STATE OF MICHIGAN
DEPARTMENT OF TRANSPORTATION
PURCHASING
P.O. BOX 30050, LANSING, MI 48909
OR
425 W. OTTAWA STREET, LANSING, MI 48913

NOTICE OF CONTRACT NO. 591B6600208

Between

THE STATE OF MICHIGAN

And

NAME & ADDRESS OF CONTRACTOR	PRIMARY CONTACT	EMAIL
Payne Landscaping Inc. 15777 Harper Detroit, MI 48224	Terry Payne Sr.	paynesland@sbcglobal.net
	PHONE	VENDOR TAX ID # (LAST FOUR DIGITS ONLY)
	(313) 885-6770	

STATE CONTACTS	AGENCY	NAME	PHONE	EMAIL
PROGRAM MANAGER	MDOT	Chris Kendrick	(517) 449-4746	KendrickC2@michigan.gov
CONTRACT ADMINISTRATOR	MDOT	Terry Harris	(517) 335-2507	harrist@michigan.gov

CONTRACT SUMMARY			
DESCRIPTION: Roadside Mowing of State Trunk Line Lenawee County, Michigan Department of Transportation (MDOT) University Region Adrian Maintenance garage			
INITIAL TERM	EFFECTIVE DATE	INITIAL EXPIRATION DATE	AVAILABLE OPTIONS
5 years	May 16, 2016	May 15, 2021	Two-1 year options
PAYMENT TERMS	F.O.B.	SHIPPED TO	
2%, Net 30 Days	N/A	N/A	
ALTERNATE PAYMENT OPTIONS			EXTENDED PURCHASING
☐ P-card ☐ Direct Voucher (DV) ☐ Other			☐ Yes ☒ No
MINIMUM DELIVERY REQUIREMENTS			
N/A			
MISCELLANEOUS INFORMATION			
N/A			

ESTIMATED CONTRACT VALUE AT TIME OF EXECUTION	$103,725.00

THIS IS NOT AN ORDER: This Contract Agreement is awarded on the basis of our inquiry bearing the solicitation #059116B6778. Orders for delivery will be issued directly by the Department of Technology, Management & Budget through the issuance of a Purchase Order Form.

For the Contractor:

PAYNE LANDSCAPING, INC.

[redacted],

Contract Administrator

TERRY PAYNE SR

5/1/16

Date

For the State:

[redacted], Contract Administrator

5-11-16

Date

State of Michigan

STATE OF MICHIGAN

STANDARD CONTRACT TERMS

This STANDARD CONTRACT ("**Contract**") is agreed to between the State of Michigan (the "**State**") and [Payne Landscaping Inc.] ("**Contractor**"), a Michigan corporation. This Contract is effective on [5-16-2016] ("**Effective Date**"), and unless terminated, expires on [5-15-2021].

This Contract may be renewed for up to two (2) additional one (1) year period(s). Renewal must be by written agreement of the parties

The parties agree as follows:

1. **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.

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

If to State:	If to Contractor:
Terry Harris 425 W. Ottawa St. Lansing, MI 48933] Harrist@michigan.gov 517-335-2507	Payne Landscaping Inc. 15777 Harper Detroit, MI 48224 paynesland@sbcglobal.net 313-885-6770

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

State:	Contractor:
Terry Harris 425 W. Ottawa St. Lansing, MI 48933] Harrist@michigan.gov 517-335-2507	Payne Landscaping Inc. 15777 Harper Detroit, MI 4822 paynesland@sbcglobal.net 313-885-6770

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:	Contractor:
Chris Kendrick Supervisor MDOT Adrian Garage 2451 N. Adrian Hwy. Adrian, MI 49221 517-449-4746	Payne Landscaping Inc. 15777 Harper Detroit, MI 4822 paynesland@sbcglobal.net 313-885-6770

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 a company with an A.M. Best rating of "A" or better, and a financial size of VII or better.

Required Limits	Additional Requirements
Commercial General Liability Insurance	
Minimal Limits: $1,000,000 Each Occurrence Limit	Contractor must have their policy endorsed to add "the State of Michigan, its departments, divisions, agencies, offices, commissions, officers, employees, and agents" as additional

$1,000,000 Personal & Advertising Injury Limit $2,000,000 General Aggregate Limit $2,000,000 Products/Completed Operations Deductible Maximum: $50,000 Each Occurrence	Insureds using endorsement CG 20 10 11 85, or both CG 2010 07 04 and CG 2037 07 0. Coverage must not have exclusions or limitations related to sexual abuse and molestation liability.
Umbrella or Excess Liability Insurance	
Minimal Limits: $5,000,000 General Aggregate	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.
Automobile Liability Insurance	
Minimal Limits: $1,000,000 Per Occurrence	Contractor must have their policy: (1) endorsed to add "the State of Michigan, its departments, divisions, agencies, offices, commissions, officers, employees, and agents" as additional insureds; and (2) include Hired and Non-Owned Automobile coverage.
Workers' Compensation Insurance	
Minimal Limits: Coverage according to applicable laws governing work activities.	Waiver of subrogation, except where waiver is prohibited by law.
Employers Liability Insurance	
Minimal Limits: $500,000 Each Accident $500,000 Each Employee by Disease $500,000 Aggregate Disease.	

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

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

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

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. Contractor hereby acknowledges that the State is and will be the sole and exclusive owner of all right, title, and interest in the Contract Activities and all associated intellectual property rights, if any. Such Contract Activities are works made for hire as defined in Section 101 of the Copyright Act of 1976. To the extent any Contract Activities and related intellectual property do not qualify as works made for hire under the Copyright Act, Contractor will, and hereby does, immediately on its creation, assign, transfer and otherwise convey to the State, irrevocably and in perpetuity, throughout the universe, all right, title and interest in and to the Contract Activities, including all intellectual property rights therein.

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

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

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

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

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

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

15. **Ordering.** Contractor is not authorized to begin performance until receipt of authorization as identified in 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. **Risk of Loss and Title.** Until final acceptance, title and risk of loss or damage to Contract Activities remains with Contractor. Contractor is responsible for filing, processing, and collecting all damage claims. The State will record and report to Contractor any evidence of visible damage. If the State rejects the Contract Activities, Contractor must remove them from the premises within 10 calendar days after notification of rejection. The risk of loss of rejected or non-conforming Contract Activities remains with Contractor. Rejected Contract Activities not removed by Contractor within 10 calendar days will be deemed abandoned by Contractor, and the State will have the right to dispose of it as its own property. Contractor must reimburse the State for costs and expenses incurred in storing or effecting removal or disposition of rejected Contract Activities.

19. **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 30 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 Confidential Information is not feasible, such party must destroy the Confidential Information and must certify the same in writing within 5 calendar days from the date of termination to the other party.

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**").

STATE OF MICHIGAN

Request For Proposal
Roadside Mowing of State Trunkline (Lenawee County)

EXHIBIT A
STATEMENT OF WORK
CONTRACT ACTIVITIES

This exhibit identifies the anticipated requirements of any Contract resulting from this RFP. The term "Contractor" in this document refers to a bidder responding to this RFP.

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

BACKGROUND

This contract is for roadside mowing services for the MDOT University Region Adrian Maintenance Garage's jurisdictional areas in Lenawee County. All roadside mowing will be performed according to Public Act 174. The locations and acres per cycle are listed in Exhibit C; Pricing. Work to be performed for a period of five (5) years beginning on May 16, 2016 through May 15, 2021. All work will be performed between June 1 and October 31 of each contract year as solely determined by the Department. The project is to be completed by May 14, 2021. Work must be performed in accordance with the progress schedule submitted at the Pre-Maintenance Meeting and as described in this document. The progress schedule must address all work to be completed when multiple contracts are awarded to the same vendor, including work performed as a Sub Contractor for a local unit of government.

SCOPE

The Contractor, through innovation, technology or other means, shall perform and provide the required services and staffs to complete the frequencies of work determined by the State and otherwise do all things necessary for, or incidental, to the performance of work. Compliance will be based on the State's overall evaluation and interpretation in accordance with method of performance, frequencies and method of performance, as set forth in this Contract.

The Contractor shall provide all services and related items and services necessary for, or incidental to, the performance of work in accordance with this Contract.

The Contractor shall provide services at the locations described in Exhibit C; Pricing and/or directed by the Program Manage.

During the period of mowing operations, the contractor shall consult the Program Manager for inspection and tentative approval of work being accomplished, so that, in the event of unsatisfactory work, sufficient time will be available to the contractor to make corrections in a satisfactory manner within the time specified.

Failure to complete each mowing cycle as scheduled shall result in a deduction which shall consist of $500 per day for each calendar day that the work remains uncompleted.

The Department reserves the right to bill the contractor for any damages due to the default of the Contractor.

REQUIREMENTS

1. **Description of Work**

   The Contractor will perform roadside mowing operations on all state trunk lines within MDOT's jurisdictional area in Lenawee County. The activities required will include, as directed by the Program Manager, litter removal/disposal, flat area mowing, clear vision mowing, hand trimming, and traffic control. The roadway limits of each type of mowing and approximate acres are listed in the Location Specific Sheets. The areas defined shall be mowed one time with up to two optional mowing cycles during the mowing season.

   Vegetation as used in this contract refers to grass, weeds, and small woody plants. The Contractor shall trim grass and/or vegetation around signs, bridge abutments, piers, landscape areas, and other appurtenances that cannot be reached with the larger equipment. This includes the area along the MDOT right-of-way fence adjacent to the Service Drive shoulders and in the interchange.

During flat mowing operations, connecting street intersections, and special site restriction areas shall be mowed and trimmed as directed by the Program Manager. This work will be paid at the contract unit price for Optional Clear Vision mowing.

2. **Mowing Schedule**
The Contractor shall be notified by the Program Manager when and where to begin each mowing cycle. The Contractor shall have 30 working days from the date of notification to complete each cycle. The Contractor is responsible to notify the Program Manager via e-mail or phone before starting work and during mowing operations on a daily basis to identify the scheduled mowing areas. Mowing start date will be determined by the Program Manager.

3. **Flat Area Mowing**
Flat area mowing is located along the roadway, on the top of slopes on both sides of the right-of-way fence and at all ramp intersections.

4. **Clear Vision Mowing**
Clear vision area mowing is required to provide adequate sight distances at intersections, around curves and to assure that traffic control devices and signs are visible. These areas will be designated by the Program Manager. More than on cycle of Clear Vision Mowing may be performed each year at the Program Manager's discretion.

Clear vision area mowing will be utilized when a full area mowing cycle is not desired. The Contractor will be notified by the Program Manager when and where to begin mowing. The Contractor shall have 20 working days from the date of notification to complete the clear vision area mowing.

5. **Brush Mowing**
Brush Mowing is located outside the areas designated as Flat Area Mowing Areas. This will include mowing of woody plants and brush within the trunk line right of way. Brush mowing will only be performed in locations noted in Exhibit C; Pricing and authorized by the Program Manager.

6. **Equipment Requirements General**
The Contractor shall furnish, operate and maintain suitable and adequate equipment necessary to perform the mowing operation in an approved safe, workmanlike manner without hindrance, delay or damage to the roadside. The equipment shall be capable of doing a neat job of mowing without misses or skips.

Type of Equipment
The equipment must be commercially available, in good repair, and shall be maintained so as to produce a clean, sharp cut to the grass at all times. Equipment which in any way pulls or rips grass, or damages the turf, shall not be allowed. All equipment shall be of such type to permit the heights of cut to be adjusted to approximately 5 inches.

Sloped Areas (note; this information provided only if Contractor elects to use slope mowing equipment)
To prevent damage to the slopes, the following heavy equipment, or an equivalent, shall be used to perform the work of this contract. A minimum of one (1) slope mower, either riding or walk behind in combination, shall be required per 50 acres of mowing as specified in the mowing quantities.

- Walk Behind Slope Mowers
  60 inch Kut-Kwick
  60 inch Devere Mower

- Riding Mowers
  Super Slope Master
  Slope Master
  Holder Mower

Flat Areas

Tractors used for flat area mowing shall have a minimum of 55 horsepower per tractor at the power takeoff (PTO) and be capable of cutting a width of 12 feet in a single pass. Tractors shall be equipped to provide the power to the mowing attachment. The equipment specified to mow slope areas may also be used to mow flat areas. Tractor used for trim mowing shall have a minimum of 30 horsepower at the power take-off and be capable of cutting a width of no less than 5 feet in single pass. The tractor shall be equipped to provide the power to the mowing attachment. A minimum of one (1) production mower and one (1) trim mower, as

described above, to be used concurrently within the contract area, will be required per 250 acres of mowing as specified in the mowing quantities.

All equipment shall be of such type to permit the heights of cut to be adjusted to approximately 5 inches.

Clear Vision Areas
Equipment utilized for Sloped and Flat area mowing shall be utilized for Clear Vision area mowing however, individual site conditions will dictate which type of equipment can be used.

Brush Mowing
Equipment utilized for Sloped and Flat area mowing shall be utilized for Brush Mowing however, individual site conditions will dictate which type of equipment can be used.

Safety
All equipment shall meet all federal, state and local safety requirements. If the mower box does not touch the ground the mower shall be equipped with one half inch safety chains which touch the ground but do not drag. The chains will be threaded with wire rope through the bottom link and made so as to prevent debris from being thrown from under the cutter.

Riding equipment shall be equipped with commercial type flashing amber lights plainly visible from 360 degrees in all directions. Flashers shall have a minimum of 32 candlepower output and flash 50 to 60 times per minute.

Under no circumstances shall the Department be responsible for any damage to the Contractor's equipment due to obstacles encountered.

Other Power Equipment
The Contractor is advised that any reference to mowing does not necessarily refer exclusively to grass cutting equipment which is tractor drawn, but shall include other power equipment as may be necessary to satisfactorily complete the work.

7. **Methods of Treatment**
Typically the area to be mowed includes the median between the shoulders of both roadways and the area between the outside shoulder of the roadway and the right-of-way fence. The median less than 50 feet in width shall be mowed the entire width of median. For median more than 50 feet in width, mow 12 feet adjacent to the median shoulder. Ramps shall be mowed from shoulder to shoulder, or from shoulder to right-of-way fence.

A twelve (12) foot strip will be mowed adjacent to the outside shoulder of both roadways in all flat mowing areas unless restricted by the ditch. Clear vision areas within interchanges will be mowed wider as required.

Two days prior to the start of mowing, the Contractor shall notify the Program Manager. The Contractor and Program Manager shall make a joint visual inspection of all specified mowing areas both prior to and upon completion of mowing operation. The Contractor shall also notify the Program Manager during mowing operations to report the work progress. The inspection is for the purpose of acceptance of completed work and documenting the existing damage to turf, guardrails, delineator posts, signage, light fixtures, etc., and those caused by the Contractor's mowing operations. This inspection may be videotaped.

Mowing shall be completed in successive segments not to exceed one-half mile in length to insure uniform turf appearance upon completion of the work. Mowing operations, once initiated, shall continue until all designated mowing is completed including multiple contracts awarded to the same Contractor. Only adverse weather conditions shall be cause to delay completion of each mowing.

All vegetation in mowing areas shall be cut to a height of five (5) inches to avoid scalping the turf. It is not necessary for the Contractor to remove grass clippings.

The Contract Compliance Inspector may omit areas from mowing due to, but not limited to, excessive wetness and turf damage. The Contract Administrator will determine if omitted areas are to be mowed at a later date.

The Contractor shall submit to the Contract Administrator a completed "Contractor's Daily Activity Report", showing the total acres, etc. completed at the end of each work day.

Mowing operations shall be performed in swaths parallel to the roadway, except in landscape areas or areas exempted by the Program Manager.

Trimming shall be performed by mechanical or hand method around all obstructions, such as signs supports, delineators, guard posts, guard rail sections, utility poles, piers, abutments, structures and landscaping (trees, shrubs, etc.) that may be within the designated mowing areas. Certain areas to be mowed may contain survey stakes, which must not be disturbed. Hand trimming shall be required around them. Grassed areas which are saturated with water during certain periods of the year to the point where equipment may not be used without extensive damage to the turf, shall not be mowed at that particular time, but shall be mowed later when the areas are dry. Payment shall be for the applicable work item.

The Contractor shall, at all times, provide satisfactory equipment and a force of qualified workers sufficient, in the opinion of the Program Manager, to perform the work described herein. The force of qualified workers shall be sufficient to perform litter pickup, mowing, and related activities on a timely basis.

Litter Removal/Disposal
All litter/trash shall be picked up ahead of mowing operation. Litter includes, but is not limited to, paper, cardboard, Styrofoam, plastic, cloth, wire, steel bands, cable, garbage bags, tire tread, car parts, pallets, sheet metal, furniture, etc., as may be found on the roadside. The Contractor shall provide an adequate supply of heavy-duty bags (approved by MDOT), and deposit litter and debris in the bags in a secure manner. The bags shall be tied and placed in piles along with objects too large to bag in a safe and secure place. It shall be the Contractor's responsibility to haul away the debris. All costs associated with litter removal, disposal or refuse, and associated costs are the responsibility of the Contractor. Litter shall be removed within twenty-four hours of completing each mowed section. Prior to a payment being made, the mowing Contractor shall notify the Program Manager when the mowing is completed.

All refuse shall be disposed of in a "Class II" licensed landfill.

Proof of proper disposal shall be provided to the Program Manager upon request. The Contractor will not be responsible for disposal of suspected hazardous materials discovered during the course of this work such discovery shall immediately be reported to the Program Manager.

8. **Optional Litter Removal**
Between mowing cycles, MDOT reserves the right to have the Contractor perform litter removal anywhere within the contract area as specified by the Program Manager. This optional litter pick up shall be paid at the price per acre that the vendor quotes for this work on the attached price sheet.
Note: This work is optional only as requested and directed by the Program Manager.

9. **Maintaining Traffic**
Traffic shall be maintained in accordance with the current Michigan Department of Transportation (MDOT) Standard Specifications for Construction, and the current Michigan Manual of Uniform Traffic Control Devices (MMUTCD).

All mowing operations shall be conducted in a manner that will not create a hazard, nor hinder, restrict, or impede trunk line traffic. The Contractor shall not operate mowing equipment on the roadway or in a manner that requires crossing the roadway.

All equipment not in use may be temporarily parked on limited access freeway right-of-way, but not closer than 30 feet from the traveled roadway. Equipment may not be temporarily parked on free access roadways except at those locations designated by the Program Manager.

If a vehicle (service, transport, etc.) remains stationary on the shoulder for more than 15 minutes, a standard 48" X 48" road work ahead sign (W21-4) is required to be placed as stated in the current MMUTCD.

Any vehicle on the shoulder shall have flashing or rotating lights or lighted arrow panel (Types A or B) operated in the bar mode as specified in the current MDOT Standard Specifications for Construction.

A copy of the current MDOT Standard Specifications for Construction and the current MMUTCD can be obtained from the Program Manager.

All labor, equipment and devices required for maintaining traffic shall be incidental to the project and will not be paid for separately.

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

11. **Days/Hours of Operation**
All work included in this contract shall be performed during daylight hours only. No work shall be allowed on weekends unless prior approval is obtained from the Program Manager. Work shall not be permitted during holiday periods.

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

The Contractor shall immediately repair all damage to signs, light fixtures, and delineators to the satisfaction of the Program Manager. Damage to traffic control devices (signs) shall be reported to the Program Manager immediately.

Damage to turf areas, desirable natural growth, shrubs and trees identified at pre-bid meeting to include among other things: skinning, scraping or gouging of trees, shrubs and turf areas, ruts and deep wheel depressions on turf areas; and ruts, deep wheel depressions and wheel slipping damage on slope areas caused by the Contractor through negligence shall be repaired and paid for by the contractor to the satisfaction of the Program Manager.

Turf damage repairs shall be made by the Contractor according to the current MDOT Standard Specifications for Construction and as herein specified. Only friable topsoil from a commercial source shall be used to fill any depressions, ruts, etc. prior to seeding. Seeding will only be allowed during the seasonal limitation periods.

All landscape plant material damaged by the Contractor shall be replaced in kind according to according to the current MDOT Standard Specifications for Construction and as herein specified. Planting may only be done in the spring and prior to May 10. All replacement plants must be maintained during the specified establishment period. Payment for work performed maybe withheld until satisfactory repairs are made. If repairs are made by MDOT, the actual replacement costs including all labor, equipment, materials, and fringe benefits shall be charged to the Contractor.

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

13. **Deletion of Work**
The Department may delete all or any portions of the contract that cannot be completed in conformity with the progress schedule or a reasonable extension. The Department may also delete portions of the contract that show no need for mowing due to growing conditions. If the contract is terminated, or portions thereof deleted, payment will be made for all satisfactorily completed work at the contract unit price.

The Contractor shall provide roadside mowing services for (MDOT) to the satisfaction of the State. Should there be a conflict as to what is considered to be satisfactory, the State's opinion shall prevail.

14. The Contractor shall furnish, install and maintain as long as necessary, and remove when no longer required, adequate barriers, warning signs or lights at all dangerous points throughout the work for protection of property, workers and the public. The Contractor shall hold the State of Michigan harmless from damage or claims arising out of any injury or damage that may be sustained by any person or persons as a result of the work under the Contract.

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

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

16. **Volume of Service**
Volume of service for this Contract is identified as estimates only on the LSS's. The Program Manager will determine when cutting is to be accomplished.

17. **Detailed Progress Schedule**
The first failure to complete work as defined in the progress schedule without prior approval to adjust the schedule from the CCI shall result in a Vendor Performance being issued and a meeting with the Contractor to insure corrective action. The second such failure will result in termination of this Contract.

The progress schedule must address all work to be completed when multiple Contracts are awarded to the same Contractor, including work performed as a Sub Contractor for a local unit of government

GENERAL REQUIREMENTS

1.1. Transition

A pre-maintenance meeting will be scheduled within 30 days of the Effective Date, The Contractor shall be notified by the Program Manager when and where to begin each mowing cycle. Mowing start date will be determined by the Program Manager. The Contractor shall have 30 working days from the date of notification to complete each cycle. The Contractor is responsible to notify the Program Manager via e-mail or phone before starting work and during mowing operations on daily basis to identify the scheduled mowing areas.

1.2. Training

The Contractor must explain its training capabilities and any training that is included in its proposal.

The Contractor has trained slope and tractor drivers on staff. Contractor has the capability to train more employees as needed.

1.3. Contract Activities That Will Include IT Related Services

No IT Related Services are required for this contract.

2. Acceptance

2.1. Acceptance, Inspection and Testing

The State will use the following criteria to determine acceptance of the Contract Activities:

Contractor has reviewed and will comply with no exceptions.

2.2. Final Acceptance

3. Staffing

3.1. Contractor Representative

The Contractor must appoint one (1) Project Manager, 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 ten (10) calendar days before removing or assigning a new Contractor Representative.

Contractor has reviewed the staff section and will comply with no exceptions.

3.2. Customer Service Toll-Free Number

The Contractor must specify its toll-free number for the State to make contact with the Contractor Representative. The Contractor Representative must be available for calls during the hours of 6 am to 6 pm EST.

Contractor representative Kim Murphy phone number (313) 855-6770 ext. 12 or cell# (313) 401-2413

3.3. Technical Support, Repairs and Maintenance

The Contractor must specify its toll-free number for the State to make contact with the Contractor for technical support, repairs and maintenance. The Contractor must be available for calls and service during the hours of 6 am to 6 pm EST.

When providing technical support, the Call Center must resolve the caller's issue within 30 minutes. If the caller's issue cannot be resolved within 1 hour, on-site service must be scheduled. The on-site service must be performed within 1 hour of the time the issue was scheduled for service.

Contractor has reviewed the Technical Support, Repairs and Maintenance section and will comply with no exceptions.

3.4. Work Hours

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

Contractor has reviewed the work hour schedule and agree to the terms.

3.5. Key Personnel
The Contractor must appoint one (1) Crew Leader per Contract who will be directly responsible for the day-to-day operations of the Contract ("Key Personnel"). The Crew Leader must be specifically assigned to the State account, be knowledgeable on the contractual requirements, and respond to State inquires within 1 hour.

Contractor's Crew Leader must be on-site where roadside mowing is ongoing during working hours.

The State has the right to recommend and approve in writing the initial assignment, as well as any proposed reassignment or replacement, of any Key Personnel. Before assigning an individual to any Key Personnel position, Contractor will notify the State of the proposed assignment, introduce the individual to the State's Project Manager, and provide the State with a resume and any other information about the individual reasonably requested by the State. The State reserves the right to interview the individual before granting written approval. In the event the State finds a proposed individual unacceptable, the State will provide a written explanation including reasonable detail outlining the reasons for the rejection. The State may require a 5-calendar day training period for replacement personnel.

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

(i) For the Unauthorized Removal of any Key Personnel designated in the applicable Statement of Work, the credit amount will be $250.00 per individual if Contractor identifies a replacement approved by the State and assigns the replacement to shadow the Key Personnel who is leaving for a period of at least 5 calendar days before the Key Personnel's removal.

(ii) If Contractor fails to assign a replacement to shadow the removed Key Personnel for at least 30 calendar days, in addition to the $250.00 credit specified above, Contractor will credit the State $500.00 per calendar day for each day of the 5 calendar-day shadow period that the replacement Key Personnel does not shadow the removed Key Personnel, up to $4,000.00 maximum per individual. The total Unauthorized Removal Credits that may be assessed per Unauthorized Removal and failure to provide 5 calendar days of shadowing will not exceed $4,250.00 per individual.

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

The Contractor must identify the Key Personnel, indicate where they will be physically located, describe the functions they will perform, and provide current chronological résumés.

Contractor has reviewed the Key Personnel Sections and agree to the terms.

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

Contractor will summit and organizational chart to program manager within 30 days of effective date.

3.7. Disclosure of Subcontractors
If the Contractor intends to utilize subcontractors, the Contractor must disclose the following:

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

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

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

Of the total bid, the price of the subcontractor's work.

Contractor will not use subcontractors.

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

Contractor has reviewed Security procedures and will comply with no exceptions.

4. Project Management
4.1. Project Plan
The contractor shall propose a project plan. Project plan should identify items such as the required contact personnel; the date the project plan must be submitted to the State; project management process; project breakdown identifying sub-projects, tasks, and resources required; expected frequency and mechanisms for updates/progress reviews; process for addressing issues/changes; and individuals responsible for receiving/reacting to the requested information.

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

Contractor has reviewed the project plan section and will comply with no exceptions.

4.2. Meetings
The Contractor must attend the following meetings:
Pre-maintenance meeting within 30 calendar days of the Effective Date. Must meet in person or by phone with the Program Manager at least once per week while mowing operations are ongoing. The State may request other meetings, as it deems appropriate.

Contractor will attend all meeting scheduled by the CCI.

4.3. Reporting
The Contractor must submit, to the Program Manager, the following written reports: Progress Schedule and list of

Contractor has reviewed the above reporting section and will comply with no exceptions.

5. Ordering
5.1. Authorizing Document
The State will issue a written Purchase Order, Blanket Purchase Order, Direct Voucher or Procurement Card Order, which must be approved by the Program Manager, to order any Services / Deliverables under this Contract. All orders are subject to the terms and conditions of this Contract. No additional terms and conditions contained on either a Purchase Order or Blanket Purchase Order apply unless they are also specifically contained in that Purchase Order's or Blanket Purchase Order's accompanying Statement of Work.

The Contractor will be required to furnish all such materials and services as may be ordered during the CONTRACT period.

Contractor has reviewed the above information and will comply with no exceptions.

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; (e) unit price; (f) shipping cost (if any); and (g) total price. Overtime, holiday pay, and travel expenses will not be paid.

Contractor may only charge for Contract Activities performed as specified. Invoices must include an itemized statement of all charges. 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.

Contractor has reviewed the above information and will comply with no exceptions.

6.2. Payment Methods

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.

Contractor has reviewed the above information and will comply with no exceptions.

6.3. Procedure

The billing shall reference the appropriate purchase order number and shall contain, if applicable, adjustments for addition, deletions or changes in service. MDOT shall pay the billed amount in accordance with the bid rate, and the payment terms specified in the purchase order which is net 30 days after the later of the invoice date or the date the Program Manager certifies the invoice indicative of satisfactory completion of each mowing cycle of the entire contract area.

Contractor has reviewed the above information and will comply with no exceptions.

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 $2,500.00 and an additional $500.00 per day for each day Contractor fails to remedy the late or improper completion of the Work.

Contractor has reviewed the above information and will comply with no exceptions.

STATE OF MICHIGAN

Request For Proposal
Roadside Mowing of State Trunkline (Lenawee County)

EXHIBIT C
PRICING

1. The Contractor must provide a pricing schedule for the proposed Contract Activities using Microsoft Word. The pricing schedule should be submitted in a modifiable format (e.g., Microsoft Word or Excel); however, you may also submit an additional pricing schedule in a non-modifiable format (e.g., PDF). Failure to complete the pricing schedule as requested may result in disqualification of your proposal.

2. Price proposals must include all costs, including but not limited to, any one-time or set-up charges, fees, and potential costs that Contractor may charge the State (e.g., shipping and handling, per piece pricing, and palletizing).

3. The Contractor is encouraged to offer quick payment terms. The number of days must not include processing time for payment to be received by the Contractor's financial institution.

   Quick payment terms: 2 % discount off invoice if paid within 30 days after receipt of invoice.

4. By submitting its proposal, the Contractor certifies that the prices were arrived at independently, and without consultation, communication, or agreement with any other Contractor.

The Bidder will complete the Location Specific Sheet (LSS) for pricing. The LSS contains bid quantities and lists the locations where roadside mowing operations will occur.

MAINTENANCE, REPAIR & OPERATIONS (MRO)
ROADSIDE MOWING – UNIVERSITY REGION; Lenawee County
LOCATION SPECIFICATION SHEET (LSS)

Consideration for award will be based on Work Plan/Price Quotation in accordance with the specifications, terms and conditions as stated within this solicitation.

PART I – PLACE OF SERVICES REQUESTED

BIDDER NAME: PAYNE LANDSCAPING, INC. LOCATION:

CONTRACT INFORMATION			
ESTIMATED CONTRACT START DATE:	5/16/2016	**CONTRACT END DATE:**	5/15/2021
PREVIOUS BPO #:			
CONTRACT INFORMATION:	5 Year Contract with 2, 1 Year Options		
CONTRACTING AGENCY NAME:	Department of Transportation		
BUILDING NAME AND NUMBER:	MDOT Adrian Garage		
BUILDING ADDRESS:	2451 North Adrian Highway, Adrian 49221		
REGION / COUNTY:	University Region / Lenawee County		
PROCUREMENT CONTACT INFORMATION			
PROCUREMENT OFFICE NAME:	MDOT		
PROCUREMENT OFFICE CONTACT NAME:	Terry Harris	**CONTACT PHONE #:**	517-335-2507
PROCUREMENT OFFICE CONTACT E-MAIL:	Harrist@michigan.gov	**CONTACT FAX #:**	517-373-7446
CONTRACT COMPLIANCE INSPECTOR (CCI) / FACILITY MANAGER (FM) NAME:	Chris Kendrick	**CONTACT PHONE #:**	517-449-4746
CCI / FM CONTACT E-MAIL:	KendrickK@michigan.gov	**CONTACT FAX #:**	517-265-6328
LOCATION INFORMATION			
OFFICIAL WORKING DAYS OF BUILDING OCCUPANTS:	N/A	**OFFICIAL WORKING HOURS OF BUILDING OCCUPANTS:**	N/A
ESTIMATE OF AREA TO BE SERVICED: (IF APPLICABLE)	Lenawee County	**(FILL IN IF NEEDED)**	N/A
IDENTIFY DAYS OF SERVICE:	MONDAY-FRIDAY	**IDENTIFY HOURS OF SERVICE: [EXAMPLE: 5:30 A.M. TO 5:30 P.M.]**	6:00 a.m. – 6:00 p.m.

PART II – PRICING SHEET SUMMARY

Description of Services	Acres Per Cycle	Cycles Per Year	Price Per Acre	Total Price Per Cycle	Total Price 2 Cycles Per Year
Roadside Mowing – Various Trunk lines in Lenawee County (See Table Below) 2 Cycles Per Year	233.65	2	$80.00	$18,692.00	$37,384.00
Clear Vision Mowing (Various Trunk lines in Lenawee County (See Table Below) 2 Cycles Per Year	20.53	2	$100.00	$2,053.00	$4,106.00
Total Contract Cost				$20,745.00	$41,490.00

Lenawee County Roadside Mowing Description of Work

Route	Description	Area Type	Width (ft.)	Mowing Acre	Clear Visual Acre
US-223	US-127 SE to Lenawee/Monroe County Line – County Line Road	Free/Limited Access*	10'	80.65	2.58
M-52	Michigan/Ohio State Line North to US-12	Free Access	10'	36.65	9.25
M-50	US-12 East to County Line Rd.	Free Access	10'	44.05	8.25
US-12	M-52 East to Washtenaw County Line	Free Access	10'	5.7	0.5
M-156	Michigan/Ohio State Line North to M-34	Free Access	10'	24.1	0.0
M-34	US-127 East to Madison Street in Adrian	Free Access	10'	42.5	0.0
		Total		**233.65**	**20.53**

- Lenawee County Total Acres to be mowed: 233.65 Acres that include 9.1 Acre of Limited Assess Highway on US-223. Mowing to include: At all cross roads, 500 foot in front of STOP and STOP AHEAD road signs, and behind all guardrails. At all County Road Intersections, Mow Clear Vision Areas, (which is included in the total of Acres to be mowed).
- Quantities are estimates only; actual quantities will determined by Contract Compliance Inspector.
- Contractor must inspect the property for tree limbs/branches and debris that would need to be removed from the grass areas prior to mowing. Debris shall also include paper on the ground and must be removed prior to mowing – must not be mowed over. Remove grass clippings as necessary.

EQUIPMENT

Bidder Instructions: Provide a complete list of all the equipment you will utilize to manage the scope of work for this contract location. List should include all equipment to be used during services and any other function(s) needed to perform this service. Also indicate whether the equipment is owned or rented. (Expand the table if necessary or submit separate table of equipment/supplies with proposal).

EQUIPMENT & SUPPLIES LIST FORMAT

EQUIPMENT	MODEL	MANUFACTURER	APPROXIMATE AGE OF EQUIPMENT & OWNED OR RENTED
1. Super Slope Master			2 years/owned
2. Super Slope Master			6 years/owned
3.John Deere Tractor			2 years/owned
4. John Deere Tractor			2 years/owned
5. John Deere Tractor			9 years/owned
6. John Deere Tractor			9 years/owned
7.Land Pride Batwing 10 Feet			9 years/owned
8. Land Pride Batwing 10 Feet			9 years/owned
9. Land Pride Batwing 10 Feet			9 years/owned
10. Land Pride Batwing 10 Feet			9 years/owned
11.			
12.			
13.			