regulations issued under the Clean Air Act (42 USC 7401-7671q) and the Federal Water Pollution Control Act (33 USC 1251-1387). Violations must be reported to the federal awarding agency and the regional office of the Environmental Protection Agency.

## **7. Debarment and Suspension**

A "contract award" (see [2 CFR 180.220](#)) must not be made to parties listed on the government-wide exclusions in the [System for Award Management \(SAM\)](#), in accordance with the OMB guidelines at 2 CFR 180 that implement Executive Orders 12549 (3 CFR part 1986 Comp., p. 189) and 12689 (3 CFR part 1989 Comp., p. 235), "Debarment and Suspension." SAM Exclusions contains the names of parties debarred, suspended, or otherwise excluded by agencies, as well as parties declared ineligible under statutory or regulatory authority other than Executive Order 12549.

#### **8. Byrd Anti-Lobbying Amendment**

If this Contract **exceeds \$100,000**, bidders and the Contractor must file the certification required under [31 USC 1352](#).

#### **9. Procurement of Recovered Materials**

Under [2 CFR 200.322](#), a non-Federal entity that is a state agency or agency of a political subdivision of a state **and its contractors** must comply with section 6002 of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act. The requirements of Section 6002 include procuring only items designated in guidelines of the Environmental Protection Agency (EPA) at [40 CFR part 247](#) that contain the highest percentage of recovered materials practicable, consistent with maintaining a satisfactory level of competition, where the purchase price of the item exceeds \$10,000 or the value of the quantity acquired during the preceding fiscal year exceeded \$10,000; procuring solid waste management services in a manner that maximizes energy and resource recovery; and establishing an affirmative procurement program for procurement of recovered materials identified in the EPA guidelines.