



STATE OF MICHIGAN PROCUREMENT

Department of Natural Resources

525 West Allegan, Constitution Hall, Third Floor, Procurement Services
Lansing, MI 48933

CONTRACT CHANGE NOTICE

Change Notice Number 3
to
Contract Number 751B5500010

CONTRACTOR	U.P. Concrete Company, Inc.
	P.O. Box 25
	Bark River, MI 49807
	Melvin Stenberg, President
	906-466-7400
	Melvin@upconcrete.com
	CV0025966

STATE	Program Manager	Tim Melko	DNR
		906-228-6561	
	MelkoT@michigan.gov		
	Contract Administrator	Lisa Crozier-Green	DNR
517-284-5938			
CrozierGreenL@michigan.gov			

CONTRACT SUMMARY				
DESCRIPTION: Snow and Ice Removal Services – DNR Escanaba Field Office				
INITIAL EFFECTIVE DATE	INITIAL EXPIRATION DATE	INITIAL AVAILABLE OPTIONS	EXPIRATION DATE BEFORE CHANGE(S) NOTED BELOW	
December 10, 2014	September 30, 2017	Two 1-Year Options to Renew	September 30, 2019	
PAYMENT TERMS		DELIVERY TIMEFRAME		
Net 45		N/A		
ALTERNATE PAYMENT OPTIONS				EXTENDED PURCHASING
<input type="checkbox"/> P-card <input type="checkbox"/> Payment Request (PRC) <input type="checkbox"/> Other				<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
MINIMUM DELIVERY REQUIREMENTS				
N/A				
DESCRIPTION OF CHANGE NOTICE				
OPTION	LENGTH OF OPTION	EXTENSION	LENGTH OF EXTENSION	REVISED EXP. DATE
<input checked="" type="checkbox"/>	One Year	<input type="checkbox"/>		September 30, 2020
CURRENT VALUE		VALUE OF CHANGE NOTICE	ESTIMATED AGGREGATE CONTRACT VALUE	
\$23,400.00		\$0.00	\$23,400.00	
DESCRIPTION: Effective October 1, 2019 this Contract is exercising the final option year. The revised expiration date is September 30, 2020. All other terms, conditions, specifications and pricing remain the same. Per agency request and Contractor agreement.				

FOR THE CONTRACTOR:

U.P. Concrete, Inc.

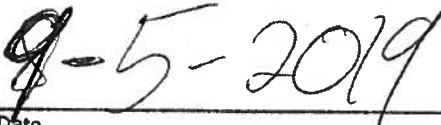
Company Name



Authorized Agent Signature

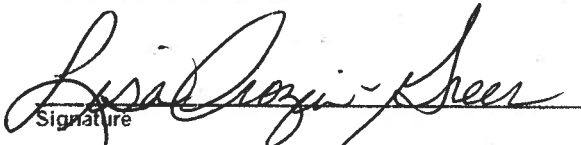
Melvin Stenberg, President

Authorized Agent (Print or Type)



Date

FOR THE STATE:



Signature

Lisa Crozier-Green, Contract Administrator

Name & Title

Department of Natural Resources, Procurement Office

Agency



Date



STATE OF MICHIGAN ENTERPRISE PROCUREMENT

Department of Natural Resources

525 West Allegan, Constitution Hall, Third Floor
Lansing, Michigan 48933

CONTRACT CHANGE NOTICE

Change Notice Number 2
to
Contract Number 751B5500010

CONTRACTOR	U.P Concrete Company, Inc.
	P.O. Box 25
	Bark River, Michigan 49807
	Melvin Stenberg, President
	906-466-7400
	Melvin@upconcrete.com
5966	

STATE	Program Manager	Tim Melko	DNR
		906-228-6561	
Contract Administrator		MelkoT@michigan.gov	
	Lisa Crozier-Green	DNR	
	517-284-5938		
		CrozierGreenL@michigan.gov	

CONTRACT SUMMARY				
DESCRIPTION: Snow and Ice Removal Services – DNR Escanaba Field Office				
INITIAL EFFECTIVE DATE	INITIAL EXPIRATION DATE	INITIAL AVAILABLE OPTIONS	EXPIRATION DATE BEFORE CHANGE(S) NOTED BELOW	
December 10, 2014	September 30, 2017	Two 1-Year Options	September 30, 2018	
PAYMENT TERMS		DELIVERY TIMEFRAME		
N/A		N/A		
ALTERNATE PAYMENT OPTIONS			EXTENDED PURCHASING	
<input type="checkbox"/> P-card <input type="checkbox"/> Payment Request (PRC) <input type="checkbox"/> Other			<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	
MINIMUM DELIVERY REQUIREMENTS				
DESCRIPTION OF CHANGE NOTICE				
OPTION	LENGTH OF OPTION	EXTENSION	LENGTH OF EXTENSION	REVISED EXP. DATE
<input checked="" type="checkbox"/>	One Year	<input type="checkbox"/>		September 30, 2019
CURRENT VALUE		VALUE OF CHANGE NOTICE	ESTIMATED AGGREGATE CONTRACT VALUE	
\$23,400.00		\$0.00	\$23,400.00	
DESCRIPTION: Effective October 1, 2018 this Contract is exercising the second available Option Year. The revised expiration date is September 30, 2019. All other terms, conditions, specifications and pricing remain the same. Per DNR request and Contractor agreement.				

FOR THE CONTRACTOR:

U.P. Concrete Company, Inc.

Company Name



Authorized Agent Signature

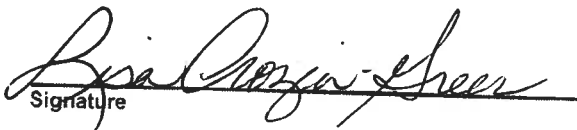
Melvin Stenberg, President

Authorized Agent (Print or Type)

12-6-18

Date

FOR THE STATE:


Signature

Lisa Crozier-Green, Contract Administrator

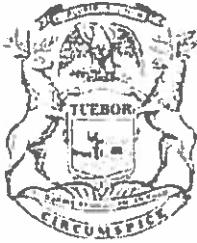
Name & Title

Department of Natural Resources

Agency

12.7.18

Date



**STATE OF MICHIGAN
ENTERPRISE PROCUREMENT**
Department of Natural Resources
525 W. ALLEGAN ST., LANSING, MICHIGAN 48913

CONTRACT CHANGE NOTICE

Change Notice Number 1
to
Contract Number **751B5500010**

CONTRACTOR	U.P Concrete Company, Inc.
	P.O. Box 25
	Bark River, Michigan 49807
	Melvin Stenberg, President
	906-466-7400
	Melvin@upconcrete.com
	7983 / 001

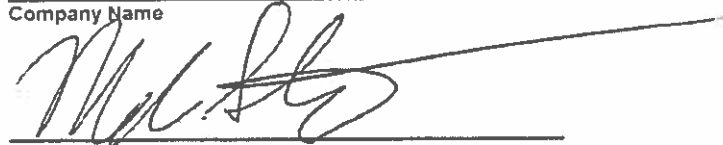
STATE	Program Manager	Tim Melko	DNR
		906-228-6561	
	MelkoT@michigan.gov		
	Contract Administrator	Lisa Crozier-Green	DNR
517-284-5938			
CrozierGreenL@michigan.gov			

CONTRACT SUMMARY				
DESCRIPTION: Snow and Ice Removal Services – DNR Escanaba Field Office				
INITIAL EFFECTIVE DATE	INITIAL EXPIRATION DATE	INITIAL AVAILABLE OPTIONS	EXPIRATION DATE BEFORE CHANGE(S) NOTED BELOW	
December 10, 2014	September 30, 2017	Two 1-Year Options	September 30, 2017	
PAYMENT TERMS		DELIVERY TIMEFRAME		
Net 45		N/A		
ALTERNATE PAYMENT OPTIONS			EXTENDED PURCHASING	
<input type="checkbox"/> P-card <input type="checkbox"/> Direct Voucher (DV) <input type="checkbox"/> Other			<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	
MINIMUM DELIVERY REQUIREMENTS				
N/A				
DESCRIPTION OF CHANGE NOTICE				
OPTION	LENGTH OF OPTION	EXTENSION	LENGTH OF EXTENSION	REVISED EXP. DATE
<input checked="" type="checkbox"/>	One Year	<input type="checkbox"/>		September 30, 2018
CURRENT VALUE		VALUE OF CHANGE NOTICE	ESTIMATED AGGREGATE CONTRACT VALUE	
\$23,400.00		\$0 00	\$23,400.001	
DESCRIPTION: Effective October 1, 2017 this Contract is exercising the first available Option Year. The revised contract expiration date is September 30, 2018. Please Note. The Contract Administrator has been changed to Lisa Crozier-Green. All other terms, conditions, specifications and pricing remain the same. Per DNR request and Contractor agreement.				

FOR THE CONTRACTOR:

U.P Concrete Company, Inc.

Company Name



Authorized Agent Signature

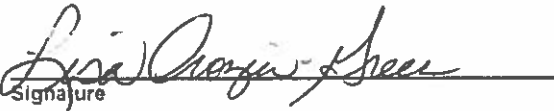
Melvin Stenberg, President

Authorized Agent (Print or Type)

6-22-17

Date

FOR THE STATE:



Lisa Crozier-Green

Name & Title

Department of Natural Resources

Agency

6-23-17

Date



Michigan Department of Natural Resources – Procurement Services
 P.O. Box 30028, Lansing, MI 48909
 OR
 525 W. Allegan, Lansing, MI 48933

CONTRACT NO. 751B5500010

**Between
 STATE OF MICHIGAN
 and**

Required by authority of 1984 PA 431, as amended.

Name and Address of Contractor U.P. Concrete Company, Inc. PO Box 25 Bark River, MI 49807	Primary Contact Melvin Stenberg, President	
	Email Melvin@upconcrete.com	
	Telephone 906-466-7400	Contractor #, Mail Code 2XXXXX7983 / 001

State Contact	DNR Agency	Name	Telephone	Email
Program Manager	Finance & Operation	Tim Melko	906-228-6561	melkot@michigan.gov
Buyer	Procurement Services	Ruth Thole	517-284-5973	tholer@michigan.gov

Contract Summary			
Snow and Ice Removal Services – Escanaba Field Office			
Initial Term Approx. 3 years	Effective Date 12/10/2014	Initial Expiration Date 09/30/2017	Available Options Two 1-year
Payment Terms Net 45 Days	F.O.B. N/A	Delivery N/A	Shipped From N/A
Minimum Delivery Requirements N/A		Alternate Payment Options <input type="checkbox"/> P-Card <input type="checkbox"/> Direct Voucher (DV)	Available to MiDeal Participants <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
Miscellaneous Information			
ESTIMATED CONTRACT VALUE AT TIME OF EXECUTION: \$23,400.00			

THIS IS NOT AN ORDER: This Contract Agreement is awarded on the basis of our inquiry bearing the solicitation No. 075115B0003553. Orders for delivery will be issued directly by the Michigan Department of Natural Resources through the issuance of a Purchase Order Form.

FOR THE CONTRACTOR:

U.P. Concrete Company, Inc.

Firm Name

Authorized Agent Signature

Melvin Stenberg / President

Authorized Agent (Print or Type)

Date

FOR THE STATE:

Department of Natural Resources

Signature

Ruth Thole / Buyer

Name/Title

Date



**STATE OF MICHIGAN
Department of Natural Resources
Procurement Services**

Contract 751B5500010
Snow and Ice Removal Services – Escanaba Field Office

Contract Administrator Name: Ruth Thole
Telephone Number: 517-284-5973
E-Mail Address: tholer@michigan.gov

This is a Contract for Snow and Ice Removal Services as described in Exhibit A (the “Contract Activities”).



STATE OF MICHIGAN STANDARD CONTRACT TERMS

This STANDARD CONTRACT (“**Contract**”) is agreed to between the State of Michigan (the “**State**”) and U.P. Concrete Company, Inc. (the “**Contractor**”), a Michigan corporation. This Contract is effective on December 10, 2014 (“**Effective Date**”), and unless terminated, expires on September 30, 2017.

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

The parties agree as follows:

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

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

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

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

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

If to State:

Ruth Thole, Buyer
Department of Natural Resources
Procurement Services
PO Box 30028
Lansing, MI 48909
tholer@michigan.gov
517-284-5973

If to Contractor:

Melvin Stenberg, President
U.P. Concrete Company, Inc.
PO Box 25
Bark River, MI 49807
Melvin@upconcrete.com
906-466-7400

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

State:

Ruth Thole, Buyer
Department of Natural Resources

Contractor:

Melvin Stenberg, President
U.P. Concrete Company, Inc.

Procurement Services
 PO Box 30028
 Lansing, MI 48909
tholer@michigan.gov
 517-284-5973

PO Box 25
 Bark River, MI 49807
Melvin@upconcrete.com
 906-466-7400

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:

Tim Melko, WUP Administrative Manager
 Department of Natural Resources
 Marquette Customer Service Center
 1990 US 41 South
 Marquette, MI 49855
melkot@michigan.gov
 (906) 228-6561

Contractor:

Melvin Stenberg, President
 U.P. Concrete Company, Inc.
 PO Box 25
 Bark River, MI 49807
Melvin@upconcrete.com
 906-466-7400

5. Performance Guarantee. Contractor must at all times have financial resources sufficient, in the opinion of the State, to ensure performance of the Contract and must provide proof upon request. The State may require a performance bond (as specified in Exhibit A) if, in the opinion of the State, it will ensure performance of the Contract.

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

Insurance Type	Additional Requirements
Commercial General Liability Insurance	
<u>Minimal Limits:</u> \$1,000,000 Each Occurrence Limit \$1,000,000 Personal & Advertising Injury Limit \$2,000,000 General Aggregate Limit \$2,000,000 Products/Completed Operations <u>Deductible Maximum:</u> \$50,000 Each Occurrence	Contractor must have their policy: (1) 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 04; (2) include a waiver of subrogation; and (3) for a claims-made policy, provide 3 years of tail coverage.
Motor Vehicle Insurance	
<u>Minimal Limits:</u> \$1,000,000 Per Occurrence	
Workers' Compensation Insurance	
<u>Minimal Limits:</u> Coverage according to applicable laws governing work activities.	Waiver of subrogation, except where waiver is prohibited by law.
Employers Liability Insurance	
<u>Minimal Limits:</u> \$100,000 Each Accident \$100,000 Each Employee by Disease \$500,000 Aggregate Disease.	

If Contractor's policy contains limits higher than the minimum limits, the State is entitled to coverage to the extent of the higher limits. The minimum limits are not intended, and may not be construed to limit any liability or indemnity of Contractor to any indemnified party or other persons.

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.

7. **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.
8. **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.
9. **Staffing.** The State's Contract Administrator may require Contractor to remove or reassign personnel by providing a notice to Contractor.
10. **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.
11. **Assignment.** Contractor may not assign this Contract to any other party without the prior approval of the State. Upon notice to Contractor, the State, in its sole discretion, may assign in whole or in part, its rights or responsibilities under this Contract to any other party. If the State determines that a novation of the Contract to a third party is necessary, Contractor will agree to the novation, provide all necessary documentation and signatures, and continue to perform, with the third party, its obligations under the Contract.
12. **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.
13. **Ordering.** Contractor is not authorized to begin performance until receipt of an authorizing Purchase Order.
14. **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 17, 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.

- 15. 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 Contract Activities purchased under the Contract are for the State's exclusive use. Prices are exclusive of all taxes, and Contractor is solely responsible for payment of any applicable taxes.

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.

- 16. 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.

- 17. 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 18, 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.

- 18. 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 19, 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.

19. 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.

20. 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.

21. Limitation of Liability. The State is not liable for consequential, incidental, indirect, or special damages, regardless of the nature of the action.

22. 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.

23. 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 7 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.

- 24. Warranties and Representations.** Contractor represents and warrants: (a) the Contract signatory has the authority to enter into this Contract; (b) 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 (c) 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 17, Termination for Cause.
- 25. 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.
- 26. Compliance with Laws.** Contractor must comply with all federal, state and local laws, rules and regulations.
- 27. 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.
- 28. 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.
- 29. 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.
- 30. 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.
- 31. 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.

32. 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.

33. 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.

34. Website Incorporation. The State is not bound by any content on Contractor's website unless expressly incorporated directly into this Contract.

35. 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.

36. 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.

37. Waiver. Failure to enforce any provision of this Contract will not constitute a waiver.

38. 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.

39. Entire Contract and Modification. This Contract is the entire agreement and replaces all previous agreements between the parties for the Contract Activities. This Contract may not be amended except by signed agreement between the parties (a "**Contract Change Notice**").

STATE OF MICHIGAN

Contract 751B5500010 Snow and Ice Removal Services – Escanaba Field Office

EXHIBIT A – STATEMENT OF WORK

This exhibit identifies the requirements of the Contract.

1. Project Identification

1.1 Project Request

This is a Contract for snow and ice removal services at the Department of Natural Resources Escanaba Field Office located at 6833 US Hwy 2, 41, M35, Gladstone, Michigan.

2. Contract Activities

2.1 In Scope

The Contractor shall provide all management, supervision, personnel and equipment required to satisfactorily perform all snow removal services required for Escanaba Field Office, in the manner and the frequencies set forth in the following specifications. The required objective is to maintain the facility(s) in such a manner that provides a safe environment for occupants and visitors of state owned office facilities.

2.2 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. Description Of Area To Be Serviced:** Entire parking lot, including the entrance drive from the roadway and all sidewalks and building entrances.
- B. Service Specifications:** All services to be furnished hereunder shall conform to the specifications as noted herein.
 - 1. Snow removal services shall be considered as both “automatic” and “on-call”.
 - a) “Automatic” snow removal services shall be performed by the Contractor when snowfalls of two (2) inches or more occur.
 - b) “On-call” snow removal services shall be performed when requested by the DNR Program Manager or authorized designee and may be requested at any time during the day. The DNR Program Manager will provide the Contractor with a list of DNR contacts authorized to approve snow removal activities.
 - 2. Contractor must complete “automatic” service before 8:00 a.m. on State workdays. No snow removal services shall be performed on State holidays, Saturdays, or Sundays. State holidays during the winter season include: Election Day (every two years); Veteran’s Day; Thanksgiving Day; Friday after Thanksgiving Day; Christmas Eve Day; Christmas Day; New Year’s Eve Day, New Year’s Day; Martin Luther King Jr. Birthday (observed); President’s Day. The Contractor must confirm with the DNR Program Manager the holiday schedule for each year of the contract term. If weekend/holiday service is required, the DNR Program Manager or designee will advise Contractor at least 24 hours in advance. Non-approved work on holidays or weekends will not be paid.
 - 3. DNR Program Manager or authorized designee will contact Contractor and request “on-call” services as needed. The Contractor must respond to the site and perform services within two (2) hours of initial contact by DNR.
 - 4. Snow must be plowed on all driving areas and must be cleared from roadway entrances and exits to DNR property driveways to maintain clear vision onto roadway.
 - 5. Snow must be removed/plowed from parking lots so that all parking spaces are continuously available.

6. Snow must be removed (shoveled or blown) from all sidewalks and building entrances.
7. De-icing on driving areas and parking lots shall be considered an "on-call" service and shall be performed when requested by DNR Program Manager or designee. Upon request, the Contractor shall provide and spread rock salt or other ice-melt material on all driving areas and parking lots when deemed necessary by the DNR Program Manager.

2.3 Equipment Requirements

The Contractor shall furnish, operate and maintain suitable and adequate equipment necessary to perform snow and ice removal services in an approved safe, competent manner without hindrance, delay or damage.

- A. Contractor shall utilize a pickup truck with Boss V plow to provide services.
- B. All equipment shall meet all federal, state and local safety requirements.
- C. In the event of mechanical breakdown, the Contractor will be expected to provide backup equipment so that snow removal services are performed as requested. Equipment failure WILL NOT constitute an acceptable reason for not performing snow removal services.
- D. All equipment blades shall be properly adjusted for height as not to damage any road, curb, or parking areas. Parking curbs or bumper blocks located in parking areas must not be moved or damaged. Damage to parking lot, office building, curbs, pavements, shrubs, fences, etc. caused during snow removal by the Contractor will be remedied (repairs or replacements) the following spring by the Contractor at the Contractor's expense.
- E. Contractor must use care and caution at all times while performing snow removal services on State property, especially when operating equipment near parked vehicles and pedestrians. Contractor is financially responsible for damage to State and private property and personal bodily injury caused by negligence, unsafe work practices, operator error, or misuse of equipment.
- F. Under no circumstances shall the DNR be responsible for any damage to the Contractor's equipment due to obstacles encountered on State property.

2.4 Contractor Personnel

- A. The Contractor will furnish the DNR Program Manager with the name and telephone number of a person to be used as a 24 hour contact.
- B. Trained and qualified persons will operate all equipment. 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.
- C. Contractor shall be responsible for repair, replacement, reimbursement or cleanup as necessary due to carelessness or negligence on the part of the Contractor and its personnel.

2.5 Contractor Responsibilities

- A. **Supervision:** Contractor shall provide all supervision as may be necessary to oversee its personnel. Contractor shall exercise all supervisory control and general control over all day-to-day operations of his/her employees including control over all worker duties and worker performance.
- B. **Damage to State Property:** The Contractor performing the work on State of Michigan property shall immediately report all accidents and/or injuries to the DNR Program manager or authorized designee. Any and all damage to parking lot, vehicles, fences, office buildings, curbs, pavements, etc. caused by snow plowing will be repaired and/or replaced the following spring by the Contractor.
- C. **Service Verification:** Contractor must provide the agency location a '**Notice of Service Provided Slip**' to verify service was performed. Within 24 hours of each service call, the slip shall be emailed to Dixie Pelto at peltod@michigan.gov, faxed to 906-786-1300, or delivered to the Escanaba office receptionist to the attention of Jeff Hamel, Account Tech.

3. Acceptance

3.1 Criteria

The DNR Program Manager or designee will conduct inspections and will determine acceptance based upon the

Contractor performance of timely removal of snow and services meeting specifications stated in **Section 2.2 Work and Deliverables**.

4. Proposal Pricing

4.1 Proposal Pricing

For authorized Services and Price List, see Exhibit B.

4.2 Price Term

Prices are the maximum for a period of 365 days from the date the Contract becomes effective.

Prices are subject to change at the end of each 365-day period. Such changes must be based on changes in actual costs incurred. Documentation of such changes must be provided with the request for price change in order to substantiate any requested change. DNR Procurement Services reserves the right to consider various pertinent information sources to evaluate price increase requests (such as the CPI and PPI, US City Average, as published by the US Department of Labor, Bureau of Labor Statistics). DNR Procurement Services also reserves the right to consider other information related to special economic and/or industry circumstances, when evaluating a price change request. Changes may be either increases or decreases, and may be requested by either party. Approved changes must be firm for the remainder of the Contract period unless further revised at the end of the next 365-day period. Requests for price changes must be RECEIVED IN WRITING AT LEAST 30 DAYS PRIOR TO THEIR EFFECTIVE DATE, and are subject to written acceptance before becoming effective. **The Contractor remains responsible for performing according to the Contract terms at the Contract price for all orders received before price revisions are approved or before the Contract is cancelled.**

5. Ordering

5.1 Authorizing Document

A Purchase Order is the appropriate authorizing document for ordering and payment of Contract Activities. The State will issue a blanket Purchase Order each year to authorize Contract activities during the current fiscal year.

6. Invoices and Payment

6.1 Invoices

- A. Invoices must be submitted on a monthly basis and must reflect actual work done during the previous month. Services must not be invoiced in advance of performance.
- B. All invoices submitted to the State must include: (a) date; (b) purchase order number; (c) quantity; (d) description of the Contract Activities; (e) date Contract Activities performed; (f) unit price; and (g) total price.

6.2 Payment

- A. The State will only disburse payments for Contract Activities through Electronic Funds Transfer (EFT).
- B. Payment terms are Net 45 Days.

STATE OF MICHIGAN

Contract 751B5500010 Snow and Ice Removal Services – Escanaba Field Office

EXHIBIT B - PRICING

Description	Unit Price	Estimated Usage for Contract term	Total Cost per Year
Snow Plowing Parking Lots and Driving Areas. 2–6 inches of SNOW ACCUMULATION	\$ <u>145.00</u> Per Occasion	60 Occasions	\$ <u>8,700.00</u>
Snow Plowing Parking Lots and Driving Areas. 6-12 inches of SNOW ACCUMULATION	\$ <u>150.00</u> Per Occasion	30 Occasions	\$ <u>4,500.00</u>
Snow Plowing Parking Lots and Driving Areas. Over 12 inches SNOW ACCUMULATION	\$ <u>150.00</u> Per Occasion	15 Occasions	\$ <u>2,250.00</u>
Shovel/Blow Sidewalks, Entrances 2-6 inches of SNOW ACCUMULATION	\$ <u>60.00</u> Per Occasion	60 Occasions	\$ <u>3,600.00</u>
Shovel/Blow Sidewalks, Entrances 6-12 inches of SNOW ACCUMULATION	\$ <u>65.00</u> Per Occasion	30 Occasions	\$ <u>1,950.00</u>
Shovel/Blow Sidewalks, Entrances Over 12 inches of SNOW ACCUMULATION	\$ <u>65.00</u> Per Occasion	15 Occasions	\$ <u>975.00</u>
De-Icing All Parking Lots and Driving Areas with Salt. (Contractor must provide salt.)	\$ <u>95.00</u> Per Occasion	15 Occasions	\$ <u>1,425.00</u>
TOTAL COST FOR CONTRACT TERM			\$ <u>23,400.00</u>