

Form No. DTMB-3522 (Rev. 4/2012)
 AUTHORITY: Act 431 of 1984
 COMPLETION: Required
 PENALTY: Contract will not be executed unless form is filed

STATE OF MICHIGAN
 DEPARTMENT OF MILITARY AND VETERANS AFFAIRS
 STATE OPERATIONS – PURCHASING AND CONTRACTS
 RESERVE FORCES SUPPORT CENTER
 3423 N. MARTIN LUTHER KING JR BLVD, SUITE 320
 LANSING, MI 48906

NOTICE OF CONTRACT NO. 511B5500045
 between
THE STATE OF MICHIGAN
 Department of Military and Veteran Affairs
 and

NAME & ADDRESS OF CONTRACTOR:	PRIMARY CONTACT	EMAIL
PICTURE PERFECT LAWN CARE, LLC 5021 HEMATITE ST JACKSON MI 49201	Jeff Eccleton	pictureperfect.lawn@care@yahoo.com
	TELEPHONE	CONTRACTOR #, MAIL CODE
	517-960-3856	

STATE CONTACTS	AGENCY	NAME	PHONE	EMAIL
PROGRAM MANAGER:	DMVA	Paul Drake	517.990.1130	PAUL.J.DRAKE3.NFG@MAIL.MIL
BUYER:	DMVA	Jared Ambrosier	517-481-7655	ambrosierj@michigan.gov

CONTRACT SUMMARY:			
DESCRIPTION: Jackson Armory Grounds Maintenance			
INITIAL TERM	EFFECTIVE DATE	INITIAL EXPIRATION DATE	AVAILABLE OPTIONS
3 year	6/01/15	5/31/18	Two, One year options
PAYMENT TERMS	F.O.B	SHIPPED	SHIPPED FROM
	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			
MISCELLANEOUS INFORMATION:			
N/A			
ESTIMATED CONTRACT VALUE AT TIME OF EXECUTION:			\$16,650.00

THIS IS NOT AN ORDER: This Contract Agreement is awarded on the basis of our inquiry bearing the solicitation #051115B0005206. Orders for delivery will be issued directly by the Department of Military and Veteran Affairs through the issuance of a Purchase Order Form.

the Department of Military and Veteran Affairs through the issuance of a Purchase Order Form.

Notice of Contract #: 511B5500045

FOR THE CONTRACTOR:	FOR THE STATE:
PICTURE PERFECT LAWN CARE Firm Name	<i>Kimberly Graham</i> Signature
<i>Jeff Eccleton</i> Authorized Agent Signature	Kimberly Graham Buyer Manager, CPPB Name/Title
Jeff Eccleton Authorized Agent (Print or Type)	Department of Military and Veteran Affairs Enter Name of Agency
7-27-15 Date	August 18, 2015 Date



STATE OF MICHIGAN
Department of Military and Veterans Affairs
Jackson Armory Grounds Maintenance Contract

CONTRACT NO. 511B5500045
Buyer Name: Jared Ambrosier
Telephone Number: 517.481.7655
DMVA, State Operations, Purchasing and Contracts
E-Mail Address: ambrosierj@michigan.gov

EXHIBIT A STATEMENT OF WORK CONTRACT ACTIVITIES

Background

The State of Michigan Department of Military and Veteran Affairs (DMVA) is contracting for Grounds Maintenance Services for the DMVA at the Albion Armory.

Requirements

The Contractor shall provide all personnel, equipment, tools, materials, supervision, and other items and services necessary to perform the services as described in the specifications herein

All work shall be done in accordance with all regulations governing the DMVA wherein the work is to be performed and with minimum possible interference with the proper functioning of the activities of the DMVA and armory location. Supplies, materials, equipment, etc. shall be confined so as not to unduly encumber the premises.

The Program Manager is responsible for the general administration of the contract. The Program Manager will be identified in the LSS. Inspection and direction by the program manager shall not be considered as direct control of the individual workers and their work. The direct control shall be solely the responsibility of the Contractor. Upon written notification of contract award, the Contractor shall submit all required insurance certificates, and other documentation as may be requested or required hereunder.

Equipment must be approved and inspected before award of the contract. Contractors who submit proposals for the services as described in the contractor and in the opinion of the DMVA do not have proper and/or sufficient equipment and personnel to do the work within the time limits required will be rejected and the next bidder will be allowed to demonstrate the ability to perform the work.

A. Mowing Specifications.

- i. Mowing shall be performed every 10 days or as requested by the DMVA Program Manager. If at least two inches of growth has not occurred since the previous mowing, mowing shall not be performed. If additional mowing services are required the program manager will contact the contractor and make specific arrangements. Absolutely no services under 2" are approved unless requested by the program manager in writing.
- ii. Before mowing, the Contractor shall pick up and properly dispose of all litter, debris, etc. in areas to be mowed. No litter or debris shall be driven over by any cutting device.
- iii. Grass shall be mown to a height of two inches (2") to four inches (4").
- iv. Mowing equipment shall be kept at a distance from and not cause damage to trees, fences, and fence/sign posts.
- v. Mowing shall be done so as to blow grass clippings away from the public and all structures and vehicles. Vehicles are not to be sprayed with grass and stones.
- vi. Grass clippings and debris must be blown/swept from all walkways and parking areas.
- vii. Grass clippings shall be collected only as necessary. The Contractor shall comply with all regulations pertaining to yard clippings and their disposal according to State and Federal Guidelines (see Attachment 1).

B. Rough Cut mowing

- i. Location may have a rough / brush cut requirement to be performed only as requested by Program Manager. (Estimated two times a year)

C. Trimming Specifications

- i. Trimming shall be performed every two weeks or as requested by the Program Manager.
- ii. Trimming shall be performed with string type trimmers or hand shears around structures, trees, curbs, fences, posts, walks, drives, etc.

- iii. Grass and weeds around trees and fence/sign posts shall be trimmed by a means not damaging to the trees' bark or to the posts.
 - iv. Grass/weed clippings and debris must be blown/swept from all walkways and parking areas.
- D. Spring/Fall Clean-up
- i. Shall include edging of all paved or concrete services.
 - ii. Trimming of low hanging trees and disposal/clean-up of downed branches and tree limbs.
 - iii. Clean up and disposal of all fallen leaves or tree by product.
 - iv. Clean up and proper disposal of all grass clippings.
 - v. Must have capabilities to provide grass seed upon request, this service would be at an additional cost.
 - vi. Identify any pest activity to the Program Manager or designee.
- E. Fertilizer Application:
- i. Granular fertilizer (16-8-8) broad leaf weed killer, and grub control shall be applied two (2) times per season. Application shall be at the appropriate time in early spring and late summer.
 - ii. Fertilizer, weed killer, and grub control product shall be provided by Contractor. All products shall be natural, non-toxic products and must meet the approval of the Program Manager.
 - iii. Fertilizer shall not be left on any paved or concrete surfaces.
- F. Vegetation Kill
- i. Spray all cracks in parking lot and side-walks, any gravel/rock areas, the property lines if fenced and the grass under and around the fence surrounding the motor pool areas. Upon request by program manager.

	Response
Provide name brand and manufacturer of fertilizer to be used for the Contract.	Harrels
Provide name brand and manufacturer of broad leaf weed killer to be used for the Contract.	Harrels
Provide name brand and manufacturer of grub control product to be used for the Contract.	Harrels
Provide name brand and manufacturer of general weed killer to be used for the Contract.	Harrels

G. Equipment Requirements:

The Contractor must have a variety of equipment – mowers, power blowers, line trimmers, hand tools, etc. – in sufficient numbers to adequately perform the Contract Activities. In the event of mechanical breakdown, the Contractor will be expected to provide backup so that grounds maintenance services are performed as requested. Equipment failure **WILL NOT** constitute an acceptable reason for not performing Contract Activities.

	Response
Indicate (list) specific equipment to be used for Contract Activities.	Scag 72" Zero Turn Davis 78" Zero Turn BobCat 60" Zero Turn

Additional Contract Activities
1.1 Scope of Work

Hours of service are between 8:00 a.m. and darkness or as specified in the LSS. This contract estimates approximately 20 cuts per cutting season. On holidays, mowing shall be performed the next working day following the holiday. Federal holidays are as follows: New Year's Day, Martin Luther King Jr. Day, President's Day, Labor Day, Columbus Day, Independence Day, Memorial Day, Veterans Day, Thanksgiving Day and Christmas Day.
The number of <i>weekly, bi-weekly, monthly or seasonal</i> services needed are unknown and weather dependent. A bi-weekly or monthly service may be skipped or rescheduled periodically at the discretion of the Program Manager if deemed necessary due to weather conditions. The Program Manager will notify Contractor if scheduled service is not needed or should be rescheduled.
Contractor shall contact the Program Manager to arrange service schedule upon award of the Contract and prior to each grounds maintenance season.
The Contractor performing the work on State property shall immediately report all accidents and/or injuries to the agency contact person or designee. Contractor is responsible for any damage done to any property while performing grounds maintenance services and will be required to make repairs accordingly
Contractor must comply with all regulations pertaining to yard clippings and their disposal according to State and Federal Guidelines
2. Acceptance
2.1 Acceptance, Inspection and Testing
All work must be signed off upon completion by the Program Manager.
Should an inspection by the DMVA reveal that the Contractor's work results in any non-acceptable maintenance condition. <ol style="list-style-type: none"> 1. DMVA, at the time of the first circumstance, shall call for a meeting with the Contractor, to review the condition. 2. Should a second non-acceptable condition develop, a second meeting will be held. A Vendor Performance will be issued. 3. Should a third non-acceptable condition develop, a written notice of termination may be sent to the Contractor.
3. Staffing
3.1 Contractor Representative
The Contractor must appoint a service manager, an individual, specifically assigned to State of Michigan accounts, that will respond to State inquiries regarding the Contract Activities, answering questions related to ordering and delivery, etc. (the "Contractor Representative").
The Contractor must notify the Contract Administrator at least 15 calendar days before removing or assigning a new Contractor Representative.
3.4 Work Hours
The Contractor must provide Contract Activities during the State's normal working hours Monday – Friday 8:00 a.m. to 6:00 p.m. EST, and possible night and weekend hours depending on the requirements of the project.
3.5 Staffing Resources Requirements
The Contractor must have staff to adequately perform the Contract Activities. Contractor's staff must be trained on the proper use of all equipment staff will operate.
3.7 Disclosure of Subcontractors
Subcontractors are not be used on this contractor
3.8 Security

The Contractor will be subject the following security procedures:
The Contractor must explain any additional security measures in place to ensure the security of State facilities.
The contractors staff may be required to make deliveries to or enter State facilities. The contractor must: (a) explain how it intends to ensure the security of State facilities, (b) whether it uses uniforms and ID badges, etc., (c) identify the company that will perform background checks, and (d) the scope of the background checks. The State may require the Contractor's personnel to wear State issued identification badges.
4.2 Meetings
The Contractor must attend the following meetings:
Kickoff meeting with Program Manager which will include a walkthrough of the property.
The State may request other meetings, as it deems appropriate.
4.3 Reporting
The Contractor must submit, to the program manager, the following written reports:
Contractor must provide the agency location a 'Notice of Service Provided Slip'. This slip shall be left at the armory to the attention of the Program Manager at the time the service is performed of each service call, in order to verify service was in fact performed. All 'Notice of Service Slips' will be reconciled with the monthly invoices submitted by the contractor verifying exact services performed.
5. Ordering
5.1 Authorizing Document
The appropriate authorizing document for the Contract will be an annual purchase order issued by DMVA, State Operations, Purchasing and Contracts.
6. Invoice and Payment
6.1 Invoice Requirements
All invoices submitted to the State must include: (a) date; (b) purchase order; (c) quantity; (d) description of the Contract Activities including length of grass; (e) unit price; (f) shipping cost (if any) and (g) total price. Overtime, holiday pay, and travel expenses will not be paid.
Monthly invoices are to be submitted to the Program Manager listing only the exact services performed in the specified month. All work must be performed to the satisfaction of the Program Manager as required or payment will not be authorized.
Contractor must provide the agency location a 'Notice of Service Provided Slip'. This slip shall be left at the armory to the attention of the Program Manager at the time the service is performed of each service call, in order to verify service was in fact performed. All 'Notice of Service Slips' will be reconciled with the monthly invoices submitted by the contractor verifying exact services performed.
6.2 Payment Methods
The State will make payment for Contract Activities through EFT Payments.
6.3 Procedure
Invoices are to be approved by the Program Manager upon confirmations of services performed. The Program Manager will then send the invoices to the accounting service center to process payment.
7. Liquidated Damages
Late or improper completion of the Contract Activities will cause loss and damage to the State and it would be impracticable and extremely difficult to fix the actual damage sustained by the State. Therefore, if there is late or improper completion of the Contract Activities the State is entitled to collect liquidated damages in the amount of \$100 per day for each day Contractor fails to remedy the late or improper completion of the Work.

**EXCERPTS FROM NATURAL RESOURCES & ENVIRONMENTAL
PROTECTION ACT 451 OF 1994**

324.11521 YARD CLIPPINGS.

Sec 11521. (1) If the owner or operator of a landfill or a municipal solid waste incinerator knows or should know that solid waste to be disposed of includes yard clippings that are generated or collected, or both, on land that is owned by a county, municipality, or a state facility, the owner or operator of the landfill or municipal solid waste incinerator shall not accept the solid waste for disposal.

(2) Beginning on March 28, 1995, if the owner or operator of a landfill or a municipal solid waste incinerator knows or should know that solid waste to be disposed of includes yard clippings from any source, the owner or operator of the landfill or municipal solid waste incinerator shall not accept the solid waste for disposal.

(3) This section does not apply to yard clippings that are diseased or infested.

324.11522 OPEN BURNING OF GRASS CLIPPING OR LEAVES.

Sec. 11522. (1) Beginning on March 28, 1995, the open burning of grass clippings or leaves, or both, is prohibited in any municipality having a population of 7,500 or more, unless specifically authorized by local ordinance, which ordinance shall be reported to the department of natural resources within 30 days of enactment.

(2) This section does not allow a county or municipality to permit open burning of grass clippings or leaves, or both, by an ordinance that would otherwise be prohibited under part 55 or rules promulgated under that part.

This STANDARD CONTRACT ("**Contract**") is agreed to between the State of Michigan (the "**State**") and PICTURE PERFECT LAWN CARE, LLC ("**Contractor**"), a Michigan owned company. This Contract is effective on June 1 2015 ("**Effective Date**"), and unless terminated, expires on May 31 2018

This Contract may be renewed for up to two additional one year period(s). Renewal must be by written agreement of the parties. and will automatically extend the Term of this Contract.

The parties agree as follows:

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

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

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

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

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

If to State:	If to Contractor:
<i>Jared Ambrosier 3423 N MLK Jr Blvd Lansing MI 48906 ambrosierj@michigan.gov 5174817655</i>	<i>Jeff Eccleton 5021 Hematite ST Jackson MI 49201 pictureperfect.lawn care@yahoo.com 517-960-3856</i>

- Contract Administrator.** The Contract Administrator for each party is the only person authorized to modify any terms and conditions of this Contract (each a "**Contract Administrator**"):

State:	Contractor:
<i>Jared Ambrosier 3423 N MLK Jr Blvd Lansing MI 48906 ambrosierj@michigan.gov 5174817655</i>	<i>Jeff Eccleton 5021 Hematite ST Jackson MI 49201 pictureperfect.lawn care@yahoo.com 517-960-3856</i>

4. **Program Manager.** The Program Manager for each party will monitor and coordinate the day-to-day activities of the Contract (each a “Program Manager”):

State: <i>Please see LSS Sheet for each armory.</i>	I Contractor: Jeff Eccleton 5021 Hematite ST Jackson MI 49201 pictureperfect.lawncare@yahoo.com 517-960-3856
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5. **Performance Guarantee.** Contractor must at all times have financial resources sufficient, in the opinion of the State, to ensure performance of the Contract and must provide proof upon request. The State may require a performance bond (as specified in Exhibit A) if, in the opinion of the State, it will ensure performance of the Contract.

6. **Insurance Requirements.** Contractor must maintain the insurances identified below and is responsible for all deductibles. All required insurance must: (a) protect the State from claims that may arise out of, are alleged to arise out of, or result from Contractor's or a subcontractor's performance; (b) be primary and non-contributing to any comparable liability insurance (including self-insurance) carried by the State; and (c) be provided by an company with an A.M. Best rating of "A" or better and a financial size of VII or better.

Insurance Type	Additional Requirements
Commercial General Liability Insurance	
<u>Minimal Limits:</u> \$1,000,000 Each Occurrence Limit \$1,000,000 Personal & Advertising Injury Limit \$2,000,000 General Aggregate Limit \$2,000,000 Products/Completed Operations <u>Deductible Maximum:</u> \$50,000 Each Occurrence	Contractor must have their policy endorsed to add “the State of Michigan, its departments, divisions, agencies, offices, commissions, officers, employees, and agents” as additional insureds using endorsement CG 20 10 11 85, or both CG 2010 07 04 and CG 2037 07 0.
Automobile Liability Insurance	
<u>Minimal Limits:</u> \$1,000,000 Per Occurrence	
Workers' Compensation Insurance	
<u>Minimal Limits:</u> Coverage according to applicable laws governing work activities.	Waiver of subrogation, except where waiver is prohibited by law.
Employers Liability Insurance	
<u>Minimal Limits:</u> \$500,000 Each Accident \$500,000 Each Employee by Disease \$500,000 Aggregate Disease.	

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

Contractor must: (a) provide insurance certificates to the Contract Administrator, containing the agreement or purchase order number, at Contract formation and within 20 calendar days of the expiration date of the applicable policies; (b) require that subcontractors maintain the required insurances contained in this Section; (c) notify the Contract Administrator within 5 business days if any insurance is cancelled; and (d) waive all rights

against the State for damages covered by insurance. Failure to maintain the required insurance does not limit this waiver.

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

7. Reserved

8. Reserved

9. Independent Contractor. Contractor is an independent contractor and assumes all rights, obligations and liabilities set forth in this Contract. Contractor, its employees, and agents will not be considered employees of the State. No partnership or joint venture relationship is created by virtue of this Contract. Contractor, and not the State, is responsible for the payment of wages, benefits and taxes of Contractor's employees and any subcontractors. Prior performance does not modify Contractor's status as an independent contractor.

10. Subcontracting. Contractor may not delegate any of its obligations under the Contract without the prior written approval of the State. Contractor must notify the State at least 90 calendar days before the proposed delegation, and provide the State any information it requests to determine whether the delegation is in its best interest. If approved, Contractor must: (a) be the sole point of contact regarding all contractual matters, including payment and charges for all Contract Activities; (b) make all payments to the subcontractor; and (c) incorporate the terms and conditions contained in this Contract in any subcontract with a subcontractor. Contractor remains responsible for the completion of the Contract Activities, compliance with the terms of this Contract, and the acts and omissions of the subcontractor. The State, in its sole discretion, may require the replacement of any subcontractor.

11. Staffing. The State's Contract Administrator may require Contractor to remove or reassign personnel by providing a notice to Contractor.

12. Background Checks. Upon request, Contractor must perform background checks on all employees and subcontractors and its employees prior to their assignment. The scope is at the discretion of the State and documentation must be provided as requested. Contractor is responsible for all costs associated with the requested background checks. The State, in its sole discretion, may also perform background checks.

13. Assignment. Contractor may not assign this Contract to any other party without the prior approval of the State. Upon notice to Contractor, the State, in its sole discretion, may assign in whole or in part, its rights or responsibilities under this Contract to any other party. If the State determines that a novation of the Contract to a third party is necessary, Contractor will agree to the novation, provide all necessary documentation and signatures, and continue to perform, with the third party, its obligations under the Contract.

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

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

15. Ordering. Contractor is not authorized to begin performance until receipt of authorization as identified in Exhibit A.

16. Acceptance. Contract Activities are subject to inspection and testing by the State within 30 calendar days of the State's receipt of them ("**State Review Period**"), unless otherwise provided in Exhibit A. If the Contract Activities are not fully accepted by the State, the State will notify Contractor by the end of the State Review Period that either: (a) the Contract Activities are accepted, but noted deficiencies must be corrected; or (b) the Contract Activities are rejected. If the State finds material deficiencies, it may: (i) reject the Contract Activities without performing any further inspections; (ii) demand performance at no additional cost; or (iii) terminate this Contract in accordance with Section 23, Termination for Cause.

Within 10 business days from the date of Contractor's receipt of notification of acceptance with deficiencies or rejection of any Contract Activities, Contractor must cure, at no additional cost, the deficiency and deliver unequivocally acceptable Contract Activities to the State. If acceptance with deficiencies or rejection of the Contract Activities impacts the content or delivery of other non-completed Contract Activities, the parties' respective Program Managers must determine an agreed to number of days for re-submission that minimizes the overall impact to the Contract. However, nothing herein affects, alters, or relieves Contractor of its obligations to correct deficiencies in accordance with the time response standards set forth in this Contract.

If Contractor is unable or refuses to correct the deficiency within the time response standards set forth in this Contract, the State may cancel the order in whole or in part. The State, or a third party identified by the State, may perform the Contract Activities and recover the difference between the cost to cure and the Contract price plus an additional 10% administrative fee.

17. Reserved

18. Reserved

19. Reserved

20. Terms of Payment. Invoices must conform to the requirements communicated from time-to-time by the State. All undisputed amounts are payable within 45 days of the State's receipt. Contractor may only charge for Contract Activities performed as specified in Exhibit A. Invoices must include an itemized statement of all charges. The State is exempt from State sales tax for direct purchases and may be exempt from federal excise tax, if Services purchased under this Agreement are for the State's exclusive use. Notwithstanding the foregoing, all prices are inclusive of taxes, and Contractor is responsible for all sales, use and excise taxes, and any other similar taxes, duties and charges of any kind imposed by any federal, state, or local governmental entity on any amounts payable by the State under this Contract.

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

The State will only disburse payments under this Contract through Electronic Funds Transfer (EFT). Contractor must register with the State at <http://www.michigan.gov/cpexpress> to receive electronic fund transfer payments. If Contractor does not register, the State is not liable for failure to provide payment.

Without prejudice to any other right or remedy it may have, the State reserves the right to set off at any time any amount then due and owing to it by Contractor against any amount payable by the State to Contractor under this Contract.

21. Liquidated Damages. Liquidated damages, if applicable, will be assessed as described in Exhibit A.

22. Stop Work Order. The State may suspend any or all activities under the Contract at any time. The State will provide Contractor a written stop work order detailing the suspension. Contractor must comply with the stop work order upon receipt. Within 90 calendar days, or any longer period agreed to by Contractor, the State will either: (a) issue a notice authorizing Contractor to resume work, or (b) terminate the Contract or purchase order. The State will not pay for Contract Activities, Contractor's lost profits, or any additional compensation during a stop work period.

23. Termination for Cause. The State may terminate this Contract for cause, in whole or in part, if Contractor, as determined by the State: (a) endangers the value, integrity, or security of any location, data, or personnel; (b) becomes insolvent, petitions for bankruptcy court proceedings, or has an involuntary bankruptcy proceeding filed against it by any creditor; (c) engages in any conduct that may expose the State to liability; (d) breaches any of its material duties or obligations; or (e) fails to cure a breach within the time stated in a notice of breach. Any reference to specific breaches being material breaches within this Contract will not be construed to mean that other breaches are not material.

If the State terminates this Contract under this Section, the State will issue a termination notice specifying whether Contractor must: (a) cease performance immediately, or (b) continue to perform for a specified period. If it is later determined that Contractor was not in breach of the Contract, the termination will be deemed to have

been a Termination for Convenience, effective as of the same date, and the rights and obligations of the parties will be limited to those provided in Section 24, Termination for Convenience.

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

- 24. Termination for Convenience.** The State may immediately terminate this Contract in whole or in part without penalty and for any reason, including but not limited to, appropriation or budget shortfalls. The termination notice will specify whether Contractor must: (a) cease performance of the Contract Activities immediately, or (b) continue to perform the Contract Activities in accordance with Section 25, Transition Responsibilities. If the State terminates this Contract for convenience, the State will pay all reasonable costs, as determined by the State, for State approved Transition Responsibilities.
- 25. Transition Responsibilities.** Upon termination or expiration of this Contract for any reason, Contractor must, for a period of time specified by the State (not to exceed 90 calendar days), provide all reasonable transition assistance requested by the State, to allow for the expired or terminated portion of the Contract Activities to continue without interruption or adverse effect, and to facilitate the orderly transfer of such Contract Activities to the State or its designees. Such transition assistance may include, but is not limited to: (a) continuing to perform the Contract Activities at the established Contract rates; (b) taking all reasonable and necessary measures to transition performance of the work, including all applicable Contract Activities, training, equipment, software, leases, reports and other documentation, to the State or the State's designee; (c) taking all necessary and appropriate steps, or such other action as the State may direct, to preserve, maintain, protect, or return to the State all materials, data, property, and confidential information provided directly or indirectly to Contractor by any entity, agent, vendor, or employee of the State; (d) transferring title in and delivering to the State, at the State's discretion, all completed or partially completed deliverables prepared under this Contract as of the Contract termination date; and (e) preparing an accurate accounting from which the State and Contractor may reconcile all outstanding accounts (collectively, "**Transition Responsibilities**"). This Contract will automatically be extended through the end of the transition period.
- 26. General Indemnification.** Contractor must defend, indemnify and hold the State, its departments, divisions, agencies, offices, commissions, officers, and employees harmless, without limitation, from and against any and all actions, claims, losses, liabilities, damages, costs, attorney fees, and expenses (including those required to establish the right to indemnification), arising out of or relating to: (a) any breach by Contractor (or any of Contractor's employees, agents, subcontractors, or by anyone else for whose acts any of them may be liable) of any of the promises, agreements, representations, warranties, or insurance requirements contained in this Contract; (b) any infringement, misappropriation, or other violation of any intellectual property right or other right of any third party; (c) any bodily injury, death, or damage to real or tangible personal property occurring wholly or in part due to action or inaction by Contractor (or any of Contractor's employees, agents, subcontractors, or by anyone else for whose acts any of them may be liable); and (d) any acts or omissions of Contractor (or any of Contractor's employees, agents, subcontractors, or by anyone else for whose acts any of them may be liable).

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

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

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

- 27. Infringement Remedies.** If, in either party's opinion, any piece of equipment, software, commodity, or service supplied by Contractor or its subcontractors, or its operation, use or reproduction, is likely to become the subject of a copyright, patent, trademark, or trade secret infringement claim, Contractor must, at its expense: (a) procure

for the State the right to continue using the equipment, software, commodity, or service, or if this option is not reasonably available to Contractor, (b) replace or modify the same so that it becomes non-infringing; or (c) accept its return by the State with appropriate credits to the State against Contractor's charges and reimburse the State for any losses or costs incurred as a consequence of the State ceasing its use and returning it.

28. **Limitation of Liability.** The State is not liable for consequential, incidental, indirect, or special damages, regardless of the nature of the action.
29. **Disclosure of Litigation, or Other Proceeding.** Contractor must notify the State within 14 calendar days of receiving notice of any litigation, investigation, arbitration, or other proceeding (collectively, "**Proceeding**") involving Contractor, a subcontractor, or an officer or director of Contractor or subcontractor, that arises during the term of the Contract, including: (a) a criminal Proceeding; (b) a parole or probation Proceeding; (c) a Proceeding under the Sarbanes-Oxley Act; (d) a civil Proceeding involving: (1) a claim that might reasonably be expected to adversely affect Contractor's viability or financial stability; or (2) a governmental or public entity's claim or written allegation of fraud; or (e) a Proceeding involving any license that Contractor is required to possess in order to perform under this Contract.
30. **State Data.** All data and information provided to Contractor by or on behalf of the State, and all data and information derived therefrom, is the exclusive property of the State ("**State Data**"); this definition is to be construed as broadly as possible. Upon request, Contractor must provide to the State, or a third party designated by the State, all State Data within 10 calendar days of the request and in the format requested by the State. Contractor will assume all costs incurred in compiling and supplying State Data. No State Data may be used for any marketing purposes.
31. **Reserved**
32. **Non-Disclosure of Confidential Information.** The parties acknowledge that each party may be exposed to or acquire communication or data of the other party that is confidential, privileged communication not intended to be disclosed to third parties. The provisions of this Section survive the termination of this Contract.
 - a. Meaning of Confidential Information. For the purposes of this Contract, the term "**Confidential Information**" means all information and documentation of a party that: (a) has been marked "confidential" or with words of similar meaning, at the time of disclosure by such party; (b) if disclosed orally or not marked "confidential" or with words of similar meaning, was subsequently summarized in writing by the disclosing party and marked "confidential" or with words of similar meaning; and, (c) should reasonably be recognized as confidential information of the disclosing party. The term "Confidential Information" does not include any information or documentation that was: (a) subject to disclosure under the Michigan Freedom of Information Act (FOIA); (b) already in the possession of the receiving party without an obligation of confidentiality; (c) developed independently by the receiving party, as demonstrated by the receiving party, without violating the disclosing party's proprietary rights; (d) obtained from a source other than the disclosing party without an obligation of confidentiality; or, (e) publicly available when received, or thereafter became publicly available (other than through any unauthorized disclosure by, through, or on behalf of, the receiving party). For purposes of this Contract, in all cases and for all matters, State Data is deemed to be Confidential Information.
 - b. Obligation of Confidentiality. The parties agree to hold all Confidential Information in strict confidence and not to copy, reproduce, sell, transfer, or otherwise dispose of, give or disclose such Confidential Information to third parties other than employees, agents, or subcontractors of a party who have a need to know in connection with this Contract or to use such Confidential Information for any purposes whatsoever other than the performance of this Contract. The parties agree to advise and require their respective employees, agents, and subcontractors of their obligations to keep all Confidential Information confidential. Disclosure to a subcontractor is permissible where: (a) use of a subcontractor is authorized under this Contract; (b) the disclosure is necessary or otherwise naturally occurs in connection with work that is within the subcontractor's responsibilities; and (c) Contractor obligates the subcontractor in a written contract to maintain the State's Confidential Information in confidence. At the State's request, any employee of Contractor or any subcontractor may be required to execute a separate agreement to be bound by the provisions of this Section.
 - c. Cooperation to Prevent Disclosure of Confidential Information. Each party must use its best efforts to assist the other party in identifying and preventing any unauthorized use or disclosure of any Confidential Information. Without limiting the foregoing, each party must advise the other party immediately in the event either party learns or has reason to believe that any person who has had

access to Confidential Information has violated or intends to violate the terms of this Contract and each party will cooperate with the other party in seeking injunctive or other equitable relief against any such person.

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

33. Reserved

34. Reserved

35. Reserved

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

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

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

37. Warranties and Representations. Contractor represents and warrants: (a) Contractor is the owner or licensee of any Contract Activities that it licenses, sells, or develops and Contractor has the rights necessary to convey title, ownership rights, or licensed use; (b) all Contract Activities are delivered free from any security interest, lien, or encumbrance and will continue in that respect; (c) the Contract Activities will not infringe the patent, trademark, copyright, trade secret, or other proprietary rights of any third party; (d) Contractor must assign or otherwise transfer to the State or its designee any manufacturer's warranty for the Contract Activities; (e) the Contract Activities are merchantable and fit for the specific purposes identified in the Contract; (f) the Contract signatory has the authority to enter into this Contract; (g) all information furnished by Contractor in connection with the Contract fairly and accurately represents Contractor's business, properties, finances, and operations as of the dates covered by the information, and Contractor will inform the State of any material adverse changes; and (h) all information furnished and representations made in connection with the award of this Contract is true, accurate, and complete, and contains no false statements or omits any fact that would make the information misleading. A breach of this Section is considered a material breach of this Contract, which entitles the State to terminate this Contract under Section 23, Termination for Cause.

38. Conflicts and Ethics. Contractor will uphold high ethical standards and is prohibited from: (a) holding or acquiring an interest that would conflict with this Contract; (b) doing anything that creates an appearance of

impropriety with respect to the award or performance of the Contract; (c) attempting to influence or appearing to influence any State employee by the direct or indirect offer of anything of value; or (d) paying or agreeing to pay any person, other than employees and consultants working for Contractor, any consideration contingent upon the award of the Contract. Contractor must immediately notify the State of any violation or potential violation of these standards. This Section applies to Contractor, any parent, affiliate, or subsidiary organization of Contractor, and any subcontractor that performs Contract Activities in connection with this Contract.

39. **Compliance with Laws.** Contractor must comply with all federal, state and local laws, rules and regulations.
40. **Reserved**
41. **Nondiscrimination.** Under the Elliott-Larsen Civil Rights Act, 1976 PA 453, MCL 37.2101, *et seq.*, and the Persons with Disabilities Civil Rights Act, 1976 PA 220, MCL 37.1101, *et seq.*, Contractor and its subcontractors agree not to discriminate against an employee or applicant for employment with respect to hire, tenure, terms, conditions, or privileges of employment, or a matter directly or indirectly related to employment, because of race, color, religion, national origin, age, sex, height, weight, marital status, or mental or physical disability. Breach of this covenant is a material breach of this Contract.
42. **Unfair Labor Practice.** Under MCL 423.324, the State may void any Contract with a Contractor or subcontractor who appears on the Unfair Labor Practice register compiled under MCL 423.322.
43. **Governing Law.** This Contract is governed, construed, and enforced in accordance with Michigan law, excluding choice-of-law principles, and all claims relating to or arising out of this Contract are governed by Michigan law, excluding choice-of-law principles. Any dispute arising from this Contract must be resolved in Michigan Court of Claims. Contractor consents to venue in Ingham County, and waives any objections, such as lack of personal jurisdiction or *forum non conveniens*. Contractor must appoint agents in Michigan to receive service of process.
44. **Non-Exclusivity.** Nothing contained in this Contract is intended nor will be construed as creating any requirements contract with Contractor. This Contract does not restrict the State or its agencies from acquiring similar, equal, or like Contract Activities from other sources.
45. **Force Majeure.** Neither party will be in breach of this Contract because of any failure arising from any disaster or acts of god that are beyond their control and without their fault or negligence. Each party will use commercially reasonable efforts to resume performance. Contractor will not be relieved of a breach or delay caused by its subcontractors. If immediate performance is necessary to ensure public health and safety, the State may immediately contract with a third party.
46. **Dispute Resolution.** The parties will endeavor to resolve any Contract dispute in accordance with this provision. The dispute will be referred to the parties' respective Contract Administrators or Program Managers. Such referral must include a description of the issues and all supporting documentation. The parties must submit the dispute to a senior executive if unable to resolve the dispute within 15 business days. The parties will continue performing while a dispute is being resolved, unless the dispute precludes performance. A dispute involving payment does not preclude performance.

Litigation to resolve the dispute will not be instituted until after the dispute has been elevated to the parties' senior executive and either concludes that resolution is unlikely, or fails to respond within 15 business days. The parties are not prohibited from instituting formal proceedings: (a) to avoid the expiration of statute of limitations period; (b) to preserve a superior position with respect to creditors; or (c) where a party makes a determination that a temporary restraining order or other injunctive relief is the only adequate remedy. This Section does not limit the State's right to terminate the Contract.
47. **Media Releases.** News releases (including promotional literature and commercial advertisements) pertaining to the Contract or project to which it relates must not be made without prior written State approval, and then only in accordance with the explicit written instructions of the State.
48. **Website Incorporation.** The State is not bound by any content on Contractor's website unless expressly incorporated directly into this Contract.
49. **Order of Precedence.** In the event of a conflict between the terms and conditions of the Contract, the exhibits, a purchase order, or an amendment, the order of precedence is: (a) the purchase order; (b) the amendment; (c) Exhibit A; (d) any other exhibits; and (e) the Contract.

50. **Severability.** If any part of this Contract is held invalid or unenforceable, by any court of competent jurisdiction, that part will be deemed deleted from this Contract and the severed part will be replaced by agreed upon language that achieves the same or similar objectives. The remaining Contract will continue in full force and effect.
51. **Waiver.** Failure to enforce any provision of this Contract will not constitute a waiver.
52. **Survival.** The provisions of this Contract that impose continuing obligations, including warranties and representations, termination, transition, insurance coverage, indemnification, and confidentiality, will survive the expiration or termination of this Contract.
53. **Entire Contract and Modification.** This Contract is the entire agreement and replaces all previous agreements between the parties for the Contract Activities. This Contract may not be amended except by signed agreement between the parties (a "**Contract Change Notice**").

LOCATION SPECIFICATION SHEET (LSS) GROUND MAINTENANCE SERVICES

*****NO SUBCONTRACTORS ALLOWED*****

PART I
Jackson Armory
4850 Cooper St
Jackson , MI 49201

PROCUREMENT CONTACT INFORMATION			
PROCUREMENT OFFICE NAME:	DMVA, State Operations, Purchasing & Contracts		
CONTRACT ADMINISTRATOR:	Jared Ambrosier	CONTACT PHONE #:	517-481-7655
CONTRACT ADMINISTRATOR CONTACT E-MAIL:	ambrosierj@michigan.gov	CONTACT FAX #:	517-481-7644
PROGRAM MANAGER NAME:	Paul Drake	CONTACT PHONE #:	517.990.1132
PROGRAM MANAGER CONTACT E-MAIL:	PAUL.J.DRAKE3.NF G@MAIL.MIL	CONTACT FAX #:	
BUILDING LOCATION INFORMATION			
OFFICIAL WORKING DAYS OF BUILDING OCCUPANTS:	M – F	OFFICIAL WORKING HOURS OF BUILDING OCCUPANTS:	7 a.m. to 6 p.m
ESTIMATE OF AREA TO BE MOWED: (SPECIFY UNIT OF MEASURE)	REQUEST SITE MAP	ESTIMATE OF AREA TO BE MOWED: (SPECIFY UNIT OF MEASURE)	REQUEST SITE MAP
IDENTIFY DAYS OF MOWING SERVICE: [EXAMPLE: M/T/W/TH/F/SA/SU]	M/T/W/TH/F & SCHEDULED DRILL WEEKENDS WHEN APPLICABLE	IDENTIFY HOURS OF MOWING SERVICE: [EXAMPLE: 5:30 A.M. TO 5:30 P.M.] NOTE: PLEASE INCLUDE NIGHTTIME SERVICES, IF APPLICABLE, TO THIS LOCATION.	REFER TO PROGRAM MANGER

PART II – PRICING SHEET SUMMARY

The 'Unit Price' is the price per occasion.

The 'Amount' is the unit price multiplied by estimated occasions for the contract period.

LAWN MOWING SERVICES	Unit price	Amount (Vendor Complete)
AREA #1 – ARMORY		
Lawn mowing every 10 days, dependent on conditions, unless otherwise notified) – Estimated twenty occasions per season. Includes collecting and disposal of grass clippings as necessary, edge all walkways and driveways, trimming weeds/grass around and up to all buildings, trees, shrubbery sidewalks, fences, curbs and any other areas not reachable with mowing equipment.	\$290	\$5,800
Vegetation Kill – Spray all cracks in parking lot and the grass under and around the fence surrounding the motor pool area. Estimated one (1) time per season. *Upon Request Only*	\$120	\$120
Spring and Fall cleanup *Upon Request Only*	\$550	\$1,100
Fertilization (weed & feed) – Estimated one (1) time per season (spring). *Upon Request Only*	\$1,680	\$1,680

EQUIPMENT	MAKE/MODEL/ CAPACITY	NUMBER OF PIECES OF EQUIPMENT	APPROXIMATE AGE OF EQUIPMENT & OWNED OR RENTED
Davis Mower	78" Cut	1	2013 Own
Scag Mower	72" cut	1	2013 Own
BobCat Mower	60" Cut	1	2014 Own
Jacobsen Mower	128" Cut	1	2001 Own
Line Trimmer		2	2014 Own
Blower		2	2014 Own
Ferris Mower	60" Cut	1	2015 Own
Gravely Mower	60" Cut	1	2014 Own
John Deere Mower	42" Cut	1	2014 Own

THE STATE RESERVES THE RIGHT TO VISIT THE CONTRACTOR'S PLACE OF BUSINESS AND TO INSPECT ALL EQUIPMENT PROPOSED FOR THE CONTRACT, IN ORDER TO DETERMINE THE CONTRACTOR'S CAPABILITY TO PROVIDE THE SERVICES REQUESTED

Vendor will provide a job ticket detailing all services provided and equipment used per occurrence, which must be signed by the Program Manager or designee at time of service (see cover sheet for contact information). Failure to provide timely job tickets may result in payment delays or disputes.

All invoices must be itemized with the type of equipment used, the service provided and the total number of hours. All invoices must be submitted with matching job tickets. Failure to provide complete and accurate invoices may result in payment delays or disputes.