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

CONTRACT NO. 591B6600260
Between
THE DEPARTMENT OF TRANSPORTATION
And

NAME & ADDRESS OF VENDOR	TELEPHONE
Greenscape **P.O Box 133** **Lake, MI 48632** Email: *bwcayaldo@yahoo.com*	**(989-6544-2489** **Contact: Brian Cataldo**

Michigan Department of Transportation, Catch Basin Cleaning-Brighton TSC

CONTRACT PERIOD:	From: **June 7, 2016**	To: **June 6, 2021**
TERMS	**Net 45**	**2, 1 Year Options**

MISCELLANEOUS INFORMATION:

The terms and conditions of this Contract, including any applicable information from the vendor's proposal to RFP-059116B0007391 dated 4/3/2016 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.

Est. Contract Value: $895,500.00

FOR THE VENDOR:

Greenscape
Firm Name

Brian Cataldo
Authorized Agent Signature

Brian Cataldo
Authorized Agent (Print or Type)

6/15/16
Date

FOR THE STATE:

Signature

Demetrius A. Parker, P.E.
Name

Administrator, Michigan Department of Transportation
Title

6-20-16
Date

STATE OF MICHIGAN

Contract Number: 591B6600260

Catch Basin Clean Out Services-MDOT –Brighton TSC

EXHIBIT A260

STATEMENT OF WORK
CONTRACT ACTIVITIES

BACKGROUND
This Contract is for Catch Basin Cleaning Services for the Brighton Transportation Service Center (TSC) in the University Region for the Michigan Department of Transportation (MDOT).

An estimated number of catch basins located within a route are provided in the Location Specification Sheet. The Contractor shall notify the MDOT Program Manager when this number of catch basins is reached for a given route. Contractor has the responsibility of updating the existing structure inventory and recording any new locations not listed on the approved inventory sheets. The quantity is an estimate of the total number of catch basins to clean out. The Contractor will be provided a detailed list of structures and locations before commencing work

SCOPE
The Contractor shall provide services at the locations described in Attachment A and/or directed by the MDOT Program Manager. The Contractor shall provide clean out of specified catch basins under the jurisdiction of MDOT in accordance with requirements stated herein in accordance with requirements of this Contract. The Contractor shall also furnish supervision and all labor, equipment, transportation, disposal of catch basin debris in accordance with all Federal and State statues and incidentals necessary to satisfactorily perform the services at the frequencies and during the times as specified herein. The services shall include all functions normally considered a part of workmanlike, satisfactory public service.

1. GENERAL REQUIREMENTS

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

A. Routine Catch Basin Cleaning

The Contractor shall inspect all drainage structures and catch basins scheduled for clean out in each year of a contract to determine the amount of material in each drainage structure and catch basin. The Contractor shall clean all structures and catch basins containing two (2) inches or more of material. The Contractor shall GPS each catch basin structure using the ARC GIS software or compatible software. The contractor shall identify each drainage structure and catch basin inspected requiring repairs in the ARC GIS program notes section. Should the structure be in such condition that it poses a hazard the contractor is to contact the MDOT Program Manager immediately by cell phone to inform them of the condition and location of the failing structure. The Contractor shall update the log each week and provide copy of the log to the MDOT Program Manager each week during cleaning operations. The inspection log (ARC GIS) shall identify each structure that was inspected and any repairs they may need and any blocked outlets.

The routine catch basin cleaning will be performed between April 15th and November 15 of each year. Start date may vary depending on weather conditions and needs of the Department.
One (1) unit shall equal one (1) catch basin as described in the Location Specification Sheet as an Attachment to this Contract.

B. Emergency Catch Basin Cleaning

The Contractor shall be available 24 hours, seven (7) days a week. The Contractor shall organize his/her operations to respond to emergency calls for catch basin clean out services from the MDOT Program Manager. Following a call from the MDOT Program Manager, the Contractor shall provide the necessary equipment for catch basin clean out at the designated scene within two (2) hour of notice. This activity is typically done in conjunction with localized flooding for catch basin clean out.

All cleaning of drainage structures and catch basins shall be paid on a unit price per catch basin per cleaning basis. The completed work will be paid for at this Contract unit price, which price includes all equipment and labor to clean basin or manhole and hauling, testing (if required for disposal), disposing of all waste, and traffic control to satisfactorily complete the work as described.

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

2.0 Equipment Requirements

2.1 General

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

- Whenever performing cleaning operations that require a lane closure on freeways the contractor shall provide a minimum of 3 three vactor trucks working within the lane closure operation to expedite cleaning operations in heavily traveled corridors. Four trucks is preferred on I-94 in Washtenaw County to complete the cleaning operation in a minimum number of closures needed to complete the 16 mile stretch from Rawsonville Rd to Werkner Rd.
- Traffic control on certain freeways is provided by MDOT or Contract Counties due to complexity of road geometry and mobility restrictions (times/days) that we are allowed to close a lane on a freeway corridor. These restrictions apply mainly to portions of US-23, M-14 and a majority of I-94 in the Ypsilanti and Ann Arbor area. I-75 may also have some lane closure restrictions where the road commission may provide traffic control under certain conditions when the location does not have a full width shoulder thus requiring a lane closure. The road commission will close the lane and perform other routine maintenance activities within that closure during catch basin cleaning operations such as removing large debris from the shoulder or filling pot holes.

2.2 Type of Equipment

The Contractor shall be required to use Vactor type equipment capable of producing a minimum of 3500 CFM to remove debris from storm basin structures and producing a minimum water pumping capacity of 60 gallons per minute of high pressure water to flush out storm lines and clean storm basins and hold at least five (5) cubic yards of debris in the holding tank. All equipment shall be approved through an acceptable demonstration of the equipment's capabilities, suitability, and condition to MDOT. Demonstrations will be at no cost to MDOT.

Each structure shall be located with a Quality Stand Alone GPS (Global Positioning System).

*Trimble GeoExplorer CE Series Model GeoXT, or approved equivalent with accuracy of 3ft.

Data from the Quality Stand Alone G.P.S. receiver for each catch basin cleaned shall be recorded electronically and submitted electronically into a **shape file** and forwarded via e-mail to the MDOT Program Manager along with the billing. Corrected inventory data shall be submitted with each invoice for payment. Data shall consist of a unique number/letter for each structure with corresponding coordinate. An accuracy statement and description of coordinate system used shall be included on inventory sheets.

2.3 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

2.4 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 Engineer.

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

Material loaded onto the vehicle to obtain the required gross weight shall be securely attached to the vehicle to prevent movement should the TMA be hit.
Mobile Operation: This work shall consist of furnishing a vehicle with an actual gross vehicle weight of five (5) tons (min. weight) and furnishing, installing and operating a TMA according to the manufacturer's recommendations, and/or as directed by the Engineer. The attenuator placement shall be located as detailed in the applicable maintaining traffic typical.
Material loaded onto the vehicle for transport or during work operations shall be securely attached to the vehicle to prevent movement should the TMA be hit. Hazardous materials will not be allowed on this vehicle. Materials loaded onto the vehicle shall not be considered part of the vehicle gross weight.

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

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

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

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

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

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

- The height from the bottom of the TMA to the roadway surface shall be 12 inches (± 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 this Contract at no cost to MDOT.

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

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

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

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

3.0 Disposal of Material

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

A. Disposal Alternate A

1. 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.

2. 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).

B. 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, at any time, the material is suspected of being hazardous, the MDOT Program Manager shall be notified.

Drainage structures to be cleaned shall be measured as Drainage Structure Lead, cleaning each. The completed work will be paid for at this Contract unit price each, which price includes all equipment and labor to clean basin or manhole and hauling, testing if required for disposal, and disposing of all waste.
If material tests hazardous as defined by Part 111 of the Natural Resources and Environmental Act, Act 451, P.A. 1994, the MDOT Program Manager shall be notified immediately. Payment for disposal of hazardous material shall be as per Subsection 109.07 Extra and Force Account Work.

Maintaining Traffic

4.0 Maintenance of Traffic

Traffic shall be maintained in accordance with Sections 812 of the 2012 MDOT Standard Specifications for Construction, the 2011 Michigan Manual of Uniform Traffic Control Devices (MMUTCD) and any supplemental specifications. All operations shall be conducted in a manner that will not create a hazard. The Contractor shall not operate equipment in a manner that requires unnecessary crossing of the roadway. The Contractor shall not park equipment within the right of way of any state trunk line in a manner not permitted by posted traffic control devices. The Contractor shall not store equipment in the right of way of any state trunk line or on state property when not engaged in sweeping operations. The Contractor shall furnish and place all necessary warning and directional devices to maintain traffic. This includes signs, sign sheeting, sign covers, arrow boards, and channelizing devices. Channelizing devices used during daytime lane closures shall be 18-inch cones.

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

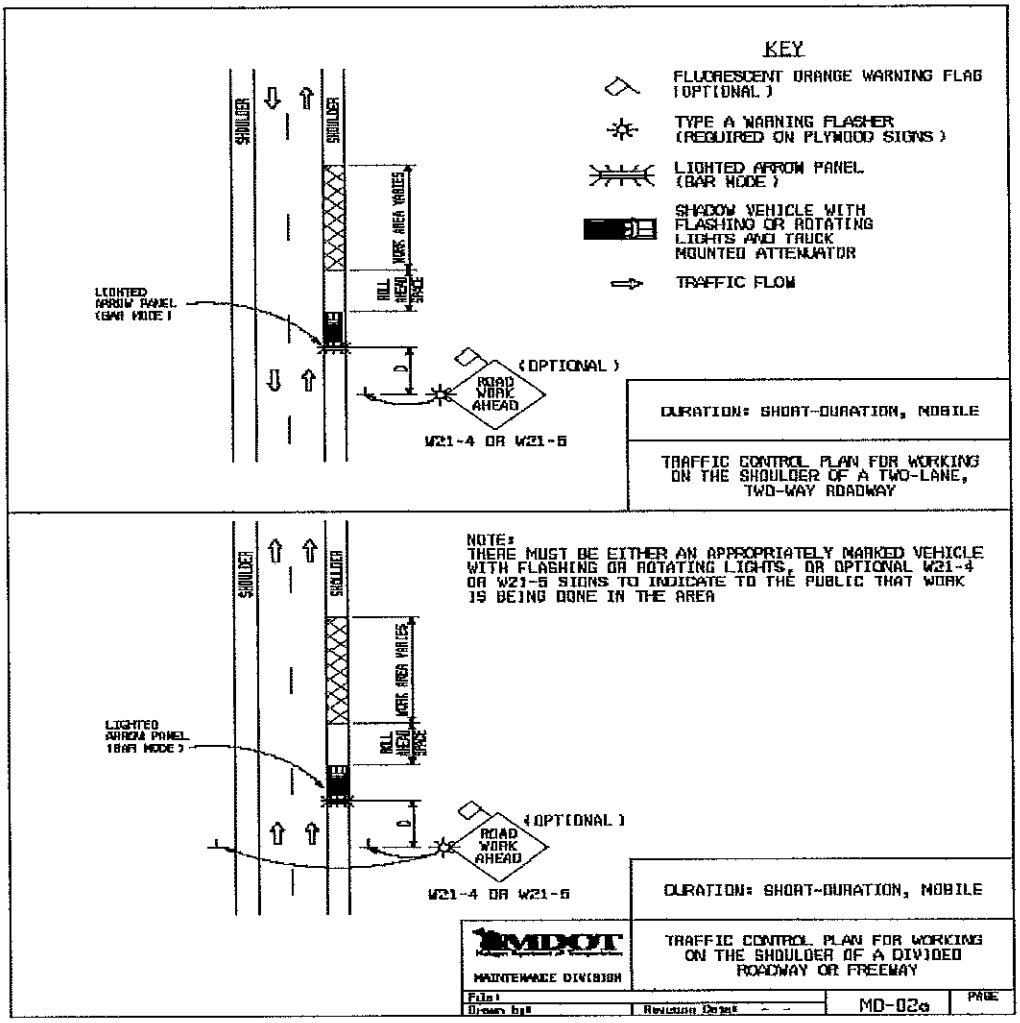
Financial Services Division
Bureau of Finance
Michigan Department of Transportation
P. O. Box 30050
Lansing, MI 48909

Traffic Control Plan

For Working on the shoulder of a:

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

(See diagram below)



5.0 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 MDOT Program Manager or designated representative, reasonably necessary to protect the safety and health of employees on the job and the public and to protect property during the performance of the project.

6.0 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. The Contractor shall be responsible for, and repair to, 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 this Contract prior to completion and acceptance thereof.

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

All landscape plant material damaged by the Contractor shall be replaced, in kind, according to Sections 815 and 917 of the 2012 Standard Specifications for Construction and as herein specified. Planting may only be done prior to May 10 of the following year, if the damage occurred after May 10. All replacement plants must be maintained during the specified establishment period.

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

7.0 Warranties

A. The State reserves the right to require additional warranties other than those identified by the Contractor in response to this Contract.

B. Damage to State-owned or Leased or Citizen-owned Property

1. In all instances where State-owned or leased, or Citizen-owned property or equipment is damaged, the Contractor agrees to notify the MDOT Program Director or designee of the facts and extent of the damage:
   a. Verbally – within one hour of the damage or discovery of damage, and
   b. In writing within 24 hours of the damage or discovery of damage.
2. Contractor shall be responsible for repair, replacement or cleanup as necessary to any State-owned or leased or Citizen-owned property due to carelessness, misuse or neglect of the Contractor or any of the Contractor's personnel or subcontractors.
3. In the event of Contractor liability for damages, the Contractor agrees:
   c. The State will repair, replace or cleanup the damage.
   d. The State will provide the Contractor with documentary evidence (i.e. invoices, etc.) of the costs associated with the repair, replacement or cleanup, and
   e. The Contractor will reimburse the State for the full amount of the repair, replacement or cleanup either by:
      i. Forwarding payment in full within 45 days of receipt of documentary evidence, or
      ii. By agreeing, in writing, to allow the State to hold back contractual payments until the cost for the repair, replacement or cleanup has been fully reimbursed to the State.

C. Health, Safety and Environmental Protection

1. The Contractor agrees to conform to all applicable federal, state and local laws and to the requirements of this contract.
2. In performing the Contract Activities, the Contractor shall:
   a. Take all reasonable precautions to prevent the release of hazardous chemicals into the environment.
   b. Take all additional precautions the Program Manager or designee requires.
3. Any violation of the health, safety and environmental rules may be grounds for termination of this contract.

8.0 Service Levels

8.1 Work Approval

During the period of cleaning operations, the Contractor shall consult the MDOT Program Manager or designated representative, 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. During the first week of May for catch basin cleaning of each year of this Contract, prior to the first catch basin cleaning, the Contractor and MDOT Program Manager shall meet to review and update the progress schedule for the coming season, identify any personnel changes, inspect equipment and exchange special event schedules.

9.0 Project Plan

The Contractor will carry out this project under the direction and control of the MDOT Program Manager. Prior to the commencement of work, the Contractor will submit a project plan to the MDOT Program Manager for final approval. The plan must include:

1. EQUIPMENT LIST - indicating description, age, manufacturer, model, and serial number of each piece. Equipment must meet or exceed all requirements defined under "Equipment Requirements" document. All equipment must be in the Contractor's possession, available for use and fully operational, prior to the Pre-Award meeting. The Contractor must provide an equipment list and any lease contracts at the Pre-Award Meeting. Equipment failure WILL NOT constitute an acceptable reason for failure to provide service.

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

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

4. Progress schedule listing locations where cleaning will occur including a schedule of catch basins to be cleaned each day. Equipment failure **WILL NOT** constitute an acceptable reason for deviating from the progress schedule. This schedule must be approved by MDOT at the Pre-Award Meeting. Adjustments to this schedule, including any weather-related deviations, must be approved by the MDOT Program Manager or designated representative.

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

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

7. Proof of Insurance as defined in the Standard Terms and Conditions must be provided to the State of Michigan with the signed Contract.

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

9. Copy of Liquid Waste Hauler License.

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

10.0 Service Levels

A. Days and Times of Basic and Periodic Service

1. Contractor agrees to adhere to the days and times of Basic and Periodic Services as detailed in Exhibits C1 – C9 – the Location Specification Sheets.
2. Contractor agrees all site staff are to remain actively working during specified times of service, except during regularly scheduled breaks.

B. Inspection and Acceptance

1. The following criteria will be used by the State to determine Acceptance of the Contract Activities under this agreement.
   a. The MDOT Program Manager or designee will conduct weekly inspections for compliance with Section 1.1 Specifications and site specific requirements in compliance with Exhibits C1 – C9 – the Location Specification Sheets, noting any deficiencies. The MDOT Program Manager or designee will make the final determination as to whether any task has been satisfactorily performed.
   b. The MDOT Program Manager or designee will maintain a record of complaints from the agency or departmental staff and provide record of complaints to the Contractor. The record will identify areas requiring special attention, on the day the complaint was received, which must be completed by the Contractor within eight business hours of receipt.
   c. The Contractor must remain responsible to make any necessary changes if the MDOT Program Manager or designee determines that any task has not been performed adequately or satisfactorily. Contractor must correct the deficiency within 8 business hours for basic janitorial issues, and within 24 business hours for periodic services, or sooner, depending on the severity of the task.

11.0 Vendor Performance

11.1 Annual Service Review and Progress Meeting

1. The MDOT Program Manager may request an audit of the services provided each year under the specifications, terms, and conditions of this Contract. The audit will be a joint activity of MDOT and Purchasing Operations.

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

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

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

12.0 Contract Management

12.1 Reporting

The Contractor must submit to the MDOT Program Manager, or identify the individual(s) reports should be delivered to], the following written reports:

The Contractor shall prepare an inspection log each week during cleaning operations using the format provided by MDOT called the Weekly Catch Basin Inspection Report as described in General Requirements section.

12.2 . Meetings

The Contractor must attend a Pre-Award Meeting and Annual Service Review.

The State may request other meetings as it deems appropriate.

Contractor Agrees to adhere to the requirements noted in Section 12.0 Contract Management.

13.0 Staffing

13.1 Contractor Representative

The Contractor must appoint one 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").

The Contractor must notify the Contract Administrator at least [insert number of days] calendar days before removing or assigning a new Contractor Representative.

A. PERSONNEL

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

    - Project Manager
    - Staff Support

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

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

B. SUPERVISION

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

1. 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.

    2. 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 in another state agency.
    3. The MDOT Program Manager shall make the final determination of a contractual employee's suitability for assignment to a specific location. Problems of this nature will be addressed with the Contractor'

13.2 Customer Service 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 during the hours of 8 am to 5 pm EST.

13.3 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.

13.4 Security

The Contractor's staff may be required to make deliveries to or enter State facilities. The State may require the Contractor's personnel to wear State issued identification badges and submit to background checks.

14.0 Pricing

14.1 Price Term

Pricing is firm for the base period and any option years of the Contract

14.2 Price Changes

1. Increases or decreases may be approved based on changes in actual Contractor costs.
2. Requests must be in writing, must be supported by written evidence documenting the change in costs and m12.3ust be received by DTMB-Procurement 60 calendar days prior to contract expiration.
3. The State may consider sources such as the Consumer Price Index, Producer Price Index, other pricing indices, economic and industry data, manufacturer or supplier invoices noting the change in pricing, or any other data the State deems relevant.
4. Following the presentation of supporting documentation, both parties will have 30 days to review the information and prepare a written response.
5. If the request is approved, both parties may negotiate such changes for no longer than 30 days, unless extended by mutual agreement.
6. Upon completion of negotiation, the State will issue a Change Notice to execute the adjustment.
7. The adjustment will be effective on the first day of the month following approval, unless Ad Board approval is required. If Ad Board approval is required, the adjustment will be effective on the first day of the month following Ad Board approval.
8. The Contractor remains responsible for Contract Activities at the current price for all orders received before the mutual execution of a Change Notice indicating the start date of the new Pricing Period.
9. If the State elects to exercise an option year and the Contract refuses, the State reserves the right to award the contract to the next lowest qualified bidder.

15.0 Ordering

15.1 Authorizing Document

The appropriate authorizing document for the Contract will be a State Issued Purchase Order which must be approved by the Program Manager to order any deliverables under the Contract.

16.0 Invoice and Payment

16.1 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; (and (f) total price.

Invoices must be sent to:

Sandra Feldhahn
10321 Grand River Road
Fonda Place Suite 500
Brighton, MI 48116

16.2. 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.

17.0 Product Requirements

A. Environmental and Energy Efficient Products

1. The Contractor must identify any energy efficient, bio-based, or otherwise environmental friendly products used in the products. Contractor must include any relevant third-party certification, including the verification of a United States department of agriculture certified bio based product label.

B. Hazardous Chemical Identification

1. In accordance with the federal Emergency Planning and Community Right-to-Know Act, 42 USC 11001, *et seq.*, as amended, the Contractor must provide a Material Safety Data Sheet listing any hazardous chemicals, as defined in 40 CFR §370.2, to be delivered. Each hazardous chemical must be properly identified, including any applicable identification number, such as a National Stock Number or Special Item Number.
2. The Contractor must identify any hazardous chemicals that will be provided under any resulting contract.

C. Mercury Content

Pursuant to MCL 18.1261d, mercury-free products must be procured when possible. The Contractor must explain if it intends to provide products containing mercury, the amount or concentration of mercury, and whether cost competitive alternatives exist. If a cost competitive alternative does exist, the Contractor must provide justification as to why the particular product is essential. All products containing mercury must be labeled as containing mercury.

D. Brominated Flame Retardants

1. The State prefers to purchase products that do not contain brominated flame retardants (BFRs) whenever possible. The Contractor must disclose whether the products contain BFRs.

17.0 Additional Requirements

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 this Contract start date. MDOT reserves the right to inspect the Contractor's equipment prior to the Contract start date and at any time throughout the duration of this Contract. 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.

MAINTENANCE, REPAIR & OPERATIONS (MRO)
CATCH BASIN CLEANING –University REGION; Brighton TSC, Livingston County
LOCATION SPECIFICATION SHEET (LSS)

Contract Number:

PART I – PLACE OF SERVICES REQUESTED

CONTRACTOR NAME: GREENSCAPE

CONTRACT INFORMATION			
ESTIMATED CONTRACT START DATE:	6/7/2016	*CONTRACT END DATE:*	6/6/2021
CONTRACT INFORMATION:	Approximately 5 Year Contract with 2, 1 Year Options		
CONTRACTING AGENCY NAME:	Department of Transportation		
BUILDING NAME AND NUMBER:	MDOT Brighton TSC		
BUILDING ADDRESS:	10321 Grand River Road Fonda Place Suite 500 Brighton, MI 48116		
REGION / COUNTY:	University Region / Livingston 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 #:*	*517-373-7446*
MDOT PROGRAM MANAGER / CCI Contract Compliance Inspector. NAME:	*Tom Simpson*	*CONTACT PHONE #:*	*586-634-7667*
MDOT PROGRAM MANGER/ FM CONTACT E-MAIL:	*Simpsont4@michigan.gov*	*CONTACT FAX #:*	*810-227-7929*

LOCATION INFORMATION			
OFFICIAL WORKING DAYS OF BUILDING OCCUPANTS:	*M-F*	OFFICIAL WORKING HOURS OF BUILDING OCCUPANTS:	7:30 a.m. to 4:30 p.m.
ESTIMATE OF AREA TO BE SERVICED: **(IF APPLICABLE)**		**(FILL IN IF NEEDED)**	
IDENTIFY DAYS OF SERVICE:	*Determined by Program Manager/CCI*	**IDENTIFY HOURS OF SERVICE:** **[EXAMPLE: 5:30 A.M. TO 5:30 P.M.]**	*Determined by Program Manager/CCI*

PART II – PRICING SHEET SUMMARY

591B6600260

CATCH BASIN CLEANING SERVICES

DESCRIPTION OF SERVICES	Unit of Measure	CYCLES PER YEAR	PRICE Per Catch Basin /Emergency Cleanout	Total Price for 5 Years
Catch Basin Cleaning-Brighton TSC **Livingston County, Washtenaw County And Monroe County State trunk lines**	58.00 58.25 58.50 58.75 60.00	__3000___ in 2016 ___3000____ in 2017 ___3000____in 2018 __3000___ in 2019 ___3000_____ in 2020 5 year total =_____	$174,000.00 $175,750.00 $175,50.00 $176,250.00 $180,000.00	$880,500.00
Emergency Clean Out	Hour	100 hours / (5 year total)	$150.00	$15,00.00
			TOTAL	**$895,500.00**

Brighton TSC area includes Livingston, Washtenaw and Monroe Counties. We have an estimated 4382 storm basin structures

Located within our TSC area. We typically have funds available annually to clean approximately 3000 structures but that varies

Each year depending on available maintenance funding.

Washtenaw County Area Catch Basin Cleaning location of work:

Route/Location	Description	# of catch basins
I-94	I-94 from Jackson County line to Wayne County line including Chelsea rest area.	600
M-52	Starting at I-94 and continue north approximately one mile to Old US-12. Village of Manchester	12 100
US-12	US-12 from Marion Rd, west of City of Saline, to north side of I-94 interchange. Also US-12 Bypass from EB I-94 exit 185 To the Ecorse Rd, Michigan Ave split at Wayne County line.	420
Ecorse Rd	From Maus Rd (city limit Ypsilanti), east side of Ypsilanti, to the US-12 Bypass	50
M-17/ Washtenaw Ave	From west side of US-23 interchange easterly to Hewitt Rd	120
M-14	From Wayne County Line to I-94.	40
US-23	US-23 from Livingston County line to 1st exit in Monroe County (Plank Rd) This will include the portion of median barrier wall that crosses into Monroe. Also get both sides of barrier wall in collector lanes at I-94 and US-23.	**140**
Estimated Sub -Total		**1482**

Monroe County catch basin cleaning location of work:

Route/Location	Description	# of catch basins
I-75	From Ohio state line to Wayne county line	350
I-275	From Wayne county line to I-75	45
M-125	From Telegraph/M125 split to Ohio state line	650
US-24/Telegraph	From Wayne County line to Ohio state line	370
US-23	From Ohio state line to Washtenaw county line	65
Estimated Sub -Total		**1480**

Livingston County catch basin location of work:

ROUTE/LOCATION	DESCRIPTION	# CATCH BASINS
I-96	From M-59 to Oakland county line. Including rest area and park –n-rides at Spencer Rd.	660
US-23	From Genesse County line to Washtenaw County line.	160
M-59	From I-96 to Oakland County line	400
BL-96	From M-59 to Lake Chemung ramp to I-96 (exit 141) located east of Latson Rd. Includes one behind bowling alley and 3 in trailer park by University Dr.	200
M-155	**M-155 (Michigan Ave). From BL-96/Grand River south to Mason Rd continue west on Mason Rd to Hillcrest Rd. A pre-trip tour will be given.**	50
Brighton garage facility	Clean basins inside and outside of garage buildings and yard	30
Estimated Sub Total		**1500**

EQUIPMENT

EQUIPMENT	MODEL	MANUFACTURER	APPROXIMATE AGE OF EQUIPMENT & OWNED OR RENTED
1. Vac Truck	16 yd. Combo	Vaccon	2014 (Owned)
2. Vac Truck	16 yd. Combo	Vaccon	2004 (Owned)
3. Vac Truck	16 yd. Combo	Vaccon	2012 (Owned)
4. Vac Truck	12 yd. Combo	Vaccon	2008 (Rented)
5. Vac Truck	16 yd. Combo	Vaccon	2010 (Rented)
6. TMA Attenuator	SS90 HD	TMA Energy Absorbtion	2006 (Owned)
7. TMA Attenuator	Alpha 60 MD	TMA Energy Absorbtion	2004 (Owned)

STATE OF MICHIGAN

STANDARD CONTRACT TERMS

This STANDARD CONTRACT ("**Contract**") is agreed to between the State of Michigan (the "**State**") and Greenscape] ("**Contractor**"), This Contract is effective June 7, 2016 ("**Effective Date**"), and unless terminated, expires June 6, 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 and will automatically extend the Term of this Contract.]

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:
Laura Dotson MDOT Purchasing 425 W. Ottawa Lansing, MI 48933 (517) 373-2134 Dotsonl2@michigan.gov	Brian Cataldo P.O. Box 133 Lake, MI 48632 (989) 544-2489 bwcayaldo@yahoo.com

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:
Laura Dotson MDOT Purchasing 425 W. Ottawa Lansing, MI 48933 (517) 373-2134 Dotsonl2@michigan.gov	Brian Cataldo P.O. Box 133 Lake, MI 48632 (989) 544-2489 bwcayaldo@yahoo.com

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:
Tom Simpson 10321 E. Grand River Fonda Place, Suite 500 Brighton, MI 48116 Cell 586-634-7667 Office 810-225-2619 Simpsont4@michigan.gov	Brian Cataldo P.O. Box 133 Lake, MI 48632 (989) 544-2489 bwcayaldo@yahoo.com

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 $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	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.
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.	
Environmental and Pollution Liability (Errors and Omissions)	
Minimal limits: $1,000,000 Each Occurrence	Contractor must have their policy: (1) be applicable to the work being performed,

$2,000,000 Annual Aggregate	including completed operations equal to or exceeding statute of repose; (2) not have exclusions or limitations related to Transportation (upset overturn, spills during loading or unloading, Hazardous Materials Handling, and Non Owned disposal site liability; and (3) endorsed to add "the State of Michigan, its departments, division, agencies, offices, commissions, officers, employees, and agents" as additional insured.

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**").