

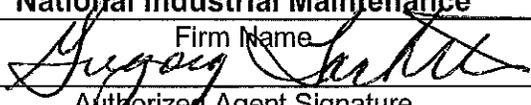
STATE OF MICHIGAN
DEPARTMENT OF TRANSPORTATION
Purchasing Unit
425 W. Ottawa
Lansing, Michigan 48933

CONTRACT NO. 591B6600257
Between
THE DEPARTMENT OF TRANSPORTATION
And

NAME & ADDRESS OF VENDOR National Industrial Maintenance 8407 Carter Road Cheboygan, MI 49721 Email: greg@nimmi.com	TELEPHONE (313) 945-6464 Contact: Greg Tackett
Michigan Department of Transportation, Taylor TSC-State Trunkline Sweeping	
CONTRACT PERIOD: From: May 18, 2016 To: May 17, 2019	
TERMS <div style="display: flex; justify-content: space-around;"> Net 45 2, 1 Year Options </div>	
MISCELLANEOUS INFORMATION: <p>The terms and conditions of this Contract, including any applicable information from the vendor's proposal to RFP-059116B0007695 dated 4/12/2016 are attached. In the event of any conflicts between the specifications, terms and conditions indicated by the State and those indicated by the vendor, those of the State take precedence.</p> <p>Est. Contract Value: \$3,640,420.00</p>	

FOR THE VENDOR:

National Industrial Maintenance

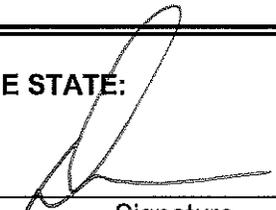
 Firm Name


 Authorized Agent Signature
GREGORY TACKETT

 Authorized Agent (Print or Type)
5/20/16

 Date

FOR THE STATE:



 Signature
Demetrius A. Parker, P.E.

 Name
 Administrator, Michigan Department of
 Transportation

 Title
5-26-16

 Date

STATE OF MICHIGAN

Taylor TSC - State Trunkline Sweeping
Contract Number: 591B6600257

EXHIBIT A STATEMENT OF WORK CONTRACT ACTIVITIES

BACKGROUND

Michigan Department of Transportation (MDOT) is requesting sweeping services on state trunklines within Wayne County (Taylor Transportation Service Center jurisdiction). The purpose of this contract is to maintain the state trunklines per MDOT specifications and standards as set forth in the Contract.

SCOPE

The Contractor shall provide all personnel, equipment, tools, materials, supervision and other items and services necessary to perform the sweeping services as described in the Location Specification Sheet (LSS). The required objective is to maintain the roadsides and medians in a manner that provides an aesthetically pleasing roadside for the motoring public.

REQUIREMENTS

The specifications contained in this Contract have been developed to establish the minimum level of curb/street sweeping services required and operated by the State.

- A. The Contractor, through innovation, technology or other means, shall perform and provide the required sweeping services and staff to complete the expected performance and otherwise do all things necessary for, or incidental, to the performance of work. Compliance will be based on the MDOT's overall evaluation and interpretation in accordance with method of performance, and expected outcomes, as set forth in this Contract.
- B. The Contractor shall provide all sweeping services and related items and services necessary for the performance of work in accordance with this Contract, including, but not limited to:
 1. All personnel
 2. Equipment
 3. Tools
 4. Supplies
 5. Materials
 6. Training
 7. Supervision of Staff.
- C. The Contractor shall provide services at the locations described in the LSS and may include emergency services as directed by the MDOT Program Manager.
- D. The Contractor shall provide curb/street sweeping of the specified roads, bridges, ramps and paved traffic islands/gores, under the jurisdiction of the State in accordance with requirements of this Contract. Sweeping shall be defined as a clean sweep and removal of all debris regardless of the number of times swept to obtain a clean curb/street regardless of type of equipment necessary for total dirt and debris removal. The Contractor shall also furnish local supervision and all labor, equipment, transportation, disposal of sweeping debris in accordance with all Federal, State and local statutes and incidentals necessary to satisfactorily perform the services at the frequencies and during the times as specified herein.

Subcontracting is not allowed on this contract. Any and all work related citations/fines/tickets will the responsibility of the Contractor.

WORK AND DELIVERABLES

Contractor must provide Deliverables/Services and staff, and otherwise do all things necessary for or incidental to the performance of work, as set forth below:

A. Routine Curb/Trunkline Sweeping

The Contractor shall perform six (6) complete curb/shoulder sweeping cycles per year on the routes identified in the Location Specification Sheet (LSS) for routine sweeping. The routine complete curb/shoulder sweeping will be performed between March 30th and November 15th of each year or as directed by the MDOT Program Manager.

Each of the six (6) routine complete curb/shoulder sweepings should be scheduled as follows:

1. To be completed before Tigers Opening Day
2. Last week of May each year before Memorial Day holiday
3. Last week of June each year before 4th of July holiday
4. 1st week of August each year or as directed by the MDOT Program Manager
5. 1st week of September each year or as directed by the MDOT Program Manager
6. 2nd week of October each year or as directed by the MDOT Program Manager

B. Emergency Request

The Contractor shall be available 24 hours, 7 days a week. The Contractor shall organize their operations to respond to emergency calls for sweeping services from the MDOT Program Manager. Following a call from the MDOT Program Manager, the Contractor shall provide the necessary equipment for sweeping at the designated scene within one (1) hour of notice. This activity is typically done in response to an incident, which may involve removing debris contaminated with fuel, for sweeping.

Payment for emergency call outs shall be paid at an hourly rate. The billable time will begin when the Contractor arrives at the emergency scene with all personnel and equipment needed to perform the cleaning/sweeping. One (1) additional hour for travel to the job site and one (1) additional hour for travel from the site will be paid for each emergency call out. A minimum of four (4) hours will be paid for emergency call outs, the four hours is inclusive of the two hours for travel. The Contractor shall include the cost of supervision and all labor, equipment, water, transportation, fees for disposal of sweepings in accordance with all local, State, and Federal statutes, and incidentals necessary to satisfactorily perform this service.

C. Optional Curb/Trunkline Sweeping

MDOT reserves the right to have the Contractor perform optional curb/shoulder sweeping anywhere within Wayne County on State trunklines as directed by the MDOT Program Manager. The optional sweeping is intended for areas that are not swept on a regular basis. Optional sweeping is to be performed on an as-needed basis, at the direction of the MDOT Program Manager. Limits of optional sweeping will be defined by the MDOT Program Manager. The MDOT Program Manager shall provide the Contractor with 48 hours advance notice for the sweeping of unforeseen special occurrences. For corridor sweeping the MDOT Program Manager will provide at least 1 week advance notice.

A quantity of optional sweeping has been set up in this contract to be used on as needed basis. There will be no additional compensation to the contractor for furnishing and operating the proper equipment to perform this operation. The cost of any equipment or appurtenances to perform this operation is to be included in the unit price for Optional Trunkline Sweeping.

Note: This work is optional only as requested and directed by the MDOT Program Manager. Optional Quantities are not guaranteed to be the entire quantity listed, the optional quantity can be in the range from one to the high end listed in the Exhibit C table. Quantity needed is to be decided by MDOT Program Manager or his/her designee at the time optional item is requested.

D. Non-Sweeping Debris

Any debris that cannot be removed by mechanical sweeping, but can be picked up by one (1) person, shall be collected by hand or other means, before sweeping and disposed of in a Class II landfill. Debris that cannot be picked up by one (1) person shall be reported to the MDOT Program Manager. Examples of debris that cannot be removed by mechanical sweepers include, but are not limited to: rocks, bricks, bottles, tree limbs, and sticks. Examples of debris that can be removed by mechanical sweepers include, but are not limited to: dirt, paper, and leaf piles less than eight (8)

inches in depth. All collected debris must be hauled away and not stored on or off state trunkline right of way or moved to the vegetated areas. The debris collected is to be hauled away the day it is collected.

E. Dust Control

All sweeping shall be accomplished with using water for dust control. The Contractor shall contact the local municipality for water and hydrant use, and comply with their requirements and all applicable regulations at no additional cost to the State.

F. Equipment Requirements

1. General

The Contractor shall furnish, operate, and maintain suitable and adequate equipment necessary to perform the cleaning and/or sweeping operation in an approved safe, workmanlike manner without hindrance, delay, or damage to the roadside. Under no circumstances shall the State be responsible for any damage to the Contractor's equipment due to obstacles encountered.

2. Type of Equipment

The Contractor shall be required to use a cleaner/sweeper with dual steering control and hold at least five (5) cubic yards of debris. All equipment shall be approved through an acceptable demonstration of the equipment's capabilities, suitability, and condition to the State. Demonstrations will be at no cost to the State.

3. GPS/GIS System

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

GPS DATA	FORMAT	DESCRIPTION
Vehicle ID	XX-XXXX	e.g. License plate #
Vehicle speed	MM	mile per hour
Vehicle heading	DDD ⁰	0 - 360 ⁰
Event year	YYYY	2010 plus
Event date	MMDD	Month & day
Event time of day	HHMMSS	Hour, min & sec.
Latitude	DDD.DDDDD ⁰	Decimal degrees
Longitude	DDD.DDDDD ⁰	Decimal degrees
Calculated Data		
Distance traveled per route	MMM.mm	Miles
Distance Swept per route	MMM.mm	Miles
Time Vacuum suction on per route	HHMMSS	Hour, min & sec.
Time water flowing is on per route	HHMMSS	Hour, min & sec.
Sensors Data		
On/Off position for water flow control	I/O	water flow

On/Off position for sweeper rotational control/On/Off position for vacuum suction

I/O

rotating brush

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

4. Web Vendor Mapping Functionality

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

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

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

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

CURB AND GUTTER SWEEPING REPORT

LOCATION BOUNDARY (geoface)	VEHICLE ID	CURB MILES	EVENT DATE	EVENT START TIME (Input 1)	EVENT END TIME (Input 1)	TOTAL TIME (Input 1)	TOTAL DISTANCE SWEPT (Input 1)	EVENT START WATER TIME (Input 2)	EVENT STOP WATER TIME (Input 2)	TOTAL WATER TIME (Input 2)
Wide Track	01-1234	5	8/18/2010	5:30:01	5:45:01	0:15	0.54	5:30:02	5:44:32	0:14:30
Wide Track	01-1234	1	8/18/2010	5:50:02	6:00:02	0:20	0.74	5:50:03	6:09:33	0:19:30
Telegraph	01-1234	1.5	8/18/2010	6:05:03	6:40:03	0:35	1.4	6:06:03	6:36:03	0:30:00

4. Safety

All equipment shall meet all federal, state, and local safety requirements. Equipment shall be equipped with commercial type flashing amber lights plainly visible from all directions. Flashers shall have a minimum of 32 candlepower output and flash 50 to 60 times per minute. A lighted arrow Type B or C as specified in the 2012 Michigan Department of Transportation Standard Specifications for Construction shall be mounted on, or towed behind, each vehicle.

G. Disposal of Material

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

1. Disposal Alternate A

Solid Waste Phase

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

Liquid Waste Phase:

- a) Option 1 - This waste may be evaporated; or
- b) Option 2 - This waste may be placed in a sanitary sewer system with the approval of the owner of the system. A copy of the owner's approval shall be provided to the MDOT Program Manager; or
- c) Option 3 - Disposal of this waste shall be by placement into a portable tank or container and allowing enough time to allow the sediment and suspended solids to settle out. After the settling has occurred, only the clear liquid phase may be discharged into a storm sewer, well above a receiving stream, creek, drain, etc. This option must be carefully monitored to ensure that contaminants or sediment are not placed back into the sewer system. The remaining solid/liquid phase is to be managed as a waste and disposed of using Disposal Alternate B or using Disposal Alternate A with Options one (1) or two (2). Contractor is responsible for any and all fines for failure to comply with the statute.

2. Disposal Alternate B

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

If material tests hazardous as defined by Part 111 of the Natural Resources and Environmental Act, Act 451, P.A. 1994, the MDOT Program Manager shall be notified immediately. Payment for disposal of hazardous material shall be as per Subsection 109.05 - D Force Account of the 2012 MDOT Standard Specifications for Construction.

H. Detailed Progress Schedule

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

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

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

I. Maintaining Traffic

Traffic shall be maintained in accordance with the current Standard Specifications for Construction, MDOT Maintaining Traffic Typical, the current edition of the Michigan Manual of Uniform Traffic Control Devices (MMUTCD), and the current Maintenance Work Zone Traffic Control Guidelines. All operations shall be conducted in a manner that will not create a hazard, nor hinder, restrict, or impede trunkline traffic. The Contractor shall not operate equipment on the roadway or in a manner that requires unnecessary crossing of the roadway. Traffic control is to be adhered in accordance with Section 812 of MDOT's current Standard Specifications for Construction, and with MDOT's Traffic Standards, Typical, Special Details, and the current Maintenance Work Zone Traffic Control Guidelines. The Contractor shall not park equipment within the right of way of any state trunkline in a manner not permitted by posted traffic control devices. The Contractor shall not store equipment in the right of way of any state trunkline or on state property when not engaged in sweeping operations.

1. Traffic Control Plan

The Contractor must submit a traffic control plan after award to the MDOT Program Manager for review/approval. Lane closures will be required when the shoulder is too narrow to accommodate equipment.

2. Safety

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

A lighted arrow Type B or C as specified in the 2012 Michigan Department of Transportation Standard Specifications for Construction shall be mounted on, or towed behind, each vehicle.

4. Truck Mounted Attenuators (TMA)

Description: The Contractor will use Truck-Mounted Attenuators (TMA's) to shield workers or work equipment from errant vehicles according to the following guidelines. TMA's will be used for projects on freeways and roadways with operating speeds of 45 mph or greater where personnel or equipment are exposed to traffic and one (1) or more of the following conditions are met:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Measurement and payment: Truck Mounted attenuators will be furnished and operated as part of

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

this Contract at no cost to the State

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

GUIDELINES FOR ROLL-AHEAD DISTANCE FOR TMA VEHICLES TEST LEVEL III		
Weight of TMA	Prevailing Speed	Roll-Ahead

Vehicle (Minimum)	(mph) (Posted Speed Prior to Work Zone)	Distance* (Distance from front of TMA Vehicle to Work Area)
Five (5) Tons (Mobile)	60-70	175 ft
	50-55	150 ft
	45	100 ft
12 Tons (Stationary)	60-70	50 ft
	50-55	25 ft
	45	25 ft

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

1. General Requirements

1.1. Reserved

1.2. Reserved

1.3. Reserved

2. Acceptance

2.1. Acceptance, Inspection and Testing

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

The Contractor shall consult the MDOT Program Manager, or their designee, 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. Notification with specified completed limits must be sent to the MDOT Program Manager the day work is done.

2.2. Reserved

3. Staffing

3.1. Contractor Representative

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

- a) Project Manager
- b) Staff Support

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

The State reserves the right to approve personnel for this project and to require replacement of personnel found to be unacceptable at any time during the project.

The Contractor must notify the Contract Administrator at least 14 calendar days before removing or assigning a new Contractor Representative.

The Contractor Representatives are as follows:

Project Manager – Greg Tackett 313-790-8218, Staff Support – Jim Jarubas 313-228-6155, Bob Davis 313-220-0335, Office 313-945-6464.

3.1.1. Supervision

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

- a) Contractor shall exercise all supervisory control and general control over all day-to-day operations of his/her employees, including control over all workers duties. At the conclusion of each service, the Contractor shall inspect the route for completion and performance quality of the required services. The Contractor shall also be responsible for payment of all wages to employees, taxes, and fringe benefits, sick leave, pension benefits, vacations, medical benefits, life insurance or unemployment compensation or the like. The Contractor shall discipline his/her employees, as needed, including firing and hiring.
- b) The MDOT Program Manager may require that Contractor immediately remove any Contractual employee(s) from the agency's premises for just cause. The Contractor will assume any and all responsibilities relating to this removal. Any employee so removed may not be placed on another state agency contract.
- c) The MDOT Program Manager shall make final determination of a contractual employee's suitability for assignment to a specific location. Problems of this nature will be addressed with the Contractor's management

Greg Tackett will be the project manager and is available 24/7 for questions or concerns. Jim Jarubas will be the operations manager and is available 24/7 for additional directions from MDOT. Jim Jarubas also has the authority to make business decisions on the spot.

3.2. Customer Service Telephone Number

The Contractor must specify its telephone number for the State to make contact with the Contractor Representative. The Contractor Representative must be available for calls 24/7.

The Customer Services numbers are:

Greg Tackett 313-790-8218, Jim Jarubas 313-228-6155, Jim Dailing (foreman) 734-231-0750 (all available 24/7).

3.3. Reserved

3.4. Work Hours

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

3.5. Reserved

3.6. Organizational Chart

Greg Tackett – Vice President, Jim Jarubas – Operations Manager, Peter LaGreca – Treasurer, Jim Dailing – sweeping foreman. No subcontractors will be needed.

3.7. Reserved

3.8. Reserved

4. Project Management

4.1. Project Plan

The Contractor will carry out this project under the direction and control of the Program Manager. Within 14 calendar days of the Effective Date, the Contractor must submit a project plan to the Program Manager for final approval. Project management plan must identify methods, tools and processes proposed to oversee the project, address issues and changes as may arise, and keep the appropriate parties apprised of progress.

Contractor's Work Plan must include but not be limited to the following:

- a) EQUIPMENT LIST - indicating description, age, manufacturer, model and serial number of each piece. Equipment must meet or exceed all requirements defined under "Equipment Requirements" in this document. All equipment must be in the Contractor's possession, available for use and fully operational, prior to Contract award.
- b) Schedule of Operations - personnel and hours expected to complete work on this Contract.
- c) Name(s) of supervisors – 24-hour contact telephone numbers and best contact times.
- d) Progress schedule listing locations where cleaning will occur including a schedule of curb miles to be swept/cleaned each day.
- e) Safety Program, including traffic control plan(s).
- f) Name/location of Class II disposal site for sweeping material.
- g) Current proof of insurance as defined in the Standard Terms and Conditions must be provided to MDOT Purchasing with the signed Contract.
- h) Copy of liquid waste hauler license.

The Contractor is responsible for notifying the county or municipality before starting work in their area. The MDOT Program Manager will provide a list of Municipal County Offices at the Contract Kickoff meeting.

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

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

4.2. Meetings

Contractor must meet with the MDOT Program Manager and other department project-leads, on a basis to be established by Program Manager, MDOT Program Manager and the Contractor, for the purpose of reviewing progress and providing necessary guidance to the Contractor in solving problems that arise, and to continuously communicate with the agency/departmental project-lead.

The Contractor must attend the following meetings:

- a) Pre-Bid Meeting
 - i. Prior to submission of proposal and bid the potential bidders are required to meet with MDOT and program leads
- b) Pre-Award Meeting and Equipment Inspection
 - i. Prior to award, the successful low bidder is required to meet with the MDOT Program Manager and/or designee at the Contractor's facility. The purpose of this meeting will be to discuss the scope of the Contract and for the bidder to submit an equipment list indicating description, age, manufacturer, model, and serial number of each piece that will be used on the Contract. All the equipment listed for use on the Contract must be available for visual and/or mechanical inspection at the pre-award meeting. All equipment must meet or exceed all requirements defined under "Equipment Requirements" document. All equipment must be in the Contractor's possession, available for use and fully operational for immediate use. The Contractor must also provide any lease Contracts for the equipment at the Pre-Award Meeting. MDOT reserves the right to inspect the Contractor's equipment prior to the Contract start date and at any time throughout the duration of the Contract.
- c) Kick Off Meeting
 - i. Prior to commencement of work the successful bidder is required to meet with MDOT program staff
- d) Annual Service Review and Progress Meeting
 - i. The Program Manager may request an audit of the services provided each year under the specifications, terms, and conditions of the Contract.
 - ii. An unsatisfactory audit may result in cancellation of the Contract under the terms of the Cancellation Clause in the Contract. Further, should the Contract be cancelled for cause, the Contractor so cancelled will not be allowed to participate in request(s) for continuation of this service.
 - iii. The audit will consist of an evaluation of the total service quality, including responsiveness, timeliness of required reporting, and any other specifics as required

under the terms of the Contract. The results of the audit along with Contract recommendations will be published by Purchasing Operations and distributed to the respective Agency(s).

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

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

4.3. Reporting

The Contractor must submit, to the Program Manager/Contract Compliance Inspector the following written reports on a monthly basis:

- a) GPS Curb and Gutter Sweeping Report

The Contractor will provide MDOT with a username and password that will enable MDOT access to our GPS provider's real time tracking system. This GPS service provides written reports for up to 1 year after all sweeping cycles. I.e: MDOT will be able to watch us sweeping "real time" or retrieve reports after the fact for up to 1 year.

5. Ordering

5.1. Authorizing Document

The appropriate authorizing document for the Contract will be a purchase order. A purchase order outlining requested services will be submitted to the contractor in the begging of each fiscal year or prior to the start of work.

6. Invoice and Payment

6.1. Invoice Requirements

All invoices submitted to the State must be sent via e-mail to MDOT-Taylor-Invoices@michigan.gov and must include: (a) date; (b) purchase order; (c) quantity; (d) description of the Contract Activities; (e) unit price; and (f) total price. Overtime, holiday pay, and travel expenses will not be paid.

All invoices should reflect actual work done on a monthly basis.

6.2. Payment Methods

The State will make payment for Contract Activities via Electronic Funds Transfer (EFT).

As required by MCL 18.1283, the Contractor must electronically register with the State at www.michigan.gov/cpexpress to receive EFT payments.

6.3. Procedure

The Contractor is responsible to notify the MDOT Program Manager via e-mail before starting work and during sweeping operations providing updates on a daily basis to identify the scheduled sweeping areas. Sweeping start date must be approved by the MDOT Program Manager.

The MDOT Program Manager will inform the Contractor of any deficiencies and allowed time to correct the deficiencies. If deficiencies continue, a formal Complaint to Vendor or Vendor Performance Report will be filed. For non-conformance to MOT requirements or other safety procedures the MDOT Program Manager or their designee has the right to shut down the sweeping operation until the issue is corrected.

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 \$1,000 and an additional \$500 per day for each day Contractor fails to remedy the late or improper completion of the Work.

STATE OF MICHIGAN

Contract Number: 591B6600257
Taylor TSC - State Trunkline Sweeping

EXHIBIT C

PRICING.

Quick payment terms: 0 % discount off invoice if paid within 30 days after receipt of invoice.

DESCRIPTION OF SERVICES	UNIT OF MEASURE	QUANTITY	CYCLES PER YEAR	PRICE PER UNIT	TOTAL ANNUAL COST	TOTAL COST FOR 3 YEARS
Routine Trunkline Sweeping	CURB / SHOULDER MILE	300	6 CYCLES/YEAR 18 CYCLES TOTAL FOR 3 YEARS	\$297.30	\$535,140.00	\$1,605,420.00
Emergency Requests	HOUR	1,000*	AS DIRECTED BY THE MDOT PROGRAM MANAGER	\$175.00	N/A	\$175,000.00
Optional Trunkline Sweeping	CURB / SHOULDER MILE	6,000*	AS DIRECTED BY THE MDOT PROGRAM MANAGER	\$310.00	N/A	\$1,860,000.00
THREE YEAR (3) TOTAL					\$3,640,420.00	

Disclaimer: Quantities are estimates only, actual quantities are determined by the MDOT Program Manager.

*Total for three years

MAINTENANCE, REPAIR & OPERATIONS (MRO)
Taylor TSC – State Trunkline Sweeping
Metro Region, Taylor TSC, Wayne County
LOCATION SPECIFICATION SHEET (LSS)

PART I – PLACE OF SERVICES REQUESTED

LOCATION: I-94, I-75 & I-96

CONTRACT INFORMATION

ESTIMATED CONTRACT START DATE:	05/18/2016	CONTRACT END DATE:	5/17/2019
PREVIOUS BPO #:	N/A (previously done by local agency)		
CONTRACT INFORMATION:	3 Year Contract with 2 Each 1 Year Options to Extend		
CONTRACTING AGENCY NAME:	MDOT		
BUILDING NAME AND NUMBER:	MDOT Taylor TSC		
BUILDING ADDRESS:	6510 Telegraph Rd, Taylor, MI 48180		
REGION / COUNTY:	Metro Region / Wayne County		

PROCUREMENT CONTACT INFORMATION

PROCUREMENT OFFICE NAME:	MDOT Purchasing		
PROCUREMENT OFFICE CONTACT NAME:	Laura Dotson	CONTACT PHONE #:	517-373-2134
PROCUREMENT OFFICE CONTACT E-MAIL:	DotsonL2@michigan.gov	CONTACT FAX #:	
PROGRAM MANAGER (PM) NAME:	Jasna Cehaja	CONTACT PHONE #:	313-375-2444
CCI / PM CONTACT E-MAIL:	CehajaJ@michigan.gov	CONTACT FAX #:	313-295-0844

LOCATION INFORMATION

OFFICIAL WORKING DAYS OF BUILDING OCCUPANTS:	M-F	OFFICIAL WORKING HOURS OF BUILDING OCCUPANTS:	7:30 AM to 4:30 PM
ESTIMATE OF AREA TO BE SERVICED: (IF APPLICABLE)	N/A	(FILL IN IF NEEDED)	N/A
IDENTIFY DAYS OF SERVICE:	Determined by PM/CCI	IDENTIFY HOURS OF SERVICE: [EXAMPLE: 5:30 A.M. TO 5:30 P.M.]	Determined by PM/CCI

PART II – PRICING SHEET SUMMARY

LOCATION	LIMITS	QUANTITY (CURB / SHOULDER MILES)
I-96	Telegraph to I-94	88.85
I-94	Wyoming to M-102 (8 Mile Rd)	82.18
I-75	M-102 to I-94, Clark to Huron River Dr	111.5
TOTAL		282.53

TABLE 1 – Routine Sweeping Locations Totals

Quantities are estimates only. Contractor must inspect the locations for non-sweeping debris that would need to be removed prior to the mechanical sweeping operation. All non-sweeping debris and all sweeping debris must be hauled away the day of the sweeping operation.

I-96	
LIMITS	QUANTITY (CURB / SHOULDER MILES)
Telegraph to I-94	62.01
INTERCHANGES	QUANTITY
Telegraph Rd	1.77
Outer Dr	1.44
Evergreen Rd	2.54
Southfield Fwy	7.39
Greenfield Rd	1.71
Grand River Ave	2.00
Wyoming Ave	1.99
Davison W Fwy	3.96
Livernois Ave	1.49
Joy Rd	0.93
W Grand Blvd	1.62
INTERCHANGE TOTAL	26.84
GRAND TOTAL	88.85

TABLE 2 – I-96 Limits and Interchange List

I-94

LIMITS	QUANTITY (CURB / SHOULDER MILES)
Wyoming to M-102 (8 Mile Rd)*	58.23
INTERCHANGES	QUANTITY
Wyoming St	1.55
Weir St	0.29
Addison St	0.33
Lonyo St	0.53
Cecil St	0.60
Livernois Ave	1.25
30th St	0.83
West Grand Blvd	0.66
Linwood St	0.77
14th St	0.16
Trumbull St	0.86
Woodward John R	0.67
Chene St/E. Grand Blvd	1.33
Cadillac Assembly Plant Ent	0.30
Mt Elliot Ave	0.87
Van Dyke Ave	1.45
Gratiot Ave	2.23
French Rd	1.19
Conner St	1.75
Chalmers St	0.68
Outer Dr E	0.72
Harper Ave	0.36
Whittier Ave	0.32
Cadieux Rd	1.48
Moross Rd	1.46
Allard Ave	0.63
8 Mile Rd	0.70
INTERCHANGE TOTAL	23.95
GRAND TOTAL	82.18

*Excludes I-94 from I-96 to I-75

I-75	
LIMITS	QUANTITY (CURB / SHOULDER MILES)

M-102 (8 Mile Rd) to I-94	23.85
Clark to W. Outer Drive	21.82
W. Outer Drive to Huron River Dr	14.18
INTERCHANGES	QUANTITY
8 Mile Rd	1.19
7 Mile Rd	1.15
6 Mile Rd	1.61
M-8 (Davison) Ave	6.76
Caniff Ave	0.98
Holbrook Ave	0.87
Clay St/ E. Grand Blvd	1.44
Clark St	1.60
Livernois Ave	1.49
Springwells St	1.22
Dearborn St	1.21
Schaefer Rd	3.23
Outer Drive W	1.91
M-39 Fwy	2.70
Dix Hwy	2.38
Northline Rd	0.82
Allen Rd	1.08
Eureka Rd	2.31
Sibley Rd	1.33
Toledo Rd	2.14
West Rd	5.53
Gibraltar Rd	4.58
Fort St	1.85
Huron River Dr	2.27
INTERCHANGE TOTAL	51.65
GRAND TOTAL	111.50

EQUIPMENT

Within 14 calendar days of the Effective Date, the Contractor must submit a project plan to the Program Manager for final approval. Project management plan must identify methods, tools and processes proposed to oversee the project, address issues and changes as may arise, and keep the appropriate parties apprised of progress.

EXAMPLE EQUIPMENT & SUPPLIES LIST FORMAT

EQUIPMENT	MODEL	MANUFACTURER	APPROXIMATE AGE OF EQUIPMENT & OWNED OR RENTED
1.	SEE ATTACHED EQUIPMENT LIST		
2.			
3.			
4.			
5.			
6.			
7.			
8.			
9.			
10.			
11.			
12.			
13.			
14.			
15.			

NATIONAL INDUSTRIAL MAINTENANCE SWEEPING EQUIPMENT LIST

All equipment is owned by National Industrial Maintenance

1. SS-2-----2001 VAC-ALL SWEEPER (16 cubic yard)
2. SS-4-----2002 VAC-ALL SWEEPER (16 cubic yard)
3. SS-7-----2002 VAC-ALL SWEEPER (13 cubic yard)
4. SS-10-----2003 VAC-ALL SWEEPER (16 cubic yard)
5. SS-13-----2014 VAC-ALL SWEEPER (16 cubic yard)
6. SS-14-----2014 VAC-ALL SWEEPER (16 cubic yard)
7. SS-15-----1999 VAC-ALL SWEEPER (16 cubic yard)
8. SS-16-----1999 VAC-ALL SWEEPER (16 cubic yard)
9. SS-21-----2007 ELGIN WHIRLWIND SWEEPER (8 cubic yard)
10. SS-22-----2007 ELGIN WHIRLWIND SWEEPER (8 cubic yard)
11. SS-24-----2008 ELGIN EAGLE SWEEPER (4.5 cubic yard)
12. SS-25-----2008 ELGIN WHIRLWIND SWEEPER (8 cubic yard)
13. SS-26-----2009 ELGIN EAGLE SWEEPER (4.5 cubic yard)
14. SS-27-----2008 ELGIN WHIRLWIND SWEEPER (8 cubic yard)
15. SS-28-----2009 VAC-ALL SWEEPER (16 cubic yard)
16. Ss-29-----1999 VAC-ALL SWEEPER (10 cubic yard)
17. SS-30-----2010 VAC-ALL SWEEPER (16 cubic yard)
18. SS-31-----2011 ELGIN EAGLE SWEEPER(4.5 CUBIC YARD)
19. SS-32-----2012 VAC-ALL SWEEPER (16 CUBIC YARD)
20. SS-33-----2012 VAC-ALL SWEEPER (16 CUBIC YARD)
21. SS-34-----2012 ELGIN EAGLE SWEEPER (4.5 CUBIC YARD)
22. SS-35-----2012 ELGIN EAGLE SWEEPER (4.5 CUBIC YARD)
23. SS-36 -----2014 ELGIN EAGLE SWEEPER (4.5 CUBIC YARD)
24. SS-37-----2015 ELGIN EAGLE SWEEPER (4.5 CUBIC YARD)
25. SS-38-----2015 ELGIN EAGLE SWEEPER (4.5 CUBIC YARD)
26. RO-1-----2002 ROLL-OFF TRUCK WITH 10 BOXES (20 yd/ea)
27. RO-2 -----2005 ROLL-OFF TRUCK WITH 10 BOXES (20 ye/ea)
28. ATT-1-----2000 SAFE-STOP ATTINUATOR TRUCK (100K)
29. ATT-2-----2008 SAFE-STOP ATTINUATOR TRUCK (100k)
30. ATT-3-----2008 SAFE-STOP ATTINUATOR TRUCK)100K)
31. C-45-----DUMP TRUCK WITH ARROWBOARD



STATE OF MICHIGAN

STANDARD CONTRACT TERMS

This STANDARD CONTRACT ("**Contract**") is agreed to between the State of Michigan (the "**State**") and National Industrial Maintenance] ("**Contractor**"), This Contract is effective May 18, 2016 ("**Effective Date**"), and unless terminated, expires May 17, 2019.

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] 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.

<p>If to State: Laura Dotson MDOT Purchasing 425 W. Ottawa Lansing, MI 48933 (517) 373-2134 Dotsonl2@michigan.gov</p> <p>And</p> <p>Jasna Cehaja 6510 Telegraph Rd</p>	<p>If to Contractor: [Greg Tackett National Industrial Maintenance] 4400 Stecker] Dearborn Mich. 48126 Greg@nimmi.com 313-945-6464</p>
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Taylor, MI cehajaj@michigan.gov 313.375.2444	
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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: Laura Dotson MDOT Purchasing 425 W. Ottawa Lansing, MI 48933 (517) 373-2134 Dotsonl2@michigan.gov	Contractor: Greg Tackett National Industrial Maintenance] 4400 Stecker] Dearborn Mich. 48126 Greg@nimmi.com 313-945-6464
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4. **Program Manager.** The Program Manager for each party will monitor and coordinate the day-to-day activities of the Contract (each a "Program Manager"):

State: Jasna Cehaja 6510 Telegraph Rd Taylor, MI cehajaj@michigan.gov 313.375.2444	Contractor: Greg Tackett National Industrial Maintenance] 4400 Stecker] Dearborn Mich. 48126 Greg@nimmi.com 313-945-6464
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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 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	
<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	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	
<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 **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.
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 22, 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. **Warranty Period.** The warranty period, if applicable, for Contract Activities is a fixed period commencing on the date specified in Exhibit A. If the Contract Activities do not function as warranted during the warranty period the State may return such non-conforming Contract Activities to the Contractor for a full refund.

19. **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.

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

21. **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.

22. **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.

23. **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 24, 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.

24. **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.

25. **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.

26. **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.
27. **Limitation of Liability.** The State is not liable for consequential, incidental, indirect, or special damages, regardless of the nature of the action.
28. **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.
29. **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.
30. **Reserved.**
31. **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.

32. **Reserved.**

33. **Reserved.**

34. **Reserved.**

35. **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.

36. **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 22, Termination for Cause.

37. **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.

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

39. **Reserved.**

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**").