



**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 5  
 to  
 Contract Number 071B2200240

<b>CONTRACTOR</b>	INTERGRAPH CORPORATION, Hexagon Safety & Infrastructure
	190 Interpro Road
	Madison, AL 35749
	Milton Mantler
	256-730-1214
	milton.mantler@hexagonsi.com
	*****3222

<b>STATE</b>	Cindy Greenleaf	DTMB-IT
	517-335-6583	
	greenleafc@Michigan.gov	
	David Hatch	DTMB
	(517) 284-7044	
	hatchd@michigan.gov	

CONTRACT SUMMARY				
<b>DIT/CGI MGF ORACLE MIGRATION PROJECT</b>				
INITIAL EFFECTIVE DATE	INITIAL EXPIRATION DATE	INITIAL AVAILABLE OPTIONS	EXPIRATION DATE BEFORE	
September 22, 2008	September 21, 2013	2 - 1 Year	September 21, 2016	
PAYMENT TERMS		DELIVERY TIMEFRAME		
		N/A		
ALTERNATE PAYMENT OPTIONS			EXTENDED PURCHASING	
<input type="checkbox"/> P-Card	<input type="checkbox"/> Direct Voucher (DV)	<input type="checkbox"/> Other	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No
MINIMUM DELIVERY REQUIREMENTS				
N/A				
DESCRIPTION OF CHANGE NOTICE				
OPTION	LENGTH OF OPTION	EXTENSION	LENGTH OF EXTENSION	REVISED EXP. DATE
<input type="checkbox"/>		<input checked="" type="checkbox"/>	1 year	September 21, 2017
CURRENT VALUE	VALUE OF CHANGE NOTICE	ESTIMATED AGGREGATE CONTRACT VALUE		
\$1,854,310.58	\$100,000.00	\$1,954,310.58		
DESCRIPTION				
Effective 9/29/2016, Per agency request (Center for Share Solutions) this contract is hereby extended (beyond initial option years) to September 21,2017 with 2-1 Year Option to extend it. Contract is also increased by \$100,000.00, for sustaining support services Vendor name modified to include "Hexagon Safety & Infrastructure". All other terms, conditions, specifications, and pricing remain the same. Per contractor and agency agreement, DTMB Procurement approval, and State Administrative Board approval on 9/29/2016.				

STATE OF MICHIGAN  
 DEPARTMENT OF TECHNOLOGY, MANAGEMENT AND BUDGET  
 PROCUREMENT  
 P.O. BOX 30026, LANSING, MI 48909  
 OR  
 525 W. ALLEGAN, LANSING, MI 48933

**CHANGE NOTICE NO. 4**  
 to  
**CONTRACT NO. 071B2200240**  
 between  
**THE STATE OF MICHIGAN**  
 and

NAME & ADDRESS OF CONTRACTOR	PRIMARY CONTACT	EMAIL
Intergraph Corporation 19 Interpro Road Madison, Alabama 35749	Michael Patton	Michael.patton@intergraph.com
	PHONE	CONTRACTOR'S TAX ID NO. (LAST FOUR DIGITS ONLY)
	(256) 730-1214	3222

STATE CONTACTS	AGENCY	NAME	PHONE	EMAIL
PROGRAM MANAGER / CCI	DTMB	Cindy Greenleaf	(517) 335-6583	greenleafc@michigan.gov
CONTRACT ADMINISTRATOR	DTMB	Mike Breen	(517) 284-7002	Breenm@michigan.gov

CONTRACT SUMMARY			
<b>DESCRIPTION:</b> Oracle Migration Project			
INITIAL EFFECTIVE DATE	INITIAL EXPIRATION DATE	INITIAL AVAILABLE OPTIONS	EXPIRATION DATE BEFORE CHANGE(S) NOTED BELOW
September 22, 2008	September 21, 2013	2, one year	September 21, 2015
PAYMENT TERMS		DELIVERY TIMEFRAME	
N/A		N/A	
ALTERNATE PAYMENT OPTIONS			EXTENDED PURCHASING
<input type="checkbox"/> P-card <input type="checkbox"/> Direct Voucher (DV) <input type="checkbox"/> Other			<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
MINIMUM DELIVERY REQUIREMENTS			
N/A			

DESCRIPTION OF CHANGE NOTICE				
EXERCISE OPTION?	LENGTH OF OPTION	EXERCISE EXTENSION?	LENGTH OF EXTENSION	REVISED EXP. DATE
<input type="checkbox"/>		<input checked="" type="checkbox"/>	1 year	September 21, 2016
CURRENT VALUE		VALUE OF CHANGE NOTICE	ESTIMATED AGGREGATE CONTRACT VALUE	
\$1,509,950.58		\$344,360.00	\$1,844,310.00	

**DESCRIPTION:** Effective September 22, 2015, per Resolution 2015-1, this contract is hereby extended to September 21, 2016. Contract is also increased by \$344,360.00, for maintenance and engineering support. All other terms, conditions, pricing and specifications remain the same. Per agency request (Center for Share Solutions) and DTMB Procurement approval.

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

**CHANGE NOTICE NO. 3**  
 to  
**CONTRACT NO. 071B2200240**  
 between  
**THE STATE OF MICHIGAN**

NAME & ADDRESS OF CONTRACTOR:	PRIMARY CONTACT	EMAIL
Intergraph Corporation 19 Interpro Road Madison, Alabama 35749	Michael Patton	michael.patton@intergraph.com
	TELEPHONE	CONTRACTOR #, MAIL CODE
	(256) 730-1214	

STATE CONTACTS	AGENCY	NAME	PHONE	EMAIL
CONTRACT COMPLIANCE INSPECTOR	DTMB	Cindy Greenleaf	517-335-6583	greenleafc@michigan.gov
BUYER	DTMB	Mike Breen	517-284-7002	BreenM@michigan.gov

CONTRACT SUMMARY:			
DESCRIPTION: <b>Oracle Migration Project</b>			
INITIAL EFFECTIVE DATE	INITIAL EXPIRATION DATE	INITIAL AVAILABLE OPTIONS	EXPIRATION DATE BEFORE CHANGE(S) NOTED BELOW
9/22/2008	9/21/2013	Two One-Year	9/21/2014
PAYMENT TERMS	F.O.B	SHIPPED	SHIPPED FROM
N/A	N/A	N/A	N/A
ALTERNATE PAYMENT OPTIONS:			AVAILABLE TO MI DEAL PARTICIPANTS
<input type="checkbox"/> P-card <input type="checkbox"/> Direct Voucher (DV) <input type="checkbox"/> Other			<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
MINIMUM DELIVERY REQUIREMENTS: N/A			

DESCRIPTION OF CHANGE NOTICE:				
EXTEND CONTRACT EXPIRATION DATE	EXERCISE CONTRACT OPTION YEAR(S)	EXTENSION BEYOND CONTRACT OPTION YEARS	LENGTH OF OPTION/EXTENSION	EXPIRATION DATE AFTER CHANGE
<input type="checkbox"/> No <input checked="" type="checkbox"/> Yes	<input checked="" type="checkbox"/>	<input type="checkbox"/>	One-Year	9/21/2015
VALUE/COST OF CHANGE NOTICE:		ESTIMATED REVISED AGGREGATE CONTRACT VALUE:		
\$420,444.00		\$1,509,950.58		
Effective September 30, 2014, per agency request (Center for Shared Solutions) and Department of Technology Management and Budget, this contract is exercising an option year. The new contract end date is September 21, 2015. Contract is also increased by \$420,444.00. All other pricing, terms and conditions remain the same. Per State Administrative Board approval on September 30, 2014.				

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

September 13, 2013

**CHANGE NOTICE NO. 2**  
 to  
**CONTRACT NO. 071B2200240**  
 between  
**THE STATE OF MICHIGAN**

NAME & ADDRESS OF CONTRACTOR:	PRIMARY CONTACT	EMAIL
Intergraph Corporation 19 Interpro Road Madison, Alabama 35749	Michael Patton	michael.patton@intergraph.com
	TELEPHONE	CONTRACTOR #, MAIL CODE
	(256) 730-1214	

STATE CONTACTS	AGENCY	NAME	PHONE	EMAIL
CONTRACT COMPLIANCE INSPECTOR	DTMB	Cindy Greenleaf	517-335-6583	greenleafc@michigan.gov
BUYER	DTMB	Mike Breen	517-241-3215	BreenM@michigan.gov

CONTRACT SUMMARY:			
DESCRIPTION: <b>Oracle Migration Project</b>			
INITIAL EFFECTIVE DATE	INITIAL EXPIRATION DATE	INITIAL AVAILABLE OPTIONS	EXPIRATION DATE BEFORE CHANGE(S) NOTED BELOW
9/22/2008	9/21/2013	Two One-Year	9/21/2013
PAYMENT TERMS	F.O.B	SHIPPED	SHIPPED FROM
N/A	N/A	N/A	N/A
ALTERNATE PAYMENT OPTIONS:			AVAILABLE TO MI DEAL PARTICIPANTS
<input type="checkbox"/> P-card <input type="checkbox"/> Direct Voucher (DV) <input type="checkbox"/> Other			<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
MINIMUM DELIVERY REQUIREMENTS: N/A			

DESCRIPTION OF CHANGE NOTICE:				
EXTEND CONTRACT EXPIRATION DATE	EXERCISE CONTRACT OPTION YEAR(S)	EXTENSION BEYOND CONTRACT OPTION YEARS	LENGTH OF OPTION/EXTENSION	EXPIRATION DATE AFTER CHANGE
<input type="checkbox"/> No <input checked="" type="checkbox"/> Yes	<input checked="" type="checkbox"/>	<input type="checkbox"/>	One-Year	9/21/2014
VALUE/COST OF CHANGE NOTICE:		ESTIMATED REVISED AGGREGATE CONTRACT VALUE:		
\$678,506.58		\$1,089,506.58		

Effective immediately this contract is INCREASED by \$678,506.58 and the first one-year option is exercised to allow for the first option year of maintenance and sustaining/engineering support phase of the project s outlined in the Attached. Per Administrative Board Approval on 9/13/2013.

Please note: The Buyer has been changed to Mike Breen.

All other pricing, terms and conditions remain the same.



Intergraph Corporation  
PO Box 240000  
Huntsville AL 35824

p. 1.256.730.2000  
[www.intergraph.com](http://www.intergraph.com)

May 24, 2013

Michigan Department of Information Technology  
111 S. Capitol Ave.  
Lansing, MI 48993  
Attn: Krisanne McConnell

In Ref: Sustaining Support / System Enhancement Option Extension

Dear Ms. McConnell

Security, Government & Infrastructure, a division of Intergraph Corporation, herein referred to as "Intergraph," understands that the State of Michigan Department of Information Technology ("State") is interested in exercising the first option year the Statement of Work for Sustaining Support/System Enhancement under contract 071B2200240.

The Period of Performance of this contract is October 1, 2012 through September 30, 2013 with two (2) one-year options to renew.

Per the State's request, please allow this letter to indicate Intergraph's approval of this extension of the first Option Year in accordance with the rates and fees in the Pricing & Billing section of the Statement of Work for this project and all other terms remaining unchanged.

Upon receipt of an Amendment from the State exercising the option year, Intergraph will execute and return a copy to the State to fully execute the option year.

Should you have any further questions or requests, please contact Michael Patton, Divisional Counsel, at [michael.patton@intergraph.com](mailto:michael.patton@intergraph.com) or via phone at (256) 730-1214.

Sincerely,

A handwritten signature in blue ink that reads "Jennifer Williams". The signature is fluid and cursive, with the first name and last name clearly legible.

Jennifer Williams  
Director

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

**CHANGE NOTICE NO. 1**  
 to  
**CONTRACT NO. 071B2200240**  
 between  
**THE STATE OF MICHIGAN**  
 and

NAME & ADDRESS OF CONTRACTOR:	PRIMARY CONTACT	EMAIL
<b>Intergraph Corporation</b> <b>19 Interpro Road</b> <b>Madison, Alabama 35749</b>	Michael Patton	michael.patton@intergraph.com
	TELEPHONE	CONTRACTOR #, MAIL CODE
	(256) 730-1214	

STATE CONTACTS	AGENCY	NAME	PHONE	EMAIL
CONTRACT COMPLIANCE INSPECTOR:	DTMB	Mike Breen	(517) 241-7720	<a href="mailto:BreenM@michigan.gov">BreenM@michigan.gov</a>
BUYER:	DTMB	Steve Motz	(517) 241-3215	<a href="mailto:motzs@michigan.gov">motzs@michigan.gov</a>

<b>CONTRACT SUMMARY:</b>			
DESCRIPTION: Oracle Migration Project			
INITIAL EFFECTIVE DATE	INITIAL EXPIRATION DATE	INITIAL OPTIONS INCLUDED	CURRENT EXPIRATION DATE
9/22/2008	9/21/2013	Two One-Year	9/21/2013
PAYMENT TERMS	F.O.B	SHIPPED	SHIPPED FROM
N/A	N/A	N/A	N/A
ALTERNATE PAYMENT OPTIONS:			AVAILABLE TO MIDEAL PARTICIPANTS
<input type="checkbox"/> P-card	<input type="checkbox"/> Direct Voucher (DV)	<input type="checkbox"/> Other	<input type="checkbox"/> YES <input checked="" type="checkbox"/> NO

<b>DESCRIPTION OF CHANGE NOTICE:</b>		
OPTION EXERCISED: <input checked="" type="checkbox"/> NO <input type="checkbox"/> YES	EFFECTIVE DATE OF CHANGE: 9/27/2012	
<p><b>Effective September 27, 2012, this contract is INCREASED by \$511,500.00 to allow for the maintenance and sustaining/engineering support phase of the project. This is for the remaining year of the base contract period. This phase of the project will include maintenance/release management (covering bugs/defects on the custom application), sustaining support (covering knowledge transfer, operational support), and engineering support. Per Administrative Board Approval on 9/27/2012.</b></p> <p><b>All other pricing, terms and conditions remain the same.</b></p>		
VALUE/COST OF CHANGE NOTICE:	\$511,500.00	
ESTIMATED AGGREGATE CONTRACT VALUE:	\$678,506.58	



July 31, 2012

Michigan Department of Information Technology  
111 S. Capitol Ave.  
Lansing, MI 48993  
Attn: Krisanne McConnell

In Ref.: Sustaining Support / System Enhancement

Dear Ms. McConnell

Security, Government & Infrastructure, a division of Intergraph Corporation, herein referred to as "Intergraph", understands that the State of Michigan Department of Information Technology, herein referred to as "State", is interested in Intergraph providing on-going sustaining support and system enhancements for the MGF Oracle Migration Project. To meet the State's request, Intergraph is pleased to propose an extended support contract for the MGF Oracle system.

## Scope of Service

### Introduction

Intergraph is proposing to provide 3 distinct levels of service under this contract. These three support levels are described in the following paragraphs.

**Maintenance Support** -- This is support for the identification and resolution of defects in the MGF ADE System Application. This support is included in the base contract through the end of the 90 day warranty period. Maintenance for the COTS components of the MGF ADE System is covered separately under the terms of Intergraph's Software Maintenance Agreement.

**Sustaining Support** -- Sustaining support is on-going support for the daily operation of the system. It includes procedural issue resolutions, "how to" support, on-going knowledge transfer, system update tasks, and assistance with system operation.

**Engineering Support** -- Engineering support is engineering and development assistance to modify and enhance the operation of the system. This can include the refinement of existing capabilities, the implementation of new capabilities, or adaptation of the system to take into account changes in the operating environment or underlying data.

Starting not sooner than the initiation of Warranty Support and running through the end of the proposed period of performance, sustaining and engineering support will be provided under this agreement. Maintenance support is covered under the warranty provisions of the base MGF Oracle Migration Project (ADE) contract through the end of the 90 day warranty, after which it will be provided under this agreement until the end of the period of performance. Bugs identified and reproduced during the 90 day warranty period that are not resolved prior to the end of the 90 day warranty will be resolved and fielded in a subsequent software release at no additional cost to the State.

### Maintenance Support

This section captures Intergraph's approach to providing the maintenance support for the customized Acquis Data Editor (ADE) environment. It covers the continuation of the work performed under the Warranty



period of the project. It provides the necessary contact information, scope of services, response teams' roles and responsibilities.

## Definitions

- Application -- Those components of the customized ADE environment specifically provided by the Support Team. This includes their supporting scripts and configuration files. It does not include those aspects of the overall MGF provided by the State, which include the hardware, operating systems, data base engines, networks, firewalls, and GeoSpatial data. Changes in these elements and any issues arising from them are covered under Sustaining Support, not Maintenance Support. The components of the environment and the support responsibilities over time are defined in the Covered Services section under Sustaining Support.
- Support Team -- collectively, the technical and programmatic resources of Intergraph, assigned to provide on-going maintenance support to the MGF ADE Application. Resources may include, but not be limited to, John McMahan, Brian Logan, Mamadou Cisse, Kalyan Koppineedi, Brad Skelton, and / or other members of the Intergraph Government and Transportation Services team and Product Center. Actual resources employed will depend on resource availability and the nature of the problem or system change in work. Intergraph will make commercially reasonable efforts to ensure resources deployed are knowledgeable of GeoSpatial technology, transportation specific issues, Intergraph products, and items specific to the implementation of MGF at the State of Michigan.
- Defect -- A deficiency in the Application resulting from a variance from the system design that materially affects usability.
- Software Bugs -- Defects in the Application where the manner in which the Application works is inconsistent with the system design and/or documented requirement and can be reproduced.
- Configuration Issues -- Defects in the Application where the resolution lies in changing system configuration settings in either the configuration files or database tables.
- Support -- Under Maintenance Support, the Support Team will triage and resolve Software Bugs, and Configuration Issues with the applications or databases.
- Updates -- The Support Team will provide to the State updated executables for the Application as necessary to resolve Software Bugs and Configuration Issues.
- IT/CARES -- the support case management system utilized by the Intergraph Solutions Center for tracking customer support requests.
- JIRA -- The software bug and enhancement tracking system used by the Intergraph Custom Development team to track Trouble Reports and Change Requests.
- System Defect Severity Level Definitions -- The following table contains the definitions for the severity levels of system defects.

Severity Level	Definition
Critical	Loss of data; Data corruption; Productive use prohibited; Multiple users affected; No workaround available
High	Primary Purpose compromised; Productive use significantly impacted for single user; Workaround generally not available
Normal	The system remains Productive, but incomplete operation; Workarounds generally available
Low	The system remains Productive, the issue is mainly cosmetic in nature; Workarounds or configurable options generally available

## Assumptions

- The Support Team will have remote access into the MGF ADE Development environment without interrupting system production during normal operational hours. As part of maintaining access, Intergraph will ensure that VPN access is renewed as needed prior to expiration of existing access.



- The State will maintain consistent versions for the State provided technology components supporting the MGF ADE system on the test and production systems throughout the support period without interrupting system production during normal operational hours.
- The State will allow for the replication of MGF ADE databases to Intergraph development and test environments for use in the resolution of Application Issues. Replication to Intergraph's support environment will take place following updates made to the State's production environment. Changes made to Intergraph's development environment may take place more frequently, as needed to support joint development and test activities with the State. The replication process will initially be a manual process, but may be partially automated over time. To facilitate the replication process, the State will need to make available to Intergraph a copy of what is deployed to Production at the time it is deployed.
- The State is under an active software maintenance contract for the Intergraph COTS software. For FY 2012 this is Intergraph Maintenance Contract number 084N220082.

### **Making a Maintenance Request**

Maintenance Support is being provided to ensure that the ADE application continues to function as designed, and that defects identified in system functioning are resolved. Intergraph will handle bugs on all aspects of the application through the end of the maintenance support period, even those the State has assumed responsibility for during and after transfer to the State's support staff. Support is limited to the triage and resolution of Application defects. Application defects may include Software Bugs and Configuration Issues. Application defects do not include issues resulting from the IT Infrastructure supporting ADE. The IT Infrastructure includes, but is not limited to the following: Computer hardware, computer operating systems, computer network configurations, firewall configurations, database engine, e-mail systems, and fax systems.

The System currently uses Oracle 11g (11.1.0.2) with the latest patch set applied. While support for future database versions will be contingent on the ADE COTS product, Intergraph will continue to have a solid test mechanism in place to verify all database upgrades and patches. Future version upgrades will be determined jointly by Intergraph and MCGI.

Maintenance support for ADE based system is focused at the resolution of software bugs within the system. It is not for purposes of providing general end user support, resolution of how to questions, or ad hoc training of either State employees or Industry users of the system. In keeping with this role, the people who are authorized to log a maintenance request for the system are limited to System and Application Administration, Super User, and Management personnel within the State. Prior to logging a request, Intergraph requests that the person logging it have performed initial triage/diagnosis related to the issue and ensured it is likely related to a software deficiency.

### **Hours of Operation**

Maintenance requests may be logged during business days. Business days are Monday through Friday, excluding Federal holidays. Maintenance requests may be logged from 7AM to 7PM Central time. Tier 1 agents will receive, capture, triage, and resolve or appropriately route initial maintenance requests during these times.

In certain instances a maintenance request may be referred to a Subject Matter Expert (SME) for further analysis and for resolution. The SME team is nominally available from 8AM to 5PM Central Time on normal business days.

### **Contact Methods**

Intergraph will receive maintenance requests either via direct phone call to the designated call in number, or via e-mail sent to the specified e-mail path. Any Critical or High priority request should be submitted via



phone call. This is to ensure that the response to the request is appropriate to its urgency. E-mail submittals will be considered to be of either Normal or Low urgency.

Intergraph requests that the State designate 3-4 individuals that will function as the points of contact for logging maintenance requests.

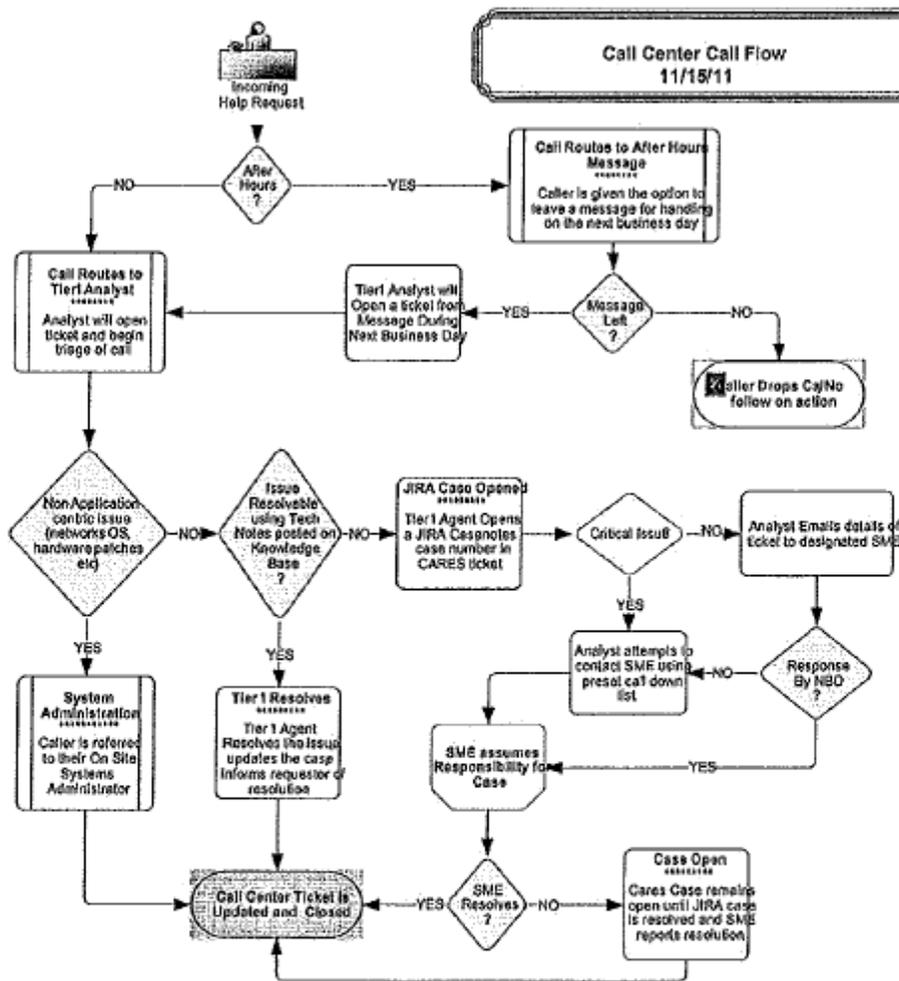
### **Responsiveness & Resolution Guidelines**

MGF ADE Priority Levels, Response Time, and Resolution Targets				
Priority	Problem Description	Telephone Response Time	Initial Notification Timeframes	Resolution Objective
Critical	Loss of data Data corruption Productive use prohibited Multiple users affected No workaround available	M-F, 7:00AM-7:00PM Central Time – Live Answer  Other – Not Available outside normal business hours	4 hours	3 Business Days – Program code correction or a procedural work around
High	Primary purpose compromised Productive use significantly impacted for single user Workaround generally not available	M-F, 7:00AM-7:00PM Central Time – Live Answer  Other – Not Available outside normal business hours.	1 day	5 Business Days – Procedural workaround 10 Business Days – Program code correction
Normal	Productive, but incomplete operation Workarounds generally available	M-F, 7:00AM-7:00PM Central Time – Live Answer  Other – Not Available outside normal business hours	E-mail, or upon request	5 Business Days – Procedural workaround Program code correction in a future software release
Low	Productive, mainly cosmetic in nature Workarounds or configurable options generally available	M-F, 7:00AM-7:00PM Central Time – Live Answer  Other – Not available outside normal business hours	E-mail, or upon request	5 Business Days – Procedural workaround Program code correction in a future software release

For Issues of all priority, the State may request status directly from the project manager. Escalation of an issue, either in terms of priority or schedule, may also be requested directly from the project manager, who will review the request with the technical team and provide feedback to the State within one business day.

### **Maintenance Request Process**

The following figure depicts the process that will be followed for capturing, triaging, and resolving maintenance requests for the ADE system. This process will be followed for all maintenance requests for the ADE system, whether related to the COTS product or to the entire system. Issues that are related to the COTS product will be filed with the COTS software maintenance team to be addressed in a subsequent release of ADE. Costs associated with the resolution of issues contained within the COTS software are covered by the COTS software maintenance contract, separate from this contract.



**Initial Triage Process**

The initial triage response to maintenance requests will be handled by the Solutions Center Tier 1 agent fielding the call. The Tier 1 agents will log the support request, capture the details, triage it to see if it matches against a known issue or resolution, resolve it if feasible, and will refer the call to a SME if necessary.

Calls captured during the initial triage process will be logged into IT/CARES. Calls referred to a SME will also be logged into JIRA and the JIRA log number will be captured into the IT/CARES case. The Tier 1 analyst will provide the caller with the IT/CARES case number to use to refer to the issue in any future communications.



## **Call Referral Process**

When necessary, the Tier 1 Agent handling the initial maintenance request will refer that request to other organizations for resolution. Potential referrals include the State's System Administration team, the SME team, the State's MGF team, the State's Super User, or to the SME team performing Sustaining or Engineering support. Typically, Tier 1 will refer unresolved maintenance requests to either the State's System Administration team or to the SME team. On occasion, for clear cut training type questions, the referral may go to the State's Super User. The Intergraph SME team may further refer the support request to the MGF ADE team for final resolution.

Within the Intergraph team Tier 1 Analysts will refer unresolved maintenance requests to a designated Point of Contact on the SME team. Non-Critical issues will be referred via e-mail, with a reference to the open JIRA case. Critical issues will be referred via phone call.

If the case is not resolvable by Intergraph, the SME is responsible to further refer it to the appropriate State organization for resolution. The SME will update the JIRA case with the referral, and will provide an e-mail back to the Tier 1 team so that the CARES case may be updated with the referral. If the case is resolvable, but only through a system enhancement, then the SME will refer the case to project management for scoping and presentation to the State.

Maintenance requests that are out of scope for ADE maintenance support will be directly referred to the State's System Administration team for further triage and resolution, either by the Tier 1 Agent taking the initial request, or by the SME handling it as a referral from Tier 1.

## **SME Follow Up Process**

Once a SME has taken ownership of a case, the SME is responsible for updating the JIRA case, providing periodic updates on case status to the person who logged the request, and providing final resolution information to the Tier 1 team for update and closure of the IT/CARES case. For purposes of tracking the issue within IT/CARES, final resolution will be reached when the source of the issue is identified, a resolution is determined, and the resolution is scheduled for release. Alternatively, the IT/CARES case may also be closed upon determination that the issue is out of scope for ADE maintenance support and subsequent referral of the case for handling by the State or under Engineering Support.

The related JIRA case will remain open until such time as the resolution is released to the State for deployment, the State acknowledges that the case is out of scope for ADE maintenance support, or when the State acknowledges ownership of the referred case.

## **Maintenance Request Tracking/Reporting**

All maintenance requests will be tracked in IT/CARES. Cases referred to the SME team for resolution will also be tracked within JIRA. Upon request, Intergraph will provide reports to the State of all maintenance requests and their current status. Case history will be maintained in IT/CARES, regardless of case status, until the end conclusion of the ADE maintenance period.

## **Sustaining Support**

This section describes Intergraph's approach to providing the sustaining support for the ADE system. It covers the provision of on-going system support services that are outside the scope of Maintenance Support, and do not rise to the level of system enhancements. This section contains the necessary contact information, scope of services, and roles and responsibilities. The provision of Sustaining Support services is contingent on a valid contract being in force for the provision of Maintenance Support services, either through the initial year of warranty included with the system, or via this contract or another contract providing Maintenance Support following the completion of the initial warranty period.



## Definitions

- **Support Team** – collectively, the technical and programmatic resources of Intergraph assigned to provide on-going sustaining support to the ADE system.
- **Maintenance Issue** – customer reported discrepancies in system performance that are a result of a defect in the components of the system directly provided by the Support Team.
- **Enhancement** – a desired modification of system functionality typically requiring a code or script change to implement.

## Assumptions

- The Support Team will have remote access into the ADE test and production systems.
- The State will maintain consistent versions for the State provided technology components supporting the ADE throughout the support period.
- The State will allow for the replication of ADE databases to Intergraph development and test environments for use in the resolution of Application Issues.

## Covered Services

Sustaining Support is being provided to ensure that the ADE based system continues to function efficiently and provide value to the State. Under Sustaining Support technical assistance is provided the following service areas:

- General system maintenance tasks including system performance optimization and application of system updates
- Resolution of end user support issues and the provision of ad hoc training if required,
- Knowledge Transfer of system design and development information to the State
- Troubleshooting of issues outside of the scope of Maintenance Support
- Collaborating with the State on how the functioning of the system, or its support of the user community, can be optimized.
- Minor system tweaks and tunes typically requiring less than 2 days to complete
- Issues related to the database as it is used to support the application, including troubleshooting issues that may manifest in the application following a database patch or upgrade,
- Assistance for State staff in troubleshooting issues with other systems supporting the application, such as networks and firewalls, browser compatibility, etc.

For this project the Sustaining services provided will cover the 14 components identified in the following table as initially supported by Intergraph. The components for which these services are provided will change over time, as shown in the following table, until Intergraph remains responsible for 5 core components.

Component	Function	Description	Developed By	IP Ownership	Maintenance	Support	Transition to State	Notes
ADE		COIS ADE Work	Intergraph	Intergraph	Intergraph	Intergraph	No	Covered under COIS Maintenance
rules-manager-1.0.jar (Business Rule Engine)	Rules	ADE-Rules Interface	Intergraph	Intergraph	Intergraph	Intergraph	No	This is an interface library that implements all of the main ADE APIs and the Intergraph business rule API. This is generic code that can be used for developing vertical applications. There is no project specific code in this library.
search-extensions-1.0.jar (Extended ADE search capabilities)	Tools	General Search Extensions for ADE	Intergraph	Intergraph	Intergraph	Intergraph	No	This is a library that uses an XML definition to define specific search capabilities. For example Find PR.
mgf-rules-1.0.jar (Business rule implementation)	Rules	MGF Specific Rules	Intergraph	MGFEE Project	Intergraph	Intergraph	6 months	This is a library used for managing the MGFEE specific project business rules. This library contains all of the implementations of the APIs published in the ADE-Rules Interface (rules-manager-1.0.jar)
hammurabi-rules-1.0.jar (Business Rule Engine)	Rules	OR Rules Engine	N/A	Open Source	Intergraph	Intergraph	6 months	
hammurabi-lib-1.0.jar (Business Rule Engine)	Rules	OR Support Lib for Hamurabi	N/A	Open Source	Intergraph	Intergraph	6 months	
mgf-permissions-1.0.jar (Permission rules for Application)	Permissions	MGF Specific Permissions	Intergraph	MGFEE Project	Intergraph	Intergraph	3 months	The library defines how permissions are handled in the MGFEE application. This is project specific code that again is controlled via XML files to define permission rules.
mgf-high-1.0.jar (Application tool)	Tools	MGF Specific Tools	Intergraph	MGFEE Project	Intergraph	Intergraph	12 months	This library contains tool implementations specific to MGFEE. For example, Place PR is a tool developed within this package.
mgf-common-1.0.jar (Shared classes for Application code)	Tools	MGF Specific Support for Tools	Intergraph	MGFEE Project	Intergraph	Intergraph	12 months	This is a library that contains data models and common utilities used by the vertical application developers.
mgf-impl-reporting-1.0.jar	Applications	Create MMS Points	Intergraph	MGFEE Project	Intergraph	Intergraph	15 months	
mail-support-1.0.jar	Applications	Out Mail Support	Intergraph	MGFEE Project	Intergraph	Intergraph	15 months	
mgf-builder-1.0.jar	Applications	Get MMS Report	Intergraph	MGFEE Project	Intergraph	Intergraph	15 months	
Oracle Utilities	Applications	System Interface	Oracle	Oracle	State	State/Intergraph	Shared	
Oracle Application Server	Applications	System Application Server	Oracle	Oracle	State	State/Intergraph	Shared	
MGCC-1.0.jar			State	State	State	State	N/A	
MGCC-Stage-1.0.jar			State	State	State	State	N/A	
MGCC-Sub-1.0.jar			State	State	State	State	N/A	
MGCC-Search-1.0.jar			State	State	State	State	N/A	
MGCC-Partwork-1.0.jar			State	State	State	State	N/A	
MGCC-DR-1.0.jar			State	State	State	State	N/A	
MGCC-Alarm-1.0.jar			State	State	State	State	N/A	
Website for MGFEE			State	State	State	State	N/A	

**Transition Timeline Legend**  
 No - Intergraph will retain maintenance and support responsibility indefinitely.  
 3 Months - Responsibility for maintenance and support will move from Intergraph to the State at the end of the 3rd month following the completion of the Warranty Period.  
 6 Months - Responsibility for maintenance and support will move from Intergraph to the State at the end of the 6th month following the completion of the Warranty Period.  
 12 Months - Responsibility for maintenance and support will move from Intergraph to the State at the end of the 12th month following the completion of the Warranty Period.  
 18 Months - Responsibility for maintenance and support will move from Intergraph to the State at the end of the 18th month following the completion of the Warranty Period.  
 Shared - Responsibility for support of the component will remain a shared duty indefinitely.  
 N/A - No Transition of responsibility needed. The State will be responsible for maintenance and support of the module from the start of the Warranty Period.

### Making a Sustaining Support Request

Sustaining Support requests may be logged during business days. Business days are Monday through Friday, excluding Federal holidays. Sustaining Support requests may be logged from 8AM to 5PM Central time. Tier 1 agents will receive, capture, and resolve or appropriately route requests during these times. Intergraph will receive sustaining support requests either via direct phone call to the designated call in number, or via e-mail sent to the specified e-mail path.

Intergraph requests that the State designate 3-4 individuals that will function as the points of contact for logging requests.

Initial capture and response to Sustaining Support requests will be handled by the help desk team also supporting maintenance support requests. Follow on responses will come from the SME team supporting the ADE system. SME responsiveness will typically be same business day to next business day.

In addition to fielding routine requests, Intergraph will schedule periodic, Webex based reviews of prior performance, review any outstanding issues and system change requests, and to otherwise provide support to the State's personnel.

### Engineering Support

Intergraph is proposing to provide Engineering Support services to provide resources and a management process for making enhancements to the ADE system, including feature changes, capacity changes, and changes needed to adapt to changes in the environment, such as support for new browser versions or Operating Systems. Because of the large number of potential enhancements, and the limited amount of resources available to fund these enhancements, Intergraph is proposing to use a task order centric time and materials approach to implementing enhancements.



## Assumptions

- The State will provide a test deployment system in State facilities that may be used to perform final pre-production testing.
- Upon Request, the State will provide personnel knowledgeable in the use of the ADE System to provide an end user perspective to the proposed changes to the System.
- Upon Request, the State will perform final testing on releases prior to them being rolled to production.
- All project documentation and reports will be delivered in a mutually acceptable format.
- Development work will be done at Intergraph facilities.

## Enhancement Process

Intergraph and the State will mutually agree on the prioritization of task orders based on expected value to State, using criteria such as improvements to public safety, reducing operational costs, or enhancing decision-making capabilities. Top priority tasks will then be scoped and priced, and the cost estimates will be presented to the State for approval. Once approved, Intergraph will implement the improvements, tracking performance of actuals against the project plan and reporting progress to the State on a regular basis. Details of the proposed assessment process are included in the following paragraphs.

Directly following initiation of Engineering Support, the Intergraph Project Manager will assemble the known list of potential system enhancements, including any items identified as enhancements during the system development process. The PM will principally build this list from previously logged JIRA items, with the possible addition of candidates from custom development work Intergraph has performed for other clients, work that is not incorporated into the base ADE application. For each idea on the list, the PM will synopsize what the idea is, who is recommending it, and the perceived business benefits. The list will be reviewed by the Technical Lead, who will perform a quick and rough assessment of the cost to implement each of the candidates on the list.

Once the list is assembled the Intergraph PM and Technical Lead will meet with the State to review the first pass at the enhancement list, including the rough cost estimates. The goal of the meeting is to go through each of the potential ideas, weigh the implementation cost against the anticipated benefits to the State, and to rank order the top 5 candidates according to the State's business drivers.

Intergraph will generate draft task orders for the top 5 candidates, starting with the first candidate on the list. As they are completed, each draft will be submitted to the State for review. Intergraph will work iteratively with the State until a final task order is completed and approved.

Intergraph will assign technical resources to approved task orders and implement them. During the implementation of a task order, the Intergraph PM will provide regular updates to the State on status. The Technical Team lead will schedule and perform any in-process reviews specified in the task order (the number and complexity of the reviews needed will vary task order to task order based on the complexity of the enhancement being implemented). Once completed and unit tested, the enhancement will be incorporated into an upcoming system release. Typically, enhancements will not be released except as part of a scheduled system release, which may include multiple enhancements and maintenance fixes.

Not less frequently than quarterly, the Intergraph Project Manager will re-engage with the State to update the list of candidate enhancements, assess any additions to the list, and review/revise the rank ordering to identify the next 5 candidates for implementation. Through this on-going process, the PM will ensure that there is always a number of candidates for implementation available that have been assessed, and as appropriate will initiate the generation of a task order for the next candidate(s).

## Release Management

Intergraph will use a scheduled release process for the customized ADE system. Releases will include changes to the system that result from both Maintenance and Engineering Support activities. When available and agreed to with the State, a release may also incorporate any updates to the base ADE COTS software that are available at the time of the release. Under this process, non-critical bug fixes and enhancements will be assigned to a particular scheduled release. Instead of being fielded separately, each software change assigned to the release will be tested and fielded as part of the release. Releases from Intergraph to the State will be scheduled on a quarterly basis. As part of the support initiation process, Intergraph will work with the State to set the release schedule the first two to three releases.

Intergraph will track each release and the different enhancements and fixes that are in it and report progress to the State regularly. Decisions to move a particular fix or enhancement from one release to another will be made jointly by Intergraph and the State. The release process will consist of the following main activities:

1. Freezing the software and system configuration to include only those items that are scheduled to be part of the release.
2. Creating an internal test version (release candidate) of the proposed release in the Intergraph development environment.
3. Performing a structured, Intergraph internal test of the release candidate. The test will include two components. The first component will test each new item incorporated into the release to ensure it is working as expected. The second component of the testing will perform a series of regression tests to ensure that those aspects of the system that were unchanged are still functioning properly.
4. Correct any issues that arose out of testing the release candidate and retest to ensure proper functioning.
5. Provide the release candidate to the State for testing and assist the State in performing the regression tests against the ADE system.
6. Make "hot fixes" to the release candidate to address any issues uncovered at this point and fold those hot fixes back into the baseline.
7. For successful implementations, ensure system documentation is updated to reflect the changes in the release. Intergraph will work with the State to ensure appropriate documentation is captured.

Intergraph will assist the State as requested in the deployment of releases, with the State taking the lead in deploying the updates.

### Period of Performance

The Period of Performance for this contract shall be October 1, 2012 through September 30, 2013, with two (2) one year options to renew.

### Pricing & Billing

Pricing for the proposed services is captured in the following tables. Maintenance and Sustaining Support services are priced based on monthly fixed amounts, and an anticipated number of months of service based on the period of performance. The prices shown include labor and any travel costs that may be incurred. Engineering Support Services are based on hourly rates for Intergraph Site and Customer Site work, along with a recommended initial funding level for Engineering Support. The funding level for Engineering Support may be changed during the period of performance via a contract modification increasing or decreasing the funding level.

The chart below provides Intergraph's classifications of our technical personnel and the corresponding hourly rates. These rates will be used when performing services under the Engineering Support section of this contract.



	Monthly Fee for Maintenance	Monthly Fee for Support	Total Monthly Fee
Months 1-6 Post Warranty	\$15,000	\$27,000	\$42,000.00
Months 7-9 Post Warranty	\$15,000	\$24,500	\$39,500.00
Months 10-12 Post Warranty	\$15,000	\$22,000	\$37,000.00
Option Year 1	\$15,750	\$16,000	\$31,750.00
Option Year 2	\$16,537	\$12,500	\$29,037.00

Based on the above rates, and based on a contract start date of 10/1/12, total charges for maintenance and for support in FY13 (10/1/12 – 9/30/13) and the option years are detailed below.

	Maintenance Fee	Support Fee	Total Fee
Michigan FY13 Charges	\$180,000	\$301,500	\$481,500
Option Year 1 Charges	\$189,000	\$192,000	\$381,000
Option Year 2 Charges	\$198,444	\$150,000	\$348,444

Intergraph is proposing an initial budget of \$30,000 for Engineering Support. Total Contract value, including Engineering Support Services, is not to exceed \$511,500, exclusive of change orders or the execution of either of the option years.

	Hourly Rates for Services		
	Initial Period	Option Year 1	Option Year 2
Project Management	\$202.80	\$212.94	\$223.59
System Architect	\$196.56	\$206.39	\$216.71
Software Architect	\$221.04	\$232.09	\$243.70
Web Developer / Developer	\$159.12	\$167.08	\$175.43
Internal Quality Assurance	\$84.31	\$88.53	\$92.95
Technical Writer	\$84.24	\$88.45	\$92.87

Intergraph will bill monthly in arrears for the Maintenance and Sustaining Support Services, and month in arrears for the actual work hours expended (including portal-to-portal travel time) on Engineering Support services. Invoices will include a summary of tasks billed for the current billing period, and for Engineering Support Services will provide details of hours charged by person.

#### Contract Terms

This Proposal will be governed under the terms and conditions of contract 071B8200301 between Intergraph and the State of Michigan, which governed the development and deployment of the MGF ADE system.

Sincerely,

Jennifer Williams  
Executive Director



ENDORSEMENT

I hereby accept this Proposal and agree to purchase the services stated above under the terms and conditions of contract 071B8200301 between Intergraph and the State, which governed the development and deployment of the MGF Oracle Migration Project.

Mr. Rob Surber,

Signature

(Mr. Rob Surber)

Date

\*\* Client please initial one of the following:

A Purchase Order will not be issued. Client signature above constitutes notice to Intergraph to proceed with this Agreement. Although a PO is not being issued, all future correspondence will reference Intergraph IT Services Letter Quote No. C-2012-731.

A Purchase Order will be issued and shall contain the following statement: \*This Purchase Order is issued in accordance with the Terms and Conditions contained in Intergraph IT Services Proposal No. C-2012-731 only and constitutes notice to Intergraph to proceed with the "Agreement" in the event that goods are delivered or services performed in accordance with this Proposal prior to a Purchase Order being issued, Client agrees to pay for such goods or services in accordance with this Proposal.

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

**CHANGE OF CONTRACTOR NAME AND OR TAX IDENTIFICATION NUMBER**

CONTRACT NO. 071B8200301

hereafter referred as

CONTRACT NO. 071B2200240

between

**THE STATE OF MICHIGAN**

and

CURRENT NAME & ADDRESS OF CONTRACTOR:	PRIMARY CONTACT	EMAIL
<b>Intergraph Corporation</b> <b>19 Interpro Road</b> <b>Madison, Alabama 35749</b>	<b>MICHAEL PATTON</b>	<b>michael.patton@intergraph.com</b>
	TELEPHONE <b>(256) 730-1214</b>	NEW CONTRACTOR #, MAIL CODE

PREVIOUS NAME & ADDRESS OF CONTRACTOR:	PRIMARY CONTACT	EMAIL
<b>ERDAS INC.</b> <b>5051 Peachtree Corners Circle, Suite 100</b> <b>Atlanta, GA 30092</b>	<b>Sheldon K Piepenburg</b>	<b>Sheldon.piepenburg@erdas.com</b>
	TELEPHONE <b>(517) 480-7531</b>	PREVIOUS CONTRACTOR #, MAIL CODE

<b>DESCRIPTION OF CHANGE NOTICE:</b>
<p><b>THE CONTRACTOR HAS NOTIFIED THE STATE OF MICHIGAN OF A CHANGE IN ITS BUSINESS NAME AND OR TAX IDENTIFICATION NUMBER. DUE TO THE INTERNAL SYSTEMS RELATED TO THE RELEASE OF CONTRACTOR PAYMENTS, A NEW CONTRACT NUMBER MUST BE ASSIGNED. THE NEW CONTRACT NUMBER IS 071B2200240. EXCEPT FOR THE NEWLY-ASSIGNED NUMBER, THE CONTRACT TERMS AND CONDITIONS REMAIN IN EFFECT.</b></p> <p><b>THIS CHANGE IS EFFECTIVE: June 19, 2012</b></p>
<p><b>\$167,006.58 REMAINING ON CONTRACT # 071B8200301 TO BE TRANSFERRED TO CONTRACT # 071B2200240</b></p>

STATE CONTACTS	AGENCY	NAME	PHONE	EMAIL
CONTRACT COMPLIANCE INSPECTOR:	DTMB	Krisanne McConnell	(517) 373-7910	<a href="mailto:Mcconnellk1@michigan.gov">Mcconnellk1@michigan.gov</a>
BUYER:	DTMB	Steve Motz	(517) 241-3215	<a href="mailto:motzs@michigan.gov">motzs@michigan.gov</a>

CONTRACT SUMMARY:			
DESCRIPTION:			
The Center for Geographic Information (CGI) Michigan Geographic Framework (MGF) Oracle Migration Project			
INITIAL TERM	EFFECTIVE DATE	INITIAL EXPIRATION DATE	AVAILABLE OPTIONS
5 Years	9/22/2008	9/21/2013	Two One year Options
PAYMENT TERMS	F.O.B	SHIPPED	SHIPPED FROM
N/A	N/A	N/A	N/A
ALTERNATE PAYMENT OPTIONS:			AVAILABLE TO MiDEAL PARTICIPANTS
<input type="checkbox"/> P-card <input type="checkbox"/> Direct Voucher (DV) <input type="checkbox"/> Other			<input type="checkbox"/> YES <input checked="" type="checkbox"/> NO
MINIMUM DELIVERY REQUIREMENTS:			
N/A			

FOR THE CONTRACTOR:	FOR THE STATE:
<b>Intergraph Corporation</b> _____ Firm Name	_____ Signature
_____ Authorized Agent Signature	<b>Jeff Brownlee, Chief Procurement Officer</b> _____ Name/Title
_____ Authorized Agent (Print or Type)	<b>DTMB Procurement</b> _____ Enter Name of Agency
_____ Date	_____ Date

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

May 23, 2011

**CHANGE NOTICE NO. 2**  
**TO**  
**CONTRACT NO. 071B8200301**  
**between**  
**THE STATE OF MICHIGAN**  
**and**

NAME & ADDRESS OF VENDOR		TELEPHONE Sheldon K Piepenburg <b>(517) 480-7531</b>
<b>ERDAS INC.</b> <b>5051 Peachtree Corners Circle, Suite 100</b> <b>Atlanta, GA 30092</b>		VENDOR NUMBER/MAIL CODE
<b>Email: Sheldon.piepenburg@erdas.com</b>		BUYER/CA (517) 241-3215 <b>Steve Motz</b>
Contract Compliance Inspector: Patty Bogard <b>DIT/CGI MGF ORACLE MIGRATION PROJECT</b>		
CONTRACT PERIOD: From: <b>September 22, 2008</b> To: <b>September 21, 2013</b>		
TERMS	<b>N/A</b>	SHIPMENT <b>N/A</b>
F.O.B.	<b>N/A</b>	SHIPPED FROM <b>N/A</b>
MINIMUM DELIVERY REQUIREMENTS <b>N/A</b>		
MISCELLANEOUS INFORMATION:		

**NATURE OF CHANGE(S):**

**See attached work Plan for completion of the MGFE Data Migration Project. All other terms and conditions remain the same.**

**Please Note: Buyer has been changed to Steve Motz.**

**AUTHORITY/REASON(S):**

**Per Ad Board approval on 5/4/2010.**

**INCREASE: \$148,000.00**

**TOTAL REVISED ESTIMATED CONTRACT VALUE: \$893,664.34**



January 20, 2011

Ms. Krisanne McConnell  
Center for Shared Solutions and Technology Partnerships (CSSTP)  
[mcconnellk1@michigan.gov](mailto:mcconnellk1@michigan.gov)

Subject: **Work plan for completion of the MGFEEData Migration project**

**OBJECTIVE:**

This work plan is designed to provide a developmental timeline for the completion of the MGFEEData migration project. It is based upon an engineering planning meeting conducted during the dates of December 7-16, 2010 and a Managerial review meeting held on December 13<sup>th</sup> in Lansing. Based upon strategic discussions held by CSSTP and ERDAS, the agreed upon completion strategy is to focus on delivering a streamlined MGFEEData editing capability in the shortest amount of time possible. Both parties have agreed to find ways to minimize the development effort while still ensuring that the basic editing functionality required for editing is available. It was also agreed upon that the formal Knowledge Transfer component of the original agreement shall be completed as part of a follow-on maintenance phase to the original work.

Additionally, both ERDAS and CSSTP have come to the realization that the complex nature of the solution continues to provide challenges towards establishing specific completion dates and timelines. This work plan attempts to provide key milestone dates however this is done with the understanding that these dates are subjective and likely to change as unforeseen requirements materialize.

It should be noted that the milestone schedule is not linear and that some of the work being done for various milestones may be done concurrently. The completion date represents our estimate of when all the requirements for a particular milestone will be complete.

**PROPOSED DELIVERY SCHEDULE:**

**Milestone #1: Completion of the data migration capability and deployment mechanism for the MGFEEData software.**

Estimated date of completion is mid February, 2011.

Capabilities to be completed include the following:

- Completion of a fully functioning and documented data migration capability that translates MGFEEData from existing versions to the new MGFEEData Oracle based data model. This process should run with minimal user interaction and no critical errors.
- Completion of a software deployment and upgrade mechanisms that allows the simplified updating of the MGFEEData software on CSSTP's servers as new software releases are issued. The installation process will run with minimal user interaction.



- Completion of basic documentation for both the data migration capability and the deployment of new releases.
- For a complete listing of specific requirements for this milestone is posted on the MGFE Project WIKI.

Physical Deliverables:

- All software and scripting required for database migration and software deployment.
- Both hard copy and soft copy documentation to support the above processes.

**Milestone #2: Completion of all editing capabilities associated with linear features excluding trunk lines.**

Estimated date of completion is mid May, 2011

Capabilities to be completed include the following:

- Completion of all general system capabilities required to support the editing of linear data (excluding trunklines and specialized linear features\*). This capability includes: imagery support, simplified navigation tools, conflict navigation, security access and control, role based functionality, setting graphic display tolerances, and setting the active theme.
- Completion of software capabilities required to validate user workflows. This capability includes system audit of edits, data validation, input tools, and a method to introduce unbreakable rules.
- Completion of linear editing tools such as the rectification of all existing linear editing bugs, implementation of new linear editing tools, implementation of select editing business/validation rules, and finalization of the editing software interface. A detailed listing of all these requirements is posted on the MGFE Project WIKI.
- Acceptance testing of general linear editing tools. Testing will be done in accordance with the established use cases/test cases; General Use Case Numbers 1-24, 28-31, 36, 38, 39 and 46.

\*Specialized linear features include: roundabouts, boulevards, rail, and Act51)

Physical Deliverables:

- Iterative software releases throughout the time frame of the milestone. These releases will be provided in accordance with the software deployment capabilities developed in milestone #1.
- Updated Design / Development documentation to accompany completed software

**Milestone #3: Completion of all remaining editing capabilities and data import/export.**

Estimated date of completion is September/October, 2011



Capabilities to be completed include the following:

- Completion of general tasks that include review/reject/commit work and measurement tools.
- Implementation of editing tools for point features. This includes node feature editing, node feature add, node feature delete, and node attribute dialog.
- Implementation of editing tools for trunklines. This includes capabilities for syncblock, SINTMATCH control sections, routes, reference linear feature, and linear feature reserve geometry.
- Implementation of editing tools for other linear types that include both referenced and non-referenced features. Provide the capability to quickly switch editing processes between referenced and non-referenced types.
- Implementation of editing tools for all polygon features. This includes polygon editing, polygon add, polygon delete, polygon modification, polygon association, polygon split and unsplit, polygon annexation, polygon data validation and polygon attribute editing.
- Implementation of data import/export tools. (May require the use of third party FME software)
- Acceptance testing of all the remaining editing tools. Testing will be done in accordance with the established use cases/test cases. Remaining, "specialized", Use Case Numbers: Trunkline- 35, 37, 41-43, 47-49; Roundabouts/Boulevards- 25-27, 40, 44, 45; Rail- 32-34, Act 51- 50-54 and Polygon/Annexations- 50-60.

Physical Deliverables:

- Iterative software releases throughout the time frame of the milestone. These releases will be provided in accordance with the software deployment capabilities developed in milestone #1.
- Final Design / Development documentation to accompany completed software
- User documentation/Online Help
- End User Training

**ROLES AND RESPONSIBILITIES:**

Name & Role	Organization	Responsibility
Brad Skelton, Senior Project Manager	ERDAS	Responsible for the overall development effort of the project. He provides direction and guidance to the software engineering team and is the final authority within ERDAS on all aspects of the delivery requirements.
Julie Teal, Project Administrator	ERDAS	Responsible for supporting the Senior Project Manager in the various aspects of managing the project within ERDAS to include coordinating scrums, maintaining the WIKI site, and providing technical guidance associated with the commercial ADE product.
John McMahon, Senior Engineer-	ERDAS	Responsible for the ongoing development of all software associated with the MGFEED editor application.



David Wilkins, Senior Engineer	ERDAS	Senior Member of the development team.
Mamadou Cisse, Engineer	ERDAS	Member of the development team.
Dennis Burck, Senior MGFE Architect	CSSTP	
Laura Blastic, MGFE Manager	CSSTP	
Josh Ross, Assistant MGFE Architect	CSSTP	
Ross Bemrose, Software Engineer	CSSTP	
Alice Schueller, DBA	CSSTP	

### GENERAL ITEMS:

**Iterative Development:** The software development team will continue to use an iterative development process to complete the MGFE application. This means that as progress is made, logical software releases will be forwarded to CSSTP for testing and evaluation. This iterative methodology should reduce the acceptance testing time at the completion of each milestone. The daily scrum will continue to be used as a way to measure and manage this process and therefore will remain a vital tool that all parties need to continue to participate in and support. The agreed upon schedule for the daily scrum is 11am EST.

**Project Management Tools:** Both ERDAS and CSSTP have agreed that the existing MGFE Project WIKI and JIRA are the approved project management tools for the development effort. Both organizations have access to these sites and therefore need to refer to them when information regarding project status and task completion is required. Both organizations agree that the maintenance and timely updating of the WIKI/JIRA is vital to ensure proper project management. Final documentation must be available for download from WIKI prior to completion of last milestone and release of final project funds.

**Engineering Meetings:** It is expected that at least 2 more engineering team meetings are requirement as we progress in the development of the solution. These team meetings will be held at CSSTP and will consist of a full week onsite with travel being done on the weekends. The tentative scheduling for these meeting is for the first to be held after the completion of the linear editing and the second one scheduled prior to polygon editing delivery. The specific dates for these meetings will be coordinated by the project manager with CSSTP.

### PAYMENT SCHEDULE:

Progress Payment	Anticipated Delivery Date	Estimated Amount
1- Data Migration	Mid-February , 2011	\$71,743.66
2- Linear Editing capability	Mid-May, 2011	\$71,743.66
3- All remaining capabilities	September/October, 2011	\$71,743.66
4- Knowledge Transfer	TBD	



---

Sincerely,

A handwritten signature in black ink that reads "Kurt Schwoppe".

Kurt Schwoppe

/ho

CC: Brad Skelton ERDAS

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

May 5, 2010

**CHANGE NOTICE NO. 1**  
**TO**  
**CONTRACT NO. 071B8200301**  
**between**  
**THE STATE OF MICHIGAN**  
**and**

NAME & ADDRESS OF VENDOR		TELEPHONE Sheldon K Piepenburg <b>(517) 480-7531</b>	
<b>ERDAS INC.</b> <b>5051 Peachtree Corners Circle, Suite 100</b> <b>Atlanta, GA 30092</b>		VENDOR NUMBER/MAIL CODE	
Email: <b>Sheldon.piepenburg@erdas.com</b>		BUYER/CA (517) 241-7233 <b>Joann Klasko</b>	
Contract Compliance Inspector: Patty Bogard <b>DIT/CGI MGF ORACLE MIGRATION PROJECT</b>			
CONTRACT PERIOD:		From: <b>September 22, 2008</b>	To: <b>September 21, 2013</b>
TERMS	<b>N/A</b>	SHIPMENT	<b>N/A</b>
F.O.B.	<b>N/A</b>	SHIPPED FROM	<b>N/A</b>
MINIMUM DELIVERY REQUIREMENTS <b>N/A</b>			
MISCELLANEOUS INFORMATION:			

**NATURE OF CHANGE(S):**

Effective immediately, this contract is hereby **INCREASED** by \$148,000.00. All other terms and conditions remain the same.

**AUTHORITY/REASON(S):**

Per Ad Board approval on 5/4/2010.

**INCREASE: \$148,000.00**

**TOTAL REVISED ESTIMATED CONTRACT VALUE: \$893,664.34**

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

September 25, 2008

**NOTICE**  
**OF**  
**CONTRACT NO. 071B8200301**  
**between**  
**THE STATE OF MICHIGAN**  
**and**

NAME & ADDRESS OF VENDOR		TELEPHONE Sheldon K Piepenburg <b>(517) 480-7531</b>
<b>ERDAS INC.</b> <b>5051 Peachtree Corners Circle, Suite 100</b> <b>Atlanta, GA 30092</b>		VENDOR NUMBER/MAIL CODE
<b>Email: Sheldon.piepenburg@erdas.com</b>		BUYER/CA (517) 241-7233 <b>Joann Klasko</b>
Contract Compliance Inspector: Patty Bogard <b>DIT/CGI MGF ORACLE MIGRATION PROJECT</b>		
CONTRACT PERIOD: From: <b>September 22, 2008</b> To: <b>September 21, 2013</b>		
TERMS	<b>N/A</b>	SHIPMENT <b>N/A</b>
F.O.B.	<b>N/A</b>	SHIPPED FROM <b>N/A</b>
MINIMUM DELIVERY REQUIREMENTS <b>N/A</b>		
MISCELLANEOUS INFORMATION:		

**TOTAL ESTIMATED CONTRACT VALUE: \$745,664.34**

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

**CONTRACT NO. 071B8200301**  
**between**  
**THE STATE OF MICHIGAN**  
**and**

NAME & ADDRESS OF VENDOR  <b>ERDAS INC.</b> <b>5051 Peachtree Corners Circle, Suite 100</b> <b>Atlanta, GA 30092</b>  <p style="text-align: right;"><b>Email: Sheldon.piepenburg@erdas.com</b></p>	TELEPHONE Sheldon K Piepenburg <b>(517) 480-7531</b> <hr/> VENDOR NUMBER/MAIL CODE  BUYER/CA (517) 241-7233 <b>Joann Klasko</b>
Contract Compliance Inspector: Patty Bogard <p style="text-align: center;"><b>DIT/CGI MGF ORACLE MIGRATION PROJECT</b></p>	
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MINIMUM DELIVERY REQUIREMENTS <p style="text-align: center;"><b>N/A</b></p>	
MISCELLANEOUS INFORMATION: <b>The terms and conditions of this Contract are enclosed. In the event of any conflicts between the specifications, terms and conditions indicated by the State and those indicated by the vendor, those of the State take precedence.</b> <b>Estimated Contract Value: \$745,664.34</b>	

**THIS IS NOT AN ORDER: The terms and conditions of this contract are enclosed. In the event of any conflicts between the specifications, terms and conditions indicated by the State and those indicated by the vendor, those of the State take precedence.**  
**Original contract was awarded on the basis of our inquiry bearing the req No. 084R8200104.**

**FOR THE VENDOR:**

\_\_\_\_\_  
 ERDAS Inc.  
  
 \_\_\_\_\_  
 Authorized Agent Signature  
**Robert M. Morris, President and CEO**  
 \_\_\_\_\_  
 Authorized Agent (Print or Type)  
  
 \_\_\_\_\_  
 Date

**FOR THE STATE:**

\_\_\_\_\_  
 Signature  
**Joann Klasko, Buyer**  
 \_\_\_\_\_  
 Name  
**IT Division**  
 \_\_\_\_\_  
 Title  
  
 \_\_\_\_\_  
 Date



**STATE OF MICHIGAN  
Department of Management and Budget  
PURCHASING OPERATIONS**

Invitation to Bid No. **071B8200301**  
**Center for Shared Solutions Oracle Migration Project**

Buyer Name: [Joann Klasko](#)  
Telephone Number: [\(517\)241-7233](#)  
E-Mail Address: [KlaskoJ@michigan.gov](mailto:KlaskoJ@michigan.gov)

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**Article 1 – Statement of Work (SOW)**

**1.0 Project Identification**

**1.001 PROJECT REQUEST**

The State of Michigan (State), through the Michigan Department of Management & Budget (MDMB), with assistance of the Michigan Department of Information Technology (MDIT), has issued this Contract to provide services to assist in the migration of the Michigan Geographic Framework (MGF) from the current ArcInfo environment to an Oracle 11g spatial environment.

The Contractor will assist and train the State in the customization of the Acquis Data Editor (ADE) software package, and will provide assistance with configuration and implementation of the software, as well as maintenance of the enhanced ADE software in support of the MGF.

The services will begin after the award of the contract in mid September, 2008. Full implementation of the system must be completed by December 2009.

The contract will have a minimum term of five (5) years, with two (2), one-year optional extensions possible, to provide continued maintenance and support of the product while in use by the State. Renewal of the contract will be at the sole discretion of the State and will be based on acceptable performance of the Contractor as determined by the State.

**1.002 BACKGROUND**

The Michigan Center for Geographic Information (MCGI) provides leadership, technical expertise and policy for the acquisition, development, use, dissemination, promotion and sharing of geographic information in the State of Michigan.

The Center's mission is to enable state government to more effectively and efficiently serve the citizens, businesses and other governments of the state in the following key areas: Public Safety & Protection, Homeland Security, Economic Development, Environmental Protection, Transportation, Voter Registration & Management, Public Education, Natural Resources Conservation Management, Management & Protection of State Agriculture, Community Health Protection & Management, and Preservation and Promotion of Michigan's historic heritage.

MCGI, through partnerships and collaboration among Federal, State, Regional, Local governments, Non-Profit Organizations, Utilities Companies, Universities and Community Colleges in the acquisition, development, use, and maintenance of geographical information, aims to promote the development, maintenance, management, and wise use of geographically referenced data. MCGI additionally promotes the use and development of Internet mapping technology in the state, and serves as an information geography clearinghouse network. Lastly, MCGI provides GIS Leadership in the State, and supports the Michigan Governor's Office, Legislature and State agencies' GIS initiatives.

MCGI has the responsibility for maintaining the MGF. The MGF is the set of data, procedures, technology, institutional relationships, and business practices delivering the basic geography of the State of Michigan. This geography includes the civil and political boundaries, transportation features, hydrography, and imagery for the state. MCGI currently maintains the boundary, transportation, and hydrography data in ArcInfo Coverage format. This technology is no longer being upgraded by ESRI and, as our customers' requirements become more complex, coverage format data is becoming cumbersome and inefficient to manage. Coverages are also prone to error introduction and propagation in the existing multi-editor work environment. Information technology has now matured to allow spatial data to be stored and managed in a Relational Database. The many advantages of managing data in a Relational Database Management System (RDBMS) are generally well known to users and managers of large amounts of data. MCGI expects to reap the benefits of a good number of these advantages by moving our spatial data storage and management into a RDBMS environment.



MCGI has used ESRI's GIS technology for over 10 years. Over the years we have developed work flows, quality control processes, and data processing programs utilizing the explicit and persistent topology which defines ESRI's coverage data model. Querying tables to discover connectivity and other topological relationships are at the heart of our business, particularly in maintaining transportation data. ESRI's approach to using database technology to manage spatial data as implemented in ArcGIS, ArcSDE, and the GeoDatabase model, however, took topology management in a completely different direction. ESRI developed the ability to quickly discover topological relationships on-the-fly, thus eliminating explicit topology maintenance in database tables. After much research and experimentation with this technology, MCGI determined that this model does not meet the needs of the State.

MCGI learned the U.S. Census Bureau was planning to migrate their TIGER data maintenance program from its existing home grown database to Oracle Spatial. A deciding factor in their decision was the Topology Data Model included in the 11g version of Oracle Spatial. The Census Bureau also has a longstanding and ongoing need to access and manage persistent and explicit topology. Topology in Oracle Spatial is stored in Oracle tables and is available for SQL querying and PL/SQL editing and analysis through functions, procedures, etc. Oracle Spatial provides MapViewer, a java component, and a developer extension for map definition and rendering.

The Oracle Spatial Data Model meets the requirements of MCGI to store and utilize topological relationships. Oracle provides a scalable, multi-user environment that is secure, manageable, and feature rich.

MCGI develops the Michigan Geographic Framework for use by all GIS users. Additional information on the Michigan Geographic Framework may be accessed at: [http://www.mi.gov/cgi/0,1607,7-158-12759\\_14194---,00.html](http://www.mi.gov/cgi/0,1607,7-158-12759_14194---,00.html).

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

### **1.101 IN SCOPE**

This project consists of the following scope:

- The Contractor to provide assistance in Migration from current environment to spatial environment
- The Contractor to provide assistance with application development on the ADE software package
  - Configuration of software
  - Modification
  - Implementation
  - Testing
- The Contractor to provide Knowledge Transfer
- The Contractor to provide Training
- The Contractor to provide Documentation
- The Contractor to provide Other services – future enhancements, on-going service and support

A more detailed description of the software, services (work) and deliverables sought for this project is provided in Article 1, Section 1.104, Work and Deliverables.

### **1.102 OUT OF SCOPE**

The following are out of the scope for this contract:

- Procurement or installation of equipment
- Procurement of Software (both Oracle and Third Party Editor will be procured by the State)
- Operations services, such as Infrastructure management and administration, Disaster recovery, and Security administration services
- Serve as Oracle Administrator

**1.103 ENVIRONMENT**

The links below will provide information on the State’s Enterprise IT policies, standards and procedures which include security policy and procedures, IT strategic plan and the State’s Project Management Methodology.

Contractors are advised that the State has methods, policies, standards and guidelines that have been developed over the years. Contractors are expected to provide proposals that conform to State IT policies and standards. All services and products must comply with all applicable State IT policies and standards in effect at the time the Contract is issued. The Contractor must request any exception to State IT policies and standards in accordance with MDIT processes. It will be the responsibility of the State to deny the exception request or to seek a policy or standards exception.

**Contractor is required to review all applicable links provided below.**

**Enterprise IT Policies, Standards and Procedures:**

<http://www.michigan.gov/dit/0,1607,7-139-34305---,00.html>

**IT Strategic Plan:**

<http://www.michigan.gov/dit/0,1607,7-139-30637-135173--,00.html>

**The State’s Project Management Methodology (PMM) must be followed:**

[http://www.michigan.gov/dit/0,1607,7-139-18391\\_22016-58009--,00.html](http://www.michigan.gov/dit/0,1607,7-139-18391_22016-58009--,00.html)

All software and hardware items provided by the Contractor must run on and be compatible with the MDIT Standard Information Technology Environment. Additionally, the State must be able to maintain software and other items produced as the result of the Contract. Therefore, non-standard development tools may not be used unless approved by MDIT. The Contractor must request, in writing, approval to use non-standard software development tools, providing justification for the requested change and all costs associated with any change. The State’s Project Manager and MDIT must approve any tools, in writing, before use on any information technology project.

It is recognized that technology changes rapidly. The Contractor may request, in writing, a change in the standard environment, providing justification for the requested change and all costs associated with any change. Any changes must be approved, in writing, by the State’s Project Manager and MDIT, before work may proceed based on the changed environment.

**IT Security Policy and Procedures:**

<http://www.michigan.gov/dit/0,1607,7-139-34305-108216--,00.html>

The State’s security environment includes:

- MDIT provided SQL security database.
- Secured Socket Layers.
- SecureID (State Security Standard for external network access and high risk Web systems)

Where software is being converted from an existing package, the security mechanism must be approved in writing by the State’s Project Manager and MDIT’s Office of Enterprise Security.

**The MCGI technical environment for this project consists of:**

2)Windows 2003 Standard Server running Oracle Application Server 11g

2)Windows 2003 Server Web Edition running IIS 6.0 with all version of the .Net Runtime installed for hosting the public viewing of the application.

2) Windows 2003 14 bit Standard Server hosting Oracle 11g Spatial Database The State requires all software be integrated effectively into its current technical environment and that it will continue to do so as this environment evolves.

**1.104 WORK AND DELIVERABLES**

This section includes:

- I. Services (work) To Be Provided and Deliverables** and
- II. Requirements** (general system/functional and technical).

**I. Services (work) To Be Provided and Deliverables**

The deliverables listed are not all inclusive. Contractor may determine other deliverables.

**A. Migration and Software Customization and Implementation**

Contractor will provide services to assist in migration of the Michigan Geographic Framework from the current ArcInfo environment to an Oracle 11g spatial environment, and contractor will provide assistance in the customization and implementation of the ADE software package to edit spatial data.

MCGI will obtain the ADE software package that will include the functionality of native geometry and attribute editing and that will support the editing of all Oracle 11g data types including spatial, topology features and primitives, and attribute data. The solution will provide MCGI the ability to edit all its location data in the database using a standard web browser.

Services to implement the application include assistance with the following:

- a. Configuration
  - i. Configure the Oracle Spatial database and editing application to ensure system operation accommodates MCGI's business needs
- b. Customization / Modification
  - i. Develop and modify the customized extensions to accommodate MCGI's business needs
- c. Implementation –
  - i. Implement the final product to ensure system accommodates MCGI's business needs
- d. Testing -
  - i. Test the application during development phase to ensure that the requirements are satisfied and to validate the results.
  - ii. All test errors are to be corrected; corrections implemented, and tests re-executed in their entirety.
  - iii. The State is responsible for user acceptance testing. The State will not accept the product and sign-off on implementation until such time as the State certifies successful completion of acceptance testing by the system.
    - 1. Contractor will provide support for the duration of User Acceptance Testing (UAT).
    - 2. This support must include both business and technical assistance.
    - 3. The testing process will include the ability to provide for a complete test cycle. The test cycle will be determined by State and Contractor based on the evaluation of the State's annual MGF delivery requirement.
    - 4. Contractor will support the UAT by:
      - a. Monitoring system performance.
      - b. Investigating why data was not processed.
      - c. Monitoring computer resource usage.
      - d. Participating in problem review meetings.
      - e. Investigating problems and identifying potential problems.
      - f. Answering user questions about the system.
      - g. Investigating and ensuring user access to the system in the UAT environment.
      - h. Generally helping the users execute tests and review results.
  - iv. The Contractor will work with the State to test the backup and restore processes following application acceptance testing, to ensure that the system does function accurately and effectively.

**Deliverable(s)**

- A. Implementation Plan
  - 1. The Contractor will develop and provide a current implementation plan for the solution.
  - 2. The implementation plan is to be inclusive of the following elements and deliverables:
    - a. An overview of the project, including migration of the MGF from ArcInfo to Oracle 11g.
    - b. A timeline for the project, with appropriate milestones
    - c. Identification of risks and mitigation strategies
    - d. Operational approach, logistical approach and migration path
    - e. An implementation staffing plan, adequate to meet all deliverables within the stated timeframes
- B. Design documentation to include the Data Element Dictionary
- C. Customized software application
- D. Implementation of customized software
- E. Testing plans and scripts
- F. Testing results

**Acceptance Criteria**

Standard acceptance criteria for Document Deliverables and Software Deliverables are listed in Section 1.501.

- B. **Knowledge Transfer** – The Contractor shall provide knowledge transfer to allow the transfer of the system technical operation and maintenance to State staff. The Contractor will work together with MCGI staff to accomplish a formal knowledge transfer for the new skills being introduced in this Oracle migration project. The key elements of the approach are:
  - Establishing an integrated team at the start of the project
  - Identifying the exact knowledge transfer needs at the project outset
  - Establishing a Knowledge Transfer Coordinator role and developing a knowledge transfer plan for MCGI staff
  - Side-by-side mentoring of the project team
  - Using learning checkpoints to measure progress against the approved knowledge transfer plan
  - Providing post training support to allow additional “on the job” practice
  - Using workshops and custom training to address MCGI specific topics
  - Developing templates and samples for key deliverables
  - Developing procedure manuals and “how to” guides for the deployed application

**Deliverable(s)**

Knowledge Transfer Plan

**Acceptance Criteria**

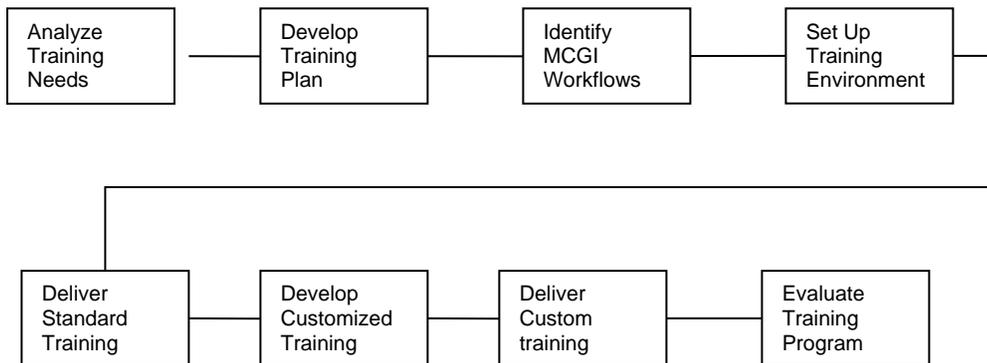
Standard acceptance criteria for Document Deliverables and Software Deliverables are listed in Section 1.501.

**C. Training** – The Contractor will provide training for the development, administration, and use of the solution as delivered, for up to 15 persons, to be held on-site in Lansing, Michigan. The training will be for developers and administrators, who will be working with the Contractor to develop and configure the application, including establishing databases and interfaces, data conversion, customization, upgrading the customized software; as well as the personnel who will be responsible for ongoing maintenance and administration of the system, including security; and also the end users of the solution.

The training will be for the following:

- 1. Oracle Spatial software – customized courses
- 2. Development and customization of the ADE software
- 3. End Users of customized ADE software

A training needs analysis, as displayed in flow chart below, will be performed by Contractor and State staff to determine specific training requirements.



**Deliverable(s)**

1. Training Plan Document - Describing the training and including:
  - a. Training content
  - b. Schedules
  - c. Resources from both Contractor and State
  - d. Time commitments
2. Training Sessions
3. Training manuals

**Acceptance Criteria**

Standard acceptance criteria for Document Deliverables and Software Deliverables are listed in Section 1.501

Service Deliverables

MDIT staffs are properly trained and supplied documentation to support and use the software in accordance with the requirements of this contract.

**D. Documentation** – The Contractor shall provide the documents identified in Article 1, Section 1.104 Work and Deliverables.

1. Solution - The Contractor must provide documentation for the underlying technology on which the solution is based.
2. Customized Solution - The Contractor must provide documentation for using the customized solution. The Contractor to provide all training manuals, training plans and other documentation to the State. The State may reproduce and distribute all training materials provided. All training manuals, training plans, and other documentation provided become the property of the State
3. Source code – The Contractor must provide documentation fully describing the custom code generated, which will be owned by the State.
4. Development documentation including but not limited to UML diagrams describing architecture of changes, class diagrams, use cases, and written description of architecture.

**Additional documentation details:**

Documentation to include a minimum of two (2) copies provided in an electronic format and in hard copy of the deliverables listed below:

All updates of documentation during the term of the Contract, software license, and maintenance agreement and upgrades and new versions to the system that affect end-user functionality include training at no additional cost (e.g. classroom or online training, training flier, release features, etc.).

The documentation of components, features, and use of the customized software shall provide sufficient detail that resolution of most problems can be determined from the documentation, and most questions can be answered.

**Deliverable(s)**

- a. User and Technical Manuals
- b. Database design documentation to include the Data Element Dictionary
- c. Software configuration documents
- d. Installation procedure
- e. Testing plans and scripts
- f. Specification documentation
- g. Production migration description
- h. Operations Manual
- i. Source code for custom code generated
- j. Development documents as defined in Article 1, Section 1.104, D-4.
- k. Final converted database

**Acceptance Criteria**

Standard acceptance criteria for Document Deliverables and Software Deliverables are listed in Section 1.501

**E. Other Services**

- 1. The Contractor will provide:
  - a. Minor system enhancements, and on-going services and support to include changes to the system that are necessary to meet:
    - i. New State policy requirements,
    - ii. New Federal regulations,
    - iii. New technology or security needs requested by the State, or
    - iv. Accommodate new or updated interfaces requested by the State.

**\*NOTE:** The State estimates that 1,000 hours will be needed to address these events. They will be paid for on a time and materials basis. **See APPENDIX E, Cost Tables – Labor Rates.**

- b. On-going service and support to include, but not limited to the following:
  - ii. All services are to be performed by qualified personnel familiar with the customized/configured ADE solution.
  - iii. Support will be required during the State’s business hours with escalation determined by the State’s Project Manager. The State’s business hours are 8:00 a.m. to 5:00 p.m. EST, Monday through Friday, with work performed as necessary after those hours to meet project deadlines. No overtime will be authorized or paid.
  - iv. Calls for service will be returned within a one-business-day timeframe.
  - v. The SERVICE and SUPPORT includes all future source code (code changes to the customized software) and related functionality updates to the customized software.
- c. The State will submit a Statement of Work (SOW) to the Contractor for the enhancement requested and the Contractor will provide a written price proposal. Upon review and approval of the MDIT Project Manager, a Purchase Order release will be issued to the Contractor for the project to begin.

**Deliverable(s)**

- a. Project plan for any requested system enhancement activities
- b. Design documents translating the requirements into a set of documents that can be used to drive and support the building of software artifacts; such as code, configuration data, and rules; with proper use of domain-related typing wherever possible.
- c. Database design documentation to include the Data Element Dictionary
- d. Customized software application
- e. Implementation of customized software

- f. Testing plans and scripts
- g. Testing results
- h. Service and support of the customized software

**Acceptance Criteria**

Standard acceptance criteria for Document Deliverables and Software Deliverables are listed in Section 1.501 and include the following:

- 1. The services will be accepted in accordance with the requirements of the contract.
- 2. The Contractor has the tools and connectivity installed, in compliance with MDIT standards, to properly support and monitor the system.
- 3. MDIT will review a Request for Approval of Services within a mutually agreed upon timeframe from completion or implementation.
  - a. Approvals will be written and signed by MDIT Project Manager.
  - b. Unacceptable issues will be documented and submitted to the Contractor.
  - c. After issues are resolved or waived, the Contractor will resubmit a Request for Approval of Services for approval within 30 days of receipt.

**I. Requirements**

A. **Functional Requirements** – Functional requirements are identified in **Appendix A**. The Michigan Department of Transportation Physical Road (PR) Standards Document is included as **Appendix A1** and is referenced in Appendix A under Section F – Linear Referencing System - #1.c.i. The Contractor’s solution must meet these requirements.

B. **General System and Technical Requirements** - General System and Technical requirements are listed in the table of **Appendix B**. Contractor’s solution must meet these requirements.

**1.2 Roles and Responsibilities**

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

**I. Contractor Staff**

The Contractor will commit that staff identified will actually perform the assigned work.

The Contractor will provide, and update when changed, an organizational chart indicating lines of authority for personnel involved in performance of this Contract and relationships of this staff to other programs or functions of the firm. This chart must also show lines of authority to the next senior level of management and indicate who within the firm will have prime responsibility and final authority for the work. Organization chart is located in Article 1, Attachment B.

**The Contractor will identify a Single Point of Contact (SPOC)** within their organization for project logistics and related duties. The SPOC will be Sheldon Piepenburg.

The duties of the SPOC shall include, but not be limited to:

- The management of the Contract,
- Dispute resolution, and
- The State of performance under the terms and conditions of the Contract.

The State reserves the right to require a change in the current SPOC if the assigned SPOC is not, in the opinion of the State, adequately serving the needs of the State.

All **Key Personnel** may be subject to the State’s interview and approval process. Any key staff substitution must have the prior approval of the State.

The State has identified the following as key personnel for this project:

1. **Project Manager – Liam McGeown**
2. **Programmer / Analyst - John McMahon**

**The Project Manager**, as key personnel, will work closely with the designated personnel from the State to insure a smooth transition to the new system. The project manager will coordinate all of the activities of the Contractor personnel assigned to the project and create all reports required by State. The Contractor's project manager responsibilities include, at a minimum:

- Manage all defined Contractor responsibilities in this Scope of Services.
- Manage Contractor's subcontractors, if any
- Develop the project plan and schedule, and update as needed
- Serve as the Contractor's point person for all project issues
- Assist with coordination and oversight of the day-to-day project activities of the project team
- Assess and report project feedback and status
- Escalate project issues, project risks, and other concerns
- Review all project deliverables and provide feedback
- Proactively propose/suggest options and alternatives for consideration
- Utilize change control procedures
- Assist with preparation of project documents and materials

**The Programmer-Analyst**, as key personnel, will provide technical expertise pertaining to the development of topology editing solution for the Oracle Spatial database. The Contractor's programmer-analyst responsibilities include, at a minimum, guidance and assistance with the following:

- Design, develop, test, and document software extensions, in close collaboration with users and other developers, based on user requirements
- Works with users to acquire and understand requirements
- Generates models and documentation to fully describe software extensions and comply with SUITE/SEM
- Implements software extensions
- Plans and performs tests on software extensions individually or with other developers and/or users as appropriate
- Debugs software extensions with appropriate tools and techniques
- Writes developer-level documentation to fully describe workings of software created
- Writes user-level documentation to fully describe how to use software created

The Contractor will provide sufficient qualified staffing to satisfy the deliverables of this contract.

**A. On Site Work Requirements**

1. **Location of Work** - The work is to be performed, completed, and managed at the following locations:

MDIT, Center for Geographic Information  
Romney Building, 10th Floor  
111 S Capitol Ave  
Lansing MI 48933

2. **Hours of Operation:**

- a. Normal State working hours are 8:00 a.m. to 5:00 p.m. EST, Monday through Friday, with work performed as necessary after those hours to meet project deadlines. No overtime will be authorized or paid.



- b. The State is not obligated to provide State management of assigned work outside of normal State working hours. The State reserves the right to modify the work hours in the best interest of the project.
- c. Contractor shall observe the same standard holidays as State employees. The State does not compensate for holiday pay.

**3. Travel:**

- a. No travel or expenses will be reimbursed. This includes travel costs related to training provided to the State by Contractor.
- b. Travel time will not be reimbursed.

**4. Additional Security and Background Check Requirements:**

Contractor must present certifications evidencing satisfactory Michigan State Police Background checks (ICHAT) and drug tests for all staff identified for assignment to this project.

Contractor is responsible for any costs associated with ensuring their staff meets all requirements.

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

The State will provide the following resources for the Contractor’s use on this project:

- Work space
- Minimal clerical support
- Desk
- Telephone
- Printer
- Access to copiers and fax machine
- State of Michigan Facility Access Badge

The State project team may consist of a MDIT Project Manager and a project support team to be determined at a later date.

**MDIT Project Manager**

MDIT will provide a Project Manager. MDIT will be responsible for the State’s infrastructure and work together with the Contractor in determining the system configuration.

The MDIT Project Manager will provide the following services:

- Provide State facilities, as needed
- Coordinate the State resources necessary for the project
- Facilitate coordination between various external contractors
- Facilitate communication between different State departments/divisions
- Provide acceptance and sign-off of deliverable/milestone
- Review and sign-off of timesheets and invoices
- Resolve project issues
- Escalate outstanding/high priority issues
- Utilize change control procedures
- Conduct regular and ongoing review of the project to confirm that it meets original objectives and requirements
- Document and archive all important project decisions
- Arrange, schedule and facilitate State staff attendance at all project meetings.

Name	Agency	Email	Phone
Krisanne McConnell	MDIT	Mcconnellk1@michigan.gov	517-373-7910

**Project Support**

In addition, project support from various State personnel may be required at stages of the project. The Contractor’s Project Manager will make every effort to provide the MDIT Project Manager with advance notice of when those services may be required.

**MDIT Contract Administrator**

MDIT shall provide a Contract Administrator whose duties shall include, but not limited to, supporting the management of the Contract.

MDIT Contract Administrator				
Name	Agency/Division	Title	Email	Phone
Patty Bogard	MDIT/Bureau of Strategic Policy Contract Office	Contract Administrator	<a href="mailto:BogardP@michigan.gov">BogardP@michigan.gov</a>	517-335-4051

**1.203 OTHER ROLES AND RESPONSIBILITIES –**

None

**1.3 PROJECT PLAN**

**1.301 PROJECT PLAN MANAGEMENT**

**I. Preliminary Project Plan** - Contractor will provide a Preliminary Project Plan with the proposal, including necessary time frames and deliverables for the various stages of the project and the responsibilities and obligations of both the Contractor and the State.

In particular, the Preliminary Project Plan will include a MS Project plan or equivalent, approved by MDIT/agency, which shall include:

1. A description of the deliverables to be provided under this contract.
2. Target dates and critical paths for the deliverables.
3. Identification of roles and responsibilities, including the organization responsible. Contractor is to provide a roles and responsibility matrix.
4. The labor, equipment, materials and supplies required to be provided by the State in meeting the target dates established in the Preliminary Project Plan.
5. Internal milestones.
6. Task durations.

**II. Orientation Meeting**

- A. Upon thirty (30) calendar days from execution of the Contract, the Contractor will be required to attend an orientation meeting to discuss the content and procedures of the Contract.
- B. The meeting will be held in Lansing, Michigan, at a date and time mutually acceptable to the State and the Contractor.
- C. The State shall bear no cost for the time and travel of the Contractor for attendance at the meeting.

**III. Performance Review Meetings**

- A. The State will require the Contractor to attend monthly meetings, at a minimum, to review the Contractor’s performance under the Contract.
- B. The meetings will be held in Lansing, Michigan, or by teleconference, as mutually agreed by the State and the Contractor.
- C. The State shall bear no cost for the time and travel of the Contractor for attendance at the meeting.

**IV. Project Control**

- A. The Contractor will carry out this project under the direction and control of MDIT and MCGI.
- B. Within ten (10) working days of the orientation meeting date, the Contractor will submit the project plan to the State project manager(s) for final approval.
  1. This project plan must be in agreement with Article 1, Section 1.104 – Work and Deliverable and must include the following:
    - a. The Contractor’s project organizational structure.



- b. The Contractor's staffing table with names and title of personnel assigned to the project. This must be in agreement with staffing of accepted proposal. Necessary substitutions due to change of employment status and other unforeseen circumstances may only be made with prior approval of the State.
  - c. The project work breakdown structure (WBS) showing sub-projects, activities and tasks, and resources required and allocated to each.
  - d. The time-phased plan in the form of a graphic display, showing each event, task, and decision point in the WBS.
2. Upon approval of the Project Plan by the State, it will be marked as an Appendix and will be accepted by both parties as a part of the Contract and will be incorporated by reference. The State shall use the Project Plan in its determination of the performance of the Contractor.
  3. The project will be managed in accordance with the State's Project Management Methodology (PMM) and the Systems Engineering Methodology (SEM).
  4. Contractor will use an automated tool for planning, monitoring, and tracking the Contract's progress and the level of effort of any Contractor personnel spent performing Services under the Contract. The tool shall have the capability to produce:
    - a. Staffing tables with names of personnel assigned to Contract tasks.
    - b. Project plans showing tasks, subtasks, deliverables, and the resources required and allocated to each (including detailed plans for all Services to be performed within the next sixty (60) calendar days, updated semi-monthly).
    - c. Updates must include actual time spent on each task and a revised estimate to complete.
    - d. Graphs showing critical events, dependencies and decision points during the course of the Contract.
  5. Any tool(s) used by Contractor for such purposes must produce information of a type and in a manner and format that will support reporting in compliance with the State standards.

### 1.302 REPORTS

Reporting formats must be submitted to the State's Project Manager for approval ten (10) business days after the orientation meeting. Once both parties have agreed to the format of the report, it shall become the standard to follow for the duration of the contract.

- Bi-Weekly Project status
- Updated project plan
- Summary of activity during the report period
- Accomplishments during the report period
- Deliverable status
- Maintenance Activity

## 1.4 Project Management

### 1.401 ISSUE MANAGEMENT

An issue is an identified event that if not addressed may affect schedule, scope, quality, or budget.

The Contractor shall maintain an issue log for issues relating to the provision of services under this Contract. The issue management log must be communicated to the State's Project Manager on an agreed upon schedule, with email notifications and updates. The issue log must be updated and must contain the following minimum elements:

- Description of issue
- Issue identification date
- Responsibility for resolving issue.
- Priority for issue resolution (to be mutually agreed upon by the State and the Contractor)
- Resources assigned responsibility for resolution
- Resolution date
- Resolution description

Issues shall be escalated for resolution from level 1 through level 3, to be defined after execution of contract.

**1.402 RISK MANAGEMENT**

A risk is an unknown circumstance or event that, if it occurs, may have a positive or negative impact on the project.

The Contractor is responsible for establishing a risk management plan and process, including the identification and recording of risk items, prioritization of risks, definition of mitigation strategies, monitoring of risk items, and periodic risk assessment reviews with the State.

A risk management plan format shall be submitted to the State for approval within ten (10) business days after the orientation meeting. The risk management plan will be developed during the initial planning phase of the project, and be in accordance with the State's PMM methodology. Once both parties have agreed to the format of the plan, it shall become the standard to follow for the duration of the contract. The plan must be updated bi-weekly, or as agreed upon.

The Contractor shall provide the tool to track risks. The Contractor will work with the State and allow input into the prioritization of risks.

The Contractor is responsible for identification of risks for each phase of the project. Mitigating and/or eliminating assigned risks will be the responsibility of the Contractor. The State will assume the same responsibility for risks assigned to them.

**1.403 CHANGE MANAGEMENT**

Change management is defined as the process to communicate, assess, monitor, and control all changes to system resources and processes. The State also employs change management in its administration of the Contract.

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

The Contractor must employ change management procedures to handle such things as "out-of-scope" requests or changing business needs of the State while the migration is underway.

The Contractor will employ the change control methodologies to justify changes in the processing environment, and to ensure those changes will not adversely affect performance or availability.

**1.5 Acceptance**

**1.501 CRITERIA**

The following is standard acceptance criteria for document and software deliverables.

Any specific criteria, processes and/or procedures required for each of the deliverables/milestones is identified in Section 1.104 Work and Deliverables.

**Document Deliverables**

1. Documents are dated and in electronic format, compatible with State of Michigan software in accordance with Article 1.302.
2. Requirements documents are reviewed and updated throughout the development process to assure requirements are delivered in the final product.
3. Draft documents are not accepted as final deliverables.



4. The documents will be reviewed and accepted in accordance with the requirements of the Contract and Appendices.
5. MDIT will review documents within a mutually agreed upon timeframe.
  - a. Approvals will be written and signed by MDIT Project Manager.
  - b. Issues will be documented and submitted to the Contractor.
  - c. After issues are resolved or waived, the Contractor will resubmit documents for approval within 30 days of receipt.

**Software Deliverables** - Software includes, but is not limited to, software product, development tools, support tools, data migration software, integration software, and installation software.

1. Beta software is not accepted as final deliverable.
2. The software will be reviewed and accepted in accordance with the requirements of the contract.
3. MDIT will review software within a mutually agreed upon timeframe for acceptance of functionality, usability, installation, performance, security, standards compliance, backup/recovery, and operation.
  - a. Approvals will be written and signed by MDIT Project Manager.
  - b. Unacceptable issues will be documented and submitted to the Contractor.
  - c. After issues are resolved or waived, the Contractor will resubmit software for approval within 30 days of receipt.
4. Software is installed and configured, with assistance from MDIT, in an appropriate environment (e.g. development, conversion, QA testing, UAT testing, production, and training).
5. Contingency plans, de- installation procedures, and software are provided by the Contractor and approved by MDIT Project Manager.
6. Final acceptance of the software will depend on the successful completion of User Acceptance Testing (UAT).
7. Testing will demonstrate the system's compliance with the requirements. At a minimum, the testing will confirm the following:
  - a. Functionality - the capabilities of the system with respect to the functions and features described in the requirements.
  - b. Performance - the ability of the system to perform the workload throughput requirements. All problems should be completed satisfactorily within the allotted time frame.
8. MDIT will review test software, data, and results within a mutually agreed upon timeframe.
  - a. Approvals will be written and signed by MDIT Project Manager.
  - b. Unacceptable issues will be documented and submitted to the Contractor.
  - c. After issues are resolved or waived, the Contractor will resubmit test software, data and results for approval within 30 days of receipt.
9. MDIT will review software license agreements within a mutually agreed upon timeframe.
  - a. Approvals will be written and signed by MDIT Project Manager.
  - b. Unacceptable issues will be documented and submitted to the Contractor.
  - c. After issues are resolved or waived, the Contractor will resubmit the license agreement for approval and final signature by the authorized State signatory within 30 days of receipt
10. Software source code, where applicable, is reviewed by MDIT within a mutually agreed upon timeframe for readability, structure, and configuration management.
  - a. Approvals will be written and signed by MDIT Project Manager.
  - b. Unacceptable issues will be documented and submitted to the Contractor.
  - c. After issues are resolved or waived, the Contractor will resubmit source code for approval.



## 1.502 FINAL ACCEPTANCE

Final acceptance is expressly conditioned upon completion of all deliverables, completion of all tasks in the project plan as approved, completion of all applicable inspection and/or testing procedures, and the certification by the State that the Contractor has met the defined requirements.

## 1.6 Compensation and Payment

### 1.601 COMPENSATION AND PAYMENT

The contract is a firm fixed price contract. The State shall pay the Contractor an amount up to but not to exceed **\$745,664.34** for the Scope of Work covered by the contract. The Period of Performance for this Contract is up to five years with 2 one-year optional extensions, which are optioned at the State's sole discretion.

All prices and rates quoted in Contractor's response to the RFP will be firm for the duration of the Contract. No price changes will be permitted for the Original Proposed SOW.

Staffing categories and hourly rates shall be firm for the duration of the 5-year Contract.

If Contractor reduces its prices for any of the software or services during the term of this Contract, the State shall have the immediate benefit of such lower prices for new purchases. Contractor shall send notice to the State's MDIT Contract Administrator with the reduced prices within fifteen (15) Business Days of the reduction taking effect.

Contractor agrees all the prices, terms, warranties, and benefits provided in this Contract are comparable to or better than the terms presently being offered by Contractor to any other governmental entity purchasing the same quantity under similar terms. If, during the term of this Contract, Contractor shall enter into contracts with any other governmental entity providing greater benefits or more favorable terms than those provided by this Contract, Contractor shall be obligated to provide the same to the State for subsequent purchases.

### **Payment**

Contractor will submit properly itemized invoices to MDIT Procurement at the "bill to" address on the purchase order release document.

Invoices shall provide and itemize, as applicable:

- Contract number;
- Purchase Order number
- Contractor name, address, phone number, and Federal Tax Identification Number;
- Description of any commodities/equipment, including quantity ordered;
- Date(s) of delivery and/or date(s) of installation and set up;
- Price for each item, or Contractor's list price for each item and applicable discounts;
- Maintenance charges;
- Net invoice price for each item;
- Shipping costs;
- Other applicable charges;
- Total invoice price; and
- Payment terms, including any available prompt payment discounts.

Incorrect or incomplete invoices will be returned to Contractor for correction and reissue.

## 1.7 Additional Information Specific to this SOW

A. MDIT's Office of Enterprise Security follows federal security standards. A new requirement is effective February 1, 2008, reflected in the following language of the United States Office of Management and Budget policy memorandum M-07-11, "Implementation of Commonly Accepted Configurations for Windows Operating Systems":



- The provider of information technology shall certify applications are fully functional and operate correctly as intended on systems using the Federal Desktop Core Configuration (FDCC). This includes Internet Explorer 7 configured to operate on Windows [http://csrc.nist.gov/itsec/guidance\\_WinXP.html](http://csrc.nist.gov/itsec/guidance_WinXP.html) Windows XP and Vista (in Protected Mode on Vista). For the Windows XP settings, see: [http://csrc.nist.gov/itsec/guidance\\_vista.html](http://csrc.nist.gov/itsec/guidance_vista.html), and for the Windows Vista settings, see: [http://csrc.nist.gov/itsec/guidance\\_vista.html](http://csrc.nist.gov/itsec/guidance_vista.html).
- The standard installation, operation, maintenance, update, and/or patching of software shall not alter the configuration settings from the approved FDCC configuration. The information technology should also use the Windows Installer Service for installation to the default “program files” directory and should be able to silently install and uninstall.
- Applications designed for normal end users shall run in the standard user context without elevated system administration privileges.

**Article 1, Attachment A**  
**Pricing**

**Table 1: Summary of the Project Cost**

No.	Cost Categories	Cost (\$)	Comments
	<b>Customization of COTS Package</b> Cost of modification of the COTS package to meet business requirements. This will include: Migration, Customization, Testing, and Implementation services.	\$465,087.46	
	<b>Knowledge Transfer, Training and Documentation</b> Give breakdown in Table 2.	\$87,451.60	
	<b>Other Services</b> – Anything that was not included in the cost table that is part of the proposed solution. Give breakdown in Table 4.	\$193,125.28	(Project Management)
	<b>Future system enhancements, On-going maintenance and support</b> Give labor rates in Table 3	See table 3 for labor rates.	
	<b>Total Project Cost</b>	<b>\$745,664.34</b>	

**Table 2: Breakdown of Knowledge Transfer, Training and Documentation Cost**

Training cost and Documentation	Cost (\$)	Comments
Knowledge Transfer	\$17,780.80	
User training	\$6,170.80	
User training documentation	\$12,341.60	
Operational management training	\$16,043.20	
Operational management training documentation	\$16,043.20	
DBA/Developer training	\$9,536.00	
DBA/Developer training documentation	\$9,536.00	
Other (List): ..... ..... .....		
<b>Total Cost of Training &amp; Documentation</b>	<b>\$87,451.60</b>	

Cost Breakdown Tables

**Table 3: Labor Rates for future enhancements, on-going maintenance and support**

Staffing Classification	Labor rate (per hour)	Comments
Project management	\$202.80	Rates valid for the duration of the contract (9/1/08 – 12/31/13)
Business analysts	\$175.81	
System analysts	\$160.44	
Programmer/developers	\$208.56	
System administrators	\$171.60	
Database administrators	\$160.44	
Q/A Manager	\$160.44	
Security specialist	\$137.28	
Testers	\$84.31	
Technical writers	\$84.24	
CM specialists	\$123.97	
System Architects	\$196.56	
Network engineer/administrator		
Software Architects	\$221.04	
CM specialists		
Project assistants	\$177.89	
Web developers	\$159.12	
Application trainers	\$160.44	
Others: (List) below:		
...Software Engineer.....	\$152.51	

**Notes:**

Hourly rates quoted are firm, fixed rates for the duration of the contract. Travel and other expenses will not be reimbursed. The State will utilize the fully loaded hourly rates detailed above for each staff that will be used as fixed rates for responses to separate statements of work.

The State intends to establish funding for a reserve bank of hours for the contract. Actual funding for enhancements will occur during the request process, and there is no guarantee as to the level of funding, if any, available to the project.

**Table 4: Other information**

No.					
1	Project Management incl. Project Reporting and Management Oversight of State Staff assigned to the Project	\$193,125.28			
2					
3					

**Article 1, Attachment B**  
Organizational Chart, including Key Personnel

**Liam McGeown**  
Project Manager

**Sudha. Maheshwari**  
Systems Analyst

**John McMahon**  
Solution Architect

**Jesse Sheffield**  
Data Migration/Training

**CSS**  
Systems Analyst

**Darragh McGeown**  
System Developer

**A.N. Other**  
ADE/Oracle Trainers

**CSS**  
Systems Analyst

**CSS**  
Software Developer

**CSS**  
Database Administer

**CSS**  
Database Designer

**CSS**  
Data QA Manager

**Article 1, Attachment C**  
Labor Rates

**See Pricing, Attachment**

**Article 1, Attachment D**  
Deliverables

N/A

**Article 1, Attachment E**

Project Plan

N/A

**Article 1, Attachment F**  
Service Level Agreement

N/A

**Article 2 – General Terms and Conditions**

**2.010 Contract Structure and Administration**

**2.011 Definitions**

Capitalized terms used in this Contract (including its Exhibits) shall have the meanings given below, unless the context requires otherwise:

- (a) “Days” means calendar days unless otherwise specified.
- (b) “24x7x365” means 24 hours a day, seven days a week, and 365 days a year (including the 366th day in a leap year).
- (c) “Additional Service” means any Services/Deliverables within the scope of the Contract, but not specifically provided under any Statement of Work, that once added will result in the need to provide the Contractor with additional consideration. “Additional Service” does not include New Work.
- (d) “Amendment Labor Rates” means the schedule of fully-loaded hourly labor rates attached as **Article 1, Attachment C.**
- (e) “Audit Period” has the meaning given in **Section 2.111.**
- (f) “Business Day,” whether capitalized or not, shall mean any day other than a Saturday, Sunday or State-recognized legal holiday (as identified in the Collective Bargaining Agreement for State employees) from 8:00am EST through 5:00pm EST unless otherwise stated.
- (g) “Incident” means any interruption in Services.
- (h) “Business Critical” means any function identified in any Statement of Work as Business Critical.
- (i) “Deliverable” means physical goods and/or commodities as required or identified by a Statement of Work
- (j) “Key Personnel” means any Personnel designated in **Article 1, Section 1.201 and/or Attachment B,** as Key Personnel.
- (k) “New Work” means any Services/Deliverables outside the scope of the Contract and not specifically provided under any Statement of Work, that once added will result in the need to provide the Contractor with additional consideration. “New Work” does not include Additional Service.
- (l) “Services” means any function performed for the benefit of the State.
- (m) “State Location” means any physical location where the State performs work. State Location may include state-owned, leased, or rented space.
- (n) “Subcontractor” means a company Contractor delegates performance of a portion of the Services to, but does not include independent contractors engaged by Contractor solely in a staff augmentation role.
- (o) “Work in Process” means a Deliverable that has been partially prepared, but has not been presented to the State for Approval.

**2.012 Attachments and Exhibits**

All Attachments and/or Exhibits attached to any, and all Statement(s) of Work, attached to, or referencing this Contract, are incorporated in their entirety into, and form part of, this Contract.

**2.013 Statements of Work**

- (a) The parties agree that the Services/Deliverables to be rendered by Contractor pursuant to this Contract (and any future amendments of it) will be defined and described in detail in Statements of Work or Purchase Orders (PO) executed under this Contract. Contractor shall not be obliged or authorized to commence any work to implement a Statement of Work until authorized via a PO issued against this Contract, or an amendment to this Contract (see 2.106). Contractor shall perform in accordance with this Contract, including the Statements of Work/Purchase Orders executed under it.
- (b) Unless otherwise agreed by the parties, each Statement of Work (as defined in Article 1) will include, or incorporate by reference to the appropriate Contract Article 1 Attachment containing, the following information:

- a description of the Services to be performed by Contractor under the Statement of Work;
  - a project schedule (including the commencement and completion dates for all tasks, subtasks (for all projects of sufficient duration and complexity to warrant sub task breakdown), and Deliverables;
  - a list of the Deliverables to be provided, if any, including any particular specifications and acceptance criteria for such Deliverables, and the dates on which the Deliverables are scheduled to be completed and delivered to the State;
  - all Deliverable price schedules and other charges associated with the Statement of Work, the overall fixed price for such Statement of Work and any other appropriate pricing and payment terms;
  - a specification of Contractor's and the State's respective performance responsibilities with respect to the performance or completion of all tasks, subtasks and Deliverables;
  - a listing of any Key Personnel of Contractor and/or its Subcontractors for that Statement of Work and any future Statements of Work;
  - any other information or provisions the parties agree to include.
- (c) Reserved.
- (d) The initial Statements of Work, as of the Effective Date, are attached to this Contract.

#### 2.014 Issuing Office

This Contract is issued by the Department of Management and Budget, Office of Purchasing Operations ("PURCHASING OPERATIONS") and DIT (collectively, including all other relevant State of Michigan departments and agencies, the "State"). PURCHASING OPERATIONS is the sole point of contact in the State with regard to all procurement and contractual matters relating to the Contract. **Purchasing Operations is the only State office authorized to change, modify, amend, alter or clarify the prices, specifications, terms and conditions of this Contract.** The Contractor Administrator within the Purchasing Operations for this Contract is:

##### Joann Klasko

Office of Purchasing Operations  
 Department of Management and Budget  
 Mason Bldg, 2nd Floor  
 530 W. Allegan St.  
 Lansing, MI 48933  
 Email: KlaskoJ@michigan.gov  
 Phone: (517)241-7233

#### 2.015 Contract Compliance Inspector

Upon receipt at Purchasing Operations of the properly executed Contract, it is anticipated that the Director of DMB Purchasing Operations, in consultation with (insert the end using agency), will direct that the person named below, or any other person so designated, be authorized to monitor and coordinate the activities for the Contract on a day-to-day basis during its term. However, monitoring of this Contract implies **no authority to change, modify, clarify, amend, or otherwise alter the prices, terms, conditions and specifications of such Contract as that authority is retained by Purchasing Operations.** The Contract Compliance Inspector for this Contract is:

##### Patty Bogard

Department of Information Technology  
 Constitution Hall, 1st Floor, North  
 525 W. Allegan St.  
 Lansing, MI 48913  
 Email: BogardP@michigan.gov  
 Phone: (517)335-4051

**2.016 Project Manager**

The following individual will oversee the project:

Name: **Krisanne McConnell**  
111 Capital Avenue  
Lansing, MI 48913  
Phone: 517)373-7910  
Email: McconnellK1@michigan.gov

**2.020 Contract Objectives/Scope/Background**

**2.021 Background**

Please refer to section 1.002

**2.022 Purpose**

The purpose of this request and subsequent contract is to migrate the Michigan Geographic Framework from the current ArcInfo environment to an Oracle 11g Spatial environment and provide customization and implementation of the software to edit the spatial data.

**2.023 Objectives and Scope**

Please refer to sections 1.101, In Scope and 1.104, Work and Deliverables.

**2.024 Interpretation**

Sections 2.021 through 2.023 are intended to provide background and context for this Contract and are not intended to expand the scope of the obligations under this Contract or to alter the plain meaning of the terms and conditions of this Contract. However, to the extent the terms and conditions of this Contract are unclear or otherwise ambiguous, such terms and conditions are to be interpreted and construed in light of the provisions of this Section.

**2.025 Form, Function and Utility**

If the Contract is for use of more than one State agency and if the Deliverable/Service does not the meet the form, function, and utility required by that State agency, that agency may, subject to State purchasing policies, procure the Deliverable/Service from another source.

**2.030 Legal Effect and Term**

**2.031 Legal Effect**

Except as otherwise agreed in writing by the parties, the State assumes no liability for costs incurred by Contractor or payment under this Contract, until Contractor is notified in writing that this Contract (or Change Order) has been approved by the State Administrative Board (if required), approved and signed by all the parties, and a Purchase Order against the Contract has been issued.

**2.032 Contract Term**

This Contract is for a period of five (5) years commencing on the date that the last signature required to make the Contract enforceable is obtained. All outstanding Purchase Orders shall also expire upon the termination (cancellation for any of the reasons listed in 2.210) of the Contract, unless otherwise extended pursuant to the Contract. Absent an early termination for any reason, Purchase Orders issued but not expired, by the end of the Contract's stated term, will remain in effect for the balance of the fiscal year for which they were issued.

**2.033 Renewal(s)**



This Contract may be renewed in writing by mutual agreement of the parties not less than thirty (30) days before its expiration. The Contract may be renewed for up to two additional one (1) year periods. Successful completion of negotiations surrounding the terms of the extension, will be a pre-requisite for the exercise of any option year.

## **2.040 Contractor Personnel**

### **2.041 Contractor Personnel**

(a) Personnel Qualifications. All persons assigned by Contractor to the performance of Services under this Contract shall be employees of Contractor or its majority-owned (directly or indirectly, at any tier) subsidiaries (or a State-approved Subcontractor) and shall be fully qualified to perform the work assigned to them. Contractor shall include a similar provision in any subcontract entered into with a Subcontractor. For the purposes of this Contract, independent contractors engaged by Contractor solely in a staff augmentation role shall be treated by the State as if they were employees of Contractor for this Contract only; however, the State understands that the relationship between Contractor and Subcontractor is an independent contractor relationship.

(b) Key Personnel

(i) In discharging its obligations under this Contract, Contractor shall provide the named Key Personnel on the terms indicated. **Article 1, Attachment B** provides an organization chart showing the roles of certain Key Personnel, if any.

(ii) Key Personnel shall be dedicated as defined in **Article 1, Attachment B** to the Project for its duration in the applicable Statement of Work with respect to other individuals designated as Key Personnel for that Statement of Work.

(iii) The State will have the right to recommend and approve in writing the initial assignment, as well as any proposed reassignment or replacement, of any Key Personnel. Before assigning an individual to any Key Personnel position, Contractor will notify the State of the proposed assignment, will introduce the individual to the appropriate State representatives, and will provide the State with a resume and any other information about the individual reasonably requested by the State. The State reserves the right to interview the individual before granting written approval. In the event the State finds a proposed individual unacceptable, the State will provide a written explanation including reasonable detail outlining the reasons for the rejection. Additionally, the State's request shall be based on legitimate, good-faith reasons. Proposed alternative for the individual denied, shall be fully qualified for the position.

(iv) Contractor shall not remove any Key Personnel from their assigned roles or the Contract without the prior written consent of the State. If the Contractor does remove Key Personnel without the prior written consent of the State, it shall be considered an unauthorized removal ("Unauthorized Removal"). It shall not be considered an Unauthorized Removal if Key Personnel must be replaced for reasons beyond the reasonable control of Contractor, including illness, disability, leave of absence, personal emergency circumstances, resignation or for cause termination of the Key Personnel's employment. It shall not be considered an Unauthorized Removal if Key Personnel must be replaced because of promotions or other job movements allowed by Contractor personnel policies or Collective Bargaining Agreement(s) as long as the State receives prior written notice before shadowing occurs and Contractor provides thirty (30) days of shadowing unless parties agree to a different time period. The Contractor with the State shall review any Key Personnel replacements, and appropriate transition planning will be established. Any Unauthorized Removal may be considered by the State to be a material breach of the Contract, in respect of which the State may elect to exercise its rights under **Section 2.210**.

(v) It is acknowledged that an Unauthorized Removal will interfere with the timely and proper completion of the Contract, to the loss and damage of the State, and that it would be impracticable and extremely difficult to fix the actual damage sustained by the State as a result of any Unauthorized Removal. Therefore, Contractor and the State agree that in the case of any Unauthorized Removal in respect of which the State does not elect to exercise its rights under **Section 2.210**, the State may assess liquidated damages against Contractor as specified below.



For the Unauthorized Removal of any Key Personnel designated in the applicable Statement of Work, the liquidated damages amount shall be \$25,000.00 per individual provided Contractor identifies a replacement approved by the State pursuant to **Section 2.041** and assigns the replacement to the Project to shadow the Key Personnel s/he is replacing for a period of at least thirty (30) days prior to such Key Personnel's removal.

If Contractor fails to assign a replacement to shadow the removed Key Personnel for at least thirty (30) days, in addition to the \$25,000.00 liquidated damages for an Unauthorized Removal, Contractor shall pay the amount of \$833.33 per day for each day of the thirty (30) day shadow period that the replacement Key Personnel does not shadow the removed Key Personnel, up to \$25,000.00 maximum per individual. The total liquidated damages that may be assessed per Unauthorized Removal and failure to provide thirty (30) days of shadowing shall not exceed \$50,000.00 per individual.

(c) Re-assignment of non-Key Personnel. Prior to re-deploying to other projects, at the completion of their assigned tasks on the Project, teams of its non-Key Personnel who are performing Services on-site at State facilities or who are otherwise dedicated primarily to the Project, Contractor will give the State at least ten (10) Business Days notice of the proposed re-deployment to give the State an opportunity to object to the re-deployment if the State reasonably believes such team's Contract responsibilities are not likely to be completed and approved by the State prior to the proposed date of re-deployment.

(d) Re-assignment of Personnel at the State's Request. The State reserves the right to require the removal from the Project of Contractor personnel found, in the judgment of the State, to be unacceptable. The State's request shall be written with reasonable detail outlining the reasons for the removal request. Additionally, the State's request shall be based on legitimate, good-faith reasons. Replacement personnel for the removed person shall 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 by the State's required removal.

(e) Staffing Levels.

(i) All staff requirements not specified in the applicable Statement of Work or State-approved project plan as State personnel will be supplied by Contractor. This includes secretarial, clerical and Contract administration support staff necessary for Contractor to perform its obligations hereunder.

(ii) Contractor shall provide sufficient personnel resources for the completion of Contract tasks indicated in Contractor's project plan approved by the State. If the level of personnel resources is insufficient to complete any Contractor Contract tasks in accordance with the Contract time schedule as demonstrated by Contractor's failure to meet mutually agreed to time schedules, Contractor shall promptly add additional qualified personnel resources to the performance of the affected tasks, at no additional charge to the State, in an amount sufficient to complete performance of Contractor's tasks in accordance with the Contract time schedule.

(f) Personnel Turnover. The Parties agree that it is in their best interests to keep the turnover rate of employees of Contractor and its Subcontractors who are performing the Services to a reasonable minimum. Accordingly, if the State determines that the turnover rate of such employees is excessive and so notifies Contractor, Contractor will meet with the State to discuss the reasons for the turnover rate and otherwise use commercially reasonable efforts to minimize such turnover rate. If requested to do so by the State, Contractor will submit to the State its proposals for reducing the turnover rate to an acceptable level. In any event, notwithstanding the turnover of personnel, Contractor remains obligated to perform the Services without degradation and in accordance with the State-approved Contract schedule.

(g) Location. All staff assigned by Contractor to work on the Contract will perform their duties either primarily at Contractor's offices and facilities or at State facilities. Without limiting the generality of the foregoing, Key Personnel will, at a minimum, spend at least the amount of time on-site at State facilities as indicated in the applicable Statement of Work. Subject to availability, selected Contractor personnel may be assigned office space to be shared with State personnel.

**2.042 Contractor Identification**

Contractor employees shall be clearly identifiable while on State property by wearing a State-issued badge, as required. Contractor employees are required to clearly identify themselves and the company they work for whenever making contact with State personnel by telephone or other means.

**2.043 Cooperation with Third Parties**

Contractor agrees to cause its personnel and the personnel of any Subcontractors to cooperate with the State and its agents and other contractors including the State’s Quality Assurance personnel, and, as reasonably requested by the State, to provide to the State’s agents and other contractors with reasonable access to Contractor’s Project personnel, systems and facilities to the extent they relate to activities specifically associated with this Contract and will not interfere or jeopardize the safety or operation of the systems or facilities and provided Contractor receives reasonable prior written notice of such request. The State acknowledges that Contractor’s time schedule for the Contract is very specific and agrees not to unnecessarily or unreasonably interfere with, delay or otherwise impeded Contractor’s performance under this Contract with such requests for access.

**2.044 Subcontracting by Contractor**

(a) Contractor shall have full responsibility for the successful performance and completion of all of the Services and Deliverables. The State will consider Contractor to be the sole point of contact with regard to all contractual matters under this Contract, including payment of any and all charges for Services and Deliverables.

(b) Contractor shall not delegate any duties under this Contract to a Subcontractor unless the Department of Management and Budget, Office of Purchasing Operations has given written consent to such delegation. The State shall have the right of prior written approval of all Subcontractors and to require Contractor to replace any Subcontractors found, in the reasonable judgment of the State, to be unacceptable. The State’s request shall be written with reasonable detail outlining the reasons for the removal request. Additionally, the State’s request shall be based on legitimate, good-faith reasons. Replacement Subcontractor(s) for the removed Subcontractor shall be fully qualified for the position. If the State exercises this right, and the Contractor cannot immediately replace the removed Subcontractor, the State will agree to an equitable adjustment in schedule or other terms that may be affected by the State’s required removal. If any such incident with a removed Subcontractor results in delay not reasonable anticipatable under the circumstances and which is attributable to the State, the applicable SLAs for the affected Work will not be counted in **Section 2.076** for a time agreed upon by the parties.

(c) In any subcontracts entered into by Contractor for the performance of the Services, Contractor shall require the Subcontractor, to the extent of the Services to be performed by the Subcontractor, to be bound to Contractor by the terms of this Contract and to assume toward Contractor all of the obligations and responsibilities that Contractor, by this Contract, assumes toward the State. The State reserves the right to receive copies of and review all subcontracts, although Contractor may delete or mask any proprietary information, including pricing, contained in such contracts before providing them to the State. The management of any Subcontractor will be the responsibility of Contractor, and Contractor shall remain responsible for the performance of its Subcontractors to the same extent as if Contractor had not subcontracted such performance. Contractor shall make all payments to Subcontractors or suppliers of Contractor. Except as otherwise agreed in writing by the State and Contractor, the State will not be obligated to direct payments for the Services other than to Contractor. The State’s written approval of any Subcontractor engaged by Contractor to perform any obligation under this Contract shall not relieve Contractor of any obligations or performance required under this Contract. Attached as **Exhibit A** is a list of the Subcontractors, if any, approved by the State as of the execution of this Contract, together with a copy of the applicable subcontract.

(d) Except where specifically approved in writing by the State on a case-by-case basis, Contractor shall flow down the obligations in **Sections 2.040, 2.110, 2.150, 2.160, 2.171(c), 2.172(b), 2.180, 2.260, 2.297** in all of its agreements with any Subcontractors.



(e) The Contractor shall select subcontractors (including suppliers) on a competitive basis to the maximum practical extent consistent with the objectives and requirements of the Contract.

#### **2.045 Contractor Responsibility for Personnel**

Contractor shall be responsible for all acts and omissions of its employees, as well as the acts and omissions of any other personnel furnished by Contractor to perform the Services.

### **2.050 State Standards**

#### **2.051 Existing Technology Standards**

The Contractor will adhere to all existing standards as described within the comprehensive listing of the State's existing technology standards at [http://www.michigan.gov/dit/0,1607,7-139-30639\\_30655---,00.html](http://www.michigan.gov/dit/0,1607,7-139-30639_30655---,00.html).

#### **2.052 PM Methodology Standards**

The State has adopted a standard documented Project Management Methodology (PMM) for use on all Information Technology (IT) based projects. See the State's PMM website at <http://www.michigan.gov/projectmanagement>.

The Contractor shall use the State's PPM to manage this Contract. If the Contractor requires training on the PMM, those costs shall be the responsibility of the Contractor, unless otherwise stated.

#### **2.053 Adherence to Portal Technology Tools**

The State has adopted the following tools for its Portal Technology development efforts:

- Vignette Content Management and personalization Tool
- Inktomi Search Engine
- E-Pay Payment Processing Module
- WebSphere Commerce Suite for e-Store applications

Unless otherwise stated, Contractor must use the Portal Technology Tools to implement web content management and deployment efforts. Tools used for web-based application development must work in conjunction with Vignette and Inktomi. The interaction with Vignette and Inktomi must be coordinated with DIT, Enterprise Application Services Office, e-Michigan Web Development team.

Contractors that are compelled to use alternate tools must have received an exception from DIT, Enterprise Application Services Office, e-Michigan Web Development team, before this Contract is effective.

#### **2.054 Acceptable Use Policy**

To the extent that Contractor has access to the State computer system, Contractor must comply with the State's Acceptable Use Policy, see <http://www.michigan.gov/ditservice/0,1607,7-179-25781-73760--,00.html>. All Contractor employees must be required, in writing, to agree to the State's Acceptable Use Policy before accessing the State system. The State reserves the right to terminate Contractor's access to the State system if a violation occurs.

### **2.060 Deliverables**

#### **2.061 Ordering**

(b) DIT will continue to oversee the use of this Contract by End Users. DIT may, in writing, delegate to agencies the authority to submit requests for certain services directly to the Contractor. DIT may also designate, in writing, some services as non-delegated and require DIT review and approval before agency acquisition. DIT will use Contractor provided management reports and periodic random agency audits to monitor and administer contract usage for delegated services.

**2.062 Software**

**Exhibit C** lists the items of software the State is required to purchase for execution the Contract. The list in **Exhibit C** includes all software required to complete the Contract and make the Deliverables operable; if any additional software is required in order for the Deliverables to meet the requirements of this Contract, such software shall be provided to the State by Contractor at no additional charge (except where agreed upon and specified in a Statement of Work or Contract Change Notice). **Exhibit C** also identifies certain items of software to be provided by the State.

**2.063 Hardware**

Reserved

**2.064 Equipment to be New and Prohibited Products**

**2.070 Performance**

Reserved

**2.71 Performance, In General**

The State engages Contractor to execute the Contract and perform the Services/provide the Deliverables, and Contractor undertakes to execute and complete the Contract in its entirety in accordance with the terms and conditions of this Contract and with the participation of State representatives as specified in this Contract.

**2.072 Time of Performance**

(a) Contractor shall use commercially reasonable efforts to provide the resources necessary to complete all Services and Deliverables in accordance with the time schedules contained in the Statements of Work and other Exhibits governing the work, and with professional quality.

(b) Without limiting the generality of **Section 2.072(a)**, Contractor shall notify the State in a timely manner upon becoming aware of any circumstances that may reasonably be expected to jeopardize the timely and successful completion of any Deliverables/Services on the scheduled due dates in the latest State-approved delivery schedule and, in such event, shall inform the State of the projected actual delivery date.

(c) If Contractor believes that a delay in performance by the State has caused or will cause Contractor to be unable to perform its obligations in accordance with specified Contract time periods, Contractor shall notify the State in a timely manner and shall use commercially reasonable efforts to perform its obligations in accordance with such Contract time periods notwithstanding the State's failure. Contractor will not be in default for a delay in performance to the extent such delay is caused by the State.

**2.073 Liquidated Damages**

Reserved

**2.074 Bankruptcy**

If Contractor shall file for protection under the bankruptcy laws, or if an involuntary petition shall be filed against Contractor and not removed within thirty (30) days, or if the Contractor becomes insolvent, be adjudicated bankrupt, or if it should make a general assignment for the benefit of creditors, or if a receiver shall be appointed due to its insolvency, and Contractor and/or its affiliates are unable to provide reasonable assurances that Contractor and/or its affiliates can deliver the services provided herein, the State may, without prejudice to any other right or remedy, terminate this Contract, in whole or in part, and, at its option, may take possession of the "Work in Process" and finish such Works in Process by whatever appropriate method the State may deem expedient. Contractor will fix appropriate notices or labels on the Work in Process to indicate ownership by the State. To the extent reasonably possible, materials and Work in Process shall be stored separately from other stock and marked conspicuously with labels indicating ownership by the State.

To secure the State's progress payments before the delivery of any services or materials required for the execution of Contractor's obligations hereunder, and any work which Contractor may subcontract in the support of the performance of its obligations hereunder, title shall vest in the State to the extent the State has made progress payments hereunder.

**2.075 Time is of the Essence**

Reserved

**2.076 Service Level Agreements (SLAs)**

Reserved

**2.080 Delivery and Acceptance of Deliverables**

**2.081 Delivery of Deliverables**

**Article 1, Attachment D** contains a list of the Deliverables to be prepared and delivered by Contractor including, for each Deliverable, the scheduled delivery date and a designation of whether the Deliverable is a document (“Written Deliverable”) or a Custom Software Deliverable. All Deliverables shall be completed and delivered for State review and written approval and, where applicable, installed in accordance with the State-approved delivery schedule and any other applicable terms and conditions of this Contract.

Prior to delivering any Deliverable to the State, Contractor will first perform all required quality assurance activities, and, in the case of Custom Software Deliverables, System Testing to verify that the Deliverable is complete and in conformance with its specifications. Before delivering a Deliverable to the State, Contractor shall certify to the State that (1) it has performed such quality assurance activities, (2) it has performed any applicable testing, (3) it has corrected all material deficiencies discovered during such quality assurance activities and testing, (4) the Deliverable is in a suitable state of readiness for the State’s review and approval, and (5) the Deliverable/Service has all Critical Security patches/updates applied.

In discharging its obligations under this Section, Contractor shall be at all times (except where the parties agree otherwise in writing) in compliance with Level 3 of the Software Engineering Institute’s Capability Maturity Model for Software (“CMM Level 3”) or its equivalent.

**2.082 Contractor System Testing**

Contractor will be responsible for System Testing each Custom Software Deliverable in Contractor’s development environment prior to turning over the Custom Software Deliverable to the State for User Acceptance Testing and approval. Contractor’s System Testing shall include the following, at a minimum, plus any other testing required by CMM Level 3 or Contractor’s system development methodology:

Contractor will be responsible for performing Unit Testing and incremental Integration Testing of the components of each Custom Software Deliverable.

Contractor’s System Testing will also include Integration Testing of each Custom Software Deliverable to ensure proper inter-operation with all prior software Deliverables, interfaces and other components that are intended to inter-operate with such Custom Software Deliverable, and will include Regression Testing, volume and stress testing to ensure that the Custom Software Deliverables are able to meet the State’s projected growth in the number and size of transactions to be processed by the Application and number of users, as such projections are set forth in the applicable Statement of Work.

Contractor’s System Testing will also include Business Function Testing and Technical Testing of each Application in a simulated production environment. Business Function Testing will include testing of full work streams that flow through the Application as the Application will be incorporated within the State’s computing environment. The State shall participate in and provide support for the Business Function Testing to the extent reasonably requested by Contractor. Within ten (10) days before the commencement of Business Function Testing pursuant to this Section, Contractor shall provide the State for State review and written approval Contractor’s test plan for Business Function Testing.

Within five (5) Business Days following the completion of System Testing pursuant to **Section 2.080**, Contractor shall provide to the State a testing matrix establishing that testing for each condition identified in the System Testing plans has been conducted and successfully concluded. To the extent that testing occurs on State premises, the State shall be entitled to observe or otherwise participate in testing under this Section as the State may elect.



### 2.083 Approval of Deliverables, In General

All Deliverables (Written Deliverables and Custom Software Deliverables) require formal written approval by the State, in accordance with the following procedures. Formal approval by the State requires that the Deliverable be confirmed in writing by the State to meet its specifications which, in the case of Custom Software Deliverables, will include the successful completion of State User Acceptance Testing, to be led by the State with the support and assistance of Contractor. The parties acknowledge that the approval process set forth herein will be facilitated by ongoing consultation between the parties, visibility of interim and intermediate Deliverables and collaboration on key decisions.

The State's obligation to comply with any State Review Period is conditioned on the timely delivery of Deliverables being reviewed. If Contractor fails to provide a Deliverable to the State in a timely manner, the State will nevertheless use commercially reasonable efforts to complete its review or testing within the applicable State Review Period.

Before commencement of its review or testing of a Deliverable, the State may inspect the Deliverable to confirm that all components of the Deliverable (e.g., software, associated documentation, and other materials) have been delivered. If the State determines that the Deliverable is incomplete, the State may refuse delivery of the Deliverable without performing any further inspection or testing of the Deliverable. Otherwise, the review period will be deemed to have started on the day the State receives the Deliverable and the applicable certification by Contractor in accordance with **Section 2.080**.

The State will approve in writing a Deliverable upon confirming that it conforms to and, in the case of a Custom Software Deliverable, performs in accordance with, its specifications without material deficiency. The State may, but shall not be required to, conditionally approve in writing a Deliverable that contains material deficiencies if the State elects to permit Contractor to rectify them post-approval. In any case, Contractor will be responsible for working diligently to correct within a reasonable time at Contractor's expense all deficiencies in the Deliverable that remain outstanding at the time of State approval.

If, after three (3) opportunities (the original and two repeat efforts), Contractor is unable to correct all deficiencies preventing State approval of a Deliverable, the State may: (i) demand that Contractor cure the failure and give Contractor additional time to cure the failure at the sole expense of Contractor; or (ii) keep this Contract in force and do, either itself or through other parties, whatever Contractor has failed to do, in which event Contractor shall bear any excess expenditure incurred by the State in so doing beyond the contract price for such Deliverable and will pay the State an additional sum equal to ten percent (10%) of such excess expenditure to cover the State's general expenses without the need to furnish proof in substantiation of such general expenses; or (iii) terminate this Contract for default, either in whole or in part by notice to Contractor (and without the need to afford Contractor any further opportunity to cure). Notwithstanding the foregoing, the State shall not use, as a basis for exercising its termination rights under this Section, deficiencies discovered in a repeat State Review Period that could reasonably have been discovered during a prior State Review Period.

The State, at any time and in its own discretion, may halt the UAT or approval process if such process reveals deficiencies in or problems with a Deliverable in a sufficient quantity or of a sufficient severity as to make the continuation of such process unproductive or unworkable. In such case, the State may return the applicable Deliverable to Contractor for correction and re-delivery prior to resuming the review or UAT process and, in that event, Contractor will correct the deficiencies in such Deliverable in accordance with the Contract, as the case may be.

Approval in writing of a Deliverable by the State shall be provisional; that is, such approval shall not preclude the State from later identifying deficiencies in, and declining to accept, a subsequent Deliverable based on or which incorporates or inter-operates with an approved Deliverable, to the extent that the results of subsequent review or testing indicate the existence of deficiencies in the subsequent Deliverable, or if the Application of which the subsequent Deliverable is a component otherwise fails to be accepted pursuant to **Section 2.080**.

**2.084 Process for Approval of Written Deliverables**

The State Review Period for Written Deliverables will be the number of days set forth in the applicable Statement of Work following delivery of the final version of the Written Deliverable (failing which the State Review Period, by default, shall be five (5) Business Days for Written Deliverables of one hundred (100) pages or less and ten (10) Business Days for Written Deliverables of more than one hundred (100) pages). The duration of the State Review Periods will be doubled if the State has not had an opportunity to review an interim draft of the Written Deliverable prior to its submission to the State. The State agrees to notify Contractor in writing by the end of the State Review Period either stating that the Written Deliverable is approved in the form delivered by Contractor or describing any deficiencies that must be corrected prior to approval of the Written Deliverable (or at the State’s election, subsequent to approval of the Written Deliverable). If the State delivers to Contractor a notice of deficiencies, Contractor will correct the described deficiencies and within five (5) Business Days resubmit the Deliverable in a form that shows all revisions made to the original version delivered to the State. Contractor’s correction efforts will be made at no additional charge. Upon receipt of a corrected Written Deliverable from Contractor, the State will have a reasonable additional period of time, not to exceed the length of the original State Review Period, to review the corrected Written Deliverable to confirm that the identified deficiencies have been corrected.

**2.085 Process for Approval of Custom Software Deliverables**

The State will conduct UAT of each Custom Software Deliverable in accordance with the following procedures to determine whether it meets the criteria for State approval – i.e., whether it conforms to and performs in accordance with its specifications without material deficiencies.

Within thirty (30) days (or such other number of days as the parties may agree to in writing) prior to Contractor’s delivery of any Custom Software Deliverable to the State for approval, Contractor shall provide to the State a set of proposed test plans, including test cases, scripts, data and expected outcomes, for the State’s use (which the State may supplement in its own discretion) in conducting UAT of the Custom Software Deliverable. Contractor, upon request by the State, shall provide the State with reasonable assistance and support during the UAT process.

For the Custom Software Deliverables listed in **Article 1, Attachment D**, the State Review Period for conducting UAT will be as indicated in **Article 1, Attachment D**. For any other Custom Software Deliverables not listed in **Article 1, Attachment D**, the State Review Period shall be the number of days agreed in writing by the parties (failing which it shall be forty-five (45) days by default). The State Review Period for each Custom Software Deliverable will begin when Contractor has delivered the Custom Software Deliverable to the State accompanied by the certification required by **Section 2.080** and the State’s inspection of the Deliverable has confirmed that all components of it have been delivered.

The State’s UAT will consist of executing test scripts from the proposed testing submitted by Contractor, but may also include any additional testing deemed appropriate by the State. If the State determines during the UAT that the Custom Software Deliverable contains any deficiencies, the State will notify Contractor of the deficiency by making an entry in an incident reporting system available to both Contractor and the State. Contractor will modify promptly the Custom Software Deliverable to correct the reported deficiencies, conduct appropriate System Testing (including, where applicable, Regression Testing) to confirm the proper correction of the deficiencies and re-deliver the corrected version to the State for re-testing in UAT. Contractor will coordinate the re-delivery of corrected versions of Custom Software Deliverables with the State so as not to disrupt the State’s UAT process. The State will promptly re-test the corrected version of the Software Deliverable after receiving it from Contractor.

Within three (3) business days after the end of the State Review Period, the State will give Contractor a written notice indicating the State’s approval or rejection of the Custom Software Deliverable according to the criteria and process set out in this **Section 2.080**.



## 2.086 Final Acceptance

“Final Acceptance” shall be considered to occur when the Custom Software Deliverable to be delivered has been approved by the State and has been operating in production without any material deficiency for fourteen (14) consecutive days. If the State elects to defer putting a Custom Software Deliverable into live production for its own reasons, not based on concerns about outstanding material deficiencies in the Deliverable, the State shall nevertheless grant Final Acceptance of the Project.

## 2.090 Financial

### 2.091 Pricing

#### (a) Fixed Prices for Services/Deliverables

Each Statement of Work/PO issued under this Contract shall specify (or indicate by reference to the appropriate Contract Exhibit) the firm, fixed prices for all Services/Deliverables, and the associated payment milestones and payment amounts. To the extent the parties agree that certain specific Services will be provided on a time and materials basis, such Services shall be provided at the Amendment Labor Rates (**Article 1, Attachment C**). The State may make progress payments to the Contractor when requested as work progresses, but not more frequently than monthly, in amounts approved by the Contract Administrator, after negotiation. Contractor must show verification of measurable progress at the time of requesting progress payments.

#### (b) Adjustments for Reductions in Scope of Services/Deliverables

If the scope of the Services/Deliverables under any Statement of Work issued under this Contract is subsequently reduced by the State, the parties shall negotiate an equitable reduction in Contractor’s charges under such Statement of Work commensurate with the reduction in scope, using the rates in **Article 1, Attachment C** unless specifically identified in an applicable Statement of Work.

#### (c) Services/Deliverables Covered

For all Services/Deliverables to be provided by Contractor (and its Subcontractors, if any) under this Contract, the State shall not be obligated to pay any amounts in addition to the charges specified in this Contract.

#### (d) Labor Rates

All time and material charges will be at the rates specified in **Article 1, Attachment C**.

### 2.092 Invoicing and Payment Procedures and Terms

#### (a) Invoicing and Payment – In General

(i) Each Statement of Work issued under this Contract shall list (or indicate by reference to the appropriate Contract Exhibit) the prices for all Services/Deliverables, equipment and commodities to be provided, and the associated payment milestones and payment amounts.

(ii) Each Contractor invoice will show details as to charges by Service/Deliverable component and location at a level of detail reasonably necessary to satisfy the State’s accounting and charge-back requirements. The charges for Services billed on a time and materials basis shall be determined based on the actual number of hours of Services performed, at the applicable Labor Rates specified in **Article 1, Attachment C**. Invoices for Services performed on a time and materials basis will show, for each individual, the number of hours of Services performed during the billing period, the billable skill/labor category for such person and the applicable hourly billing rate. Prompt payment by the State is contingent on the Contractor’s invoices showing the amount owed by the State minus any holdback amount to be retained by the State in accordance with **Section 2.094**.

(iii) Correct invoices will be due and payable by the State, in accordance with the State’s standard payment procedure as specified in 1984 Public Act No. 279, MCL 17.51 et seq., within forty-five (45) days after receipt, provided the State determines that the invoice was properly rendered.

#### (b) Taxes (See Section 2.305 and Article 3, Section 3.022-3.024 for additional )

The State is exempt from Federal Excise Tax, State and Local Sales Taxes, and Use Tax with respect to the sale to and use by it of tangible personal property. Such taxes shall not be included in Contract prices as long

as the State maintains such exemptions. Copies of all tax exemption certificates shall be supplied to Contractor, if requested.

(c) Out-of-Pocket Expenses

Contractor acknowledges that the out-of-pocket expenses that Contractor expects to incur in performing the Services/ providing the Deliverables (such as, but not limited to, travel and lodging, document reproduction and shipping, and long distance telephone) are included in Contractor’s fixed price for each Statement of Work. Accordingly, Contractor’s out-of-pocket expenses are not separately reimbursable by the State unless, on a case-by-case basis for unusual expenses, the State has agreed in advance and in writing to reimburse Contractor for such an expense at the State’s current travel reimbursement rates. See [http://www.mi.gov/dmb/0,1607,7-150-9141\\_13132---,00.html](http://www.mi.gov/dmb/0,1607,7-150-9141_13132---,00.html) for current rates.

(d) Pro-ration

To the extent there are any Services that are to be paid for on a monthly basis, the cost of such Services shall be pro-rated for any partial month.

(e) Antitrust Assignment

The Contractor assigns to the State any claim for overcharges resulting from antitrust violations to the extent that those violations concern materials or services supplied by third parties to the Contractor, toward fulfillment of this Contract.

(f) Final Payment

The making of final payment by the State to Contractor does not constitute a waiver by either party of any rights or other claims as to the other party’s continuing obligations under the Contract, nor will it constitute a waiver of any claims by one party against the other arising from unsettled claims or failure by a party to comply with this Contract, including claims for Services and Deliverables not reasonably known until after acceptance to be defective or substandard. Contractor’s acceptance of final payment by the State under this Contract shall constitute a waiver of all claims by Contractor against the State for payment under this Contract, other than those claims previously filed in writing on a timely basis and still unsettled.

**2.093 State Funding Obligation**

The State’s obligation under this Contract is payable only and solely from funds appropriated for the purpose of this Contract. Contractor acknowledges and agrees that all funds for payments after the end of the current fiscal year are subject to the availability of a legislative appropriation for the purpose of this Contract. Events of non-appropriation are addressed further in **Section 2.210** of this Contract.

**2.094 Holdback  
Reserved**

**2.095 Electronic Payment Availability**

Public Act 533 of 2004 requires that payments under this contract be processed by electronic funds transfer (EFT). Contractor is required to register to receive payments by EFT at the Contract & Payment Express website ([www.cpexpress.state.mi.us](http://www.cpexpress.state.mi.us)).

**2.100 Contract Management**

**2.101 Contract Management Responsibility**

(a) Contractor shall have overall responsibility for managing and successfully performing and completing the Services/Deliverables, subject to the overall direction and supervision of the State and with the participation and support of the State as specified in this Contract. Contractor’s duties will include monitoring and reporting the State’s performance of its participation and support responsibilities (as well as Contractor’s own responsibilities) and providing timely notice to the State in Contractor’s reasonable opinion if the State’s failure to perform its responsibilities in accordance with **Article 1, Attachment E** (Project Plan) is likely to delay the timely achievement of any Contract tasks.



(b) The Services/Deliverables will be provided by the Contractor either directly or through its affiliates, subsidiaries, subcontractors or resellers. Regardless of the entity providing the Service/Deliverable, the Contractor will act as a single point of contact coordinating these entities to meet the State's need for Services/Deliverables. Nothing in this Contract, however, shall be construed to authorize or require any party to violate any applicable law or regulation in its performance of this Contract.

### **2.102 Problem and Contract Management Procedures**

Problem Management and Contract Management procedures will be governed by the Contract and the applicable Statements of Work.

### **2.103 Reports and**

#### **(a) Reports.**

Within thirty (30) days after the Effective Date, the parties shall determine an appropriate set of periodic reports to be issued by Contractor to the State. Such reports may include:

- (i) separately address Contractor's performance in each area of the Services;
- (ii) for each area of the Services, assess the degree to which Contractor has attained or failed to attain the pertinent objectives in that area, including on-time completion and delivery of Deliverables;
- (iii) explain the reasons for any failure to achieve on-time completion and delivery of Deliverables and include a plan for corrective action where appropriate;
- (iv) describe any circumstances that Contractor anticipates will impair or prevent on-time completion and delivery of Deliverables in upcoming reporting periods;
- (v) include plans for corrective action or risk mitigation where appropriate and describe the status of ongoing problem resolution efforts;
- (vi) provide reports setting forth a comparison of actual hours spent by Contractor (including its augmented personnel and Subcontractors) in performing the Project versus hours budgeted by Contractor.
- (vii) set forth a record of the material personnel changes that pertain to the Services and describe planned changes during the upcoming month that may affect the Services.
- (viii) include such documentation and other information may be mutually agreed to verify compliance with, and meeting the objectives of, this Contract.
- (ix) set forth an updated schedule that provides information on the status of upcoming Deliverables, expected dates of delivery (or redelivery) of such Deliverables and estimates on timing for completion of the Project.

#### **(b) Meetings.**

Within thirty (30) days after the Effective Date, the parties shall determine an appropriate set of meetings to be held between representatives of the State and Contractor. Contractor shall prepare and circulate an agenda sufficiently in advance of each such meeting to give participants an opportunity to prepare for the meeting. Contractor shall incorporate into such agenda items that the State desires to discuss. At the State's request, Contractor shall prepare and circulate minutes promptly after a meeting.

### **2.104 System Changes**

Contractor is not responsible for and not authorized to make changes to any State systems without written authorization from the State. Any changes Contractor makes to State systems with the State's approval shall be done in accordance with applicable State procedures, including security, access and configuration management procedures.

### **2.105 Reserved**

### **2.106 Change Requests**

The State reserves the right to request from time to time, any changes to the requirements and specifications of the Contract and the work to be performed by the Contractor under the Contract. During the course of ordinary business, it may become necessary for the State to discontinue certain business practices or create



Additional Services/Deliverables. At a minimum, to the extent applicable, the State would like the Contractor to provide a detailed outline of all work to be done, including tasks necessary to accomplish the services/deliverables, timeframes, listing of key personnel assigned, estimated hours for each individual per task, and a complete and detailed cost justification.

If the State requests or directs the Contractor to perform any Services/Deliverables that are outside the scope of the Contractor's responsibilities under the Contract ("New Work"), the Contractor must notify the State promptly, and before commencing performance of the requested activities, that it believes the requested activities are New Work. If the Contractor fails to notify the State before commencing performance of the requested activities, any such activities performed before notice is given by the Contractor shall be conclusively considered to be in-scope Services/Deliverables, not New Work.

If the State requests or directs the Contractor to perform any services or provide deliverables that are consistent with and similar to the Services/Deliverables being provided by the Contractor under the Contract, but which the Contractor reasonably and in good faith believes are not included within the Statements of Work, then before performing such services or providing such deliverables, the Contractor shall notify the State in writing that it considers the services or deliverables to be an Additional Service/Deliverable for which the Contractor should receive additional compensation. If the Contractor does not so notify the State, the Contractor shall have no right to claim thereafter that it is entitled to additional compensation for performing that service or providing that deliverable. If the Contractor does so notify the State, then such a service or deliverable shall be governed by the Change Request procedure in this Section.

In the event prices or service levels are not acceptable to the State, the Additional Services or New Work shall be subject to competitive bidding based upon the specifications.

(a) Change Requests

(i) State Requests

If the State should require Contractor to perform New Work, Additional Services or make changes to the Services that would affect the Contract completion schedule or the amount of compensation due Contractor (a "Change"), the State shall submit a written request for Contractor to furnish a proposal for carrying out the requested Change (a "Change Request").

(ii) Contractor Recommendations

Contractor shall be entitled to propose a Change to the State, on its own initiative, should it be of the opinion that this would benefit the Contract.

(iii) Upon receipt of a Change Request or on its own initiative, Contractor shall examine the implications of the requested Change on the technical specifications, Contract schedule and price of the Deliverables and Services and shall submit to the State without undue delay a written proposal for carrying out the Change. Contractor's proposal will include any associated changes in the technical specifications, Contract schedule and price and method of pricing of the Services. If the Change is to be performed on a time and materials basis, the Amendment Labor Rates shall apply to the provision of such Services. If Contractor provides a written proposal and should Contractor be of the opinion that a requested Change is not to be recommended, it shall communicate its opinion to the State but shall nevertheless carry out the Change as specified in the written proposal if the State directs it to do so.

(iv) By giving Contractor written notice within a reasonable time, the State shall be entitled to accept a Contractor proposal for Change, to reject it or to reach another agreement with Contractor. Should the parties agree on carrying out a Change, a written Contract Change Notice shall be prepared and issued under this Contract, describing the Change and its effects on the Services and any affected components of this Contract (a "Contract Change Notice").

(v) No proposed Change shall be performed until the proposed Change has been specified in a duly executed Contract Change Notice issued by the Department of Management and Budget, Office of Purchasing Operations.

(vi) If the State requests or directs Contractor to perform any activities that Contractor believes constitute a Change, Contractor must notify the State that it believes the requested activities are a Change prior to commencing the performance of the requested activities. If Contractor fails to so notify the State prior to commencing performance of the requested activities, such activities shall be



considered to be performed gratuitously by Contractor, and Contractor shall not have any right thereafter to assert any claim for additional compensation or time for the performance of such activities. If Contractor commences performance of gratuitous services outside the scope of this Contract and subsequently elects to stop performing such out-of-scope services, Contractor must, at the request of the State, back out or reverse any changes resulting from such performance that would adversely affect the Contract.

### **2.107 Management Tools**

Contractor will use an automated tool for planning, monitoring and tracking the Contract's progress. In addition, Contractor shall use automated project management tools as reasonably necessary to perform the Services, which tools shall include the capability to produce through the end of the Contract: (i) staffing tables with names of personnel assigned to Contract tasks, (ii) project plans showing tasks, subtasks, Deliverables and the resources required and allocated to each (including detailed plans for all Services to be performed within the next sixty (60) days, updated semi-monthly) and (iii) graphs showing critical events, dependencies and decision points during the course of the Contract. Any tool(s) used by Contractor for such purposes must produce information of a type and in a manner and format that will support reporting in compliance with the State's standard to the extent such information is described with reasonable detail in the Statements of Work and to the extent the related work is of sufficient project complexity and duration to warrant such reporting.

### **2.110 Records and Inspections**

#### **2.111a Records and Inspections**

(a) Inspection of Work Performed. The State's authorized representatives shall at all reasonable times and with ten (10) days prior written request, have the right to enter Contractor's premises, or any other places, where the Services are being performed, and shall have access, upon reasonable request, to interim drafts of Deliverables or work-in-progress. Upon ten (10) Days prior written notice and at all reasonable times, the State's representatives shall be allowed to inspect, monitor, or otherwise evaluate the work being performed and to the extent that such access will not reasonably interfere or jeopardize the safety or operation of the systems or facilities. Contractor must provide all reasonable facilities and assistance for the State's representatives.

(b) Examination of Records. Contractor agrees that the State, including its duly authorized representatives, until the expiration of seven (7) years following the creation of the material (collectively, the "Audit Period"), shall, upon twenty (20) days prior written notice, have access to and the right to examine and copy any of Contractor's books, records, documents and papers pertinent to establishing Contractor's compliance with the Contract and with applicable laws and rules, including the State's procurement rules, regulations and procedures, and actual performance of the Contract for the purpose of conducting an audit, examination, excerpt and/or transcription but the State shall not have access to any information deemed confidential to Contractor to the extent such access would require such confidential information to become publicly available. This provision also applies to the books, records, accounts, documents and papers, in print or electronic form, of any parent, affiliated or subsidiary organization of Contractor, or any Subcontractor of Contractor performing services in connection with the Contract.

(c) Retention of Records. Contractor shall maintain at least until the end of the Audit Period all pertinent financial and accounting records (including time sheets and payroll records, and information pertaining to the Contract and to the Services, equipment, and commodities provided under the Contract) pertaining to the Contract in accordance with generally accepted accounting principles and other procedures specified in this Section. Financial and accounting records shall be made available, upon request, to the State at any time during the Audit Period. If an audit, litigation, or other action involving Contractor's records is initiated before the end of the Audit Period, the records must be retained until all issues arising out of the audit, litigation, or other action are resolved or until the end of the Audit Period, whichever is later.

(d) Audit Resolution. If necessary, the Contractor and the State shall meet to review each audit report promptly after issuance. The Contractor will respond to each audit report in writing within thirty (30) days from receipt of such report, unless a shorter response time is specified in such report. The Contractor and the State shall develop, agree upon and monitor an action plan to promptly address and resolve any deficiencies, concerns, and/or recommendations in such audit report.



## 2.112 Errors

(a) If the audit demonstrates any errors in the statements provided to the State, then the amount in error shall be reflected as a credit or debit on the next invoice and in subsequent invoices until the amount is paid or refunded in full. However, a credit or debit may not be carried for more than four (4) quarterly statements. If a balance remains after four (4) quarterly statements, then the remaining amount will be due as a payment or refund within forty-five (45) days of the last quarterly statement that the balance appeared on or termination of the contract, whichever is earlier.

(b) In addition to other available remedies, the difference between the payment received and the correct payment amount is greater than ten percent (10%), then the Contractor shall pay all of the reasonable costs of the audit.

## 2.120 State Responsibilities

### 2.121 State Performance Obligations

(a) Equipment and Other Resources. To facilitate Contractor's performance of the Services/Deliverables, the State shall provide to Contractor such equipment and resources as identified in the Statements of Work or other Contract Exhibits as items to be provided by the State.

(b) Facilities. The State shall designate space as long as it is available and as provided in the Statement of Work, to house Contractor's personnel whom the parties agree will perform the Services/Deliverables at State facilities (collectively, the "State Facilities"). Contractor shall have reasonable access to, and unless agreed otherwise by the parties in writing shall observe and comply with all rules and regulations relating to, each of the State Facilities (including hours of operation) used by Contractor in the course of providing the Services. Contractor agrees that it will not, without the prior written consent of the State, use any State Facilities or access any State information systems provided for Contractor's use, or to which Contractor otherwise gains access in the course of performing the Services, for any purpose other than providing the Services to the State.

(c) Return. Contractor shall be responsible for returning 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.

(d) Except as otherwise provided in **Section 2.220**, the State's failure to perform its responsibilities as set forth in this Contract shall not be deemed to be grounds for termination by Contractor. However, Contractor will not be liable for any default or delay in the performance of its obligations under this Contract to the extent such default or delay is caused by nonperformance of the State's obligations under this Contract, provided Contractor provides the State with reasonable written notice of such nonperformance and Contractor uses commercially reasonable efforts to perform notwithstanding the State's failure to perform. In addition, if the State's nonperformance of its responsibilities under this Contract materially increases the time required for Contractor's performance or Contractor's cost of performance, Contractor shall be entitled to seek an equitable extension via the Change Request process described in **Section 2.106**.

## 2.130 Security

### 2.131 Background Checks

The Contractor shall authorize the investigation of its personnel proposed to have access to State facilities and systems on a case by case basis. The scope of the background check is at the discretion of the State and the results will be used to determine Contractor personnel eligibility for working within State facilities and systems. Such investigations will include Michigan State Police Background checks (ICHAT) and may include the National Crime Information Center (NCIC) Finger Prints. Proposed Contractor personnel may be required to complete and submit an RI-8 Fingerprint Card for the NCIC Finger Print Check. Any request for background checks will be initiated by the State and will be reasonably related to the type of work requested.

All Contractor personnel will also be expected to comply with the State's security and acceptable use policies for State IT equipment and resources. See <http://www.michigan.gov/ditservice/0,1607,7-179-25781-73760--00.html>. Furthermore, Contractor personnel will be expected to agree to the State's security and acceptable use policies before the Contractor personnel will be accepted as a resource to perform work for the State. It is expected the Contractor will present these documents to the prospective employee before the Contractor

presents the individual to the State as a proposed resource. Contractor staff will be expected to comply with all Physical Security procedures in place within the facilities where they are working.

**2.140 Reserved**

**2.150 Confidentiality**

**2.151 Freedom of Information**

All information in any proposal submitted to the State by Contractor and this Contract is subject to the provisions of the Michigan Freedom of Information Act, 1976 Public Act No. 442, as amended, MCL 15.231, et seq (the "FOIA").

**2.152 Confidentiality**

Contractor and the State each acknowledge that the other possesses and will continue to possess confidential information that has been developed or received by it. As used in this Section, "Confidential Information" of Contractor shall mean all non-public proprietary information of Contractor (other than Confidential Information of the State as defined below) which is marked confidential, restricted, proprietary or with a similar designation. "Confidential Information" of the State shall mean any information which is retained in confidence by the State (or otherwise required to be held in confidence by the State pursuant to applicable federal, state and local laws and regulations) or which, in the case of tangible materials provided to Contractor by the State pursuant to its performance under this Contract, is marked as confidential, proprietary or with a similar designation by the State. In the case of information of either Contractor or the State "Confidential Information" shall exclude any information (including this Contract) that is publicly available pursuant to the Michigan FOIA.

**2.153 Protection of Confidential Information**

The State and Contractor will each use at least the same degree of care to prevent disclosing to third parties the Confidential Information of the other as it employs to avoid unauthorized disclosure, publication or dissemination of its own confidential information of like character, but in no event less than reasonable care. Neither 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 right 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 to the other party. Each party will limit disclosure of the other party's Confidential Information to employees and Subcontractors who must have access in order to fulfill the purposes of this Contract. Disclosure to, and use by, a Subcontractor is permissible where (A) use of a Subcontractor is authorized under this Contract, (B) such disclosure is necessary or otherwise naturally occurs in connection with work that is within such Subcontractor's scope of responsibility, and (C) Contractor obligates the Subcontractor in a written Contract to maintain the State's Confidential Information in confidence. At the State's request, any employee of Contractor and of any Subcontractor having access or continued access to the State's Confidential Information may be required to execute an acknowledgment that the employee has been advised of Contractor's and the Subcontractor's obligations under this Section and of the employee's obligation to Contractor or Subcontractor, as the case may be, to protect such Confidential Information from unauthorized use or disclosure.

**2.154 Exclusions**

Notwithstanding the foregoing, the provisions of this Section will not apply to any particular information which the State or Contractor can demonstrate (i) was, at the time of disclosure to it, in the public domain; (ii) after disclosure to it, is published or otherwise becomes part of the public domain through no fault of the receiving party; (iii) was in the possession of the receiving party at the time of disclosure to it without an obligation of confidentiality; (iv) was received after disclosure to it from a third party who had a lawful right to disclose such information to it without any obligation to restrict its further disclosure; or (v) was independently developed by the receiving party without reference to Confidential Information of the furnishing party. Further, the provisions of this Section will not apply to any particular Confidential Information to the extent the receiving party is required by law to disclose such 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 such disclosure as reasonably requested by the furnishing party.

### **2.155 No Implied Rights**

Nothing contained in this Section shall be construed as obligating a party to disclose any particular Confidential Information to the other party, or as granting to or conferring on a party, expressly or impliedly, any right or license to the Confidential Information of the other party.

### **2.156 Remedies**

Each party acknowledges that, if it breaches (or attempts or threatens to breach) its obligations under this Section, the other party may be irreparably harmed. Accordingly, if a court of competent jurisdiction should find that a party has breached (or attempted or threatened to breach) any such obligations, the non-breaching party shall be entitled to seek an injunction preventing such breach (or attempted or threatened breach).

### **2.157 Security Breach Notification**

In the event of a breach of this Section, Contractor shall take (i) prompt corrective action to cure any such deficiencies and (ii) any action pertaining to such unauthorized disclosure required by applicable federal and state laws and regulations. Contractor and the State will cooperate to mitigate, to the extent practicable, the effects of any breach, intrusion, or unauthorized use or disclosure. Contractor shall report to the State in writing any use or disclosure of Confidential Information, whether suspected or actual, other than as provided for by the Contract within ten (10) days of becoming aware of such use or disclosure or such shorter time period as is reasonable under the circumstances.

### **2.158 Survival**

The parties' respective obligations under this Section shall survive the termination or expiration of this Contract for any reason.

### **2.159 Destruction of Confidential Information**

Promptly upon termination or cancellation of the Contract for any reason, Contractor shall certify to the State that Contractor has destroyed all State Confidential Information.

### **2.160 Proprietary Rights**

**2.161a Ownership [Use this option if the State intends to own the Software at the end of the Contract. Ownership of Work Product by State.** All Deliverables shall be owned by the State and shall be considered works made for hire by the Contractor for the State. The State shall own all United States and international copyrights, trademarks, patents or other proprietary rights in the Deliverables.

**Vesting of Rights.** With the sole exception of any preexisting licensed works identified in **Exhibit C**, the Contractor shall assign, and upon creation of each Deliverable automatically assigns, to the State, ownership of all United States and international copyrights, trademarks, patents, or other proprietary rights in each and every Deliverable, whether or not registered by the Contractor, insofar as any such Deliverable, by operation of law, may not be considered work made for hire by the Contractor for the State. From time to time upon State's request, the Contractor and/or its personnel shall confirm such assignment by execution and delivery of the assignments, confirmations of assignment, or other written instruments as the State may request. The State shall have the right to obtain and hold in its own name all copyright, trademark, and patent registrations and other evidence of rights that may be available for Deliverables.

### **2.161b Cross-License [**

(Option 1 – Deliverables only) License to the Contractor. The State grants to the Contractor, the royalty-free, world-wide, non-exclusive right and license under any Deliverable now or in the future owned by the State, or with respect to which the State has a right to grant such rights or licenses, to the extent required by the Contractor to market the Deliverables and exercise its full rights in the Deliverables, including, without limitation, the right to make, use and sell products and services based on or incorporating such Deliverables.



License to the Contractor. The State grants to the Contractor, the royalty-free, world-wide, non-exclusive right and license under any Deliverable and/or Derivative Work now or in the future owned by the State, or with respect to which the State has a right to grant such rights or licenses, to the extent required by the Contractor to market the Deliverables and/or Derivative Work and exercise its full rights in the Deliverables and/or Derivative Work, including, without limitation, the right to make, use and sell products and services based on or incorporating such Deliverables and/or Derivative Work.

License Back to the State. Unless otherwise specifically agreed to by the State, before initiating the preparation of any Deliverable that is a Derivative of a preexisting work, the Contractor shall cause the State to have and obtain the irrevocable, nonexclusive, worldwide, royalty-free right and license to (1) use, execute, reproduce, display, perform, distribute internally or externally, sell copies of, and prepare Derivative Works based upon all preexisting works and Derivative Works thereof, and (2) authorize or sublicense others from time to time to do any or all of the foregoing.

### **2.161c License**

Contractor grants to the State a non-exclusive, royalty-free, site-wide, irrevocable, transferable license to use the Software and related documentation according to the terms and conditions of this Contract. For the purposes of this license, "site-wide" includes any State of Michigan office regardless of its physical location.

The State may modify the Software and may combine such with other programs or materials to form a derivative work. The State will own and hold all copyright, trademark, patent and other intellectual property rights in any derivative work, excluding any rights or interest in Software other than those granted in this Contract.

The State may copy each item of Software to multiple hard drives or networks unless otherwise agreed by the parties.

The State will make and maintain no more than one archival copy of each item of Software, and each copy will contain all legends and notices and will be subject to the same conditions and restrictions as the original. The State may also make copies of the Software in the course of routine backups of hard drive(s) for the purpose of recovery of hard drive contents.

In the event that the Contractor shall, for any reason, cease to conduct business, or cease to support the Software, the State shall have the right to convert these licenses into perpetual licenses, with rights of quiet enjoyment, but subject to payment obligations not to exceed the then current rates.

### **2.162 Source Code Escrow**

(a) Definition. "Source Code Escrow Package" shall mean:

- (i) A complete copy in machine-readable form of the source code and executable code of the Licensed Software, including any updates or new releases of the product;
- (ii) A complete copy of any existing design documentation and user documentation, including any updates or revisions; and/or
- (iii) Complete instructions for compiling and linking every part of the source code into executable code for purposes of enabling verification of the completeness of the source code as provided below. Such instructions shall include precise identification of all compilers, library packages, and linkers used to generate executable code.

(b) Delivery of Source Code into Escrow. Contractor shall deliver a Source Code Escrow Package to the Escrow Agent, pursuant to the Escrow Contract, which shall be entered into on commercially reasonable terms subject to the provisions of this Contract within thirty (30) days of the execution of this Contract.

(c) Delivery of New Source Code into Escrow. If at anytime during the term of this Contract, the Contractor provides a maintenance release or upgrade version of the Licensed Software, Contractor shall within ten (10) days deposit with the Escrow Agent, in accordance with the Escrow Contract, a Source Code Escrow Package for the maintenance release or upgrade version, and provide the State with notice of the delivery.



- (d) Verification. The State reserves the right at any time, but not more than once a year, either itself or through a third party contractor, upon thirty (30) days written notice, to seek verification of the Source Code Escrow Package.
- (e) Escrow Fees. All fees and expenses charged by the Escrow Agent will be paid by the Contractor.
- (f) Release Events. The Source Code Escrow Package may be released from escrow to the State, temporarily or permanently, upon the occurrence of one or more of the following:
- (i) The Contractor becomes insolvent, makes a general assignment for the benefit of creditors, files a voluntary petition of bankruptcy, suffers or permits the appointment of a receiver for its business or assets, becomes subject to any proceeding under bankruptcy or insolvency law, whether domestic or foreign;
  - (ii) The Contractor has wound up or liquidated its business voluntarily or otherwise and the State has reason to believe that such events will cause the Contractor to fail to meet its warranties and maintenance obligations in the foreseeable future;
  - (iii) The Contractor voluntarily or otherwise discontinues support of the provided products or fails to support the products in accordance with its maintenance obligations and warranties.
- (g) Release Event Procedures. If the State desires to obtain the Source Code Escrow Package from the Escrow Agent upon the occurrence of an Event in **Section 2.162(f)**, then:
- (i) The State shall comply with all procedures in the Escrow Contract;
  - (ii) The State shall maintain all materials and information comprising the Source Code Escrow Package in confidence in accordance with this Contract;
  - (iii) If the release is a temporary one, then the State shall promptly return all released materials to Contractor when the circumstances leading to the release are no longer in effect.
- (h) License. Upon release from the Escrow Agent pursuant to an event described in **Section 2.162(f)**, the Contractor automatically grants the State a non-exclusive, irrevocable license to use, reproduce, modify, maintain, support, update, have made, and create Derivative Works. Further, the State shall have the right to use the Source Code Escrow Package in order to maintain and support the Licensed Software so that it can be used by the State as set forth in this Contract.
- (i) Derivative Works. Any Derivative Works to the source code released from escrow which are made by or on behalf of the State shall be the sole property of the State. The State acknowledges that its ownership rights are limited solely to the Derivative Works and do not include any ownership rights in the underlying source code.

### **2.163 Rights in Data**

- (a) The State will be and remain the owner of all data made available by the State to Contractor or its agents, Subcontractors or representatives pursuant to the Contract. Contractor will not use the State's data for any purpose other than providing the Services, nor will any part of the State's data be disclosed, sold, assigned, leased or otherwise disposed of to the general public or to specific third parties or commercially exploited by or on behalf of Contractor, nor will any employee of Contractor other than those on a strictly need to know basis have access to the State's data. Contractor will not possess or assert any lien or other right against the State's data. Without limiting the generality of this Section, Contractor shall only use personally identifiable information as strictly necessary to provide the Services and shall disclose such information only to its employees who have a strict need to know such information. Contractor shall comply at all times with all laws and regulations applicable to such personally identifiable information.
- (b) The State is and shall remain the owner of all State-specific data pursuant to the Contract. The State may use the data provided by the Contractor for any purpose. The State will not possess or assert any lien or other right against the Contractor's data. Without limiting the generality of this Section, the State shall only use personally identifiable information as strictly necessary to utilize the Services and shall disclose such information only to its employees who have a strict need to know such information, except as provided by law. The State shall comply at all times with all laws and regulations applicable to such personally identifiable



information. Other material developed and provided to the State shall remain the State's sole and exclusive property.

#### **2.164 Ownership of Materials**

State and Contractor will continue to own their respective proprietary technologies developed before entering into the Contract. Any hardware bought through the Contractor by the State, and paid for by the State, will be owned by the State. Any software licensed through the Contractor and sold to the State, will be licensed directly to the State.

#### **2.165 Standard Software**

If applicable and necessary, all Standard Software used in performing the Services shall be provided to the State under a separate license agreement between the State and the owner (or authorized licensor) of such software. Standard Software to be licensed to the State is listed in **Exhibit C**.

#### **2.166 Pre-existing Materials for Custom Software Deliverables**

Neither Contractor nor any of its Subcontractors shall incorporate any preexisting materials (including Standard Software) into Custom Software Deliverables or use any pre-existing materials to produce Custom Software Deliverables if such pre-existing materials will be needed by the State in order to use the Custom Software Deliverables unless (i) such pre-existing materials and their owners are identified to the State in writing and (ii) such pre-existing materials are either readily commercially available products for which Contractor or its Subcontractor, as the case may be, has obtained a license (in form and substance approved by the State) in the name of the State, or are materials that Contractor or its Subcontractor, as the case may be, has the right to license to the State and has licensed to the State on terms and conditions approved by the State prior to using such pre-existing materials to perform the Services.

#### **2.167 General Skills**

Notwithstanding anything to the contrary in this Section, each party, its Subcontractors and their personnel shall be free to use and employ its and their general skills, know-how and expertise, and to use, disclose and employ any generalized ideas, concepts, know-how, methods, techniques or skills gained or learned during the course of performing the Services, so long as it or they acquire and apply the foregoing without disclosure of any confidential or proprietary information of the other party.

### **2.170 Warranties And Representations**

#### **2.171 Warranties and Representations**

The Contractor represents and warrants:

- (a) It is capable in all respects of fulfilling and shall fulfill all of its obligations under this Contract. The performance of all obligations under this Contract shall be provided in a timely, professional, and workman-like manner and shall meet the performance and operational standards required under this Contract.
- (b) The Contract Appendices, Attachments and Exhibits identify the equipment and software and services necessary for the Deliverable(s) to perform and Services to operate in compliance with the Contract's requirements and other standards of performance.
- (c) It is the lawful owner or licensee of any Deliverable licensed or sold to the State by Contractor or developed by Contractor under this Contract, and Contractor has all of the rights necessary to convey to the State the ownership rights or licensed use, as applicable, of any and all Deliverables. None of the Deliverables provided by Contractor to the State under this Contract, nor their use by the State, will infringe the patent, copyright, trade secret, or other proprietary rights of any third party.
- (d) If, under this Contract, Contractor procures any equipment, software or other Deliverable for the State (including equipment, software and other Deliverables manufactured, re-marketed or otherwise sold by Contractor under Contractor's name), then in addition to Contractor's other responsibilities with respect to such



items in this Contract, Contractor shall assign or otherwise transfer to the State or its designees, or afford the State the benefits of, any manufacturer's warranty for the Deliverable.

(e) The contract signatory has the power and authority, including any necessary corporate authorizations, necessary to enter into this Contract, on behalf of Contractor.

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

(g) Neither the Contractor nor any Affiliates, nor any employee of either, has, shall have, or shall acquire, any contractual, financial, business, or other interest, direct or indirect, that would conflict in any manner or degree with Contractor's performance of its duties and responsibilities to the State under this Contract or otherwise create an appearance of impropriety with respect to the award or performance of this Agreement. Contractor shall notify the State within two (2) days of any such interest that may be incompatible with the interests of the State.

(h) Neither Contractor nor any Affiliates, nor any employee of either has accepted or shall accept anything of value based on an understanding that the actions of the Contractor or Affiliates or employee on behalf of the State would be influenced. Contractor shall not attempt to influence any State employee by the direct or indirect offer of anything of value.

(i) Neither 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 Contractor or such Affiliate, any fee, commission, percentage, brokerage fee, gift, or any other consideration, contingent upon or resulting from the award or making of this Contract.

(j) The prices proposed by Contractor were arrived at independently, without consultation, communication, or agreement with any other bidder for the purpose of restricting competition; the prices quoted were not knowingly disclosed by Contractor to any other bidder; and no attempt was made by Contractor to induce any other person to submit or not submit a proposal for the purpose of restricting competition.

(k) All financial statements, reports, and other information furnished by Contractor to the State as part of its response to the RFP or otherwise in connection with the award of this Contract fairly and accurately represent the business, properties, financial condition, and results of operations of Contractor as of the respective dates, or for the respective periods, covered by such financial statements, reports, other information. Since the respective dates or periods covered by such financial statements, reports, or other information, there have been no material adverse change in the business, properties, financial condition, or results of operations of Contractor.

(m) All written information furnished to the State by or behalf of Contractor in connection with this Contract, including its bid, is true, accurate, and complete, and contains no untrue statement of material fact or omits any material fact necessary to make such information not misleading.

(n) It is not in material default or breach of any other contract or agreement that it may have with the State or any of its departments, commissions, boards, or agencies. Contractor further represents and warrants that it has not been a party to any contract with the State or any of its departments that was terminated by the State or such department within the previous five (5) years for the reason that Contractor failed to perform or otherwise breached an obligation of such contract.

## **2.172 Software Warranties**

### **(a) Performance Warranty**

The Contractor represents and warrants that Deliverables, after Final Acceptance, will perform and operate in compliance with the requirements and other standards of performance contained in this Contract (including all descriptions, specifications and drawings made a part of the Contract) for a period of ninety (90) days. In the

event of a breach of this warranty, Contractor will promptly correct the affected Deliverable(s) at no charge to the State.

(b) No Surreptitious Code Warranty

The Contractor represents and warrants that no copy of licensed Software provided to the State contains or will contain any Self-Help Code or any Unauthorized Code as defined below. This warranty is referred to in this Contract as the “No Surreptitious Code Warranty.”

As used in this Contract, “Self-Help Code” means any back door, time bomb, drop dead device, or other software routine designed to disable a computer program automatically with the passage of time or under the positive control of a person other than the licensee of the software. Self-Help Code does not include Software routines in a computer program, if any, designed to permit an owner of the computer program (or other person acting by authority of the owner) to obtain access to a licensee’s computer system(s) (e.g. remote access via modem) for purposes of maintenance or technical support.

As used in this Contract, “Unauthorized Code” means any virus, Trojan horse, spyware, worm or other Software routines or components designed to permit unauthorized access to disable, erase, or otherwise harm software, equipment, or data; or to perform any other such actions. The term Unauthorized Code does not include Self-Help Code. Unauthorized Code does not include Software routines in a computer program, if any, designed to permit an owner of the computer program (or other person acting by authority of the owner) to obtain access to a licensee’s computer system(s) (e.g. remote access via modem) for purposes of maintenance or technical support.

In addition, Contractor will use up-to-date commercial virus detection software to detect and remove any viruses from any software prior to delivering it to the State.

(c) Calendar Warranty

The Contractor represents and warrants that all software for which the Contractor either sells or licenses to the State of Michigan and used by the State prior to, during or after the calendar year 2000, includes or shall include, at no added cost to the State, design and performance so the State shall not experience software abnormality and/or the generation of incorrect results from the software, due to date oriented processing, in the operation of the business of the State of Michigan.

The software design, to insure calendar year rollover compatibility, shall include, but is not limited to: data structures (databases, data files, etc.) that provide 4-digit date century; stored data that contain date century recognition, including, but not limited to, data stored in databases and hardware device internal system dates; calculations and program logic (e.g., sort algorithms, calendar generation, event recognition, and all processing actions that use or produce date values) that accommodates same century and multi-century formulas and date values; interfaces that supply data to and receive data from other systems or organizations that prevent non-compliant dates and data from entering any State system; user interfaces (i.e., screens, reports, etc.) that accurately show 4 digit years; and assurance that the year 2000 shall be correctly treated as a leap year within all calculation and calendar logic.

(d) Third-party Software Warranty

The Contractor represents and warrants that it will disclose the use or incorporation of any third-party software into the Deliverables. At the time of Delivery, the Contractor shall provide in writing the name and use of any Third-party Software, including information regarding the Contractor’s authorization to include and utilize such software. The notice shall include a copy of any ownership agreement or license that authorizes the Contractor to use the Third-party Software.

**2.173 Equipment Warranty  
Reserved**

**2.174 Physical Media Warranty**

(a) Contractor represents and warrants that each licensed copy of the Software provided by the Contractor is free from physical defects in the media that tangibly embodies the copy. This warranty does not apply to defects discovered more than thirty (30) days after that date of Final Acceptance of the Software by the State. This warranty does not apply to defects arising from acts of Excusable Failure. If the Contractor breaches this warranty, then the State shall be entitled to replacement of the non-compliant copy by Contractor, at Contractor’s expense (including shipping and handling).

**2.175a DISCLAIMER**

THE FOREGOING EXPRESS WARRANTIES ARE IN LIEU OF ALL OTHER WARRANTIES AND EACH PARTY EXPRESSLY DISCLAIMS ALL OTHER WARRANTIES, EXPRESS OR IMPLIED, BY OPERATION OF LAW OR OTHERWISE, INCLUDING, BUT NOT LIMITED TO, THE IMPLIED WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE.

**2.175b Standard Warranties**

(a) Warranty of Merchantability

Deliverables shall be merchantable. All Deliverables shall be of good quality within the description given by the State, shall be fit for their ordinary purpose, shall be adequately contained and packaged within the description given by the State, shall conform to the agreed upon specifications, and shall conform to the affirmations of fact made by the Contractor on the container or label.

(b) Warranty of fitness for a particular purpose

When Contractor has reason to know or knows any particular purpose for which the Deliverables are required, and when the State is relying on the Contractor’s skill or judgment to select or furnish suitable Deliverables, the Contractor warrants that the Deliverables are fit for such purpose.

(c) Warranty of title

Contractor shall convey good title in those Deliverables, whose transfer is right and lawful. All Deliverables provided by Contractor shall be delivered free from any security interest, lien, or encumbrance. Deliverables shall be delivered free of any rightful claim of any third person of ownership, interest, lien or encumbrance.

**2.176 Consequences For Breach**

In addition to any remedies available in law, if the Contractor breaches any of the warranties contained in this section, such breach may be considered as a default in the performance of a material obligation of this Contract.

**2.180 Insurance**

**2.181 Liability Insurance**

(a) Liability Insurance

The Contractor is required to provide proof of the minimum levels of insurance coverage as indicated below. The purpose of this coverage shall be to protect the State from claims which may arise out of or result from the Contractor’s performance of services under the terms of this Contract, whether such services are performed by the Contractor, or by any subcontractor, or by anyone directly or indirectly employed by any of them, or by anyone for whose acts they may be liable.

The Contractor waives all rights against the State of Michigan, its departments, divisions, agencies, offices, commissions, officers, employees and agents for recovery of damages to the extent these damages are covered by the insurance policies the Contractor is required to maintain pursuant to this Contract.

All insurance coverages provided relative to this Contract/Purchase Order are PRIMARY and NON-CONTRIBUTING to any comparable liability insurance (including self-insurances) carried by the State.



The insurance shall be written for not less than any minimum coverage specified in this Contract or required by law, whichever is greater.

The insurers selected by Contractor shall have an A.M. Best rating of A or better, or as otherwise approved in writing by the State, or if such ratings are no longer available, with a comparable rating from a recognized insurance rating agency. All policies of insurance required in this Contract shall be issued by companies that have been approved to do business in the State.

See [http://www.mi.gov/cis/0,1607,7-154-10555\\_22535---.00.html](http://www.mi.gov/cis/0,1607,7-154-10555_22535---.00.html).

Where specific limits are shown, they are the minimum acceptable limits. If Contractor's policy contains higher limits, the State shall be entitled to coverage to the extent of such higher limits.

Before the Contract is signed by both parties or before the purchase order is issued by the State, the Contractor must furnish to the Director of Purchasing Operations, certificate(s) of insurance verifying insurance coverage ("Certificates"). The Certificate must be on the standard "accord" form or equivalent. **THE CONTRACT OR PURCHASE ORDER NO. MUST BE SHOWN ON THE CERTIFICATE OF INSURANCE TO ASSURE CORRECT FILING.** All Certificate(s) are to be prepared and submitted by the Insurance Provider. All Certificate(s) shall contain a provision indicating that coverages afforded under the policies WILL NOT BE CANCELLED, MATERIALLY CHANGED, OR NOT RENEWED without THIRTY (30) days prior written notice, except for ten (10) days for non-payment of premium, having been given to the Director of Purchasing Operations, Department of Management and Budget. The notice must include the Contract or Purchase Order number affected and be mailed to: Director, Purchasing Operations, Department of Management and Budget, P.O. Box 30026, Lansing, Michigan 48909. Failure to provide evidence of coverage, may, at the State's sole option, result in this Contract's termination.

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

- 1. Commercial General Liability with the following minimum coverage:  
 \$2,000,000 General Aggregate Limit other than Products/Completed Operations  
 \$2,000,000 Products/Completed Operations Aggregate Limit  
 \$1,000,000 Personal & Advertising Injury Limit  
 \$1,000,000 Each Occurrence Limit  
 \$500,000 Fire Damage Limit (any one fire)

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

- 2. If a motor vehicle is used to provide services or products under this Contract, the Contractor must have vehicle liability insurance on any auto including owned, hired and non-owned vehicles used in Contractor's business for bodily injury and property damage as required by law.

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

- 3. Workers' compensation coverage must be provided in accordance with applicable laws governing the employees and employers work activities in the state of the Contractor's domicile. If the applicable coverage is provided by a self-insurer, proof must be provided of approved self-insured authority by the jurisdiction of domicile. For employees working outside of the state of qualification, Contractor must provide appropriate certificates of insurance proving mandated coverage levels for the jurisdictions where the employees' activities occur.

Any certificates of insurance received must also provide a list of states where the coverage is applicable.



The Contractor also agrees to provide evidence that insurance policies contain a waiver of subrogation by the insurance company. This provision shall not be applicable where prohibited or limited by the laws of the jurisdiction in which the work is to be performed.

4. Employers liability insurance with the following minimum limits:

\$100,000 each accident

\$100,000 each employee by disease

\$500,000 aggregate disease

5. Employee Fidelity, including Computer Crimes, insurance naming the State as a loss payee, providing coverage for direct loss to the State and any legal liability of the State arising out of or related to fraudulent or dishonest acts committed by the employees of Contractor or its Subcontractors, acting alone or in collusion with others, in a minimum amount of one million dollars (\$1,000,000.00) with a maximum deductible of fifty thousand dollars (\$50,000.00).

6. Umbrella or Excess Liability Insurance in a minimum amount of ten million dollars (\$10,000,000.00), which shall apply, at a minimum, to the insurance required in Subsection 1 (Commercial General Liability) above.

7. Professional Liability (Errors and Omissions) Insurance with the following minimum coverage: three million dollars (\$3,000,000.00) each occurrence and three million dollars (\$3,000,000.00) annual aggregate.

8. Fire and Personal Property Insurance covering against any loss or damage to the office space used by Contractor for any reason under this Contract, and the equipment, software and other contents of such office space, including without limitation, those contents used by Contractor to provide the Services to the State, up to the replacement value thereof, where such office space and its contents are under the care, custody and control of Contractor. Such policy shall cover all risks of direct physical loss or damage, including without limitation, flood and earthquake coverage and coverage for computer hardware and software. The State shall be endorsed on the policy as a loss payee as its interests appear.

(b) Subcontractors

Except where the State has approved in writing a Contractor subcontract with other insurance provisions, Contractor shall require all of its Subcontractors under this Contract to purchase and maintain the insurance coverage as described in this Section for the Contractor in connection with the performance of work by those Subcontractors. Alternatively, Contractor may include any Subcontractors under Contractor's insurance on the coverage required in this Section. Subcontractor(s) shall fully comply with the insurance coverage required in this Section. Failure of Subcontractor(s) to comply with insurance requirements does not limit Contractor's liability or responsibility.

(c) Certificates of Insurance and Other Requirements

Contractor shall furnish to the Office of Purchasing Operations certificate(s) of insurance verifying insurance coverage or providing satisfactory evidence of self-insurance as required in this Section (the "Certificates"). Before the Contract is signed, and not less than 20 days before the insurance expiration date every year thereafter, the Contractor shall provide evidence that the State and its agents, officers and employees are listed as additional insureds under each commercial general liability and commercial automobile liability policy. In the event the State approves the representation of the State by the insurer's attorney, the attorney may be required to be designated as a Special Assistant Attorney General by the Attorney General of the State of Michigan.

Contractor shall maintain all required insurance coverage throughout the term of the Contract and any extensions thereto and, in the case of claims-made Commercial General Liability policies, shall secure tail coverage for at least three (3) years following the expiration or termination for any reason of this Contract. The minimum limits of coverage specified above are not intended, and shall not be construed, to limit any liability or indemnity of Contractor under this Contract to any indemnified party or other persons. Contractor shall be



responsible for all deductibles with regard to such insurance. If Contractor fails to pay any premium for required insurance as specified in this Contract, or if any insurer cancels or significantly reduces any required insurance as specified in this Contract without the State's written consent, at the State's election (but without any obligation to do so) after the State has given Contractor at least thirty (30) days written notice, the State may pay such premium or procure similar insurance coverage from another company or companies; and at the State's election, the State may deduct the entire cost (or part thereof) from any payment due Contractor, or Contractor shall pay the entire cost (or any part thereof) upon demand by the State.

## **2.190 Indemnification**

### **2.191 Indemnification**

#### **(a) General Indemnification**

To the extent permitted by law, the Contractor shall indemnify, defend and hold harmless the State 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 any of its subcontractors, or by anyone else for whose acts any of them may be liable.

#### **(b) Code Indemnification**

To the extent permitted by law, the Contractor shall indemnify, defend and hold harmless the State from any claim, loss, or expense arising from Contractor's breach of the No Surreptitious Code Warranty.

#### **(c) Employee Indemnification**

In any and all claims against the State of Michigan, its departments, divisions, agencies, sections, commissions, officers, employees and agents, by any employee of the Contractor or any of its subcontractors, the indemnification obligation under the Contract shall not be limited in any way by the amount or type of damages, compensation or benefits payable by or for the Contractor or any of its subcontractors under worker's disability compensation acts, disability 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.

#### **(d) Patent/Copyright Infringement Indemnification**

To the extent permitted by law, the Contractor shall indemnify, defend and hold harmless the State from and against all losses, liabilities, damages (including taxes), and all related costs and expenses (including reasonable attorneys' fees and costs of investigation, litigation, settlement, judgments, interest and penalties) incurred in connection with any action or proceeding threatened or brought against the State to the extent that such action or proceeding is based on a claim that any piece of equipment, software, commodity or service supplied by the Contractor or its subcontractors, or the operation of such equipment, software, commodity or service, or the use or reproduction of any documentation provided with such equipment, software, commodity or service infringes any United States patent, copyright, trademark or trade secret of any person or entity, which is enforceable under the laws of the United States.

In addition, should the equipment, software, commodity, or service, or its operation, become or in the State's or Contractor's opinion be likely to become the subject of a claim of infringement, the Contractor shall at the Contractor's sole expense (i) procure for the State the right to continue using the equipment, software, commodity or service or, if such option is not reasonably available to the Contractor, (ii) replace or modify 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 such option is not reasonably available to Contractor, (iii) accept its return by the State with appropriate credits to the State against the Contractor's charges and reimburse the State for any losses or costs incurred as a consequence of the State ceasing its use and returning it.



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

### **2.192 Continuation of Indemnification Obligations**

The Contractor's duty to indemnify pursuant to this Section 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 prior to expiration or cancellation.

### **2.193 Indemnification Procedures**

The procedures set forth below shall apply to all indemnity obligations under this Contract.

(a) After receipt by the State of notice of the action or proceeding involving a claim in respect of which it will seek indemnification, the State shall promptly notify Contractor of such claim in writing and take or assist Contractor in taking, as the case may be, any reasonable action to avoid the imposition of a default judgment against Contractor. No failure to notify Contractor shall relieve Contractor of its indemnification obligations except to the extent that Contractor can demonstrate damages attributable to such failure. Within ten (10) days following receipt of written notice from the State relating to any claim, Contractor shall notify the State in writing whether Contractor agrees to assume control of the defense and settlement of that claim (a "Notice of Election"). After notifying Contractor of a claim and prior to the State receiving Contractor's Notice of Election, the State shall be entitled to defend against the claim, at Contractor's expense, and Contractor will be responsible for any reasonable costs incurred by the State in defending against the claim during such period.

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

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

## **2.200 Limits of Liability and Excusable Failure**

### **2.201 Limits of Liability**

The Contractor's liability for damages to the State shall be limited to two times the value of the Contract or \$200,000 (for low risk contracts – Select a higher amount for moderate to high risk contracts) which ever is higher. The foregoing limitation of liability shall not apply to claims for infringement of United States patent,

copyright, trademarks or trade secrets; to claims for personal injury or damage to property caused by the gross negligence or willful misconduct of the Contractor; to claims covered by other specific provisions of this Contract calling for liquidated damages; or to court costs or attorney's fees awarded by a court in addition to damages after litigation based on this Contract.

The State's liability for damages to the Contractor shall be limited to the value of the Contract.

Neither the Contractor nor the State shall be liable to each other, regardless of the form of action, for consequential, incidental, indirect, or special damages. This limitation of liability shall 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 attorney's fees awarded by a court in addition to damages after litigation based on this Contract.

**2.202 Excusable Failure**

Neither party will be liable for any default, damage or delay in the performance of its obligations under the Contract to the extent such default, damage or delay is caused by government regulations or requirements (executive, legislative, judicial, military or otherwise), power failure, electrical surges or current fluctuations, lightning, earthquake, war, water or other forces of nature or acts of God, delays or failures of transportation, equipment shortages, suppliers' failures, or acts or omissions of common carriers, fire; riots, civil disorders; strikes or other 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 such party; provided the non-performing party and its Subcontractors are without fault in causing such default or delay, and such default or delay could not have been prevented by reasonable precautions and cannot reasonably be circumvented by the non-performing party through the use of alternate sources, workaround plans or other means, including disaster recovery plans.

In such event, the non-performing party will be excused from any further performance or observance of the obligation(s) so affected for as long as such circumstances prevail and such party continues to use its commercially reasonable efforts to recommence performance or observance whenever and to whatever extent possible without delay and provided further that such party promptly notifies the other party in writing of the inception of the excusable failure occurrence, and also of its abatement or cessation.

If any of the above-enumerated circumstances substantially prevent, hinder, or delay Contractor's performance of the Services/provision of Deliverables for more than ten (10) Business Days, and the State determines that performance is not likely to be resumed within a period of time that is satisfactory to the State in its reasonable discretion, then at the State's option: (a) the State may procure the affected Services/Deliverables from an alternate source, and the State shall not be liable for payment for the unperformed Services/ Deliverables not provided under the Contract for so long as the delay in performance shall continue; (b) the State may terminate any portion of the Contract so affected and the charges payable there under shall be equitably adjusted to reflect those Services/Deliverables terminated; or (c) the State may terminate the affected Statement of Work without liability to Contractor as of a date specified by the State in a written notice of termination to Contractor, except to the extent that the State shall pay for Services/Deliverables provided through the date of termination.

Contractor will not have the right to any additional payments from the State as a result of any Excusable Failure occurrence or to payments for Services not rendered/Deliverables not provided as a result of the Excusable Failure condition. Defaults or delays in performance by Contractor which are caused by acts or omissions of its Subcontractors will not relieve Contractor of its obligations under the Contract except to the extent that a Subcontractor is itself subject to an Excusable Failure condition described above and Contractor cannot reasonably circumvent the effect of the Subcontractor's default or delay in performance through the use of alternate sources, workaround plans or other means.

**2.203 Disaster Recovery**

Contractor and the State recognize that the State provides essential services in times of natural or man-made disasters. Therefore, except as so mandated by Federal disaster response requirements, Contractor personnel dedicated to providing Services/Deliverables under this Contract will provide the State with priority service for repair and work around in the event of a natural or manmade disaster.

**2.210 Termination/Cancellation by the State**

The State may terminate this Contract without further liability or penalty to the State, its departments, divisions, agencies, offices, commissions, officers, agents and employees for any of the following reasons:

**2.211 Termination for Cause**

(a) In the event that Contractor breaches any of its material duties or obligations under this Contract (including a Chronic Failure to meet any particular SLA as defined in **Section 2.076**), which are either not capable of or subject to being cured, or are not cured within the time period specified in the written notice of breach provided by the State (such time period not to be less than thirty (30) days), or pose a serious and imminent threat to the health and safety of any person, or the imminent loss, damage or destruction of any real or tangible personal property, the State may, having provided written notice of termination to Contractor, terminate this Contract in whole or in part, for cause, as of the date specified in the notice of termination.

(b) In the event that this Contract is terminated for cause, in addition to any legal remedies otherwise available to the State by law or equity, Contractor shall be responsible for all costs incurred by the State in terminating this Contract, including but not limited to, State administrative costs, reasonable attorneys' fees and court costs, and any reasonable additional costs the State may incur to procure the Services/Deliverables required by this Contract from other sources. Re-procurement costs shall not be considered by the parties to be consequential, indirect or incidental damages, and shall not be excluded by any other terms otherwise included in this Contract, provided such costs are not in excess of fifty percent (50%) more than the prices for such Service/Deliverables provided under this Contract.

(c) In the event the State chooses to partially terminate this Contract for cause, charges payable under this Contract will be equitably adjusted to reflect those Services/Deliverables that are terminated and the State shall pay for all Services/Deliverables for which Final Acceptance has been granted provided up to the termination date. Services and related provisions of this Contract that are terminated for cause shall cease on the effective date of the termination.

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

**2.212 Termination for Convenience**

The State may terminate this Contract for its convenience, in whole or part, if the State determines that such a termination is in the State's best interest. Reasons for such termination shall be left to the sole discretion of the State and may include, but not necessarily be limited to (a) the State no longer needs the Services or products specified in the Contract, (b) relocation of office, program changes, changes in laws, rules, or regulations make implementation of the Services no longer practical or feasible, (c) unacceptable prices for Additional Services or New Work requested by the State, or (d) falsification or misrepresentation, by inclusion or non-inclusion, of information material to a response to any RFP issued by the State. The State may terminate this Contract for its convenience, in whole or in part, by giving Contractor written notice at least thirty (30) days prior to the date of termination. If the State chooses to terminate this Contract in part, the charges payable under this Contract shall be equitably adjusted to reflect those Services/Deliverables that are terminated. Services and related provisions of this Contract that are terminated for cause shall cease on the effective date of the termination.



### **2.213 Non-Appropriation**

(a) Contractor acknowledges that, if this Contract extends for several fiscal years, continuation of this Contract is subject to appropriation or availability of funds for this Contract. If funds to enable the State to effect continued payment under this Contract are not appropriated or otherwise made available, the State shall have the right to terminate this Contract and all affected Statements of Work, in whole or in part, at the end of the last period for which funds have been appropriated or otherwise made available by giving written notice of termination to Contractor. The State shall give Contractor at least thirty (30) days advance written notice of termination for non-appropriation or unavailability (or such time as is available if the State receives notice of the final decision less than thirty (30) days before the funding cutoff).

(b) If funding for the Contract is reduced by law, or funds to pay Contractor for the agreed-to level of the Services or production of Deliverables to be provided by Contractor are not appropriated or otherwise made available, the State may, upon thirty (30) days written notice to Contractor, reduce the level of the Services or the change the production of Deliverables in such manner and for such periods of time as the State may elect. The charges payable under this Contract will be equitably adjusted to reflect any equipment, services or commodities not provided by reason of such reduction.

(c) In the event the State terminates this Contract, eliminates certain Deliverables, or reduces the level of Services to be provided by Contractor pursuant to this Section, the State shall pay Contractor for all Work-in-Process performed through the effective date of the termination or reduction in level, as the case may be and as determined by the State, to the extent funds are available. For the avoidance of doubt, this Section will not preclude Contractor from reducing or stopping Services/Deliverables and/or raising against the State in a court of competent jurisdiction, any claim for a shortfall in payment for Services performed or Deliverables finally accepted before the effective date of termination.

### **2.214 Criminal Conviction**

The State may terminate this Contract immediately and without further liability or penalty in the event Contractor, an officer of Contractor, or an owner of a 25% or greater share of Contractor is convicted of a criminal offense incident to the application for, or performance of, a State, public or private Contract or subcontract; convicted of a criminal offense, including any of the following: embezzlement, theft, forgery, bribery, falsification or destruction of records, receiving stolen property, attempting to influence a public employee to breach the ethical conduct standards for State of Michigan employees; convicted under State or federal antitrust statutes; or convicted of any other criminal offense which in the sole discretion of the State reflects upon Contractor's business integrity.

### **2.215 Approvals Rescinded**

The State may terminate this Contract without further liability or penalty in the event any final administrative or judicial decision or adjudication disapproves a previously approved request for purchase of personal services pursuant to Constitution 1963, Article 11, § 5, and Civil Service Rule 7-1. Termination may be in whole or in part and may be immediate as of the date of the written notice to Contractor or may be effective as of the date stated in such written notice.

### **2.216 Rights and Obligations Upon Termination**

(a) If this Contract is terminated by the State for any reason, Contractor shall (a) stop all work as specified in the notice of termination, (b) take any action that may be necessary, or that the State may direct, for preservation and protection of Deliverables or other property derived or resulting from this Contract that may be in Contractor's possession, (c) return all materials and property provided directly or indirectly to Contractor by any entity, agent or employee of the State, (d) in the event that the Contractor maintains title in Deliverables that is intended to be transferred to the State at the termination of the Contract, Contractor will transfer title in, and deliver to, the State, unless otherwise directed, all Deliverables intended to be transferred to the State at the termination of the Contract and which are resulting from the Contract (which shall be provided to the State on an "As-Is" basis except to the extent the amounts paid by the State in respect of such items included compensation to Contractor for the provision of warranty services in respect of such materials), and (e) take any action to mitigate and limit any potential damages, or requests for Contractor adjustment or termination settlement costs, to the maximum practical extent, including terminating or limiting as otherwise



applicable those subcontracts and outstanding orders for material and supplies resulting from the terminated Contract.

(b) In the event the State terminates this Contract prior to its expiration for its own convenience, the State shall pay Contractor for all charges due for Services provided prior to the date of termination and, if applicable, as a separate item of payment pursuant to this Contract, for Work In Process, on a percentage of completion basis at the level of completion determined by the State. All completed or partially completed Deliverables prepared by Contractor pursuant to this Contract shall, at the option of the State, become the State's property, and Contractor shall be entitled to receive equitable fair compensation for such Deliverables. Regardless of the basis for the termination, the State shall not be obligated to pay, or otherwise compensate, Contractor for any lost expected future profits, costs or expenses incurred with respect to Services not actually performed for the State.

(c) Upon a good faith termination, the State shall have the right to assume, at its option, any and all subcontracts and agreements for services and deliverables provided under this Contract, and may further pursue completion of the Services/Deliverables under this Contract by replacement contract or otherwise as the State may in its sole judgment deem expedient.

### **2.217 Reservation of Rights**

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

### **2.218 Contractor Transition Responsibilities**

In the event this contract is terminated, for convenience or cause, dissolved, voided, rescinded, nullified, expires or is otherwise rendered unenforceable, the Contractor agrees to comply with direction provided by the State to assist in the orderly transition of equipment, services, software, leases, etc. to the State or a third party designated by the State. In the event of termination or the expiration of this Contract, the Contractor agrees to make all reasonable efforts to effect an orderly transition of services within a reasonable period of time that in no event will exceed ninety (90) days. These efforts shall include, but are not limited to, the following:

(a) Personnel - The Contractor shall work with the State, or a specified third party, to develop a transition plan setting forth the specific tasks and schedule to be accomplished by the parties, to effect an orderly transition. The Contractor shall allow as many personnel as practicable to remain on the job to help the State, or a specified third party, maintain the continuity and consistency of the services required by this Contract. In addition, during or following the transition period, in the event the State requires the Services of the Contractor's subcontractors or vendors, as necessary to meet its needs, Contractor agrees to reasonably, and with good-faith, work with the State to use the Services of Contractor's subcontractors or vendors. Contractor will notify all of Contractor's subcontractors of procedures to be followed during transition.

(b) Information - The Contractor agrees to provide reasonable detailed specifications for all Services/Deliverables needed by the State, or specified third party, to properly provide the Services/Deliverables required under this Contract. The Contractor will provide the State with asset management data generated from the inception of this Contract through the date on which this Contractor is terminated in a comma-delineated format unless otherwise requested by the State. The Contractor will deliver to the State any remaining owed reports and documentation still in Contractor's possession subject to appropriate payment by the State.

(d) Software. - The Contractor shall reasonably assist the State in the acquisition of any Contractor software required to perform the Services/use the Deliverables under this Contract. This shall include any documentation being used by the Contractor to perform the Services under this Contract. If the State transfers any software licenses to the Contractor, those licenses shall, upon expiration of the Contract, transfer back to the State at their current revision level. Upon notification by the State, Contractor may be required to freeze all non-critical changes to Deliverables/Services.

(e) Payment - If the transition results from a termination for any reason, reimbursement shall be governed by the termination provisions of this Contract. If the transition results from expiration, the Contractor will be reimbursed for all reasonable transition costs (i.e. costs incurred within the agreed period after contract expiration that result from transition operations) at the rates specified by **Article 1, Attachment C**. The



Contractor will prepare an accurate accounting from which the State and Contractor may reconcile all outstanding accounts.

### **2.219 State Transition Responsibilities**

In the event that this Contract is terminated, dissolved, voided, rescinded, nullified, or otherwise rendered unenforceable, the State agrees to perform the following obligations, and any others upon which the State and the Contractor agree:

- (a) Reconciling all accounts between the State and the Contractor;
- (b) Completing any pending post-project reviews.

### **2.220 Termination by Contractor**

#### **2.221 Termination by Contractor**

If the State materially breaches its obligation to pay Contractor undisputed amounts due and owing under this Contract in accordance with **Section 2.090**, or if the State breaches its other obligations under this Contract to an extent that makes it impossible or commercially impractical for Contractor to perform the Services, and if the State does not cure the breach within the time period specified in a written notice of breach provided to the State by Contractor (such time period not to be less than thirty (30) days), then Contractor may terminate this Contract, in whole or in part based on Statement of Work for cause, as of the date specified in the notice of termination; provided, however, that Contractor must discharge its obligations under **Section 2.250** before any such termination.

### **2.230 Stop Work**

#### **2.231 Stop Work Orders**

The State may, at any time, by written stop work order to Contractor, require that Contractor stop all, or any part, of the work called for by the Contract for a period of up to ninety (90) calendar days after the stop work order is delivered to Contractor, and for any further period to which the parties may agree. The stop work order shall be specifically identified as such and shall indicate that it is issued under this **Section 2.230**. Upon receipt of the stop work order, Contractor shall immediately comply with its terms and take all reasonable steps to minimize the incurrence of costs allocable to the work covered by the stop work order during the period of work stoppage. Within the period of the stop work order, the State shall either: (a) cancel the stop work order; or (b) terminate the work covered by the stop work order as provided in **Section 2.210**.

#### **2.232 Cancellation or Expiration of Stop Work Order**

If a stop work order issued under this **Section 2.230** is canceled or the period of the stop work order or any extension thereof expires, Contractor shall resume work. The parties shall agree upon an equitable adjustment in the delivery schedule, the Contract price, or both, and the Contract shall be modified, in writing, accordingly, if: (a) the stop work order results in an increase in the time required for, or in Contractor's costs properly allocable to, the performance of any part of the Contract; and (b) Contractor asserts its right to an equitable adjustment within thirty (30) calendar days after the end of the period of work stoppage; provided that, if the State decides the facts justify the action, the State may receive and act upon a Contractor proposal submitted at any time before final payment under the Contract. Any adjustment will conform to the requirements of **Section 2.106**.

#### **2.233 Allowance of Contractor Costs**

If the stop work order is not canceled and the work covered by the stop work order is terminated for reasons other than material breach, such termination shall be deemed to be a termination for convenience under **Section 2.212**, and the State shall allow reasonable costs resulting from the stop work order in arriving at the termination settlement. For the avoidance of doubt, the State shall not be liable to Contractor for loss of profits because of a stop work order issued under this **Section 2.230**.

**2.240 Reserved**

**2.250 Dispute Resolution**

**2.251 In General**

Any claim, counterclaim, or dispute between the State and Contractor arising out of or relating to the Contract or any Statement of Work shall be resolved as follows. For all Contractor claims seeking an increase in the amounts payable to Contractor under the Contract, or the time for Contractor’s performance, Contractor shall submit a letter executed by Contractor’s Contract Administrator or his designee certifying that (a) the claim is made in good faith, (b) the amount claimed accurately reflects the adjustments in the amounts payable to Contractor or the time for Contractor’s performance for which Contractor believes the State is liable and covers all costs of every type to which Contractor is entitled from the occurrence of the claimed event, and (c) the supporting data provided with such an affidavit are current and complete to Contractor’s best knowledge and belief.

**2.252 Informal Dispute Resolution**

(a) All operational disputes between the parties shall be resolved under the Contract Management procedures developed pursuant to **Section 2.100**. If the parties are unable to resolve any disputes after compliance with such processes, the parties shall meet with the Director of Purchasing Operations, DMB, or designee, for the purpose of attempting to resolve such dispute without the need for formal legal proceedings, as follows:

- (i) The representatives of Contractor and the State shall meet as often as the parties reasonably deem necessary in order to gather and furnish to each other all information with respect to the matter in issue which the parties believe to be appropriate and germane in connection with its resolution. The representatives shall discuss the problem and negotiate in good faith in an effort to resolve the dispute without the necessity of any formal proceeding.
- (ii) During the course of negotiations, all reasonable requests made by one party to another for non-privileged information reasonably related to the Contract will be honored in order that each of the parties may be fully advised of the other’s position.
- (iii) The specific format for the discussions will be left to the discretion of the designated State and Contractor representatives, but may include the preparation of agreed upon statements of fact or written statements of position.
- (iv) Following the completion of this process within sixty (60) calendar days, the Director of Purchasing Operations, DMB, or designee, shall issue a written opinion regarding the issue(s) in dispute within thirty (30) calendar days. The opinion regarding the dispute shall be considered the State’s final action and the exhaustion of administrative remedies.

(b) This **Section 2.250** will not be construed to prevent either party from instituting, and a party is authorized to institute, formal proceedings earlier to avoid the expiration of any applicable limitations period, to preserve a superior position with respect to other creditors, or pursuant to **Section 2.253**.

(c) The State will not mediate disputes between the Contractor and any other entity, except state agencies, concerning responsibility for performance of work pursuant to the Contract.

**2.253 Injunctive Relief**

The only circumstance in which disputes between the State and Contractor will not be subject to the provisions of **Section 2.252** is where a party makes a good faith determination that a breach of the terms of the Contract by the other party is such that the damages to such party resulting from the breach will be so immediate, so large or severe and so incapable of adequate redress after the fact that a temporary restraining order or other immediate injunctive relief is the only adequate remedy.

**2.254 Continued Performance**

Each party agrees to continue performing its obligations under the Contract while a dispute is being resolved except to the extent the issue in dispute precludes performance (dispute over payment shall not be deemed to preclude performance) and without limiting either party’s right to terminate the Contract as provided in **Section 2.210** and **2.220**, as the case may be.

**2.260 Federal and State Contract Requirements**

**2.261 Nondiscrimination**

In the performance of the Contract, 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, physical or mental disability. Contractor further agrees that every subcontract entered into for the performance of this Contract or any purchase order resulting from this Contract will contain a provision requiring non-discrimination in employment, as specified here, binding upon each Subcontractor. This covenant is required pursuant to the Elliot 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.

**2.262 Unfair Labor Practices**

Pursuant to 1980 PA 278, MCL 423.231, *et seq.*, the State shall not award a Contract or subcontract to an employer whose name appears in the current register of employers failing to correct an unfair labor practice compiled pursuant to section 2 of the Act. This information is compiled by the United States National Labor Relations Board. A Contractor of the State, in relation to the Contract, shall not enter into a contract with a Subcontractor, manufacturer, or supplier whose name appears in this register. Pursuant to section 4 of 1980 PA 278, MCL 423.324, the State may void any Contract if, subsequent to award of the Contract, the name of Contractor as an employer or the name of the Subcontractor, manufacturer or supplier of Contractor appears in the register.

**2.263 Workplace Safety and Discriminatory Harassment**

In performing Services for the State, the Contractor shall 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 shall 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>.

**2.270 Litigation**

**2.271 Disclosure of Litigation**

(a) Disclosure. Contractor must disclose any material criminal litigation, investigations or proceedings involving the Contractor (and each Subcontractor) or any of its officers or directors or any litigation, investigations or proceedings under the Sarbanes-Oxley Act. In addition, each Contractor (and each Subcontractor) must notify the State of any material civil litigation, arbitration or proceeding which arises during the term of the Contract and extensions thereto, to which Contractor (or, to the extent Contractor is aware, any Subcontractor hereunder) is a party, and which involves: (i) disputes that might reasonably be expected to adversely affect the viability or financial stability of Contractor or any Subcontractor hereunder; or (ii) a claim or written allegation of fraud against Contractor or, to the extent Contractor is aware, any Subcontractor hereunder by a governmental or public entity arising out of their business dealings with governmental or public entities. Any such litigation, investigation, arbitration or other proceeding (collectively, "Proceeding") must be disclosed in a written statement to the Contract Administrator within thirty (30) days of its occurrence. Details of settlements which are prevented from disclosure by the terms of the settlement may be annotated as such. Information provided to the State from Contractor's publicly filed documents referencing its material litigation will be deemed to satisfy the requirements of this Section.

(b) Assurances. In the event that any such Proceeding disclosed to the State pursuant to this Section, 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 Contractor (or a Subcontractor hereunder) to continue to perform this Contract in accordance with its terms and conditions, or



(ii) whether Contractor (or a Subcontractor hereunder) in performing Services for the State is engaged in conduct which is similar in nature to conduct alleged in such Proceeding, which conduct would constitute a breach of this Contract or a violation of Michigan law, regulations or public policy, then Contractor shall be required to provide the State all reasonable assurances requested by the State to demonstrate that:

(A) Contractor and/or its Subcontractors hereunder will be able to continue to perform this Contract and any Statements of Work in accordance with its terms and conditions, and

(B) Contractor and/or its Subcontractors hereunder have not and will not engage in conduct in performing the Services which is similar in nature to the conduct alleged in such Proceeding.

(c) Contractor shall make the following notifications in writing:

(1) Within thirty (30) days of Contractor becoming aware that a change in its ownership or officers has occurred, or is certain to occur, or a change that could result in changes in the valuation of its capitalized assets in the accounting records, Contractor shall notify the Office of Purchasing Operations.

(2) Contractor shall also notify the Office of Purchasing Operations within thirty (30) days whenever changes to asset valuations or any other cost changes have occurred or are certain to occur as a result of a change in ownership or officers.

(3) Contractor shall also notify Purchasing Operations within thirty (30) days whenever changes to company affiliations occur.

### **2.272 Governing Law**

The Contract shall in all respects be governed by, and construed in accordance with, the substantive laws of the State of Michigan without regard to any Michigan choice of law rules that would apply the substantive law of any other jurisdiction to the extent not inconsistent with, or pre-empted by federal law.

### **2.273 Compliance with Laws**

Contractor shall comply with all applicable state, federal, and local laws and ordinances ("Applicable Laws") in providing the Services/Deliverables.

### **2.274 Jurisdiction**

Any dispute arising from the Contract shall be resolved in the State of Michigan. With respect to any claim between the parties, Contractor consents to venue in Ingham County, Michigan, and irrevocably waives any objections it may have to such jurisdiction on the grounds of lack of personal jurisdiction of such court or the laying of venue of such court or on the basis of forum non conveniens or otherwise. Contractor agrees to appoint agents in the State of Michigan to receive service of process.

## **2.280 Environmental Provision**

### **2.281 Environmental Provision**

For the purposes of this Section, "Hazardous Materials" is a generic term used to describe asbestos, ACBMs, PCBs, petroleum products, such construction materials as paint thinners, solvents, gasoline, oil, etc., 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. This includes, but is not limited to, materials such as batteries and circuit packs, and other materials that are regulated as (1) "Hazardous Materials" under the Hazardous Materials Transportation Act, (2) "chemical hazards" under the Occupational Safety and Health Administration standards, (3) "chemical substances or mixtures" under the Toxic Substances Control Act, (4) "pesticides" under the Federal Insecticide Fungicide and Rodenticide Act, and (5) "hazardous wastes" as defined or listed under the Resource Conservation and Recovery Act. This Contract does not cover the handling, removal, or disposal of all Hazardous Materials.

(a) The Contractor shall use, handle, store, dispose of, process, transport and transfer any material considered a Hazardous Material in accordance with all federal, State and local laws. The State shall provide a safe and suitable environment for performance of Contractor's Work. Prior to the commencement of Work, the State shall advise Contractor of the presence at the work site of any Hazardous Material to the extent that the State is aware of such Hazardous Material. If the Contractor encounters material reasonably believed to

be a Hazardous Material and which may present a substantial danger, the Contractor shall immediately stop all affected Work, give written notice to the State of the conditions encountered, and take appropriate health and safety precautions.

(b) Upon receipt of a written notice, the State will investigate the conditions. If (a) the material is a Hazardous Material that may present a substantial danger, and (b) the Hazardous Material was not brought to the site by the Contractor, or does not result in whole or in part 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 shall order a suspension of Work in writing. The State shall proceed to have the Hazardous Material removed or rendered harmless. In the alternative, the State shall terminate the affected Work for the State's convenience.

(c) Once the Hazardous Material has been removed or rendered harmless by the State, the affected Work shall be resumed as directed in writing by the State. Any determination by the Michigan Department of Community Health and/or the Michigan Department of Environmental Quality (whichever is applicable) that the Hazardous Material has either been removed or rendered harmless shall be binding upon the State and Contractor for the purposes of resuming the Work. If any such incident with Hazardous Material results in delay not reasonable anticipatable under the circumstances and which is attributable to the State, the applicable SLAs for the affected Work will not be counted in **Section 2.076** for a time as mutually agreed by the parties.

(d) If the Hazardous Material was brought to the site by the Contractor, or results in whole or in part 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 shall bear its proportionate share of the delay and costs involved in cleaning up the site and removing and rendering harmless the Hazardous Material in accordance with Applicable Laws to the condition approved by applicable regulatory agency(ies). If the Contractor fails to take appropriate action pursuant to Applicable Laws and consistent with the State requirements, then the State may take appropriate action.

**2.290 General**

**2.291 Amendments**

The Contract may not be modified, amended, extended, or augmented, except by a writing executed by the parties.

**2.292 Assignment**

(a) Neither party shall have the right to assign the Contract, or to assign or delegate any of its duties or obligations under the Contract, to any other party (whether by operation of law or otherwise), without the prior written consent of the other party; provided, however, that the State may assign the Contract to any other State agency, department, division or department without the prior consent of Contractor and Contractor may assign the Contract to an affiliate so long as such affiliate is adequately capitalized and can provide adequate assurances that such affiliate can perform the Contract. Any purported assignment in violation of this Section shall be null and void. It is the policy of the State of Michigan to withhold consent from proposed assignments, subcontracts, or novations when such transfer of responsibility would operate to decrease the State's likelihood of receiving performance on the Contract or the State's ability to recover damages.

(b) Contractor may not, without the prior written approval of the State, assign its right to receive payments due under the Contract. In the event of any such permitted assignment, Contractor shall not be relieved of its responsibility to perform any duty imposed upon it herein, and the requirement under the Contract that all payments shall be made to one entity shall continue.

**2.293 Entire Contract; Order of Precedence**

(a) The Contract, including any Statements of Work and Exhibits, to the extent not contrary to the Contract, each of which is incorporated for all purposes, constitutes the entire agreement between the parties with respect to the subject matter and supersedes all prior agreements, whether written or oral, with respect to such subject matter and as additional terms and conditions on the purchase order shall apply as limited by **Section 2.061**.



(b) In the event of any inconsistency between the terms of the Contract and a Statement of Work, the terms of the Statement of Work will take precedence (as to that Statement of Work only); provided, however, that a Statement of Work may not modify or amend the terms of **Sections 2.110 through 2.220** of the Contract, which may be modified or amended only by a formal Contract amendment.

## 2.294 Headings

Captions and headings used in the Contract are for information and organization purposes. Captions and headings, including inaccurate references, do not, in any way, define or limit the requirements or terms and conditions of the Contract.

## 2.295 Relationship of the Parties (Independent Contractor Relationship)

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

## 2.296 Notices

(a) Any notice given to a party under the Contract shall be deemed effective, if addressed to such party as addressed below, upon: (i) delivery, if hand delivered; (ii) receipt of a confirmed transmission by facsimile if a copy of the notice is sent by another means specified in this Section; (iii) the third (3rd) Business Day after being sent by U.S. mail, postage pre-paid, return receipt requested; or (iv) the next Business Day after being sent by a nationally recognized overnight express courier with a reliable tracking system.

State  
 State of Michigan  
 Purchasing Operations  
 Attention: **Joann Klasko**  
 PO Box 30026  
 530 West Allegan, 2<sup>nd</sup> Floor  
 Mason Bldg.  
 Lansing, Michigan 48913

with a copy to:  
 State of Michigan  
 Department of Information Technology  
 Attention: **Patty Bogard**  
 525 West Allegan, 1<sup>st</sup> Floor, North  
 Constitution Hall  
 Lansing, Michigan 48913

Contractor(s): ERDAS  
 Name: **Sheldon Piepenburg**  
 5971 Kingstowne Village Parkway  
 Suite 110  
 Alexandria, VA 22315

Either party may change its address where notices are to be sent by giving notice in accordance with this Section.

## (b) Binding Commitments

Representatives of Contractor identified in **Article 1, Attachment B** shall have the authority to make binding commitments on Contractor's behalf within the bounds set forth in such table. Contractor may change such representatives from time to time upon written notice.



## **2.297 Media Releases and Contract Distribution**

### **(a) Media Releases**

Neither Contractor nor the State will make any news releases, public announcements or public disclosures, nor will they have any conversations with representatives of the news media, pertaining to the Contract, the Services or the Contract without the prior written approval of the other party, and then only in accordance with explicit written instructions provided by that party. In addition, neither Contractor nor the State will use the name, trademarks or other proprietary identifying symbol of the other party or its affiliates without such party's prior written consent. Prior written consent of the Contractor must be obtained from authorized representatives.

### **(b) Contract Distribution**

Purchasing Operations shall retain the sole right of Contract distribution to all State agencies and local units of government unless other arrangements are authorized by Purchasing Operations.

## **2.298 Reformation and Severability**

Each provision of the Contract shall be deemed to be severable from all other provisions of the Contract and, if one or more of the provisions of the Contract shall be declared invalid, the remaining provisions of the Contract shall remain in full force and effect.

## **2.299 Consents and Approvals**

Except as expressly provided otherwise in the Contract, if either party requires the consent or approval of the other party for the taking of any action under the Contract, such consent or approval shall be in writing and shall not be unreasonably withheld or delayed.

## **2.300 No Waiver of Default**

The failure of a party to insist upon strict adherence to any term of the Contract shall not be considered a waiver or deprive the party of the right thereafter to insist upon strict adherence to that term, or any other term, of the Contract.

## **2.301 Survival**

Any provisions of the Contract that impose continuing obligations on the parties including the parties' respective warranty, indemnity and confidentiality obligations, shall survive the expiration or termination of the Contract for any reason. Specific references to survival in the Contract are solely for identification purposes and not meant to limit or prevent the survival of any other section.

## **2.302 Covenant of Good Faith**

Each party agrees that, in its dealings with the other party or in connection with the Contract, it shall act reasonably and in good faith. Unless stated otherwise in the Contract, the parties will not unreasonably delay, condition or withhold the giving of any consent, decision or approval that is either requested or reasonably required of them in order for the other party to perform its responsibilities under the Contract.

## **2.303 Permits**

Contractor shall obtain and pay any associated costs for all required governmental permits, licenses and approvals for the delivery, installation and performance of the Services. The State shall pay for all costs and expenses incurred in obtaining and maintaining any necessary easements or right of way.

## **2.304 Website Incorporation**

State expressly states that it will not be bound by any content on the Contractor's website, even if the Contractor's documentation specifically referenced that content and attempts to incorporate it into any other communication, unless the State has actual knowledge of such content and has expressly agreed to be bound by it in a writing that has been manually signed by an authorized representation of the State.

**2.305 Taxes**

Vendors are expected to collect and pay all applicable federal, state, and local employment taxes, including the taxes defined in Section 3.022 for all persons involved in the resulting Contract.

The State may refuse to award a contract to any Vendor who has failed to pay any applicable State taxes. The State may refuse to accept Vendor’s bid, if Vendor has any outstanding debt with the State. Prior to any award, the State will verify whether Vendor has any outstanding debt with the State.

**2.306 Prevailing Wage**

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

The Contractor, its subcontractors, their subcontractors, and all persons involved with the performance of this contract in privity of contract with the Contractor shall keep posted on the work site, in a conspicuous place, a copy of all wage rates and fringe benefits as prescribed in the contract. You must also post, in a conspicuous place, the address and telephone number of the Michigan Department of Labor and Economic Development, the office responsible for enforcement of the wage rates and fringe benefits. You shall keep an accurate record showing the name and occupation of the actual wage and benefits paid to each individual employed in connection with this contract. This record shall be available to the State upon request for reasonable inspection.

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

**2.307 Call Center Disclosure**

**Contractor and/or all subcontractors involved in the performance of this Contract providing call or contact center services to the State must disclose the location of its call or contact center services to inbound callers. Failure to disclose this information shall be a material breach of this Contract.**

**2.308 Future Bidding Preclusion**

Contractor acknowledges that, to the extent this Contract involves the creation, research, investigation or generation of a future RFP, it may be precluded from bidding on the subsequent RFP. The State reserves the right to disqualify any bidder if the State determines that the bidder has used its position (whether as an incumbent Contractor, or as a Contractor hired to assist with the RFP development, or as a Vendor offering free assistance) to gain a leading edge on the competitive RFP.

**2.310 Reserved**

**2.320 Extended Purchasing**

**2.321 MiDEAL**

Public Act 431 of 1984 permits DMB to provide purchasing services to any city, village, county, township, school district, intermediate school district, non-profit hospital, institution of higher education, community, or junior college. A current listing of approved program members is available at: <http://www.michigan.gov/doingbusiness/0,1607,7-146-6586-16656--,00.html>. Unless otherwise stated, it is the responsibility of the Contractor to ensure that the non-state agency is an authorized purchaser before extending the Contract pricing.



The Contractor will supply Contract Services and equipment at the established State of Michigan contract prices and terms to the extent applicable and where available. Inasmuch as these are non-state agencies, all invoices will be submitted to and payment remitted by the local unit of government on a direct and individual basis.

To the extent that authorized local units of government purchase quantities of Services and/or equipment under this Contract, the quantities of Services and/or equipment purchased will be included in determining the appropriate rate wherever tiered pricing based on quantity is provided.

### **2.322 State Employee Purchases**

The State allows State employees to purchase from this Contract. Unless otherwise stated, it is the responsibility of the Contractor to ensure that the State employee is an authorized purchaser before extending the Contract pricing.

The Contractor will supply Contract Services and Deliverables at the established State of Michigan contract prices and terms to the extent applicable and where available. Inasmuch as these are non-state agencies, all invoices will be submitted to and payment remitted by the State employee on a direct and individual basis.

To the extent that authorized State employees purchase quantities of Services and/or Deliverables under this Contract, the quantities of Services and/or Deliverables purchased will be included in determining the appropriate rate wherever tiered pricing based on quantity is provided.

### **2.330 Federal Grant Requirements**

#### **2.331 Federal Grant Requirements**

The following links contain certifications and terms which may be required for some purchases paid via Federal funds. They are included here to be utilized as required.

Lobbying Certifications are usually for agreements over \$100,000. The debarment certification is required for all agreements. The last link is where you can go and search for debarred or suspended contractors.

[http://straylight.law.cornell.edu/uscode/html/uscode31/usc\\_sec\\_31\\_00001352----000-.html](http://straylight.law.cornell.edu/uscode/html/uscode31/usc_sec_31_00001352----000-.html)

[http://www.archives.gov/federal\\_register/codification/executive\\_order/12549.html](http://www.archives.gov/federal_register/codification/executive_order/12549.html)

[http://www.archives.gov/federal\\_register/executive\\_orders/pdf/12869.pdf](http://www.archives.gov/federal_register/executive_orders/pdf/12869.pdf)

<http://www.epls.gov/epl/servlet/EPLSearchMain/1>



**Exhibit A**

Approved Subcontractors

**Sanborn**

455 E. Eisenhower Parkway  
Suite 240  
Ann Arbor, MI 48108

**Geomega**

2995 Baseline Road  
Suite 202  
Boulder, CO 80303

**Exhibit B**  
Approved Hardware

**N/A**

**Exhibit C**  
**Approved Software**

**Full ERDAS-ADE Software Suite**

**Exhibit D**  
Binding Commitments

**N/A**