STATE OF MICHIGAN
ENTERPRISE PROCUREMENT

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 **071B2200232**

CONTRACTOR	
	UNITED RESOURCE, LLC
	20720 Sunnydale
	Farmington Hills, MI 48336
	David Guth
	(248) 426-1671
	david@unitedresourcellc.com
	*******1119

STATE			
	Program Manager	AZMOUDEH, AHMAD	MDOT
		517-241-4709	
		azmoudeha@Michigan.gov	
	Contract Administrator	Steve Rigg	DTMB
		(517) 284-7043	
		riggs@michigan.gov	

CONTRACT SUMMARY

DESCRIPTION: CATCH BASIN CLEANOUT

INITIAL EFFECTIVE DATE	INITIAL EXPIRATION DATE	INITIAL AVAILABLE OPTIONS	EXPIRATION DATE BEFORE CHANGE(S) NOTED BELOW
June 5, 2012	April 30, 2017	2 - 1 Year	April 30, 2017

PAYMENT TERMS	DELIVERY TIMEFRAME
3% 15/Net 45	N/A

ALTERNATE PAYMENT OPTIONS			EXTENDED PURCHASING	
☐ P-card	☐ Direct Voucher (DV)	☐ Other	☐ Yes	☒ No

MINIMUM DELIVERY REQUIREMENTS

N/A

DESCRIPTION OF CHANGE NOTICE

OPTION	LENGTH OF OPTION	EXTENSION	LENGTH OF EXTENSION	REVISED EXP. DATE
☐	N/A	☐	N/A	N/A

CURRENT VALUE	VALUE OF CHANGE NOTICE	ESTIMATED AGGREGATE CONTRACT VALUE
$ 988,103.75	$352,370.00	$1,340,473.75

DESCRIPTION: Effect June 7, 2016, this contract is hereby increased by $352,370.00 and Macomb TSC is hereby added to this contract per attached Location Specific Sheet. All other terms, conditions, specifications, and pricing remain the same. Per Agency and Contractor agreement, and DTMB Procurement approval, and State Administrative Board approval on June 7, 2016.

Attachment B – Catch Basin Cleaning Pricing
Metro Region – Macomb County

LOCATION SPECIFICATION SHEET (LSS)

SECTION I – PLACE OF SERVICES REQUESTED

CONTRACT INFORMATION			
ESTIMATED CONTRACT START DATE:	06/05/2016	**CONTRACT END DATE:**	04/30/2017
PREVIOUS BPO #:	071B2200232		
CONTRACT INFORMATION:	1 (One) Year Contract with 2 Each 1 Year Options to Extend		
CONTRACTING AGENCY NAME:	MDOT		
BUILDING NAME AND NUMBER:	MDOT Macomb TSC		
BUILDING ADDRESS:	26170 21 Mile Road, Chesterfield Township, MI. 48051		
REGION / COUNTY:	Metro/ Macomb		
PROCUREMENT CONTACT INFORMATION			
PROCUREMENT OFFICE NAME:	MDOT Purchasing		
PROCUREMENT OFFICE CONTACT NAME:	Laura Dotson	**CONTACT PHONE #:**	517-373-2134
PROCUREMENT OFFICE CONTACT E-MAIL:	DotsonL2@michigan.gov	**CONTACT FAX #:**	
CONTRACT COMPLIANCE INSPECTOR (CCI) / FACILITY MANAGER (FM) NAME:	Marlon Spinks	**CONTACT PHONE #:**	586-421-3925
CCI / FM CONTACT E-MAIL:	spinksm@michigan.gov	**CONTACT FAX #:**	586-598-4043

LOCATION INFORMATION			
OFFICIAL WORKING DAYS OF BUILDING OCCUPANTS:	N/A	**OFFICIAL WORKING HOURS OF BUILDING OCCUPANTS:**	N/A
ESTIMATE OF AREA TO BE SERVICED: (IF APPLICABLE)	N/A	**(FILL IN IF NEEDED)**	N/A
IDENTIFY DAYS OF SERVICE:	Determined by CCI	**IDENTIFY HOURS OF SERVICE: [EXAMPLE: 5:30 A.M. TO 5:30 P.M.]**	Determined by CCI

Catch Basin Cleaning Pricing Metro Region -Macomb County

DESCRIPTION OF SERVICES	UNIT OF MEASURE	CATCH BASINS PER YEAR	PRICE PER CATCH BASIN	TOTAL PRICE FOR 1 YEAR	TOTAL PRICE WITH OPTIONAL YEARS INCLUDED (3 YEARS)
Catch Basin Cleaning -Macomb County	Each	1521/year	$49.75	$75,669.75	$227,009.25
Emergency Clean Out	Hours	50/year	$128.00	$6,400.00	$19,200.00
Slotted Drain	Feet	16000/year	$0.55	$8,800.00	$26,400.00
12-36 inches Leads Cleaning (optional)	Feet	6000/year	$1.15	$6,900.00	$20,700.00
			Total	$97,769.75	$293,309.25

Metro Region- Macomb County Location For Catch Basin and Slotted Drains

County	Control Section	Route	Location	# of Catch Basins	Linear Footage of Slotted Drains	2016	2017	2018
Macomb	50111	I-94	Macomb County Line (8 mile) to M-59 (Hall Rd)	836		836	836	836
Macomb	50061 50062	I-696	I-94 to Dequindre Rd.	685		685	685	685
Macomb	50111	I-94	M-59 (Hall Rd.) to North River Rd		16000	16000		
			Yearly Totals	**1521**	**16000**			

TOTAL NUMBER OF CATCH BASINS FOR 3 YEARS	**4563**
TOTAL NUMBER OF SLOTTED DRAINS FOR 3 YEARS	**48000**
TOTAL 12-36 INCHES FOOTAGE OF DRAIN LEADS FOR 3 YEARS	**18000**

CATCH BASIN CLEAINING SCHEDULE		
ANNUAL CLEANING	**APRIL 15 - NOVEMBER 15**	**DETERMINED BY CCI**

Quantities are estimates only. Contact Contract Compliance Inspector (CCI) to get approval for any amount over the stated estimated quantity.

STATE OF MICHIGAN
DEPARTMENT OF TECHNOLOGY, MANAGEMENT AND BUDGET
PROCUREMENT
P.O. BOX 30026, LANSING, MI 48909
OR
530 W. ALLEGAN, LANSING, MI 48913

June 6, 2012

NOTICE
OF
CONTRACT NO. 071B2200232
Between
THE STATE OF MICHIGAN
And

NAME & ADDRESS OF CONTRACTOR:	PRIMARY CONTACT	EMAIL
United Resource, LLC	**David L. Guth**	**david@unitedresourcellc.com**
20720 Sunnydale	TELEPHONE	CONTRACTOR #, MAIL CODE
Farmington Hills, MI 48336	**(248) 426-1671**	

STATE CONTACTS	AGENCY	NAME	PHONE	EMAIL
CONTRACT COMPLIANCE INSPECTOR:	**MDOT**	**Ahmad Azmoudeh**	**(248) 451-2465**	**azmoudeha@michigan.gov**
BUYER:	**DTMB**	**William C. Walsh**	**(517) 373-6535**	**walshw@michigan.gov**

CONTRACT SUMMARY:			
DESCRIPTION: **Catch Basins, Slotted Drains and Leads Clean Out Service – MDOT – Oakland County**			
INITIAL TERM	EFFECTIVE DATE	INITIAL EXPIRATION DATE	AVAILABLE OPTIONS
5 Yrs.	**June 5, 2012**	**April 30, 2017**	**2, 1 Yr. Options**
PAYMENT TERMS	F.O.B	SHIPPED	SHIPPED FROM
3%-15 / NET 45	**N/A**	**N/A**	**N/A**
ALTERNATE PAYMENT OPTIONS:			AVAILABLE TO MiDEAL PARTICIPANTS
☐ P-card ☐ Direct Voucher (DV) ☐ Other			☐ YES ☒ NO
MINIMUM DELIVERY REQUIREMENTS:			
None			
MISCELLANEOUS INFORMATION:			
ESTIMATED CONTRACT VALUE AT TIME OF EXECUTION:			**$988,103.75**

The terms and conditions of this Contract are attached.

STATE OF MICHIGAN
DEPARTMENT OF TECHNOLOGY, MANAGEMENT AND BUDGET
PROCUREMENT
P.O. BOX 30026, LANSING, MI 48909
OR
530 W. ALLEGAN, LANSING, MI 48913

CONTRACT NO. 071B2200232

Between

THE STATE OF MICHIGAN

And

NAME & ADDRESS OF CONTRACTOR:	PRIMARY CONTACT	EMAIL
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PAYMENT TERMS	F.O.B	SHIPPED	SHIPPED FROM
3%-15 / NET 45	**N/A**	**N/A**	**N/A**
ALTERNATE PAYMENT OPTIONS:			AVAILABLE TO MiDEAL PARTICIPANTS
☐ P-card ☐ Direct Voucher (DV) ☐ Other			☐ YES ☒ NO
MINIMUM DELIVERY REQUIREMENTS:			
None			
MISCELLANEOUS INFORMATION:			
The terms and conditions of this Contract are those of ITB # 071I2200086, this Contract Agreement and the vendor's quote. In the event of any conflicts between the specifications, and terms and conditions, indicated by the State and those indicated by the vendor, those of the State take precedence.			
ESTIMATED CONTRACT VALUE AT TIME OF EXECUTION:			**$988,103.75**

THIS IS NOT AN ORDER: This Contract Agreement is awarded on the basis of our inquiry bearing the ITB No. 071I2200086. Orders for delivery will be issued directly by the Department of Technology, Management & Budget through the issuance of a Purchase Order Form.

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

Contract No. 071B2200232

FOR THE CONTRACTOR:	FOR THE STATE:
Firm Name **United Resources, LLC**	Signature
	Name/Title **Jeff Brownlee, Chief Procurement Officer**
Authorized Agent Signature	**DTMB Procurement**
Authorized Agent (Print or Type)	Division
Date	Date

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Definitions

This section provides definitions for terms used throughout this document.

Business Day - whether capitalized or not, means any day other than a Saturday, Sunday, State employee temporary layoff day, or State-recognized legal holiday (as identified in the Collective Bargaining Agreement for State employees) from 8:00am through 5:00pm Eastern Time unless otherwise stated.

Buyer – the DTMB-Procurement employee identified on the cover page of the ITB.

Chronic Failure - as defined in applicable Service Level Agreements.

Contract – based on the ITB, an agreement that has been approved and executed by the awarded bidder, the DTMB-Procurement Director, and the State Administrative Board.

Contractor – the awarded bidder after the Effective Date.

Days - Business Days unless otherwise specified.

Deleted, Not Applicable - the section is not applicable or included in the ITB. This is used as a placeholder to maintain consistent numbering.

Deliverable(s) - physical goods or commodities as required or identified in a Statement of Work.

Eastern Time – either Eastern Standard Time or Eastern Daylight Time, whichever is prevailing in Lansing, Michigan.

Effective Date - the date that a binding contract is executed by the final party.

Final Acceptance - has the meaning provided in Section 2.8.7, Final Acceptance, unless otherwise stated in Article 1.

Key Personnel - any personnel designated as Key Personnel in Sections 1.3.3, Staff, Duties, and Responsibilities, and 2.4.2, Contractor Key Personnel, subject to the restrictions of Section 2.4.2.

Post-Industrial Waste - industrial by-products which would otherwise go to disposal and wastes generated after completion of a manufacturing process, but does not include internally generated scrap commonly returned to industrial or manufacturing processes.

Purchase Order - a written document issued by the State that requests full or partial performance of the Contract.

State - the State of Michigan.

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

Stop Work Order - a notice requiring the Contractor to fully or partially stop work in accordance with the terms of the notice.

Subcontractor - a company or person that the Contractor delegates performance of a portion of the Deliverable(s) to, but does not include independent contractors engaged by the Contractor solely in a staff augmentation role.

Unauthorized Removal - the Contractor's removal of Key Personnel without the prior written consent of the State.

Article 1 – Statement of Work

1.1 Project Identification

This Contract is for Catch Basins, Slotted Drains and Leads Clean out Services for the Michigan Department of Transportation (MDOT) for Oakland County.

1.1.1 Project Request

This is a Statement of Work (SOW) for Catch Basins, Slotted Drains and Leads Clean out Services for the locations noted in Attachment A for the Michigan Department of Transportation (MDOT) for Oakland County.

1.1.2 Background- Deleted - Not Applicable

1.2 Scope of Work and Deliverable(s)

1.2.1 In Scope

In Scope

The Contractor shall provide all personnel, equipment, tools, materials, supervision and other items and services necessary to perform the Catch Basin, Slotted Drains and Leads cleanout services as described in the specifications herein.

1.2.2 Deliverable(s)

Environment

The Catch Basins, Slotted Drains and Leads Clean out Services are requested by the Contract Compliance Inspector (CCI).

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

Work and Deliverable

A. The Contractor, through innovation, technology or other means, shall perform and provide the required cleanout of catch basin, slotted drain and leads, and provide staff, equipment, tools, supplies, materials, training and supervision staff to complete the frequencies determined by the State and otherwise do all things necessary for, or incidental, to the performance of work. Compliance will be based on the State's overall evaluation and interpretation in accordance with method of performance, frequencies and method of performance, as set forth in this document.

B. The Contractor shall provide services at the locations described on the attached sheets for each location or as directed by the Contract Compliance Inspector (CCI).

Specifications

The Contractor shall provide clean out of specified catch basins, slotted drains and leads, under the jurisdiction of MDOT in accordance with requirements stated herein, of the specified roads, bridges, and paved traffic islands. **Cleaning and flushing of leads are optional; MDOT reserves the right to have the Contractor clean 12-36 inches leads that are tied to the drainage structures anywhere within the Contract area as specified by the CCI. This optional work shall be performed as requested and directed by the CCI and paid at the price per foot that the vendor quotes for this work on the attached price sheet.**

The Contractor shall also furnish supervision and all labor, equipment, transportation, disposal of sand, silt and debris in accordance with all Federal and State statues and incidentals necessary to satisfactorily perform the services at the frequencies and during the times as specified herein. The services shall include all functions normally considered a part of workmanlike, satisfactory public service.

The specifications contained in this Contract have been developed to establish the minimum level of catch basins, slotted drains and leads cleaning services required and operated by MDOT.

The Contractor shall inspect all drainage structures and catch basins scheduled for clean out in each year of a contract to determine the amount of material in each drainage structure and catch basin. The Contractor shall clean all structures, and catch basins containing two (2) inches or more of material or as directed by CCI . The slotted drains shall be cleaned and flushed prior to cleaning catch basins and/or leads. The Contractor shall prepare an inspection log each week during cleaning operations using the format provided by MDOT called the Weekly Catch Basin Inspection Report.

The log shall identify each drainage structure and catch basin inspected. The log shall include the route number, trunk line name, and direction of travel, the name of the nearest intersection, the catch basins distance from the intersection, the nearest street address, the depth of contents and remarks describing needed repairs. The Contractor shall update the log each week and provide copy of the log to the CCI each week during cleaning operations. The inspection log shall identify the amount of material in the catch basin or drainage structure, any repairs they may need and any blocked outlets.

The routine catch basin cleaning will be performed between April 15th and September 30th of each year. One (1) unit shall equal one (1) catch basin as described in Attachment A of this Contract.

Emergency Requests

The Contractor shall be available 24 hours, seven (7) days a week. The Contractor shall organize their operations to respond to emergency calls for catch basin clean out services from the CCI. Following a call from the CCI, the Contractor shall provide the necessary equipment for catch basin clean out at the designated scene within one (1) hour of notice and/or a time frame approved by CCI. This activity is typically done in conjunction with localized flooding for catch basin clean out.

Payment for emergency call outs shall be paid at an hourly rate. The billable time will begin when the Contractor arrives at the emergency scene with all personnel and equipment needed to perform the cleaning. One (1) additional hour for travel to the job sight and one (1) additional hour for travel from the site will be paid for each emergency call out. The Contractor shall include the cost of supervision and all labor, equipment, water, transportation, fees for disposal of debris in accordance with all Federal and State statues, and incidentals necessary to satisfactorily perform this service.

Project Control

A. The Contractor will carry out this project under the direction and control of MDOT.

B. Although there will be continuous liaison with the Contractor, the client agency's project director will meet as needed for the purpose of reviewing progress and providing necessary guidance with the Contractor in solving any problems that may arise.

Multiple Contracts Awarded to the Same Vendor

If Contractor gets awarded more than one (1) Contract and/or more than one (1) location, including contracts with local units of government, the Contractor shall demonstrate that sufficient equipment is available for each Contract as described above. The Contractor must therefore provide a detailed equipment list that includes, for each piece of equipment to be used on Contracts with the MDOT, the year of manufacture, manufacturer's name, model name, and serial number and any lease Contracts when applicable. This documentation must be furnished to the DTMB Procurement and/or MDOT prior to this Contract start date. MDOT reserves the right to inspect the Contractor's equipment prior to the Contract start date and at any time throughout the duration of this Contract.

Procurement, in junction with MDOT, reserves the right to restrict the number of Contracts awarded to a single Contractor based on the ability of the Contractor to satisfactorily perform Contract work within Contract time limits.

Volume of Service
Volume of service for this Contract are identified as estimates only in Attachment A. The CCI will determine final unit number(s) to be cleaned.

Annual Service Review and Progress Meeting
During the first week of April, prior to the first catch basin cleaning, the Contractor and CCI shall meet to review and update the progress schedule for the coming season, identify any personnel changes, equipment changes, and exchange special event schedules.

The CCI may request an audit of the services provided each year under the specifications, terms, and conditions of this Contract. The audit will be a joint activity of MDOT and Procurement.

An unsatisfactory audit may result in cancellation of this Contract under the terms of the Cancellation Clause in this Contract. Further, should this Contract be cancelled for cause, the Contractor so cancelled will not be allowed to participate in request(s) for continuation of this service.

The audit will consist of an evaluation of the total service quality, including responsiveness, timeliness of required reporting, and any other specifics as required under the terms of this Contract. The results of the audit along with Contract recommendations will be published by Procurement and distributed to MDOT and the Contractor(s).

Should the Contractor desire, a meeting will be arranged between all concerned parties within 10 calendar days of the date the Contractor received, or could have reasonably been expected to receive, their copy of the audit. This meeting will provide an opportunity for the Contractor to present their reactions to audit recommendations.

Detailed Progress Schedule
Work must be performed in accordance with the progress schedule submitted with the Contractor's Work Plan at the Pre-Award Meeting and described below.

The first failure to complete work as defined in the progress schedule without prior approval to adjust the schedule from the CCI shall result in a Vendor Performance being issued and a meeting with the Contractor to insure corrective action. The second such failure may result in termination of this Contract. The progress schedule must address all work to be completed when multiple Contracts are awarded to the same Contractor, including work performed as a subcontractor for a local unit of government.

The progress schedule must address all services to be completed by the Contractor. (If the Contractor has multiple Contracts for curb/street sweeping on the State Trunk Line System, the progress schedule shall include any curb/street sweeping performed on the State Trunk Line System whether for MDOT or as a Department subcontractor for a local unit of government).

Contractor's Work Plan
Contractor's Work Plan, which must be approved prior to commencement of work, must include the following:

A. EQUIPMENT LIST - indicating description, age, manufacturer, model, and serial number of each piece.

Equipment must meet or exceed all requirements defined under "Equipment Requirements" document. All equipment must be in the Contractor's possession, available for use and fully operational, prior to the Pre-Award meeting. The Contractor must provide an equipment list and any lease contracts at the Pre-Award Meeting.

B. SCHEDULE OF OPERATIONS - personnel and hours expected to complete work on this Contract.

C. Name(s) of supervisors – 24-hour contact telephone numbers and best contact times.

D. Progress schedule listing locations where cleaning will occur. Equipment failure **WILL NOT** constitute an acceptable reason for deviating from the progress schedule. This schedule must be approved by MDOT at the Pre-Award Meeting. Adjustments to this schedule, including any weather-related deviations, must be approved by the CCI or designated representative.

E. Safety Program, including traffic control plan(s).

F. Name/location of Class II disposal site for sweeping material.

G. Proof of Insurance as defined in the Standard Terms and Conditions attached to this document must be provided to Procurement prior to the Pre-Award Meeting.

H. The Contractor is responsible for notifying the County or Municipality before starting work in their area. The CCI will provide a Directory of Municipal Offices and County Directory at the Pre-Award Meeting.

I. Copy of Liquid Waste Hauler License.

J. Any misrepresentation by the Contractor of its ability to perform the work described in this Contract will be grounds for immediate termination. In such case, this Contract will be awarded to the next bidder who can demonstrate the ability to perform the work.

GENERAL CONDITIONS

Work Approval

During the period of operations, the Contractor shall contact the Contract Compliance Inspector for inspection of the completed work. Acceptance or unsatisfactory work shall be addressed per the Michigan Department of Transportation's 2012 Standard Specifications for Construction, Section 109.

Public Convenience and Safety

The Contractor shall comply with all federal, state and local laws and regulations, including those governing environmental protection and the furnishing, and use, of all safeguards, safety devices and protective equipment. The Contractor shall take any other actions, on either his/her own responsibility or as directed by the Contract Compliance Inspector, reasonably necessary to protect the safety and health of employees on the job, and the public, and to protect property during the performance of the project.

Days/Hours of Operation

All work included in this Contract, except trouble/emergency calls, shall be performed during daylight and/or nighttime hours as directed by the CCI (contact CCI for authorization of nighttime work in specific locations). No work shall be allowed on weekends unless prior approval is obtained from the CCI. Work shall not be permitted during holiday periods in accordance with the 2012 Michigan Department of Transportation Standard Specifications for Construction or during special events. The CCI shall suspend the work at any time, if traffic is being unduly hampered or delayed by the work in progress.

Equipment Requirements

General

The Contractor shall furnish, operate, and maintain suitable and adequate equipment necessary to clean and remove all sand, silt and debris in the catch basins, slotted drains and leads in an approved safe,

workmanlike manner without hindrance, delay, or damage to the roadside. Under no circumstances shall MDOT be responsible for any damage to the Contractor's equipment due to obstacles encountered.

Type of Equipment

The Contractor shall be required to use a minimum of two (2) combination sewer cleaners with positive displacement vacuum system mounted on a heavy duty chassis or equivalent to perform both vacuuming and jetting operations at all times. All equipment shall be approved through an acceptable demonstration of the equipment's capabilities, suitability, and condition to MDOT. Demonstrations will be at no cost to MDOT. Combination sewer cleaner shall meet or exceed the followings minimum requirements:

1. DEBRIS BODY: The body shall be cylindrical having a minimum usable liquid capacity of 15 cubic yards capable of high-dumping into 60" roll-off container.

2. WATER TANKS: The water tank shall be located for the lowest possible center of gravity while providing 100% gravity flooded intakes to water pump. A low water alarm with light at the operator station shall alert operator when water storage has 200 gallons remaining. Water tanks must be capable of utilizing complete capacity of 1500 gallons via suction sump below lowest point of tanks. Usability of 1500 gallon capacity to be verified prior to acceptance for weight distribution on front and rear (tandem) axle with full and depleted water tank scenarios upon delivery.

3. VACUUM SYSTEM AND DRIVE: Blower shall produce 3500 CFM inlet volume @ 18" Hg vacuum (Roots 824-RAS-J 18" or equal). For added protection vacuum system shall have three (3) relief valves set at 18" Hg. and shall be enclosed with a steel cage guard for safety.

4. WATER PUMP: High pressure water pump shall be rated capable of continuous delivery of 100 GPM at 2500 PSI (submit manufacturer support documentation). High-pressure water (rodder) pump system shall include controls for operation of three modes: (1) Low-flow 0-22 gpm / 2500 psi; (2) Medium-flow sewer-cleaning, 22-60 gpm / 2500 psi; and (3) High-flow sewer-cleaning, 60-90 gpm / 2500 psi. The water pump shall provide precise 0-80 GPM controlled flow at variable pressure up to 2500 PSI.

5. Catch Basin Cleaning Water System: 0-25 Gpm at 600 Psi

GPS/GIS SYSTEM

Description: Each structure shall be located with a Quality ACTIVE/REAL-TIME/CELLULAR Automatic Vehicle Location (AVL) or Global Positioning System (GPS) requiring no direct vehicle operator input to function. The in-vehicle unit shall have an accuracy of 12 feet or less. Input data shall be collected and recorded from each sensor on a vehicle at a minimum of six times per minute or when there is an event change (e.g. on or off vacuum suction, water usage or sweeper rotation). Each data record will have vehicle speed, direction and latitude\longitude and sensor input encoded. Additionally each in-vehicle GPS unit shall have the capability of time stamping each data record with the event year, date, time of day and vehicle identification.

GPS DATA	**FORMAT**	**DESCRIPTION**
Vehicle ID	XX-XXXX	e.g. License plate #
Vehicle speed	MM	mile per hour
Vehicle heading	DDD^0	$0 - 360^0$
Event year	YYYY	2012 plus
Event date	MMDD	Month & day
Event time of day	HHMMSS	Hour, min & sec.
Latitude	$DDD.DDDDD^0$	Decimal degrees
Longitude	$DDD.DDDDD^0$	Decimal degrees
Calculated Data		
Distance traveled per route	MMM.mm	Miles
Number of Structures Cleaned per route	MMM.mm	Each

Time Vacuum suction on for each structure	HHMMSS	Hour, min & sec.
Time water flowing is on per each structure	HHMMSS	Hour, min & sec.

Sensors Data

On/Off position for water flow control	I/O	water flow
On/Off position Vacuum suction control/On/Off position for vacuum suction	I/O	

The in-vehicle AVL system shall have Store and Forward functionality capable of storing 1GB (hardened memory not hard disk drive) of information while out of coverage and automatically forwarding the same when back in coverage. Under normal operations the AVL system shall transmit data every three to five minutes to the hosting vendor's facility. The in-vehicle unit shall be configured to start collecting data when the ignition is in the on position; continue throughout the work activity, and terminate ten minutes after the ignition is return to the off position.

WEB VENDOR MAPPING FUNCTIONALITY

The hosting vendor shall be able to dynamically track a minimum of twenty vehicles with near instantaneous displaying of information as it is received from the vehicle and storing data for two years. The hosting vendor shall have the capability of automatically displaying maps via the internet for each maintenance facilities' area of responsibility. The maintenance facility shall be the center of focus for each area of responsibility map. Mapping functionality shall have a minimum resolution 10 feet and zoom out capabilities of 50 plus miles. Additionally the mapping functionality shall have information bubbles that can display data record. Each data record shall be represented by a tick mark that composed of one segment of a route. The system shall be able to temporarily display tick mark data by placing the cursor over a mark or by opening a permanent information window. The mapping system shall have the ability of displaying routes in different colors.

The host vendor system shall allow for the play back of events for a minimum of two years. Information provided to CCI will consist of summary and detail reports. Summary reports shall consist of all routes serviced on a specific day. Detail reports shall include a list of specific location services by all vehicles year-to-date, see reports below: for more information.

The host vendor system shall be capable of assigning GPS coordinates to street address in order to determine a location for summary reports. Additional the system shall be capable of assigning predetermine curb mile distances to the location address.

The host vendor system shall also have functionality for exporting data files to Microsoft Excel. Files shall contain all data items selected from the Standard and Optional Records Input Sections listed above. The start and end times for selecting export records should follow the play back format. **The vendor shall provide full web access to CCI for monitoring and obtaining reports on as needed basis.** Use Eagle Eye Software, Inc., USF Fleet Tracking, SageQuest or other approved equal GPS/GIS manufacturers as approved by CCI.

CATCH BASIN CLEAN OUT REPORT

LOCATION BOUNDARY (geofence)	VEHICLE ID	CATCH BASIN ID (landmark)	EVENT DATE	START TIME (geofence entry)	VACUUM START TIME (input 1)	VACUUM END TIME (input 1)	TOTAL VACCUM TIME (input 1)	TOTAL TIME (geofence)
Wide Track	01-3456	1	08/19/2010	6:00:00	06:05:00	06:10:00	00:05:00	00:30:00
Wide Track	01-3456	2	08/19/2010	6:00:00	06:15:00	06:20:00	00:05:00	00:30:00
Wide Track	01-3456	3	08/19/2010	6:00:00	06:25:00	06:30:00	00:5:00	00:30:00
Huron Ave	01-4567	1	08/20/2010	05:30:00	05:45:00	05:55:00	00:10:00	00:25:00
I-75	01-5678	1	08/23/2010	06:45:00	07:00:00	07:05:00	00:05:00	00:20:00
Telegraph	01-7890	1	08/24/2010	07:30:00	07:40:00	07:45:00	00:05:00	00:15:00

CATCH BASIN CLEAN OUT SUMMARY REPORT

LOCATION BOUNDARY (geofence)	VEHICLE ID	CATCH BASIN ID (landmark)	EVENT DATE	TOTAL VACCUM TIME (input 1)	TOTAL TIME (geofence)
Wide Track	01-3456	1	08/19/2010	00:15:00	00:30:00
Wide Track	01-3456	2	08/19/2010	00:05:00	00:30:00
Wide Track	01-3456	1	08/18/2010	00:10:00	00:45:00
Wide Track	01-3456	1	08/17/2010	00:5:00	00:30:00

Safety

All equipment shall meet all federal, state, and local safety requirements. Equipment shall be equipped with commercial type flashing amber lights plainly visible from all directions. Flashers shall have a minimum of 32 candlepower output and flash 50 to 60 times per minute.

A lighted arrow Type B or C as specified in the 2003 Michigan Department of Transportation Standard Specifications for Construction shall be mounted on, or towed behind, each vehicle.

R 408.40133. Illumination.
Rule 133. (1) A minimum illumination intensity of 10 footcandles shall be provided on a jobsite where construction work is being performed.
(2) A minimum illumination intensity of 5 footcandles shall be provided to areas on a jobsite where work is not being immediately performed but where workers may pass through.
(3) A minimum illumination intensity of 50 footcandles shall be provided for first aid stations and infirmaries.
(4) For areas or operations not covered by subrules (1) to (3) of this rule, refer to the American National Standard A11.1-1965, R 1970, Practice for Industrial Lighting, for recommended values of illumination. ANSI Z11.1-1965, R 1970, is adopted by reference in this rule. Printed copies of ANSI Z11.1-1965, R 1970, are available from Global Engineering Documents, 15 Inverness Way East, Englewood, Colorado 80112, telephone number 1-800-854-7179, website: www.global.ihs.com, at a cost as of the time of adoption of these amendatory rules of $54.00 or is available for inspection at the Michigan Department of Consumer and Industry Services, Standards Division, 7150 Harris Drive, P.O. Box 30643, Lansing, Michigan 48909.
(5) This rule replaces OH rule 6605

Truck Mounted Attenuators (TMA)
Description: The Contractor will use Truck-Mounted Attenuators (TMA's) to shield workers or work equipment from errant vehicles according to the following guidelines.

TMA's will be used for projects on freeways and roadways with operating speeds of 45 mph or greater where personnel or equipment are exposed to traffic and one (1) or more of the following conditions are met:

- The vehicle is designated as a protective vehicle (shadow or barrier) as part of the maintenance of traffic plans.
- Aerial work is being performed on scaffolding, lifts, hoists, bucket trucks, etc., where workers using this equipment are exposed to moving traffic in an occupied lane or shoulder.
- Mobile/short duration operations such as pavement marking convoys, grinding in rumble strips, sign installations, luminescent installations, etc.

TMA's shall not be mounted on the vehicle or equipment used by personnel to complete aerial work. TMA's shall not be used as a temporary/permanent barrier ending except during replacement of damaged temporary/permanent barrier ending. In the event that a TMA is used as a temporary safety measure for a damaged temporary/permanent barrier ending, the maximum length of time that a TMA shall be used for this purpose shall be 48 hours or as approved by the Engineer.

Stationary Operation: This work shall consist of furnishing a vehicle with an actual gross vehicle weight of 12 tons (min. weight) and furnishing, installing, and operating a TMA according to the manufacturer's recommendations, the plans/proposal, and/or as directed by the Engineer. The attenuator placement shall be located as detailed in the applicable maintaining traffic typical.

Material loaded onto the vehicle to obtain the required gross weight shall be securely attached to the vehicle to prevent movement should the TMA be hit.

Mobile Operation: This work shall consist of furnishing a vehicle with an actual gross vehicle weight of five (5) tons (min. weight) and furnishing, installing and operating a TMA according to the manufacturer's recommendations, and/or as directed by the Engineer. The attenuator placement shall be located as detailed in the applicable maintaining traffic typical.

Material loaded onto the vehicle for transport or during work operations shall be securely attached to the vehicle to prevent movement should the TMA be hit. Hazardous materials will not be allowed on this vehicle. Materials loaded onto the vehicle shall not be considered part of the vehicle gross weight.

Materials and Design: All TMA's used shall meet or exceed the requirements of NCHRP 350 test level II and III for work zone traffic control devices.

A TMA rated for (NCHRP 350 – Test Level II) shall be used on non-freeway roadways with a normal posted speed of 55 mph or less, which have been reduced to 45 mph or less. These TMA's shall be prohibited for use on all freeways, non-freeway roadways with posted speed limits of 65 mph or greater and all work zones posted at 50 mph or greater.

A TMA rated for (NCHRP 350 – Test Level III) must be utilized on all freeways, non-freeway roadways with posted speed limits of 65 mph or greater and all work zones posted at 45 mph or greater. The TMA's may also be used on all other roadways.

The TMA vehicle shall have a letter from the Contractor or manufacturer stating the TMA being used meets the above stated NCHRP 350 criteria, and has been installed and maintained according to manufacturers specifications. Upon request, a copy of this letter must be furnished to the Engineer.

The face of the TMA, visible to approaching traffic shall have reflectorized alternating yellow and black stripes, similar to the obstacle markers on the MMUTCD.

Operating Details and Utilization: The TMA shall be operated as per manufacturers' recommendations, the plans/proposal, and/or as directed by the Engineer. This includes, but is not limited to, the following:

- The height from the bottom of the TMA to the roadway surface shall be 12 inches (± 1 inch).
- The TMA shall be parallel (level) with the roadway surface.
- The manufacturers of the approved TMA's recommend a shoulder harness and headrest be provided for the TMA vehicle's operator.

  For stationary operations, when operating the vehicle with the attenuator installed, the vehicle shall be in gear if it has a standard transmission (park if an automatic transmission), with the brakes set and steering wheels turned away from the work area and traffic, if possible (the TMA shall be placed according to the roll ahead distance table located at the end of this section).

- Measurement and payment: Truck Mounted attenuators will be furnished and operated as part of the Contract at no cost to MDOT.

GUIDELINES FOR ROLL-AHEAD DISTANCE FOR TMA VEHICLES TEST LEVEL II		
Weight of TMA Vehicle (Minimum)	**Prevailing Speed (mph)** (Posted Speed Prior to Work Zone)	**Roll Ahead Distance*** (Distance from front of TMA Vehicle to Work Area)
5.5 Tons (Stationary)	45 or Less	25 ft

***Roll ahead distances are calculated using a 4,410 lb impact vehicle weight

GUIDELINES FOR ROLL-AHEAD DISTANCE FOR TMA VEHICLES TEST LEVEL III		
Weight of TMA Vehicle (Minimum)	**Prevailing Speed (mph)** (Posted Speed Prior to Work Zone)	**Roll-Ahead Distance*** (Distance from front of TMA Vehicle to Work Area)
5 Tons (Mobile)	60-70 50-55 45	175 FT 150 FT 100 FT
12 Tons (Stationary)	60-70 50-55 45	50 FT 25 FT 25 FT

*Roll ahead distances are calculated using a 10,000 lb impact vehicle weight

Disposal of Material
The Contractor is responsible for disposal of all material using either Disposal Alternate A or B listed below. At no time will waste material or storage containers be staged/stored on MDOT properties or right of way.

Disposal Alternate A
Solid Waste Phase:
The solid waste generated shall be disposed of at a Type II landfill. Solid is defined as having no releasable liquids. The landfill may require testing before accepting the waste. The Contract Compliance Inspector shall be provided disposal documentation from the Type II landfill.

Liquid Waste Phase:

(a) Option One (1) - This waste may be evaporated; or

(b) Option Two (2) -This waste may be placed in a sanitary sewer system with the approval of the owner of the system. A copy of the owner's approval shall be provided to the CCI; or

(c) Option 3 -Disposal of this waste shall be by placement into a portable tank or container and allowing enough time to allow the sediment and suspended solids to settle out. After the settling has occurred, only the clear liquid phase may be discharged into a storm sewer, well above a receiving stream, creek, drain, etc. This option must be carefully monitored to ensure that contaminants or sediment are not placed back into the sewer system. The remaining solid/liquid phase is to be managed as a waste and disposed of using Disposal Alternate B or using Disposal Alternate A with Options One or Two (1 or 2).

Disposal Alternate B
The waste generated shall be transported and disposed of by a Licensed Liquid Waste Hauler in accordance with Part 121, Liquid Industrial Waste, of the Natural Resources and Environmental Protection Act, Act 451, PA 1994. The CCI shall be provided a copy of the manifest with every invoice submitted.

If, at any time, the material is suspected of being hazardous, the CCI shall be notified.

Drainage structures to be cleaned shall be measured as Drainage Structure Lead, cleaning each. The completed work will be paid for at the Contract unit price each, which price includes all equipment and labor to clean basin or manhole and hauling, testing, if required for disposal, and disposing of all waste.

If material tests hazardous as defined by Part 111 of the Natural Resources and Environmental Act, Act 451, P.A. 1994, the CCI shall be notified immediately. Payment for disposal of hazardous material shall be as per Subsection 109.07 Extra and Force Account Work.

This material is not considered hazardous waste and does not require a manifest

Damages
The Contractor shall, at his/her own expense, preserve and protect from injury all property, either public or private, along and adjacent to the roadway. If any damages and/or injuries occur arising out of, or in consequence of, any act or omission of the Contractor, it shall be the responsibility of the Contractor to return, whole, any parties or property.

Maintaining Traffic
Traffic shall be maintained in accordance with Sections 103 and 812 of the2012 MDOT Standard Specifications for Construction and the current edition of the Michigan Manual of Uniform Traffic Control Devices (MMUTCD). All operations shall be conducted in a manner that will not create a hazard. The Contractor shall not operate equipment in a manner that requires unnecessary crossing of the roadway. The Contractor shall not park equipment within the right of way of any state trunk line in a manner not permitted by posted traffic control devices. The Contractor shall not store equipment in the right of way of any state trunk line or on state property when not engaged in sweeping operations.

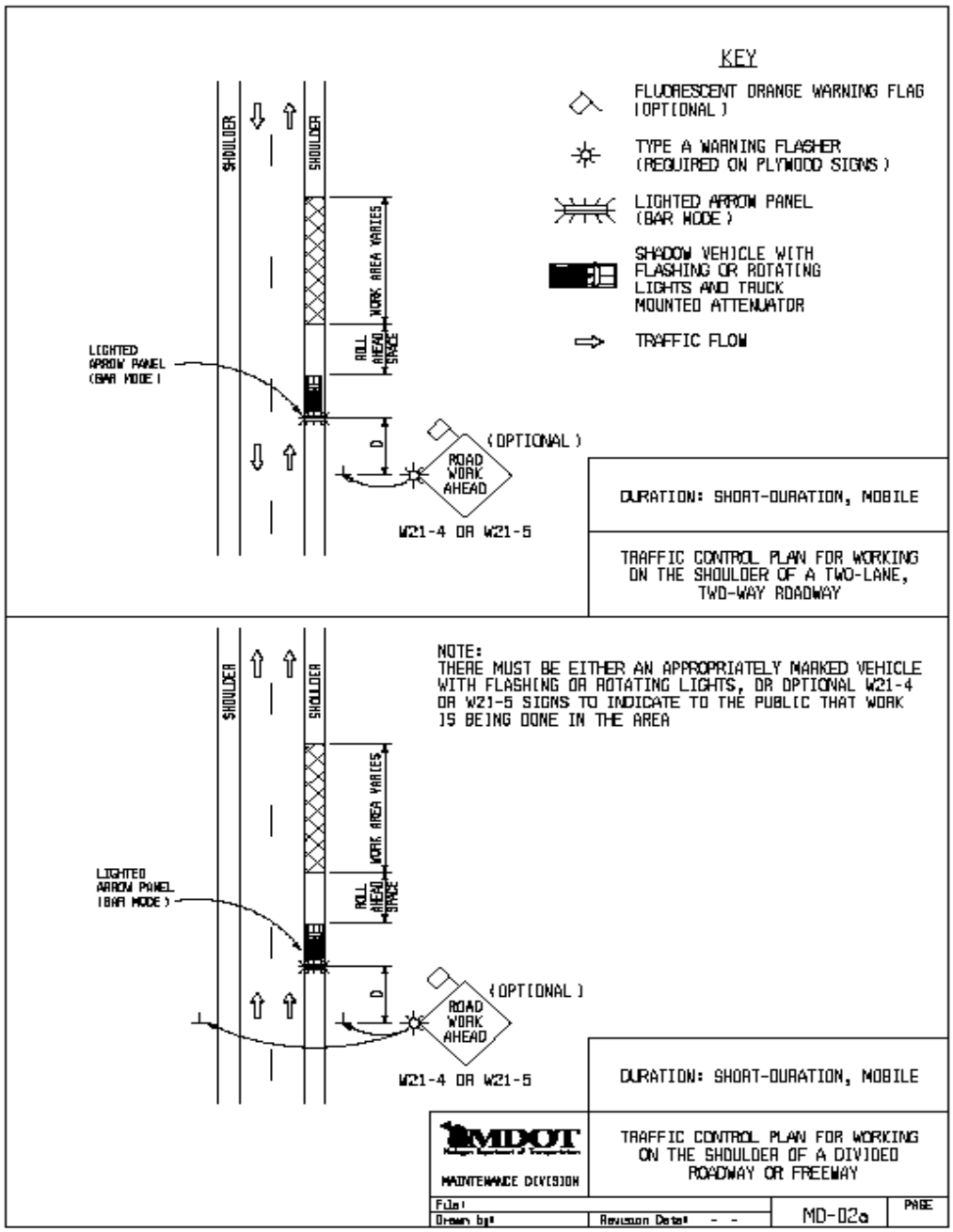
A copy of the MDOT 2012 Standard Specifications for Construction and MMUTCD can be obtained from the following:

Financial Services Division
Bureau of Finance
Michigan Department of Transportation
P. O. Box 30050
Lansing, MI 48909

<u>Traffic Control Plan</u>
For Working on the shoulder of a:

- Two-Lane, two-way roadway
- Divided roadway or freeway

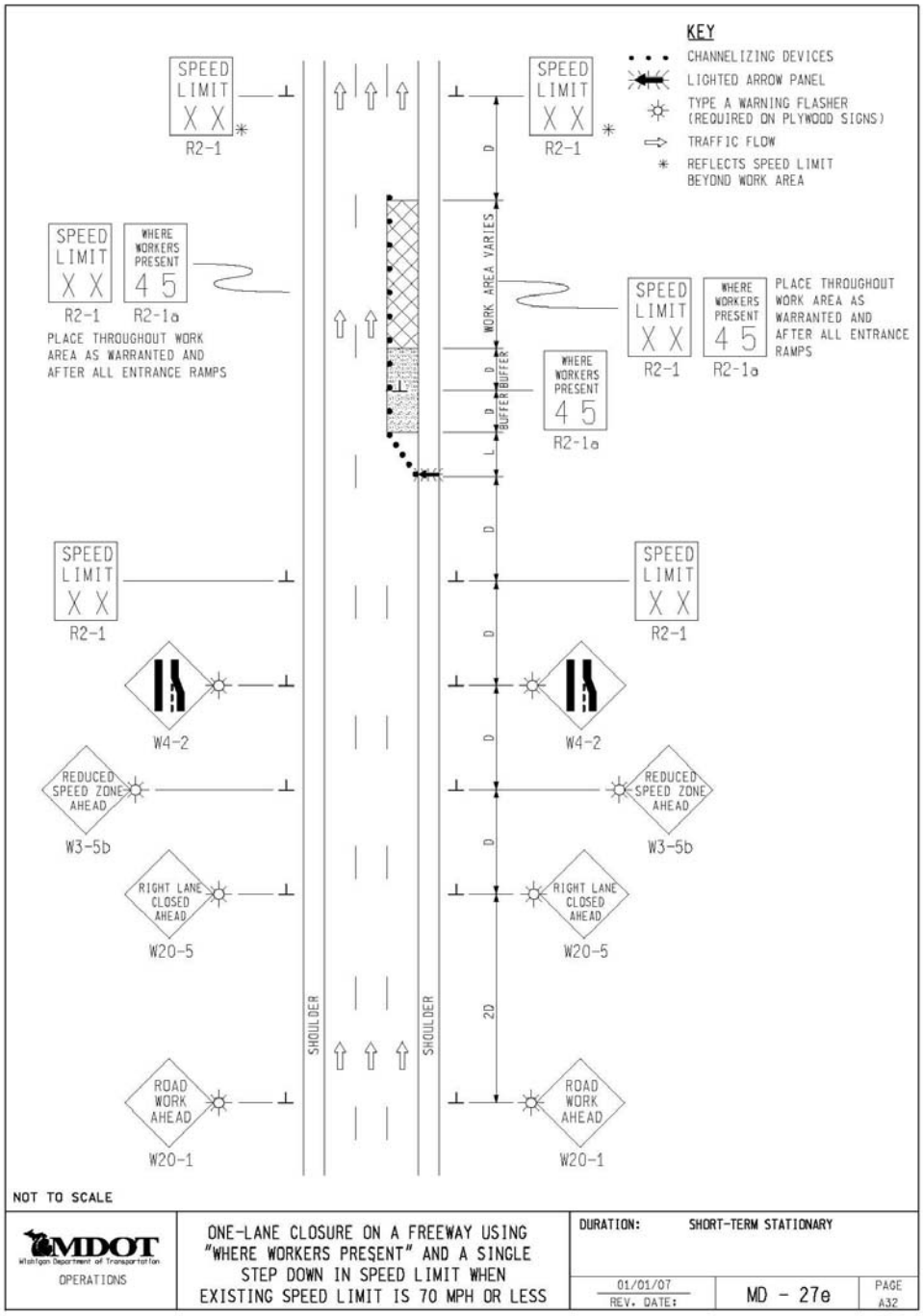
(see diagram below)



Lane Closure

Lane closures will be required when performing work in Genesee County and other counties where the shoulder is too narrow to accommodate equipment. Lane closures will only be paid if there is prior written authorization from the CCI.

For Lane Closures, see diagram below:



Public Convenience and Safety

The Contractor shall comply with all federal, state, and local laws and regulations, including those governing environmental protection and the furnishing and use of all safeguards, safety devices, and protective equipment.

The Contractor shall take any other actions, on either their own responsibility or as directed by the CCI or designated representative, reasonably necessary to protect the safety and health of employees on the job and the public and to protect property during the performance of the project.

Damages
The Contractor shall, at their own expense, preserve and protect from injury all property, either public or private, along and adjacent to the roadway. The Contractor shall be responsible for, and repair to, at their own expense, any and all damage and injury thereto, arising out of or in consequence of any act or omission of the Contractor or their employees, in the performance of the work covered by this Contract prior to completion and acceptance thereof.

The Contractor shall immediately repair all damage to signs, light fixtures, and delineators to the satisfaction of the CCI. Damage to traffic control devices (signs) and/or manholes shall be reported to the CCI, or designated representative, immediately. If localized failure to the roadway is imminent, contact the CCI immediately. All other remarks should be included in the weekly report.

All landscape plant material damaged by the Contractor shall be replaced, in kind, according to Sections 815 and 917 of the 2003 Standard Specifications for Construction and as herein specified. Planting may only be done prior to May 10 of the following year, if the damage occurred after May 10. All replacement plants must be maintained during the specified establishment period.

Payment for work performed may be withheld until satisfactory repairs are made. If MDOT makes repairs, the actual replacement costs including all labor, equipment, materials, and fringe benefits shall be charged to the Contractor.

Contract Quantities
Quantities are estimates only. Actual work performed during life of the Contract is entirely based on the specific need for service as determined by the Contract Compliance Inspector.

Method of Payment
The Contractor shall furnish an invoice for services rendered.

The billing shall reference/include the appropriate purchase order number, date(s) of service, job site(s) and applicable charges for each job site. MDOT shall pay the billed amount in accordance with the bid rate, and the payment terms specified in this Contract, which are net 30 days after the later of the invoice date, or the date the Contract Compliance Inspector, or designated representative, certifies the invoice indicative of satisfactory completion of each graffiti removal performed.

Contractor Staff, Roles, and Responsibilities

A. PERSONNEL
   1. Contractor shall identify personnel requirements by number and skill including names and proposed physical location of executive and professional personnel who would be employed in this project in its work-plan (and shall indicate through the use of organizational diagrams and/or narrative statements, the specific functions of each assigned individual with detailed qualifications of employees assigned to his project), for at least the following:

      - Project Manager
      - Staff Support

   2. The State reserves the right to approve personnel for this project and to require replacement of personnel found to be unacceptable at any time during the project. (See §2.040).

3. Contractor shall be responsible for repair, replacement or cleanup as necessary due to carelessness or negligence on the part of the Contractor and its personnel.

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

Contractor shall exercise all supervisory control and general control over all day-to-day operations of his/her employees, including control over all workers duties. At the conclusion of each service, the Contractor shall inspect the work site for completion and performance quality of the required services. The Contractor shall also be responsible for payment of all wages to employees, taxes and fringe benefits, sick leave, pension benefits, vacations, medical benefits, life insurance, or unemployment compensation or the like. The Contractor shall discipline his/her employees as needed.

State Staff Roles & Responsibilities

Contract Compliance Inspector or agency / departmental designee shall:

A. Complete assignments related to this Contract implementation have not been made at this time. These staff members for each State Agency or Department will be clearly identified before the Contract is awarded.

B. Shall provide the Contractor, prior to the term of the Contract, the general and specific orders detailing services at each Contracted location. These orders shall be deemed a portion of this Contract and failure to carry out these orders shall be considered a violation of the Contract.

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

Contract Implementation Period / Transition / Orientation

The State Contract Compliance Inspector (CCI) will administer the Contract on a day-to-day basis during the term of the Contract. **However, administration of the Contract implies no authority to change, modify, clarify, amend, or otherwise alter the terms, conditions and specification of the Contract. That authority is retained by DTMB-Procurement**.

Before commencement of work by a new Contractor, the State CCI will:

A. Schedule a meeting with the Contractor to talk about the Contract specifications and answer any questions the Contractor may have.

B. Contractor must provide telephone numbers of any supervisors, if other than the Contractor.

C. Exchange emergency telephone numbers where the Contractor can be reached, day or night, and where the CCI can be reached.

D. Do lien checks if necessary. See Contract for information required for lien checks.

E. Once the new Contractor has begun the work, the CCI shall:
   1. Provide written correspondence and feedback to the Contractor after each service. The Contractor must be informed of any deficiencies and allowed time to correct the deficiencies. If deficiencies continue, a formal complaint to Contractor or Contractor performance report will be filed.

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

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

Project Plan Management

A. For each location, a project work plan for managing implementation of the graffiti removal services shall be specified and submitted to the CCI for review and approval.

B. Project management plan shall identify methods, tools and processes proposed to oversee the project, address issues and changes as may arise, and keep the appropriate parties apprised of progress.

C. Contractor will carry out this project under the direction and control of the specified Contract Compliance Inspector (CCI) for the respective locations where services are to be performed.

D. Contractor shall meet with the CCI and other agency or departmental project-leads, on a basis to be established by CCI and Contractor but shall meet for the purpose of reviewing progress and providing necessary guidance to the Contractor in solving problems that arise, as well as continuously communicate with the agency/departmental project-lead.

E. Contractor's Work Plan, which must be approved prior to commencement of work, must include the following:

1. EQUIPMENT LIST - indicating description, age, manufacturer, model and serial number of each piece. Equipment must meet or exceed all requirements defined under "Equipment Requirements" in this document. All equipment must be in the Contractor's possession, available for use and fully operational, prior to Contract award.

2. SCHEDULE OF OPERATIONS - personnel expected to complete work on this Contract from 9:00 am to 3:00 pm weekdays or as authorized by CCI.

3. Name(s) of supervisors – 24-hour contact telephone numbers and best contact times.

4. Equipment failure **WILL NOT** constitute an acceptable reason for failure to provide graffiti removal service. Adjustments to providing this service, including any weather-related deviations, must be approved by the Contract Compliance Inspector or designated representative.

5. Safety Program, including traffic control plan(s).

6. Proof of Insurance as defined in the Standard Terms and Conditions attached to this document must be provided to Procurement **prior** to Contract award.

7. Any misrepresentation by the Contractor of its ability to perform the work described in this Contract will be grounds for immediate termination. In such case, a Contract will be awarded to the next lowest bidder who can demonstrate the ability to perform the work.

F. Annual Service Review and Progress Meeting

1. The Contract Compliance Inspector may request an audit of the services provided each year under the specifications, terms, and conditions of the Contract. The audit will be a joint activity of the Michigan Department of Transportation and the Department of Technology, Management and Budget (DTMB) Procurement.

2. An unsatisfactory audit will result in cancellation of the Contract under the terms of the Cancellation Clause in the Contract. Further, should the Contract be cancelled for cause, the Contractor so cancelled will not be allowed to participate in request(s) for continuation of this service.

3. The audit will consist of an evaluation of the total service quality, including responsiveness, timeliness of required reporting, and any other specifics as required under the terms of the Contract. The results of the audit along with Contract recommendations will be published by Procurement and distributed to the respective Agency(s).

4. Should the Contractor desire, a meeting will be arranged between all concerned parties within 10 (ten) calendar days of the date the Contractor received, or could have reasonably been expected to receive, his/her copy of the audit. This meeting will provide an opportunity for the Contractor to present his/her reactions to audit recommendations.

Issue Management, Inspection and Correction of Deficiencies

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

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

C. Contractor is responsible to make any necessary changes if the CCI determines that any task has not been performed adequately or satisfactorily. Contractor must correct the deficiency within 24 hours from notice of the deficiency, or sooner depending on the severity of the task.

D. Should the Contractor fail to correct specification deficiencies, a Complaint to Contractor (Vendor Performance) will be filed by the Contract Compliance Inspector. Repeated failure to correct specification deficiencies resulting in issuance of subsequent Complaint to Contractor (Vendor Performance) may result in cancellation of the Contract.

Change Management

A. If a proposed Contract change is requested by the Contract Compliance Inspector and approved by the agency purchasing/procurement office, then the request for change will be submitted to the DTMB-Procurement Buyer, who will then make recommendations to the Chief Procurement Officer regarding ultimate approval/disapproval of change request.

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

C. Contractors who provide products or services prior to the issuance of a Contract Change Notice by the DTMB Procurement, risk non-payment for the out-of-scope/pricing products and/or services.

1.2.3 Quantity

The State is not obligated to purchase in any specific quantity.

1.2.4 Ordering

See Section 1.2. 2. “Deliverables” under the heading “Work and Deliverable.”

1.2.5 Alternate Bids- Deleted - Not Applicable

1.3 Management and Staffing

1.3.1 Project Management- Deleted - Not Applicable

1.3.2 Reports- Deleted - Not Applicable

1.3.3 Staff, Duties, and Responsibilities- Deleted - Not Applicable

1.3.4 Meetings

See Section 1.2.2, “Deliverables” under the heading “Annual Service Review and Progress Meeting.”

The State may request other meetings as it deems appropriate.

1.3.5 Contractor Place of Performance

Full address of place of performance	**Owner/operator of facility to be used**	**Percent (%) of Contract value to be performed at listed location**
20720 Sunnydale Farmington, MI 48336	United Resource, LLC	100%

1.3.6 Reserved

1.3.7 Binding Commitments- Deleted - Not Applicable

1.3.8 Training- Deleted - Not Applicable

1.3.9 Security- Deleted - Not Applicable

1.4 Delivery and Acceptance

1.4.1 Time Frames

See Section 1.2.2, “Deliverables” under the heading “Annual Service Review and Progress Meeting.”

1.4.2 Minimum Order – Deleted – Not Applicable

1.4.3 Packaging – Deleted – Not Applicable

1.4.4 Palletizing – Deleted – Not Applicable

1.4.5 Delivery Term – Deleted – Not Applicable

1.4.6 Acceptance Process

The acceptance process is defined in Section 2.8.4, Acceptance of Deliverable(s), unless otherwise defined in this section.

1.4.7 Criteria

See Section 1.2.2, “Deliverables” under the heading “Criteria.”

1.5 Proposal Pricing

1.5.1 Pricing

The Contractor must provide pricing details in **Attachment A.**

1.5.2 Quick Payment Terms

The Contractor offers quick payment term of 3% if paid in 15 days. The number of days does not include processing time for payment to be received by the Contractor's financial institution.

1.5.3 Price Term

Prices in **Attachment A** are firm with prospective renegotiation at an agreed upon time. The criteria for a re-determination of pricing are under Section 2.3.5, Price Changes.

1.5.4 Tax Excluded from Price

(a) Sales Tax: The State is exempt from sales tax for direct purchases. The Contractor's prices must not include sales tax. DTMB-Procurement will furnish exemption certificates for sales tax upon request.

(b) Federal Excise Tax: The State may be exempt from Federal Excise Tax, or the taxes may be reimbursable, if articles purchased under any resulting Contract are used for the State's exclusive use. Certificates showing exclusive use for the purposes of substantiating a tax-free, or tax-reimbursable sale will be sent upon request. If a sale is tax exempt or tax reimbursable under the Internal Revenue Code, the Contractor's prices must not include the Federal Excise Tax.

1.5.5 Invoices

Invoices submitted should include at a minimum:

(a) Date
(b) PO #
(c) Quantity
(d) Deliverable
(e) Unit Price
(f) Shipping Cost (if any)
(g) Total Price
(h) Dates of Service
(i) Job Site
(j) Applicable Charges

1.6 Commodity Requirements

1.6.1 Customer Service

Contractor is able to accept customer service orders electronically, phone, facsimile transmission, or by written order.

Primary Contact	Secondary Contact I	Secondary Contact II
David Guth-President	David Henegar-Project Manager	Robert Burns-Dispatch
Cell: (313) 449-9497	Cell: (734) 286-1972	Cell: (517) 304-1977
Office: (248) 426-1671	Office: (248) 426-1671	Office: (248) 426-1671
Fax: (248) 426-1672	Fax: (248) 426-1672	Fax: (248) 426-1672
david@unitedresourcellc.com	daveh@unitedresourcellc.com	rob@unitedresourcellc.com

1.6.2 Research and Development- Deleted - Not Applicable

1.6.3 Quality Assurance Program- Deleted - Not Applicable

1.6.4 Warranty for Deliverable(s)- Deleted – Not Applicable

1.6.5 Special Incentives- Deleted – Not Applicable

1.6.6 Energy Efficiency- Deleted – Not Applicable

1.6.7 Environmental Requirements

The State prefers to purchase products that impact the environment less than competing products. Environmental components that may be considered include: recycled content, recyclability, and the presence of undesirable materials in the products, especially persistent, bio-accumulative, and toxic chemicals. The Contractor must explain if it intends to provide such products, including any relevant third-party certification (such as Green Seal, etc.).

1.6.8 Recycled Content and Recyclability

Services provided do not contain packaging.

1.6.9 Materials Identification and Tracking- (Best Value Evaluation)

(a) **Hazardous Chemical Identification**. The Contractor must list any hazardous chemical, as defined in 40 CFR §370.2, to be delivered. Each hazardous chemical must be properly identified, including any applicable identification number, such as a National Stock Number or Special Item Number. Material Safety Data Sheets must be submitted in accordance with the federal Emergency Planning and Community Right-to-Know Act, 42 USC 11001 *et seq.*, as amended. This list must be updated whenever any other chemical to be delivered is hazardous.

Chemical (if none, enter 'None')	Identification Number
None	

(b) **Mercury Content**. Services provided do not contain mercury.

(c) **Brominated Flame Retardants**. Services provided do not contain BFR's

(d) **Environmental Permits and Requirements**. Contractor's facilities are not in violation of any environmental laws. In the unlikely event that the Contractor or its facilities receives a violation, Contractor agrees to notify the DTMB-Procurement immediately.

1.7 Extended Purchasing

1.7.1 MiDEAL – Deleted – Not Applicable

1.7.2 State Employee Purchases- Deleted - Not Applicable

Article 2 – Terms and Conditions

2.1 Contract Term

2.1.1 Contract Term

The Contract term begins approximately June 5, 2012 and expires April 30, 2017 All outstanding Purchase Orders will expire upon the termination of the Contract for any of the reasons listed in Section 2.16, Termination by the State, unless otherwise agreed to in writing by DTMB-Procurement. Absent an early termination, Purchase Orders issued, but not expired, by the end of the Contract's term will remain in effect until the next September 30.

2.1.2 Options to Renew

This Contract may be renewed for up to two (2) additional one (1) year period(s). Renewal must be by mutual written agreement of the parties, not less than 30 days before expiration of the Contract.

2.2 Payments and Taxes

2.2.1 Fixed Prices for Deliverable(s)

Prices are fixed for all Deliverable(s).

2.2.2 Payment Deadlines

Undisputed invoices will be due and payable by the State, in accordance with the State's standard payment procedure as specified in 1984 PA 279, MCL 17.51 *et seq.*, within 45 days after receipt.

2.2.3 Invoicing and Payment – In General - Deleted - Not Applicable

2.2.4 Pro-ration - Deleted - Not Applicable

2.2.5 Final Payment and Waivers

The Contractor's acceptance of final payment by the State constitutes a waiver of all claims by the Contractor against the State for payment under this Contract, other than those claims previously filed in writing on a timely basis and still disputed. For other claims, final payment by the State will not constitute a waiver by either party of any rights as to the other party's continuing obligations, nor will it constitute a waiver of any claims under this Contract, including claims for Deliverable(s) not reasonably known to be defective or substandard.

2.2.6 Electronic Payment Requirement

As required by MCL 18.1283a, the Contractor must electronically register with the State at http://www.michigan.gov/cpexpress to receive electronic fund transfer (EFT) payments.

2.2.7 Employment Taxes

The Contractor must collect and pay all applicable federal, state, and local employment taxes.

2.2.8 Sales and Use Taxes

The Contractor must register and remit sales and use taxes on taxable sales of tangible personal property or services delivered into the State. If the Contractor lacks sufficient presence in Michigan to be required to register and pay taxes, it must do so on a voluntary basis. The requirement to register and remit sales and use taxes extends to (a) all members of a "controlled group of corporations" as defined in § 1563(a) of the Internal Revenue Code, 26 USC 1563(a), and applicable regulations; and (b) all organizations under common control that make sales at retail for delivery into the State. Any United States Department of Treasury regulation that references "two or more trades or businesses under common control" includes organizations such as sole proprietorships, partnerships (as defined in § 7701(a)(2) of the Internal Revenue Code, 26 USC 7701(a)(2)), trusts, estates, corporations, or limited liability companies.

2.3 Contract Administration

2.3.1 Issuing Office

This Contract is issued by DTMB-Procurement on behalf of the Michigan Department of Transportation (State). **DTMB-Procurement is the only entity authorized to modify the terms and conditions of this Contract, including the prices and specifications.** The Contract Administrator within DTMB-Procurement for this Contract is:

William C. Walsh, CPPB
Procurement
Department of Technology, Management and Budget
Mason Bldg, 2nd Floor
PO Box 30026
Lansing, MI 48909
Walshw@michigan.gov
Phone: 517-373-6535

2.3.2 Contract Compliance Inspector

The Contract Compliance Inspectors, named below, will monitor and coordinate Contract activities on a day-to-day basis. However, monitoring of this Contract implies **no authority to modify the terms and conditions of this Contract, including the prices and specifications.**

Oakland County:
Ahmad Azmoudeh
Department of Transportation
Oakland TSC
azmoudeha@michigan.gov
248-451-2465

2.3.3 Project Manager

The individual(s) who will oversee the work to be performed on this Contract, will be named by the CCI.

2.3.4 Contract Changes

(a) If the State requests or directs the Contractor to provide any Deliverable(s) that the Contractor believes are outside the scope of the Contractor's responsibilities under the Contract, the Contractor must notify the State before performing the requested activities. If the Contractor fails to notify the State, any activities performed will be considered in-scope and not entitled to additional compensation or time. If the Contractor begins work outside the scope of the Contract and then ceases performing that work, the Contractor must, at the request of the State, retract any out-of-scope work that would adversely affect the Contract.

(b) The State or the Contractor may propose changes to the Contract. If the Contractor or the State requests a change to the Deliverable(s) or if the State requests additional Deliverable(s), the Contractor must provide a detailed outline of all work to be done, including tasks, timeframes, listing of key personnel assigned, estimated hours for each individual per Deliverable, and a complete and detailed cost justification. If the parties agree on the proposed change, DTMB-Procurement will prepare and issue a notice that describes the change, its effects on the Deliverable(s), and any affected components of the Contract (Contract Change Notice).

(c) No proposed change may be performed until DTMB-Procurement issues a duly executed Contract Change Notice for the proposed change.

2.3.5 Price Changes

If allowed by Section 1.5.3, Price Term, the State and the Contractor will complete a pricing review (Review) every 365 days following the Effective Date, to allow for changes based on actual costs incurred. Requested changes may include increases or decreases in price and must be accompanied by supporting information indicating market support of proposed modifications (such as the CPI and PPI, US City Average, as published by the US Department of Labor, Bureau of Labor Statistics).

(a) The State may request a Review upon 30 days written notice that specifies what Deliverable is being reviewed. At the Review, each party may present supporting information including information created by, presented, or received from third parties.

(b) Following the presentation of supporting information, both parties will have 30 days to review the supporting information and prepare any written response.

(c) In the event the Review reveals no need for modifications of any type, pricing will remain unchanged unless mutually agreed to by the parties. However, if the Review reveals that changes may be recommended, both parties will negotiate in good faith for 30 days unless extended by mutual agreement of the parties.

(d) If the supporting information reveals a reduction in prices is necessary and Contractor agrees to reduce rates accordingly, then the State may elect to exercise the next one year option, if available.

(e) If the supporting information reveals a reduction in prices is necessary and the parties are unable to reach agreement, then the State may eliminate all remaining Contract renewal options.

(f) Any changes based on the Review must be implemented through the issuance of a Contract Change Notice.

2.3.6 Notices

All notices and other communications required or permitted under this Contract must be in writing and will be considered given when delivered personally, by fax (if provided) or by e-mail (if provided), or by registered mail, return receipt requested, addressed as follows (or any other address that is specified in writing by either party):

If to State:

State of Michigan
DTMB-Procurement
Attention: William C. Walsh, CPPB
PO Box 30026
530 West Allegan
Lansing, MI 48909
Walshw@michigan.gov
Fax: 517-335-0046

If to Contractor:
David Guth-President
United Resource LLC
20720 Sunnydale
Farmington, MI 48336
David@unitedresourcellc.com
Fax: (248) 426-1672

Delivery by a nationally recognized overnight express courier will be treated as personal delivery.

2.3.7 Covenant of Good Faith

Each party must act reasonably and in good faith. Unless otherwise provided in this Contract, the parties will not unreasonably delay, condition or withhold their consent, decision, or approval any time it is requested or reasonably required in order for the other party to perform its responsibilities under the Contract.

2.3.8 Assignments

(a) Neither party may assign this Contract, or assign or delegate any of its duties or obligations under the Contract, to another party (whether by operation of law or otherwise), without the prior approval of the other party. The State may, however, assign this Contract to any other State agency, department, or division without the prior approval of the Contractor.

(b) If the Contractor intends to assign this Contract or any of the Contractor's rights or duties under the Contract, the Contractor must notify the State and provide adequate information about the assignee at least 90 days before the proposed assignment or as otherwise provided by law or court order. The State may withhold approval from proposed assignments, subcontracts, or novations if the State determines, in its sole discretion, that the transfer of responsibility would decrease the State's likelihood of receiving performance on the Contract or the State's ability to recover damages.

(c) If the State permits an assignment of the Contractor's right to receive payments, the Contractor is not relieved of its responsibility to perform any of its contractual duties. All payments must continue to be made to one entity.

2.3.9 Equipment

The State will not provide equipment and resources unless specifically identified in the Statement(s) of Work or other Contract exhibits.

2.3.10 Facilities - Deleted - Not Applicable

2.4 Contract Management

2.4.1 Contractor Personnel Qualifications

All persons assigned by the Contractor to perform work must be employees of the Contractor or its majority-owned subsidiaries, and must be fully qualified to perform the work assigned to them.

2.4.2 Contractor Key Personnel

(a) The Contractor must provide the Contract Compliance Inspector with the names of Key Personnel as required in Section 1.2.2 “Contractor Staff Roles and Responsibilities

2.4.3 Removal or Reassignment of Personnel at the State's Request

The State may require the Contractor to remove or reassign personnel if the State has legitimate, good-faith reasons articulated in a notice to the Contractor. Replacement personnel must be fully qualified for the position. If the State exercises this right, and the Contractor cannot immediately replace the removed personnel, the State agrees to an equitable adjustment in schedule or other terms that may be affected.

2.4.4 Contractor Personnel Location – Deleted – Not Applicable

2.4.5 Contractor Identification

The Contractor's employees must be clearly identifiable while on State property and must clearly identify themselves and the company they work for whenever making contact with State personnel by telephone or other means.

2.4.6 Cooperation with Third Parties

The Contractor must cooperate with the State and its agents and other contractors, including the State's quality assurance personnel. The Contractor must provide reasonable access to its personnel, systems, and facilities related to the Contract to the extent that access will not interfere with or jeopardize the safety or operation of the systems or facilities.

2.4.7 Relationship of the Parties

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

2.4.8 Contractor Return of State Equipment/Resources

The Contractor must return to the State any State-furnished equipment, facilities and other resources when no longer required for the Contract in the same condition as when provided by the State, reasonable wear and tear excepted.

2.4.9 Background Checks

The State may investigate the Contractor's personnel before granting access to State facilities and systems. The scope of the background check is at the discretion of the State and the results will be used to determine eligibility for working within State facilities and systems. The investigations will include a Michigan State Police background check (ICHAT) and may include a Criminal Justice Information Services (CJIS) fingerprint check. Proposed Contractor personnel may be required to complete and submit an RI-8 Fingerprint Card for the CJIS fingerprint check.

2.4.10 Compliance With State Policies

All Contractor personnel must comply with the State's security and acceptable use policies for State IT equipment and resources, available at http://www.michigan.gov/pcpolicy. Contractor personnel must agree to the State's security and acceptable use policies before the State grants access to its IT equipment and resources. The Contractor must provide these policies to prospective personnel before requesting access from the State. Contractor personnel must comply with all physical security procedures in State facilities.

2.5 Subcontracting by Contractor – Deleted – Not Applicable – NO SUBCONTRACTING ALLOWED

2.5.1 Contractor Responsible– Deleted – Not Applicable – NO SUBCONTRACTING ALLOWED

2.5.2 State Approval of Subcontractor – Deleted – Not Applicable – NO SUBCONTRACTING ALLOWED

2.5.3 Subcontract Requirements– Deleted – Not Applicable – NO SUBCONTRACTING ALLOWED

2.5.4 Competitive Selection– Deleted – Not Applicable – NO SUBCONTRACTING ALLOWED

2.6 Reserved

2.7 Performance

2.7.1 Time of Performance

(a) The Contractor must immediately notify the State upon becoming aware of any circumstances that may reasonably be expected to jeopardize the completion of any Deliverable(s) by the scheduled due dates in the latest State-approved delivery schedule and must inform the State of the projected actual delivery date.

(b) If the Contractor believes that a delay in performance by the State has caused or will cause the Contractor to be unable to perform its obligations according to specified Contract time periods, the Contractor must immediately notify the State and, to the extent practicable, continue to perform its obligations according to the Contract time periods. The Contractor will not be in default for a delay in performance to the extent the delay is caused by the State.

2.7.2 Service Level Agreements - Deleted - Not Applicable

2.7.3 Liquidated Damages – Deleted – Not Applicable

2.7.4 Excusable Failure

Neither party will be liable for any default, damage or delay in the performance of its obligations that is caused by government regulations or requirements, power failure, electrical surges or current fluctuations, war, forces of nature or acts of God, delays or failures of transportation, equipment shortages, suppliers' failures, acts or omissions of common carriers, fire, riots, civil disorders, labor disputes, embargoes, injunctions (provided the injunction was not issued as a result of any fault or negligence of the party seeking to have its default or delay excused), or any other cause beyond the reasonable control of a party; provided the non-performing party are without fault in causing the default or delay, and the default or delay could not have been prevented by reasonable precautions and cannot reasonably be circumvented by the non-performing party through the use of alternate sources, workaround plans, or other means, including disaster recovery plans.

If a party does not perform its contractual obligations for any of the reasons listed, the non-performing party will be excused from any further performance of its affected obligation(s) for as long as the circumstances prevail. The non-performing party must promptly notify the other party immediately after the excusable failure occurs, and when it abates or ends. Both parties must use commercially reasonable efforts to resume performance.

If any of the reasons listed substantially prevent, hinder, or delay the Contractor's performance of the Deliverable(s) for more than 10 Days, and the State reasonably determines that performance is not likely to be resumed within a period of time that is satisfactory to the State, the State may: (a) procure the affected Deliverable(s) from an alternate source without liability for payment so long as the delay in performance continues; or (b) terminate any portion of the Contract so affected and equitably adjust charges payable to the Contractor to reflect those Deliverable(s) that are terminated. The State must pay for all Deliverable(s) for which Final Acceptance has been granted before the termination date.

The Contractor will not have the right to any additional payments from the State as a result of any Excusable Failure or to payments for Deliverable(s) not provided as a result of the Excusable Failure.

2.8 Acceptance of Deliverable(s)

2.8.1 Quality Assurance

By tendering any Deliverable to the State, the Contractor certifies to the State that (a) it has performed reasonable quality assurance activities; (b) it has performed any reasonable testing; and (c) it has corrected all material deficiencies discovered during the quality assurance activities and testing. To the extent that testing occurs at State Locations, the State is entitled to observe and otherwise participate in the testing.

2.8.2 Delivery Responsibilities – Deleted – Not Applicable

2.8.3 Process for Acceptance of Deliverable(s) – Deleted – Not Applicable

2.8.4 Acceptance of Deliverable(s) – Deleted – Not Applicable

2.8.5 Process for Approval of Written Deliverable(s) - Deleted - Not Applicable

2.8.6 Process for Approval of Services

The State Review Period for approval of Services is governed by the applicable Statement of Work (and if the Statement of Work does not state the State Review Period, it is by default 30 Business Days for Services). The State agrees to notify the Contractor in writing by the end of the State Review Period either stating that the Service is approved in the form delivered by the Contractor or describing any deficiencies that must be corrected before approval of the Services (or at the State's election, after approval of the Service). If the State delivers to the Contractor a notice of deficiencies, the Contractor must correct the described deficiencies and within 30 Business Days resubmit the Service in a form that shows all revisions made to the original version delivered to the State. The Contractor's correction efforts must be made at no additional charge.

Upon implementation of a corrected Service from Contractor, the State must have a reasonable additional period of time, not to exceed the length of the original State Review Period, to review the corrected Service for conformity and that the identified deficiencies have been corrected.

2.8.7 Final Acceptance – Deleted – Not Applicable

2.9 Ownership - Deleted - Not Applicable

2.10 State Standards - Deleted - Not Applicable

2.11 Confidentiality

2.11.1 Confidential Information

As used in this Section, "Confidential Information" means all information of the parties, except information that is:

(a) disclosable under the Michigan Freedom Of Information Act (FOIA);

(b) now available or becomes available to the public without breach of this Contract;

(c) released in writing by the disclosing party;

(d) obtained from a third party or parties having no obligation of confidentiality with respect to such information;

(e) publicly disclosed pursuant to federal or state law; or

(f) independently developed by the receiving party without reference to Confidential Information of the furnishing party.

2.11.2 Protection and Destruction of Confidential Information

(a) Each party must use the same care to prevent unauthorized disclosure of Confidential Information as it uses to prevent disclosure of its own information of a similar nature, but in no event less than a reasonable degree of care. Neither the Contractor nor the State will: (i) make any use of the Confidential Information of the other except as contemplated by this Contract; (ii) acquire any interest or license in or assert any lien against the Confidential Information of the other; or (iii) if requested to do so, refuse for any reason to promptly return the other party's Confidential Information.

(b) Each party will limit disclosure of the other party's Confidential Information to employees, and agents who must have access to fulfill the purposes of this Contract. Disclosure to, and use by, a Subcontractor is permissible where: (i) use of a Subcontractor is authorized under this Contract; (ii) the disclosure is necessary or otherwise naturally occurs in connection with work that is within the Subcontractor's scope of responsibility; and (iii) Contractor obligates the Subcontractor in a written contract to maintain the State's Confidential Information in confidence. At the State's request, any employee of Contractor and of any Subcontractor having access to the State's Confidential Information may be required to execute a separate agreement to be bound by the confidentiality requirements of this Section.

(c) Upon termination of the Contract, Contractor must promptly return the State's Confidential Information or certify to the State that Contractor has destroyed all of the State's Confidential Information.

2.11.3 Exclusions

The provisions of Section 2.11, Confidentiality, will not apply where the receiving party is required by law to disclose the other party's Confidential Information, provided that the receiving party: (i) promptly provides the furnishing party with notice of the legal request; and (ii) assists the furnishing party in resisting or limiting the scope of the disclosure as reasonably requested by the furnishing party.

2.11.4 No Obligation to Disclose

Nothing contained in Section 2.11, Confidentiality, will be construed as obligating a party to disclose any particular Confidential Information to the other party.

2.11.5 Security Breach Notification

If Contractor breaches this Section, it must (i) promptly cure any deficiencies in Contractor's internal security controls; and (ii) comply with any applicable federal and state laws and regulations pertaining to unauthorized disclosures. Contractor and the State will cooperate to mitigate, to the extent practicable,

the effects of any breach, intrusion, or unauthorized access, use, or disclosure. Contractor must notify the State of any unauthorized use or disclosure of Confidential Information, whether suspected or actual, within 10 days of becoming aware of the use or disclosure or a shorter time period as is reasonable under the circumstances. The State may require Contractor to purchase credit monitoring services for any individuals affected by the breach.

2.12 Records and Inspections

2.12.1 Inspection of Work Performed

The State's authorized representatives, at reasonable times and with 10 days prior notice, have the right to enter the Contractor's premises or any other places where work is being performed in relation to this Contract. The representatives may inspect, monitor, or evaluate the work being performed, to the extent the access will not reasonably interfere with or jeopardize the safety or operation of Contractor's systems or facilities. The Contractor must provide reasonable assistance for the State's representatives during inspections.

2.12.2 Retention of Records

(a) The Contractor must retain all financial and accounting records related to this Contract for a period of seven years after the Contractor performs any work under this Contract (Audit Period).

(b) If an audit, litigation, or other action involving the Contractor's records is initiated before the end of the Audit Period, the Contractor must retain the records until all issues arising out of the audit, litigation, or other action are resolved or until the end of the Audit Period, whichever is later.

2.12.3 Examination of Records

The State, upon 10 days notice to the Contractor, may examine and copy any of the Contractor's records that relate to this Contract. The State does not have the right to review any information deemed confidential by the Contractor if access would require the information to become publicly available. This requirement also applies to the records of any parent, affiliate, or subsidiary organization of the Contractor that performs services in connection with this Contract.

2.12.4 Audit Resolution

If necessary, the Contractor and the State will meet to review any audit report promptly after its issuance. The Contractor must respond to each report in writing within 30 days after receiving the report, unless the report specifies a shorter response time. The Contractor and the State must develop, agree upon, and monitor an action plan to promptly address and resolve any deficiencies, concerns, or recommendations in the report.

2.12.5 Errors

(a) If an audit reveals any financial errors in the records provided to the State, the amount in error must be reflected as a credit or debit on the next invoice and subsequent invoices until the amount is paid or refunded in full. However, a credit or debit may not be carried forward for more than four invoices or beyond the termination of the Contract. If a balance remains after four invoices, the remaining amount will be due as a payment or refund within 45 days of the last invoice on which the balance appeared or upon termination of the Contract, whichever is earlier.

(b) In addition to other available remedies, if the difference between the State's actual payment and the correct invoice amount, as determined by an audit, is greater than 10%, the Contractor must pay all reasonable audit costs.

2.13 Warranties

2.13.1 Warranties and Representations

The Contractor represents and warrants:

(a) It is capable of fulfilling and will fulfill all of its obligations under this Contract. The performance of all obligations under this Contract must be provided in a timely, professional, and workmanlike manner and must meet the performance and operational standards required under this Contract.

(b) The Contract signatory has the authority to enter into this Contract on behalf of the Contractor.

(c) It is qualified and registered to transact business in all locations where required.

(d) Neither the Contractor nor any affiliates, nor any employee of either, has, will have, or will acquire, any interest that would conflict in any manner with the Contractor's performance of its duties and responsibilities to the State or otherwise create an appearance of impropriety with respect to the award or performance of this Contract. The Contractor must notify the State about the nature of any conflict or appearance of impropriety within two days of learning about it.

(e) Neither the Contractor nor any affiliates, nor any employee of either, has accepted or will accept anything of value based on an understanding that the actions of the Contractor, its affiliates, or its employees on behalf of the State would be influenced. The Contractor must not attempt to influence any State employee by the direct or indirect offer of anything of value.

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

(g) The Contractor arrived at its proposed prices independently, without communication or agreement with any other bidder for the purpose of restricting competition. The Contractor did not knowingly disclose its quoted prices for this Contract to any other bidder before the award of the Contract. The Contractor made no attempt to induce any other person or entity to submit or not submit a proposal for the purpose of restricting competition.

(h) All financial statements, reports, and other information furnished by the Contractor to the State in connection with the award of this Contract fairly and accurately represent the Contractor's business, properties, financial condition, and results of operations as of the respective dates covered by the financial statements, reports, or other information. There has been no material adverse change in the Contractor's business, properties, financial condition, or results of operation.

(i) All written information furnished to the State by or for the Contractor in connection with the award of this Contract is true, accurate, and complete, and contains no false statement of material fact nor omits any material fact that would make the submitted information misleading.

(j) It will immediately notify DTMB-Procurement if any of the certifications, representations, or disclosures made in the Contractor's original bid response change after the Contract is awarded.

2.13.2 Warranty of Merchantability – Deleted – Not Applicable

2.13.3 Warranty of Fitness for a Particular Purpose – Deleted – Not Applicable

2.13.4 Warranty of Title – Deleted – Not Applicable

2.13.5 Equipment Warranty – Deleted – Not Applicable

2.13.6 New Deliverable(s) – Deleted – Not Applicable

2.13.7 Prohibited Products – Deleted – Not Applicable

2.13.8 Consequences For Breach

In addition to any remedies available in law, if the Contractor breaches any of the warranties contained in Section 2.13, Warranties, the breach may be considered a material default.

2.14 Insurance

2.14.1 Liability Insurance

For the purpose of this Section, "State" includes its departments, divisions, agencies, offices, commissions, officers, employees, and agents.

(a) The following apply to all insurance requirements:

(i) The State, in its sole discretion, may approve the use of a fully-funded self-insurance program in place of any specified insurance identified in this Section.

(ii) Where specific coverage limits are listed in this Section, they represent the minimum acceptable limits. If the Contractor's policy contains higher limits, the State is entitled to coverage to the extent of the higher limits. The minimum limits of coverage specified are not intended, and may not be construed to limit any liability or indemnity of the Contractor to any indemnified party or other persons.

(iii) If the Contractor fails to pay any premium for a required insurance policy, or if any insurer cancels or significantly reduces any required insurance without the State's approval, the State may, after giving the Contractor at least 30 days notice, pay the premium or procure similar insurance coverage from another company or companies. The State may deduct any part of the cost from any payment due the Contractor, or require the Contractor to pay that cost upon demand.

(iv) In the event the State approves the representation of the State by the insurer's attorney, the attorney may be required to be designated as a Special Assistant Attorney General by the Michigan Attorney General.

(b) The Contractor must:

(i) provide proof that it has obtained the minimum levels of insurance coverage indicated or required by law, whichever is greater. The insurance must protect the State from claims that are alleged or may arise or result from the Contractor's performance, including any person directly or indirectly employed by the Contractor or any person for whose acts the Contractor may be liable.

(ii) waive all rights against the State for the recovery of damages that are covered by the insurance policies the Contractor is required to maintain under this Section. The Contractor's failure to obtain and maintain the required insurance will not limit this waiver.

(iii) ensure that all insurance coverage provided relative to this Contract is primary and non-contributing to any comparable liability insurance (including self-insurance) carried by the State.

(iv) obtain insurance, unless the State approves otherwise, from any insurer that has an A.M. Best rating of "A" or better and a financial size of VII or better, or if those ratings are not available, a comparable rating from an insurance rating agency approved by the State. All policies of insurance must be issued by companies that have been approved to do business in the State.

(v) maintain all required insurance coverage throughout the term of this Contract and any extensions. However, in the case of claims-made Commercial General Liability policies, the Contractor must secure tail coverage for at least three years following the termination of this Contract.

(vi) pay all deductibles.

(vii) pay for and provide the type and amount of insurance checked ☑ below:

☑ **(A) Commercial General Liability Insurance**

Minimal Limits:

$2,000,000 General Aggregate Limit other than Products/Completed Operations;
$2,000,000 Products/Completed Operations Aggregate Limit;
$1,000,000 Personal & Advertising Injury Limit; and
$1,000,000 Each Occurrence Limit.

Deductible maximum:

$50,000 Each Occurrence

Additional Requirements:

The Contractor must list the State of Michigan, its departments, divisions, agencies, offices, commissions, officers, employees, and agents as additional insureds on the Commercial General Liability certificate. The Contractor also agrees to provide evidence that insurance policies contain a waiver of subrogation by the insurance company.

☐ **(B) Umbrella or Excess Liability Insurance**

Minimal Limits:

$10,000,000 General Aggregate

Additional Requirements:

Umbrella or Excess Liability limits must at least apply to the insurance required in (A), General Commercial Liability. The Contractor must list the State of Michigan, its departments, divisions, agencies, offices, commissions, officers, employees, and agents as additional insureds on the certificate. The Contractor also agrees to provide evidence that insurance policies contain a waiver of subrogation by the insurance company.

☑ **(C) Motor Vehicle Insurance**

Minimal Limits:

If a motor vehicle is used in relation to the Contractor's performance, the Contractor must have vehicle liability insurance on the motor vehicle for bodily injury and property damage as required by law.

☐ **(D) Hired and Non-Owned Motor Vehicle Coverage**

Minimal Limits:

$1,000,000 Per Accident

Additional Requirements:

The Contractor must list the State of Michigan, its departments, divisions, agencies, offices, commissions, officers, employees, and agents as additional insureds on the vehicle liability certificate. The Contractor must also provide evidence that insurance policies contain a waiver of subrogation by the insurance company.

☑ **(E) Workers' Compensation Insurance**

Minimal Limits:

The Contractor must provide Workers' Compensation coverage according to applicable laws governing work activities in the state of the Contractor's domicile. If the applicable coverage is provided by a self-insurer, the Contractor must provide proof of an approved self-insured authority by the jurisdiction of domicile.

For employees working outside of the state of the Contractor's domicile, the Contractor must provide certificates of insurance proving mandated coverage levels for the jurisdictions where the employees' activities occur.

Additional Requirements:

The Contractor must provide the applicable certificates of insurance and a list of states where the coverage is applicable. Contractor must provide proof that the Workers' Compensation insurance policies contain a waiver of subrogation by the insurance company, except where such a provision is prohibited or limited by the laws of the jurisdiction in which the work is to be performed.

☑ **(F) Employers Liability Insurance**

Minimal Limits:

$100,000 Each Accident;
$100,000 Each Employee by Disease
$500,000 Aggregate Disease

Additional Requirements:

The Contractor must list the State of Michigan, its departments, divisions, agencies, offices, commissions, officers, employees, and agents as additional insureds on the certificate.

2.14.2 Subcontractor Insurance Coverage– Deleted – Not Applicable – NO SUBCONTRACTING ALLOWED

2.14.3 Certificates of Insurance and Other Requirements

Before the Contract is signed, and not less than 20 days before the insurance expiration date every year thereafter, the Contractor must provide evidence that the State and its agents, officers, and employees are listed as additional insureds under each commercial general liability and commercial automobile liability policy. The Contractor must provide DTMB-Procurement with all applicable certificates of insurance verifying insurance coverage or providing satisfactory evidence of self-insurance as required in Section 2.14.1, Liability Insurance. Each certificate must be on the standard "accord" form or equivalent and MUST CONTAIN THE APPLICABLE CONTRACT OR PURCHASE ORDER NUMBER. Each certificate must be prepared and submitted by the insurer and must contain a provision indicating that the coverage afforded will not be cancelled, materially changed, or not renewed without 30 days prior notice, except for 10 days for nonpayment of premium, to the Director of DTMB-Procurement. The notice to the Director of DTMB-Procurement must include the applicable Contract or Purchase Order number.

2.15 Indemnification

2.15.1 General Indemnification

The Contractor must indemnify, defend, and hold the State harmless from liability, including all claims and losses, and all related costs and expenses (including reasonable attorneys' fees and costs of investigation, litigation, settlement, judgments, interest and penalties), accruing or resulting to any person, firm, or corporation that may be injured or damaged by the Contractor in the performance of this Contract and that are attributable to the negligence or tortious acts of the Contractor or by anyone else for whose acts any of them may be liable.

2.15.2 Code Indemnification - Deleted - Not Applicable

2.15.3 Employee Indemnification

In any claims against the State, its departments, agencies, commissions, officers, employees, and agents, by any employee of the Contractor, the indemnification obligation will not be limited in any way by the amount or type of damages, compensation, or benefits payable by or for the Contractor under worker's disability compensation acts, disability benefit acts, or other employee benefit acts. This indemnification clause is intended to be comprehensive. Any overlap in provisions, or the fact that greater specificity is provided as to some categories of risk, is not intended to limit the scope of indemnification under any other provisions.

2.15.4 Patent/Copyright Infringement Indemnification

(a) The Contractor must indemnify and hold the State harmless from liability, including all claims and losses, and all related costs and expenses (including reasonable attorneys' fees and costs of investigation, litigation, settlement, judgments, interest, and penalties) resulting from any action threatened or brought against the State to the extent that the action is based on a claim that any piece of equipment, software, commodity, or service supplied by the Contractor or its operation, use, or reproduction, infringes any United States patent, copyright, trademark or trade secret of any person or entity.

(b) If, in the State's or the Contractor's opinion, any piece of equipment, software, commodity or service supplied by the Contractor or its operation, use, or reproduction, is likely to become the subject of an infringement claim, the Contractor must, at its expense: (i) procure for the State the right to continue using the equipment, software, commodity or service or, if this option is not reasonably available to the Contractor; (ii) replace or modify to the State's satisfaction the same with equipment, software, commodity or service of equivalent function and performance so that it becomes non-infringing, or, if this option is not reasonably available to Contractor; (iii) accept its return by the State with appropriate credits to the State against the Contractor's charges and reimburse the State for any losses or costs incurred as a consequence of the State ceasing its use and returning it.

(c) Notwithstanding the foregoing, the Contractor has no obligation to indemnify or defend the State for, or to pay any costs, damages or attorneys' fees related to, any infringement claim based upon: (i) equipment, software, commodity or service developed based on written specifications of the State; (ii) use of the equipment, software, or commodity in a configuration other than implemented or approved by the Contractor, including any modification of the same by the State; or (iii) the combination, operation, or use of the equipment, software, or commodity with equipment, software, or commodities not supplied by the Contractor under this Contract.

2.15.5 Continuing Obligation

The Contractor's duty to indemnify under Section 2.15, Indemnification, continues in full force and effect, notwithstanding the expiration or early cancellation of the Contract, with respect to any claims based on facts or conditions that occurred before expiration or cancellation.

2.15.6 Indemnification Procedures

These procedures apply to all indemnity obligations:

(a) After the State receives notice of an action or proceeding involving a claim for which it will seek indemnification, the State must promptly notify the Contractor of the claim and take, or assist the Contractor in taking, any reasonable action to avoid a default judgment against the Contractor. Failure to notify the Contractor does not relieve the Contractor of its indemnification obligations except to the extent that the Contractor can prove damages attributable to the notification failure. Within 10 days following receipt of notice from the State relating to any claim, the Contractor must notify the State whether the Contractor agrees to assume control of the defense and settlement of that claim (a "Notice of Election"). After notifying the Contractor of a claim and before the State receives the Contractor's Notice of Election, the State is entitled to defend against the claim, at the Contractor's expense, and the Contractor will be responsible for any reasonable costs, including attorney fees, incurred by the State in defending against the claim during that period.

(b) If the Contractor delivers a Notice of Election relating to any claim: (i) the State is entitled to participate in the defense of the claim and to employ counsel at its own expense to assist in handling the claim and to monitor and advise the State about the status and progress of the defense; (ii) the Contractor must, at the request of the State, demonstrate the Contractor's financial ability to carry out its defense and indemnity obligations under this Contract; (iii) the Contractor must periodically advise the State about the status and progress of the defense and must obtain prior approval of the State before entering into any settlement of the claim or ceasing to defend against the claim; and (iv) to the extent that any principles of Michigan governmental or public law may be involved or challenged, the State has the right, at its own expense, to control the defense of that portion of the claim. The State may retain control of the defense and settlement of a claim by notifying the Contractor within 10 days after the State's receipt of the Contractor's information requested by the State under clause (ii) of this paragraph, if the State determines that the Contractor has failed to demonstrate to the reasonable satisfaction of the State the Contractor's financial ability to carry out its defense and indemnity obligations under this Section. 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. In the event the insurer's attorney represents the State under this Section, the insurer's attorney may be required to be designated as a Special Assistant Attorney General by the Attorney General of the State of Michigan.

(c) If the Contractor does not deliver a Notice of Election relating to any claim of which it is notified, the State may defend the claim in a manner it deems appropriate, at the cost and expense of the Contractor. If it is determined that the claim was one against which the Contractor was required to indemnify the State, upon request of the State, the Contractor must promptly reimburse the State for all reasonable costs and expenses.

2.15.7 Limitation of Liability

Neither the Contractor nor the State is liable to each other, regardless of the form of action, for consequential, incidental, indirect, or special damages. This limitation of liability does not apply to claims for infringement of United States patent, copyright, trademark or trade secrets; to claims for personal injury or damage to property caused by the gross negligence or willful misconduct of the Contractor; to claims covered by other specific provisions of this Contract calling for liquidated damages; or to court costs or attorneys' fees awarded by a court in addition to damages after litigation based on this Contract.

2.16 Termination by the State

2.16.1 Notice and Right to Cure

If the Contractor breaches the Contract, and the State, in its sole discretion, determines that the breach is curable, the State will provide the Contractor notice of the breach and a period of at least 30 days to cure the breach. The State does not need to provide notice or an opportunity to cure for successive or repeated breaches or if the State determines, in its sole discretion, that a breach poses a serious and imminent threat to the health or safety of any person or the imminent loss, damage, or destruction of any real or tangible personal property.

2.16.2 Termination for Cause

(a) The State may fully or partially terminate this Contract for cause by notifying the Contractor if the Contractor: (i) breaches any of its material duties or obligations (including a Chronic Failure to meet any SLA); or (ii) fails to cure a breach within the time period specified in a notice of breach provided by the State.

(b) The Contractor must pay all reasonable costs incurred by the State in terminating this Contract for cause, including administrative costs, attorneys' fees and court costs, and any additional costs the State incurs to procure the Deliverable(s) from other sources. Re-procurement costs are not consequential, indirect, or incidental damages, and cannot be excluded by any other terms otherwise included in this Contract, provided the costs are not in excess of 50% more than the prices for the Deliverable(s).

(c) If the State partially terminates this Contract for cause, any charges payable to the Contractor will be equitably adjusted to reflect those Deliverable(s) that are terminated. The State must pay for all Deliverable(s) for which Final Acceptance has been granted before the termination date. Any services or related provisions of this Contract that are terminated for cause must cease on the effective date of the termination.

(d) If the State terminates this Contract for cause and it is determined, for any reason, that the Contractor was not in breach of the Contract, the termination will be deemed to have been a termination under Section 2.16.3, Termination for Convenience, effective as of the same date, and the rights and obligations of the parties will be limited to those provided in that Section.

2.16.3 Termination for Convenience

The State may fully or partially terminate this Contract for its convenience if the State determines that a termination is in the State's best interest. Reasons for the termination are within the sole discretion of the State and may include: (a) the State no longer needs the Deliverable(s) specified in this Contract; (b) a relocation of office, program changes, or changes in laws, rules, or regulations make the Deliverable(s) no longer practical or feasible for the State; (c) unacceptable prices for Contract changes; or (d) falsification or misrepresentation, by inclusion or non-inclusion, of information material to a response to any ITB issued by the State. The State may terminate this Contract for its convenience by giving Contractor notice at least 30 days before the date of termination. If the State chooses to terminate this Contract in part, any charges payable to the Contractor must be equitably adjusted to reflect those Deliverable(s) that are terminated.

2.16.4 Termination for Non-Appropriation

(a) If this Contract extends for more than one fiscal year, continuation of this Contract is subject to the appropriation or availability of funds. If sufficient funds to enable the State to continue payment are not appropriated or otherwise made available, the State must fully or partially terminate this Contract at the end of the last period for which funds have been appropriated or otherwise made available The State must give the Contractor notice at least 30 days before the date of termination, unless the State receives notice of the non-appropriation or unavailability less than 30 days before the end of the last period for which funds have been appropriated or otherwise made available.

(b) If funding for this Contract is reduced by law, or funds to pay the Contractor for the Deliverable(s) are not appropriated or are otherwise unavailable, the State may, upon 30 days notice to the Contractor, change the Deliverable(s) in the manner and for the periods of time the State may elect. The charges payable under this Contract will be equitably adjusted to reflect any Deliverable(s) not provided because of the reduction.

(c) If the State fully or partially terminates this Contract for non-appropriation, the State must pay the Contractor for all work-in-progress performed through the effective date of the termination to the extent funds are available.

2.16.5 Termination for Criminal Conviction

The State may terminate this Contract immediately and without further liability or penalty if the Contractor, an officer of the Contractor, or an owner of a 25% or greater share of the Contractor is convicted of a criminal offense related to a State, public, or private Contract.

2.16.6 Termination for Approvals Rescinded

The State may terminate this Contract if any final administrative or judicial decision or adjudication disapproves a previously approved request for purchase of personal services under Constitution 1963, Article 11, § 5, and Civil Service Rule 7-1. In that case, the State will pay the Contractor for all work-in-progress performed through the effective date of the termination. The Contract may be fully or partially terminated and will be effective as of the date stated in the notice.

2.16.7 Rights and Obligations upon Termination

(a) If the State terminates this Contract for any reason, the Contractor must:

(i) stop all work as specified in the notice of termination;

(ii) take any action that may be necessary, or that the State may direct, to preserve and protect Deliverable(s) or other State property in the Contractor's possession;

(iii) return all materials and property provided directly or indirectly to the Contractor by any entity, agent, or employee of the State;

(iv) transfer title in and deliver to the State, unless otherwise directed, all Deliverable(s) intended to be transferred to the State at the termination of the Contract (which will be provided to the State on an "As-Is" basis except to the extent the State compensated the Contractor for warranty services related to the materials);

(v) to the maximum practical extent, take any action to mitigate and limit potential damages, including terminating or limiting subcontracts and outstanding orders for materials and supplies; and

(vi) take all appropriate action to secure and maintain State information confidentially in accordance with Section 2.11, Confidentiality.

(b) If the State terminates this Contract under Section 2.16.3, Termination for Convenience, the State must pay the Contractor all charges due for Deliverable(s) provided before the date of termination and, if applicable, as a separate item of payment, for work-in-progress, based on a percentage of completion determined by the State. All completed or partially completed Deliverable(s) prepared by the Contractor, at the option of the State, become the State's property, and the Contractor is entitled to receive equitable compensation for those Deliverable(s). Regardless of the basis for the termination, the State is not obligated to pay or otherwise compensate the Contractor for any lost expected future profits, costs, or expenses incurred with respect to Deliverable(s) not actually completed.

(c) If the State terminates this Contract for any reason, the State may assume, at its option, any subcontracts and agreements for Deliverable(s), and may pursue completion of the Deliverable(s) by replacement contract or as the State deems expedient.

2.16.8 Reservation of Rights

In the event of any full or partial termination of this Contract, each party reserves all rights or remedies otherwise available to the party.

2.16.9 Contractor Transition Responsibilities

If this Contract terminates under Section 2.16, Termination by the State, the Contractor must make reasonable efforts to transition the performance of the work, including all applicable equipment, services, software, and leases, to the State or a third party designated by the State within a reasonable period of time that does not exceed 30 days from the date of termination. The Contractor must provide any required reports and documentation.

2.16.10 Transition Payments

If the transition responsibilities outlined in Section 2.16.9, Contractor Transition Responsibilities, arise based on a termination of this Contract, reimbursement will be governed by the provisions of Section 2.16, Termination by the State. If the transition results from expiration, the Contractor will be reimbursed for all reasonable transition costs (i.e., costs incurred after the expiration within the time period in Section 2.16.9 that result from transition operations) at the Contract rates. The Contractor must prepare an accurate accounting from which the State and the Contractor may reconcile all outstanding accounts.

2.17 Termination by the Contractor

2.17.1 Termination

If the State breaches the Contract and the Contractor, in its sole discretion, determines that the breach is curable, then the Contractor will provide the State with notice of the breach and a time period (not less than 30 days) to cure the breach.

The Contractor may terminate this Contract if the State: (a) materially breaches its obligation to pay the Contractor undisputed amounts due; (b) breaches its other obligations to an extent that makes it impossible or commercially impractical for the Contractor to complete the Deliverable(s); or (c) does not cure the breach within the time period specified in a notice of breach. The Contractor must discharge its obligations under Section 2.20, Dispute Resolution, before it terminates the Contract.

2.18 Stop Work

2.18.1 Stop Work Order- Deleted – Not Applicable

2.18.2 Termination of Stop Work Order- Deleted – Not Applicable

2.18.3 Allowance of the Contractor's Costs- Deleted – Not Applicable

2.19 Reserved

2.20 Dispute Resolution

2.20.1 General

(a) The Contractor must submit any claim related to this Contract to the State under Section 2.3.6, Notices, together with all supporting documentation for the claim.

(b) The representatives of the Contractor and the State must meet as often as the parties reasonably deem necessary to gather and furnish to each other all information related to the claim.

(c) During the course of negotiations, each party will honor all reasonable requests made by the other for non-privileged information reasonably related to the claim.

2.20.2 Informal Dispute Resolution

(a) If, after a reasonable time following submission of a claim under Section 2.20.1, General, the parties are unable to resolve the claim, the parties must meet with the Director of DTMB-Procurement, or his or her designee, for the purpose of attempting to resolve the dispute without the need for formal legal proceedings.

(b) Within 60 calendar days of the meeting with the Director of DTMB-Procurement, or such other time as agreed to by the parties, the Director of DTMB-Procurement will issue a written recommendation regarding settlement of the claim. The Contractor must notify DTMB-Procurement within 21 days after the recommendation is issued whether the Contractor accepts or rejects the recommendation. Acceptance by the Contractor constitutes the final resolution of the claim addressed in the recommendation, and the Contractor may not assert that claim in any future litigation or other proceeding between the parties.

(c) The recommendation of the Director of DTMB-Procurement is not admissible in any future litigation or other proceeding between the parties. The conduct and statements made during the course of negotiations or dispute resolution under Section 2.20, Dispute Resolution, are subject to Michigan Rule of Evidence 408 and are not admissible in any future litigation or other proceeding between the parties.

(d) This section will not be construed to prohibit either party from instituting formal proceedings to avoid the expiration of any applicable limitations period, to preserve a superior position with respect to other creditors, or under Section 2.20.3, Injunctive Relief.

(e) DTMB-Procurement will not mediate disputes between the Contractor and any other entity, except State agencies, concerning responsibility for performance of work.

2.20.3 Injunctive Relief

A claim between the State and the Contractor is not subject to the provisions of Section 2.20.2, Informal Dispute Resolution, where a party makes a good faith determination that a breach of the Contract by the other party will result in damages so immediate, so large or severe, and so incapable of adequate redress that a temporary restraining order or other injunctive relief is the only adequate remedy.

2.20.4 Continued Performance

Each party will continue performing its obligations under the Contract while a claim is being resolved, except to the extent the claim precludes performance and without limiting either party's right to terminate the Contract as provided in Section 2.16, Termination by the State or Section 2.17, Termination by the Contractor. A claim involving payment does not preclude performance.

2.21 Disclosure Responsibilities

2.21.1 Disclosure of Litigation

(a) Within 30 days after receiving notice of any litigation, investigation, arbitration, or other proceeding (collectively, "Proceeding") that arises during the term of this Contract, the Contractor must disclose the following to the Contract Administrator:

(i) A criminal Proceeding involving the Contractor or any of its officers or directors;

(ii) A parole or probation Proceeding;

(iii) A Proceeding involving the Contractor or any of its officers or directors under the Sarbanes-Oxley Act; and

(iv) A civil Proceeding to which the Contractor (or, if the Contractor is aware is a party, and which involves (A) a claim that might reasonably be expected to adversely affect the viability or financial stability of the Contractor; or (B) a claim or written allegation of fraud against the Contractor by a governmental or public entity arising out of the Contractor's business dealings with governmental or public entities.

(b) Information provided to the State from the Contractor's publicly filed documents will satisfy the requirements of this Section.

(c) If any Proceeding that is disclosed to the State or of which the State otherwise becomes aware, during the term of this Contract, would cause a reasonable party to be concerned about: (i) the ability of the Contractor to continue to perform this Contract;

or (ii) whether the Contractor is engaged in conduct that is similar in nature to the conduct alleged in the Proceeding and would constitute a breach of this Contract or a violation of federal or state law, regulations, or public policy, then the Contractor must provide the State all requested reasonable assurances that the Contractor will be able to continue to perform this Contract.

2.21.2 Other Disclosures

The Contractor must notify DTMB-Procurement within 30 days of:

(a) becoming aware that a change in the Contractor's ownership or officers has occurred or is certain to occur; or

(b) any changes to company affiliations.

2.21.3 Call Center Disclosure - Deleted – Not Applicable

2.22 Extended Purchasing

2.22.1 MiDEAL Requirements – Deleted – Not Applicable

2.22.2 State Administrative Fee – Deleted – Not Applicable

2.22.3 State Employee Purchase Requirements – Deleted – Not Applicable

2.23 Laws

2.23.1 Governing Law

This Contract is governed by, and construed according to, the substantive laws of the State of Michigan without regard to any Michigan choice of law rules that would apply the substantive law of another jurisdiction to the extent not inconsistent with or preempted by federal law.

2.23.2 Compliance with Laws

The Contractor must comply with all applicable federal, state, and local laws and ordinances in providing the Deliverable(s).

2.23.3 Jurisdiction

Any dispute arising from the Contract must be resolved in the State of Michigan. With respect to any claim between the parties, the Contractor consents to venue in Ingham County, Michigan, and irrevocably waives any objections to this venue that it may have, such as lack of personal jurisdiction or *forum non conveniens*. The Contractor must appoint agents in the State of Michigan to receive service of process.

2.23.4 Nondiscrimination

In the performance of the Contract, the Contractor agrees not to discriminate against any employee or applicant for employment, with respect to his or her hire, tenure, terms, conditions or privileges of employment, or any matter directly or indirectly related to employment, because of race, color, religion, national origin, ancestry, age, sex, height, weight, marital status, or physical or mental disability. This covenant is required 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*., and any breach of this provision may be regarded as a material breach of the Contract.

2.23.5 Unfair Labor Practices

Under 1980 PA 278, MCL 423.321, *et seq*., the State must not award a Contract to an employer whose name appears in the current register of employers failing to correct an unfair labor practice compiled under MCL 423.322. This information is compiled by the United States National Labor Relations Board. A Contractor of the State, in relation to the Contract, must not enter into a contract with a manufacturer or supplier whose name appears in this register. Under MCL 423.324, the State may void any Contract if, after award of the Contract, the name of the Contractor as an employer or the name of the manufacturer or supplier of the Contractor appears in the register.

2.23.6 Environmental Provision

For the purposes of this section, "Hazardous Materials" include asbestos, ACBMs, PCBs, petroleum products, construction materials including paint thinners, solvents, gasoline, oil, and any other material the manufacture, use, treatment, storage, transportation or disposal of which is regulated by the federal, state, or local laws governing the protection of the public health, natural resources, or the environment:

(a) The Contractor must use, handle, store, dispose of, process, transport, and transfer any Hazardous Material according to all federal, State, and local laws. The State must immediately advise the Contractor of the presence of any known Hazardous Material at the work site. If the Contractor encounters material reasonably believed to be Hazardous Material that may present a substantial danger, the Contractor must: (i) immediately stop all affected work; (ii) notify the State in accordance with Section 2.3.6, Notices; (iii) notify any entities required by law; and (iv) take appropriate health and safety precautions.

(b) The State may issue a Stop Work Order if the material is a Hazardous Material that may present a substantial danger and the Hazardous Material was not brought to the site by the Contractor, or does not wholly or partially result from any violation by the Contractor of any laws covering the use, handling, storage, disposal of, processing, transport and transfer of Hazardous Materials. The State may remove the Hazardous Material, render it harmless, or terminate the affected work for the State's convenience.

(c) If the Hazardous Material was brought to the site by the Contractor, or wholly or partially results from any violation by the Contractor of any laws covering the use, handling, storage, disposal of, processing, transport and transfer of Hazardous Material, or from any other act or omission within the control of the Contractor, the Contractor must bear its proportionate share of the delay and costs involved in cleaning up the site and removing and rendering harmless the Hazardous Material according to applicable laws.

2.23.7 Freedom of Information

This Contract and all information submitted to the State by the Contractor is subject to the Michigan Freedom of Information Act (FOIA), 1976 PA 442, MCL 15.231, *et seq*.

2.23.8 Workplace Safety and Discriminatory Harassment

In performing Services for the State, the Contractor must comply with the Department of Civil Services Rule 2-20 regarding Workplace Safety and Rule 1-8.3 regarding Discriminatory Harassment. In addition, the Contractor must comply with Civil Service regulations and any applicable agency rules provided to the Contractor. For Civil Service Rules, see http://www.mi.gov/mdcs/0,1607,7-147-6877---,00.html.

2.23.9 Prevailing Wage - Deleted - Not Applicable

2.23.10 Abusive Labor Practices

The Contractor may not furnish any Deliverable(s) that were produced fully or partially by forced labor, convict labor, forced or indentured child labor, or indentured servitude.

“Forced or indentured child labor” means all work or service (1) exacted from any person under the age of 18 under the menace of any penalty for its nonperformance and for which the worker does not offer himself voluntarily; or (2) performed by any person under the age of 18 under a contract the enforcement of which can be accomplished by process or penalties.

2.24 General Provisions

2.24.1 Bankruptcy and Insolvency

The State may, without prejudice to any other right or remedy, fully or partially terminate this Contract and, at its option, take possession of the work-in-progress and finish the work-in-progress by whatever method the State deems appropriate if:

(a) the Contractor files for bankruptcy protection;

(b) an involuntary petition is filed against the Contractor and not dismissed within 30 days;

(c) the Contractor becomes insolvent or a receiver is appointed due to the Contractor's insolvency;

(d) the Contractor makes a general assignment for the benefit of creditors; or
(e) the Contractor or its affiliates are unable to provide reasonable assurances that the Contractor or its affiliates can provide the Deliverable(s) under this Contract.

Contractor will place appropriate notices or labels on the work-in-progress to indicate ownership by the State. To the extent reasonably possible, work-in-progress must be stored separately from other stock and marked conspicuously with labels indicating State ownership.

2.24.2 Media Releases

News releases (including promotional literature and commercial advertisements) pertaining to the ITB and this Contract or the project to which it relates will not be made without prior approval by the State, and only in accordance with the instructions from the State.

2.24.3 Contract Distribution

DTMB-Procurement retains the sole right of Contract distribution to all State agencies and local units of government unless other arrangements are authorized by DTMB-Procurement.

2.24.4 Permits

Contractor must obtain and pay any associated costs for all required governmental permits, licenses, and approvals for the delivery, installation, and performance of the Contract.

2.24.5 Website Incorporation

The State is not bound by any content on the Contractor's website unless incorporated directly into this Contract.

2.24.6 Future Bidding Preclusion - Deleted - Not Applicable

2.24.7 Antitrust Assignment

The Contractor assigns to the State any claim for overcharges 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.

2.24.8 Disaster Recovery

Contractor and the State recognize that the State provides essential services in times of natural or man-made disasters. Therefore, except as mandated by federal disaster response requirements, Contractor personnel dedicated to providing Deliverable(s) under this Contract will provide the State with priority.

2.24.9 Legal Effect

The State is not liable for costs incurred by the Contractor or for payment(s) under this Contract until the Contractor is authorized to perform under Section 1.2.4, Ordering.

2.24.10 Entire Agreement

This Contract constitutes the entire agreement between the parties and supersedes all prior agreements, whether written or oral, with respect to the subject matter. All attachments referenced in this Contract are incorporated in their entirety and form part of this Contract.

2.24.11 Order of Precedence

Any inconsistency in the terms associated with this Contract will be resolved by giving precedence to the terms in the following descending order:

(a) Mandatory sections (2.1.1, Contract Term, 2.24.9, Legal Effect, 2.2.2, Payment Deadlines, 2.14, Insurance, 2.15, Indemnification, 2.16, Termination, 2.23, Governing Law, 2.15.7, Limitation of Liability);
(b) The most recent Statement of Work related to this Contract;
(c) All sections from Article 2 - Terms and Conditions, not listed in subsection (a);
(d) Any attachment or exhibit to the Contract documents;

(e) Any Purchase Order, Direct Voucher, or Procurement Card Order issued under the Contract; and

(f) Bidder Responses contained in any of the ITB documents.

2.24.12 Headings

The captions and section headings used in this Contract are for convenience only and may not be used to interpret the scope and intent of this Contract.

2.24.13 Form, Function and Utility

If this Contract is for statewide use, but the Deliverable(s) does not the meet the form, function, and utility required by a State agency, that agency may, subject to State purchasing policies, procure the Deliverable(s) from another source.

2.24.14 Reformation and Severability

Each provision of the Contract is severable from all other provisions of the Contract. If any provision of this Contract is held unenforceable, then the Contract will be modified to reflect the parties' original intent. All remaining provisions of the Contract remain in full force and effect.

2.24.15 Approval

Unless otherwise provided in this Contract, approval(s) must be in writing and must not be unreasonably withheld or delayed.

2.24.16 No Waiver of Default

Failure by a party to insist upon strict adherence to any term of the Contract does not waive that party's right to later insist upon strict adherence to that term, or any other term, of the Contract.

2.24.17 Survival

The provisions of this Contract that impose continuing obligations, including warranties, indemnification, and confidentiality, will survive the expiration or termination of this Contract.

2.24.18 PCI Data Security Standard

(a) Contractors that process, transmit or store credit/debit cardholder data, must adhere to the Payment Card Industry (PCI) Data Security Standards. The Contractor is responsible for the security of cardholder data in its possession. The data may only be used to assist the State or for other uses specifically authorized by law.

(b) The Contractor must notify the CCI (within 72 hours of discovery) of any breaches in security where cardholder data has been compromised. In that event, the Contractor must provide full cooperation to the Visa, MasterCard, Discover and state Acquirer representative(s), and/or a PCI approved third party to conduct a thorough security review. The Contractor must make the forensic report available within two weeks of completion. The review must validate compliance with the current PCI Data Security Standards for protecting cardholder data.

(c) The Contractor must properly dispose of cardholder data, in compliance with DTMB policy, when it is no longer needed. The Contractor must continue to treat cardholder data as confidential upon contract termination.

(d) The Contractor must provide the CCI with an annual Attestation of Compliance (AOC) or a Report on Compliance (ROC) showing the contractor is in compliance with the PCI Data Security Standards. The Contractor must notify the CCI of all failures to comply with the PCI Data Security Standard.

Attachment A – Catch Basin Cleaning Pricing
Metro Region –Oakland County

DESCRIPTION OF SERVICES	UNIT OF MEASURE	Cycles PER YEAR	PRICE PER CATCH BASIN	TOTAL PRICE FOR 5 YEARS
Catch Basing Cleaning – Oakland County	EA	3517/year 17585 Total for 5 years	$49.75	$874,853.75
Emergency Clean Out	Hours	Estimated 50/year Total of 250 for 5 years	$128.00	$32,000.00
Slotted Drain	Feet	Estimated 17000/year 85000 Total for 5 years	$0.55	$46,750.00
12-36 inches Leads Cleaning (Optional)	Feet	Estimated 6000/year 30000 Total for 5 years	$1.15	$34,500.00
			Total	$988,103.75

Metro Region –Oakland County
Locations For Catch Basin, Slotted Drains And Leads Clean Out

County	**C.S.**	**Hwy#**	**Location**	**# of Catch Basins**	**Linear Footage of Slotted Drains**	**Linear foot Leads**	2012	2013	2014	2015	2016
Oakland	63112	M-24	From Opdyke to Lapeer County Line	532			532	532	532	532	532
Oakland	63022	I-96	From Novi Rd to Livingston County	398			400	400	400	400	400
Oakland	63101 63102 63103	I-696	From Dequindre to Novi Rd.	1297			1297	1297	1297	1297	1297
Oakland	63172 63173 63174	I-75	From 8 Mile to Genesee County	800			800	800	800	800	800
Oakland	63081	M-10	From 8 Mile to Telegraph	140			140	140	140	140	140
Oakland	63171	M-39	From 8 Mile to M-10 (Northwestern)	350			350	350	350	350	350
Oakland	63172	I-75	South of M-59 to North of Giddings		17000		17000	17000	17000	17000	17000

Oakland	Various	I-96, I-696, I-75, M-10, M-39, M-24	From County line to county Line			6000	6000	6000	6000	6000	6000
			Yearly Totals	3517	17000						

TOTAL NUMBER OFCATCH BASINS FOR 5 YEARS	**18135**
TOTAL FOOTAGE OF SLOTTED DRANS FOR 5 YEARS	**85000**
TOTAL 12-36 INCHES FOOTAGE OF DR STRUCTURE LEAD FOR 5 YEARS	**30000**

CATCH BASIN CLEANING SCHEDULE		
Annual Cleaning	**April 15– November 15**	**Determined by CCI**

Note: Quantities are estimates only. Contact Contract Compliance Inspector (CCI) to get approval for any amounts over the stated estimate quantity. Contractor will be provided with an updated, itemized location list each year before commencing work.