



# STATE OF MICHIGAN PROCUREMENT

## Department of Natural Resources

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

### NOTICE OF CONTRACT

NOTICE OF CONTRACT NO. **19000000497**

between

THE STATE OF MICHIGAN

and

<b>CONTRACTOR</b>	Munson Healthcare Grayling Hospital Occupational Health
	1100 E. Michigan Ave
	Grayling, MI 49738
	Nancy Goodyear, RN, BS, COHN-S
	989-348-0368
	ngoodyear@mhc.net
	CV0056422

<b>STATE</b>	<b>Program Manager</b>	Donald Klingler	DNR
		989-275-5151	
	KlinglerD@michigan.gov		
	<b>Contract Administrator</b>	Lisa Crozier-Green	DNR
517-284-5938			
CrozierGreenL@michigan.gov			

#### CONTRACT SUMMARY

DESCRIPTION: DNR FRD Fire Fighter Fitness Testing Program – Lower Peninsula			
INITIAL EFFECTIVE DATE	INITIAL EXPIRATION DATE	INITIAL AVAILABLE OPTIONS	EXPIRATION DATE BEFORE CHANGE(S) NOTED BELOW
April 1, 2019	March 31, 2024	Five 1-Year Options to Renew	March 31, 2024
PAYMENT TERMS		DELIVERY TIMEFRAME	
Net 45		Per Schedule 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			
MISCELLANEOUS INFORMATION			
The terms and conditions of this Contract are those of RFP 19000001112, this Contract Agreement and the vendor's quote dated March 1, 2019. In the event of any conflicts between the specifications, and terms and conditions, indicated by the State and those indicated by the vendor, those of the State take precedence.			
ESTIMATED CONTRACT VALUE AT TIME OF EXECUTION			<b>\$355,000.00</b>

**FOR THE CONTRACTOR:**

**Munson Healthcare Grayling Hospital Occupational Health**

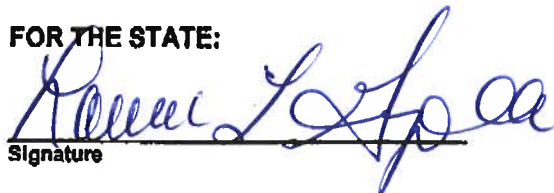
\_\_\_\_\_  
**Company Name**

  
\_\_\_\_\_  
**Authorized Agent Signature**

*Munson Healthcare*  
\_\_\_\_\_  
**Authorized Agent (Print or Type)**

*3-15-19*  
\_\_\_\_\_  
**Date**

**FOR THE STATE:**

  
\_\_\_\_\_  
**Signature**

**Laura L. Gyorkos, Section Manager**  
\_\_\_\_\_  
**Name & Title**

**Michigan Department of Natural Resources**  
\_\_\_\_\_  
**Agency**

*3/15/19*  
\_\_\_\_\_  
**Date**



# STATE OF MICHIGAN

## STANDARD CONTRACT TERMS

This STANDARD CONTRACT (“Contract”) is agreed to between the State of Michigan (the “State”) and Munson Healthcare Grayling Hospital (“Contractor”), a Michigan corporation. This Contract is effective April 1, 2019 (“Effective Date”), and unless terminated, expires on March 31, 2024.

This Contract may be renewed for up to FIVE (5) 1-Year Options to Renew. Renewal is at the sole discretion of the State and will automatically extend the Term of this Contract. The State will document its exercise of renewal options via Contract Change Notice.

The parties agree as follows:

- 1. **Duties of Contractor.** Contractor must perform the services and provide the deliverables described in **Schedule 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 Schedule 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 contacting 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.

<b>If to State:</b> Lisa Crozier-Green 525 West Allegan, Constitution Hall, 3 <sup>rd</sup> Floor Lansing, MI 48933 CrozierGreenL@michigan.gov 517-284-5938	<b>If to Contractor:</b> Nancy Goodyear Munson Healthcare Grayling Hospital Occ Health 1100 E. Michigan Ave. Grayling, MI 49738 989-348-0368
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3. **Contract Administrator.** The Contract Administrator for each party is the only person authorized to modify any terms of this Contract, and approve and execute any change under this Contract (each a "Contract Administrator")

<b>State:</b> Lisa Crozier-Green 525 West Allegan, Constitution Hall, 3 <sup>rd</sup> Floor Lansing, MI 48933 CrozierGreenL@michigan.gov 517-284-5938	<b>Contractor:</b> Nancy Goodyear Munson Healthcare Grayling Hospital Occ Health 1100 E. Michigan Ave. Grayling, MI 49738 989-348-0368
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4. **Program Manager.** The Program Manager for each party will monitor and coordinate the day-to-day activities of the Contract (each a "Program Manager"):

<b>State:</b> Donald Klingler 8717 N. Roscommon Rd Roscommon, Michigan 48653 989-275-5151 ext 2722040 KlinglerD@michigan.gov	<b>Contractor:</b> Nancy Goodyear Munson Healthcare Grayling Hospital Occ Health 1100 E. Michigan Ave. Grayling, MI 49738 989-348-0368
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5. **Performance Guarantee.** Contractor must 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 Schedule 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
<b>Commercial General Liability Insurance</b>	
<u>Minimum Limits:</u> \$1,000,000 Each Occurrence Limit \$1,000,000 Personal & Advertising Injury Limit \$2,000,000 General Aggregate Limit \$2,000,000 Products/Completed Operations <u>Deductible Maximum:</u> \$50,000 Each Occurrence	Contractor must have their policy endorsed to add "the State of Michigan, its departments, divisions, agencies, offices, commissions, officers, employees, and agents" as additional insureds using endorsement CG 20 10 11 85, or both CG 2010 07 04 and CG 2037 07 04.
<b>Automobile Liability Insurance</b>	
<u>Minimum Limits:</u> \$1,000,000 Per Accident	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.
<b>Workers' Compensation Insurance</b>	
<u>Minimum Limits:</u> Coverage according to applicable laws governing work activities.	Waiver of subrogation, except where waiver is prohibited by law.
<b>Professional Liability (Errors and Omissions) Insurance</b>	
<u>Minimum Limits:</u> \$3,000,000 Each Occurrence \$3,000,000 Annual Aggregate <u>Deductible Maximum:</u> \$50,000 Per Loss	
<b>Medical Malpractice Insurance</b>	
<u>Minimum Limits:</u> \$1,000,000 Each Occurrence \$3,000,000 Annual Aggregate <u>Deductible Maximum:</u> \$5,000 Each Occurrence	

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 cancelled 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 to 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. **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 and provide all necessary documentation and signatures.
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 authorization as identified in Schedule A.

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 Schedule 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 19, 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. **Delivery.** Contractor must deliver all Contract Activities F.O.B. destination, within the State premises with transportation and handling charges paid by Contractor, unless otherwise specified in Schedule A. All containers and packaging become the State's exclusive property upon acceptance.
16. **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 Schedule 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/SIGMAVSS> 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.

17. **Liquidated Damages.** Liquidated damages, if applicable, will be assessed as described in Schedule A.
18. **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.
19. **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.

20. **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 21, 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.
21. **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.
22. **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.

23. **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.

24. **Limitation of Liability and Disclaimer of Damages. IN NO EVENT WILL THE STATE'S AGGREGATE LIABILITY TO CONTRACTOR UNDER THIS CONTRACT, REGARDLESS OF THE FORM OF ACTION, WHETHER IN CONTRACT, TORT, NEGLIGENCE, STRICT LIABILITY OR BY STATUTE OR OTHERWISE, FOR ANY CLAIM RELATED TO OR ARISING UNDER THIS CONTRACT, EXCEED THE MAXIMUM AMOUNT OF FEES PAYABLE UNDER THIS CONTRACT.** The State is not liable for consequential, incidental, indirect, or special damages, regardless of the nature of the action.
25. **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.
26. **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.
27. **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.

28. **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; (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; and that (i) Contractor is neither currently engaged in nor will engage in the boycott of a person based in or doing business with a strategic partner as described in 22 USC 8601 to 8606. A breach of this Section is considered a material breach of this Contract, which entitles the State to terminate this Contract under Section 19, Termination for Cause.

29. **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.
30. **Compliance with Laws.** Contractor must comply with all federal, state and local laws, rules and regulations.
31. **Prevailing Wage.** Contractor must comply with prevailing wage requirements, to the extent applicable to this Contract.
32. **Nondiscrimination.** Under the Elliott-Larsen Civil Rights Act, 1976 PA 453, MCL 37.2101, *et seq.*, the Persons with Disabilities Civil Rights Act, 1976 PA 220, MCL 37.1101, *et seq.*, and Executive Directive 2019-09. 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 (as defined in Executive Directive 2019-09), height, weight, marital status, partisan considerations, any mental or physical disability, or genetic information that is unrelated to the person's ability to perform the duties of a particular job or position. Breach of this covenant is a material breach of this Contract.
33. **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.
34. **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.
35. **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.
36. **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.
37. **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.
38. **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.
39. **Website Incorporation.** The State is not bound by any content on Contractor's website unless expressly incorporated directly into this Contract.

40. **Entire Agreement and Order of Precedence.** This Contract, which includes Schedule A – Statement of Work, and expressly incorporated schedules and exhibits, is the entire agreement of the parties related to the Contract Activities. This Contract supersedes and replaces all previous understandings and agreements between the parties for the Contract Activities. If there is a conflict between documents, the order of precedence is: (a) first, this Contract, excluding its schedules, exhibits, and Schedule A – Statement of Work; (b) second, Schedule A – Statement of Work as of the Effective Date; and (c) third, schedules expressly incorporated into this Contract as of the Effective Date. NO TERMS ON CONTRACTOR'S INVOICES, ORDERING DOCUMENTS, WEBSITE, BROWSE-WRAP, SHRINK-WRAP, CLICK-WRAP, CLICK-THROUGH OR OTHER NON-NEGOTIATED TERMS AND CONDITIONS PROVIDED WITH ANY OF THE CONTRACT ACTIVITIES WILL CONSTITUTE A PART OR AMENDMENT OF THIS CONTRACT OR IS BINDING ON THE STATE FOR ANY PURPOSE. ALL SUCH OTHER TERMS AND CONDITIONS HAVE NO FORCE AND EFFECT AND ARE DEEMED REJECTED BY THE STATE, EVEN IF ACCESS TO OR USE OF THE CONTRACT ACTIVITIES REQUIRES AFFIRMATIVE ACCEPTANCE OF SUCH TERMS AND CONDITIONS.
41. **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.
42. **Waiver.** Failure to enforce any provision of this Contract will not constitute a waiver.
43. **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.
44. **Contract Modification.** This Contract may not be amended except by signed agreement between the parties (a "Contract Change Notice"). Notwithstanding the foregoing, no subsequent Statement of Work or Contract Change Notice executed after the Effective Date will be construed to amend this Contract unless it specifically states its intent to do so and cites the section or sections amended.

## Federal Provisions Addendum

The provisions in this addendum may apply if the purchase will be paid for in whole or in part with funds obtained from the federal government. If any provision below is not required by federal law for this Contract, then it does not apply and must be disregarded. If any provision below is required to be included in this Contract by federal law, then the applicable provision applies and the language is not negotiable. If any provision below conflicts with the State's terms and conditions, including any attachments, schedules, or exhibits to the State's Contract, the provisions below take priority to the extent a provision is required by federal law; otherwise, the order of precedence set forth in the Contract applies. Hyperlinks are provided for convenience only; broken hyperlinks will not relieve Contractor from compliance with the law.

1. **Federally Assisted Construction Contracts.** If this contract is a "federally assisted construction contract" as defined in 41 CFR Part 60-1.3, and except as otherwise may be provided under 41 CFR Part 60, then during performance of this Contract, the Contractor agrees as follows:

(1) The Contractor will not discriminate against any employee or applicant for employment because of race, color, religion, sex, sexual orientation, gender identity, or national origin. The Contractor will take affirmative action to ensure that applicants are employed, and that employees are treated during employment without regard to their race, color, religion, sex, sexual orientation, gender identity, or national origin. Such action shall include, but not be limited to the following:

Employment, upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. The Contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided setting forth the provisions of this nondiscrimination clause.

(2) The Contractor will, in all solicitations or advertisements for employees placed by or on behalf of the Contractor, state that all qualified applicants will receive consideration for employment without regard to race, color, religion, sex, sexual orientation, gender identity, or national origin.

(3) The Contractor will not discharge or in any other manner discriminate against any employee or applicant for employment because such employee or applicant has inquired about, discussed, or disclosed the compensation of the employee or applicant or another employee or applicant. This provision shall not apply to instances in which an employee who has access to the compensation information of other employees or applicants as a part of such employee's essential job functions discloses the compensation of such other employees or applicants to individuals who do not otherwise have access to such information, unless such disclosure is in response to a formal complaint or charge, in furtherance of an investigation, proceeding, hearing, or action, including an investigation conducted by the employer, or is consistent with the Contractor's legal duty to furnish information.

(4) The Contractor will send to each labor union or representative of workers with which he has a collective bargaining agreement or other contract or understanding, a notice to be provided advising the said labor union or workers' representatives of the Contractor's commitments under this section, and shall post copies of the notice in conspicuous places available to employees and applicants for employment.

(5) The Contractor will comply with all provisions of Executive Order 11246 of September 24, 1965, and of the rules, regulations, and relevant orders of the Secretary of Labor.

(6) The Contractor will furnish all information and reports required by Executive Order 11246 of September 24, 1965, and by rules, regulations, and orders of the Secretary of Labor, or pursuant thereto, and will permit access to his books, records, and accounts by the administering agency and the Secretary of Labor for purposes of investigation to ascertain compliance with such rules, regulations, and orders.

(7) In the event of the Contractor's noncompliance with the nondiscrimination clauses of this contract or with any of the said rules, regulations, or orders, this Contract may be canceled, terminated, or suspended in whole or in part and the Contractor may be declared ineligible for further Government contracts or federally assisted construction contracts in accordance with procedures authorized in Executive Order 11246 of September 24, 1965, and such other sanctions may be imposed and remedies invoked as provided in Executive Order 11246 of September 24, 1965, or by rule, regulation, or order of the Secretary of Labor, or as otherwise provided by law.

(8) The Contractor will include the portion of the sentence immediately preceding paragraph (1) and the provisions of paragraphs (1) through (8) in every subcontract or purchase order unless exempted by rules,

regulations, or orders of the Secretary of Labor issued pursuant to section 204 of Executive Order 11246 of September 24, 1965, so that such provisions will be binding upon each subcontractor or vendor. The Contractor will take such action with respect to any subcontract or purchase order as the administering agency may direct as a means of enforcing such provisions, including sanctions for noncompliance: Provided, however, that in the event a Contractor becomes involved in, or is threatened with, litigation with a subcontractor or vendor as a result of such direction by the administering agency, the Contractor may request the United States to enter into such litigation to protect the interests of the United States.

## 2. Davis-Bacon Act (Prevailing Wage)

a. If applicable, the Contractor (and its Subcontractors) for **prime construction contracts** in excess of \$2,000 must comply with the Davis-Bacon Act (40 USC 3141-3148) as supplemented by Department of Labor regulations (29 CFR Part 5, "Labor Standards Provisions Applicable to Contracts Covering Federally Financed and Assisted Construction").

b. The Contractor (and its Subcontractors) shall pay all mechanics and laborers employed directly on the site of the work, unconditionally and at least once a week, and without subsequent deduction or rebate on any account, the full amounts accrued at time of payment, computed at wage rates not less than those stated in the advertised specifications, regardless of any contractual relationship which may be alleged to exist between the Contractor or subcontractor and the laborers and mechanics;

c. The Contractor will post the scale of wages to be paid in a prominent and easily accessible place at the site of the work;

d. There may be withheld from the Contractor so much of accrued payments as the contracting officer considers necessary to pay to laborers and mechanics employed by the Contractor or any Subcontractor on the work the difference between the rates of wages required by the Contract to be paid laborers and mechanics on the work and the rates of wages received by the laborers and mechanics and not refunded to the Contractor or Subcontractors or their agents.

3. **Copeland "Anti-Kickback" Act.** If applicable, the Contractor must comply with the Copeland "Anti-Kickback" Act (40 USC 3145), as supplemented by Department of Labor regulations (29 CFR Part 3, "Contractors and Subcontractors on Public Building or Public Work Financed in Whole or in Part by Loans or Grants from the United States"), which prohibits the Contractor and subrecipients from inducing, by any means, any person employed in the construction, completion, or repair of public work, to give up any part of the compensation to which he or she is otherwise entitled.

4. **Contract Work Hours and Safety Standards Act.** If the Contract is in excess of \$100,000 and involves the employment of mechanics or laborers, the Contractor must comply with 40 USC 3702 and 3704, as supplemented by Department of Labor regulations (29 CFR Part 5), as applicable.

5. **Rights to Inventions Made Under a Contract or Agreement.** If the Contract is funded by a federal "funding agreement" as defined under 37 CFR §401.2 (a) and the recipient or subrecipient wishes to enter into a contract with a small business firm or nonprofit organization regarding the substitution of parties, assignment or performance of experimental, developmental, or research work under that "funding agreement," the recipient or subrecipient must comply with 37 CFR Part 401, "Rights to Inventions Made by Nonprofit Organizations and Small Business Firms Under Government Grants, Contracts and Cooperative Agreements," and any implementing regulations issued by the awarding agency.

6. **Clean Air Act.** If this Contract is in excess of \$150,000, the Contractor must comply with all applicable standards, orders, and regulations issued under the Clean Air Act (42 USC 7401-7671q) and the Federal Water Pollution Control Act (33 USC 1251-1387). Violations must be reported to the federal awarding agency and the regional office of the Environmental Protection Agency.

7. **Debarment and Suspension.** A "contract award" (see 2 CFR 180.220) must not be made to parties listed on the government-wide exclusions in the System for Award Management (SAM), in accordance with the OMB guidelines at 2 CFR 180 that implement Executive Orders 12549 (3 CFR part 1986 Comp., p. 189) and 12689 (3 CFR part 1989 Comp., p. 235), "Debarment and Suspension." SAM Exclusions contains the names of parties debarred, suspended, or otherwise excluded by agencies, as well as parties declared ineligible under statutory or regulatory authority other than Executive Order 12549.

8. **Byrd Anti-Lobbying Amendment.** If this Contract exceeds \$100,000, bidders and the Contractor must file the certification required under 31 USC 1352.
9. **Procurement of Recovered Materials.** Under 2 CFR 200.322, a non-Federal entity that is a state agency or agency of a political subdivision of a state **and its contractors** must comply with section 6002 of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act. The requirements of Section 6002 include procuring only items designated in guidelines of the Environmental Protection Agency (EPA) at 40 CFR part 247 that contain the highest percentage of recovered materials practicable, consistent with maintaining a satisfactory level of competition, where the purchase price of the item exceeds \$10,000 or the value of the quantity acquired during the preceding fiscal year exceeded \$10,000; procuring solid waste management services in a manner that maximizes energy and resource recovery; and establishing an affirmative procurement program for procurement of recovered materials identified in the EPA guidelines.

**Byrd Anti-Lobbying Certification**

The following certification and disclosure regarding payments to influence certain federal transactions are made under FAR 52.203-11 and 52.203-12 and 31 USC 1352, the "Byrd Anti-Lobbying Amendment." Hyperlinks are provided for convenience only; broken hyperlinks will not relieve Contractor from compliance with the law.

1. FAR 52.203-12, "Limitation on Payments to Influence Certain Federal Transactions" is hereby incorporated by reference into this certification.
2. The bidder, by submitting its proposal, hereby certifies to the best of his or her knowledge and belief that:
  - a. No federal **appropriated** funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a member of Congress, an officer or employee of Congress, or an employee of a member of Congress on his or her behalf in connection with the awarding of any federal contract, the making of any federal grant, the making of any federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment or modification of any federal contract, grant, loan, or cooperative agreement;
  - b. If any funds **other than federal appropriated funds** (including profit or fee received under a covered federal transaction) have been paid, or will be paid, to any person for influencing or attempting to influence an officer or employee of any agency, a member of Congress, an officer or employee of Congress, or an employee of a member of Congress on his or her behalf **in connection with this solicitation**, the bidder must complete and submit, with its proposal, OMB standard form LLL, Disclosure of Lobbying Activities, to the Solicitation Manager; and
  - c. He or she will include the language of this certification in all subcontract awards at any tier and require that all recipients of subcontract awards in excess of \$150,000 must certify and disclose accordingly.
3. This certification is a material representation of fact upon which reliance is placed at the time of Contract award. Submission of this certification and disclosure is a prerequisite for making or entering into this Contract under 31 USC 1352. Any person making an expenditure prohibited under this provision or who fails to file or amend the disclosure form to be filed or amended by this provision is subject to a civil penalty of not less than \$10,000, and not more than \$100,000, for each such failure.

Signed by:

\_\_\_\_\_

[Type name and title]  
[Type company name]

Date: \_\_\_\_\_

# STATE OF MICHIGAN

**Contract Number 1900000497**

Department of Natural Resources, Forest Resources Division  
Fire Fighter Fitness Testing Program – Northern Lower Peninsula

## **SCHEDULE A STATEMENT OF WORK CONTRACT ACTIVITIES**

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

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

### **BACKGROUND**

By State policy Department of Natural Resources (DNR) Wildland Firefighters are required to pass an annual physical fitness work capacity test. Because firefighters are subjected to stressful environments, strenuous activities, and long hours, good physical fitness is required to perform the job safely.

The fitness test process includes collection of health history and vitals, overseeing fitness exercises consisting of pull-downs, sit-ups, push-ups and a multi-level aerobic treadmill test and monitoring test individuals during a post-test cool-down period.

### **REQUIREMENTS**

#### **1.0. General Requirements**

Contractor agrees to provide equipment, staff, and all things necessary to conduct and administer Fire Fighter Fitness Testing Program in the Northern Lower Peninsula (LP).

- a. Pre-Test Activities
  - i. Oversee completion of Michigan DNR “Health Risk Evaluation” form and “Health Risk Fitness Evaluation” forms required for each test individual. FRD employees must have their portion of the forms completed prior to testing. The Contractor will complete the form onsite at the time of testing.
  - ii. Collect vitals for each test individual including blood pressure and pulse.
  - iii. Conduct resting EKG for each test individual. EKG may be waived at the discretion of the evaluating physician for test individuals retesting within six months of previous EKG.
  - iv. Review “Exercise Warning Signs” form with test individual; obtain test individual’s signature on proper form.
  - v. Evaluate all information gathered during the pre-test phase and provide Physician’s medical clearance for test individual to participate in fitness test.
- b. Test Exercises
  - i. Contractor agrees to administer and supervise test exercises as specified in Attachment A - Physical Fitness Testing Guidelines.
  - ii. Lateral pull down: 20 repetitions of 40 lbs.
  - iii. Sit-ups: 11 sit-ups in 30 seconds (minimum standard)
  - iv. Push-ups: 10 push-ups in 60 seconds (minimum standard)
  - v. Treadmill test: completion 3 levels for in-state (4 levels for out-of-state) certification, each level at increased incline.
- c. Post Test Services
  - i. Supervise a 10-minute cool down period.
  - ii. Perform periodic blood pressure and pulse checks to evaluate test individual’s return to normal before release from testing site.

#### **1.1. Facility**

- a. Dressing / Changing Areas
  - i. Facility shall have separate men’s and women’s dressing/changing areas available.

- b. **Testing Room**
  - i. Shall be a minimum 15 ft. wide x 30 ft. long x 10 ft. high (DNR prefers 10 ft. high ceilings).
  - ii. Shall be equipped with a minimum two 220-volt, 20-amp electrical outlets.
  - iii. Shall be properly ventilated/air-conditioned, or have windows that open, to provide fresh air, air circulation, and cooling for test individuals.
- c. **Post Test Resting Area**
  - i. Shall be a minimum 15 ft. wide x 30 ft. long.
  - ii. Shall be properly ventilated/air-conditioned, or have windows that open, to provide fresh air, air circulation, and cooling for test individuals
  - iii. May be included with testing room, provided there is similar square footage available.
- d. **EKG**
  - i. Shall provide an isolated area for conducting on-site EKG.

### **1.2. Equipment**

- a. Contractor agrees to provide one (1) ToughStuff, Apollo 7000 Series (or equivalent) lateral pull-down machine capable of 40 lbs. resistance.
- b. Contractor agrees to provide four (4) variable speed Landice L8 (or equivalent) treadmills capable of administering 4 levels of testing and elevating to 20% incline. DNR may provide Contractor with up to four (4) treadmills.
- c. Contractor agrees to keep DNR treadmill equipment stored at the Contractor's facility and reserved for DNR use only.
- d. Contractor agrees to provide any miscellaneous equipment, including EKG machines, floor mats and padded tables for sit-ups, required for the performance of Contract Activities.

### **1.3. Test Schedule**

- a. Number of individuals to be tested is estimated and scheduled at a rate of up to eight individuals tested per hour.
- b. Hours for testing are between 7:30 am and 4:30 pm Eastern Time and may be adjusted if agreed by DNR and Contractor.
- c. DNR will contact Contractor, approximately mid-October, to schedule dates in November, December and January for annual fitness tests for firefighters. DNR will contact all test candidates, determine the number of individuals to be tested, and contact Contractor at least three (3) business days prior to the test date to provide the schedule of individuals to be tested. Number of test days will be dependent on number of test individuals; days may be adjusted if agreed by DNR and Contractor. Approximately 200-250 individuals are typically tested.
- d. Individuals who fail the annual fitness test will be scheduled for re-test three (3) weeks following the initial test. The re-test may also include individuals not tested during the Annual test session. DNR will determine test candidates and contact Contractor to schedule test date. Approximately 25-30 individuals are tested during this first re-test session.
- e. Individuals failing the re-test session will be scheduled for final re-test six (6) weeks following the first re-test. The final retest schedule may also include individuals not previously tested. DNR will determine test candidates and contact Contractor to schedule test date. Approximately 20 individuals are tested during the final re-test session.
- f. Annual fitness tests for temporary fire officers and other individuals who may need to be tested shall be scheduled in March each year during the Contract term. DNR will contact the Contractor approximately four (4) weeks in advance to schedule test date. DNR will contact all test candidates, determine the number of individuals to be tested, and contact Contractor at least three (3) business days prior to the test date to provide the schedule of individuals to be tested. Approximately 30 individuals are tested during the March annual session.
- g. Tests for new hires are scheduled as needed throughout the year. Reasonable arrangements shall be made to accommodate both the DNR and the Contractor.

## 2. Staffing

### 2.1. Contractor Representative

The Contractor agrees to appoint a contract manager, specifically assigned to State of Michigan accounts, that will respond to State inquiries regarding the Contract Activities, answering questions related to ordering and delivery, etc. (the "Contractor Representative"). The Contractor agrees to notify the Contract Administrator at least seven (7) calendar days before removing or assigning a new Contractor Representative.

<b>Contractor Representative Information</b>
Nancy Goodyear, Manager Occupational Health 989-348-0368 ngoodyear@mhc.net

### 2.2. Customer Service Number

The Contractor has provided a Customer Service number for the State to contact the Contractor Representative. The Contractor Representative shall be available for calls during the hours of 8 am to 5 pm EST.

<b>Customer Service Number</b>
989-348-0368

### 2.3. Contractor Personnel Requirements

Note: Two DNR staff will be on-site during entire testing period to assist Contractor personnel.

- a. One **Clerk** – shall register test individuals and receive health histories and other related administrative documents. Hospital volunteers will perform duties as Clerk with supervision by a Registered Nurse.
- b. One **Fitness Test Proctor** – to administer the Fitness Test to up to eight individuals per hour. May be hospital staff or volunteers with supervision by a licensed physician.
- c. One **Test Administrator** – a licensed physician qualified to evaluate test individual's health/history and resting EKG. Test Administrator shall evaluate up to eight individuals per hour for the purpose of providing medical clearance to participate in fitness tests. Test Administrator shall remain onsite during the entire testing period to provide supervision for the Fitness Test Proctor and emergency health care to test individuals in the event of a medical emergency. Various physicians will be responsible for Test Administrator duties.
- d. At least one qualified **Health Professional** - shall conduct resting EKG's, intakes, vitals, height, weight, and history for up to eight test individuals per hour. Various staff trained as Respiratory Therapists, ED Technicians, and Cardiac Rehab Technicians shall perform Health Professional duties.
- e. At least one qualified **Advanced Cardiac Life Support (ACLS) certified health professional** - shall directly supervise fitness tests for up to eight test individuals per hour. Various staff trained as Registered Nurses and Cardiac Rehab Technicians and certified in ACLS shall perform ACLS duties.
- f. The Test Administrator and ACLS Health Professional are required to be on-site during the entire testing period. Contractor must have a contingency workplan to cover unplanned absences of the required personnel on a test day. If Contractor must reschedule test date due to Personnel absence, Contractor must notify DNR by 12:00 pm Eastern Time on the business day prior to the scheduled test date. If DNR is not notified as specified, Contractor may be assessed Liquidated Damages (see Exhibit A, Section 11).

### 2.4. Disclosure of Subcontractors

The Contractor will not initially be utilizing subcontractors. In the event the Contractor begins to utilize subcontractors, the Contractor agrees to 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.

### **3. Meetings and Reporting**

#### **3.1. Meetings**

The State may request meetings, as it deems appropriate.

#### **3.2. Reporting**

- a. The Contractor agrees to provide the DNR Program Manager or designee the qualification scores for each individual tested within two (2) weeks of the testing date.
- b. The Contractor agrees to maintain a confidential test administration file for each individual tested which contains:
  - i. Resting EKG results
  - ii. Health/history Questionnaire
  - iii. Medical clearance documentation
  - iv. Test results – performance and test result documentation
- c. Contractor agrees to forward the confidential test administration file to the individual tested or to his or her personal physician upon request.
- d. To Contractor agrees to meet confidentiality requirements by
  - a. Maintaining a copy of test results and other documentation in the Occupational Health office for a period of three (3) years. Files shall be maintained in locked cabinets and are accessible only to Occupational Health office staff.
  - b. After the three-year period, the Contractor agrees the entire chart shall be scanned to a secure medical record file and the original paperwork shredded.

### **4. Pricing**

#### **4.1. Price Term**

Pricing is firm for a 365-day period ("Pricing Period"). The first pricing period begins on the Effective Date. Adjustments may be requested in writing (email is acceptable) by either party and will take effect no sooner than the next Pricing Period.

#### **4.2. Price Changes**

Any request for a price change must be supported by written evidence documenting the actual change in costs. The change in Contractor cost will be verified. The State may consider sources such as the Consumer Price Index; Producer Price Index; and/or other price indices as needed; economic and industry data; manufacturer or supplier letters noting the increase in pricing; and any other data the State deems relevant.

Following the presentation of supporting documentation, both parties will have 30 days to review the information and prepare a written response. If the review reveals no need for modifications, pricing will remain unchanged unless mutually agreed to by the parties. If the review reveals that changes are needed, both parties will negotiate such changes, for no longer than 30 days, unless extended by mutual agreement.

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

### **5. Ordering**

#### **5.1. Authorizing Document**

A Delivery Order is the only appropriate authorizing document for ordering and payment of Contract Activities. The State will issue a Delivery Order (DO) each year to authorize Contract Activities during the current fiscal year.

### **6. Invoice and Payment**

#### **6.1. Invoice Requirements**

All invoices must reflect actual work done with quantities of the actual number of individuals tested and actual number of EKGs evaluated.

All invoices submitted to the State must include: (a) date; (b) purchase order; (c) quantity; (d) description of the Contract Activities; (e) unit price; (f) date contract activities performed; and (g) total price. Overtime, holiday pay, and travel expenses will not be paid.

#### **6.2. Payment Methods**

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

## **7. Liquidated Damages**

The Contractor agrees to notify the DNR by 12:00 p.m. EST on the business day prior to a scheduled test when any required Contractor Personnel will be absent and unavailable on the scheduled test date. Upon notification, the Program Manager or designee will determine whether to cancel or continue the Contract Activities for that test day. Failure to notify the DNR of a potential cancellation day will cause loss and damage to the State. If the Contractor fails to notify the DNR of a potential cancellation day, the State may collect liquidated damages to reimburse the State for round trip travel expenses to and from the test facility incurred by DNR employees. Transportation expense will be calculated at the State's Standardized Travel Rates, Regulation Section 5.3, Transportation by Private Vehicle, and Section 5.4 Transportation by State-Provided Vehicle. Reimbursement rates will be calculated using the current published mileage rates for Private Vehicle use and Vehicle and Travel Service Rates for State-Provided Vehicle use. Mileage used for calculating per mile cost will be actual miles traveled by test individual(s) up to a maximum of 200 miles. For fiscal year ending September 30, 2019 the maximum liquidated damages are \$116.00 per test individual.

# STATE OF MICHIGAN

Contract Number 190000000497

Department of Natural Resources, Forest Resources Division  
Fire Fighter Fitness Testing Program – Northern Lower Peninsula

## SCHEDULE B PRICING

Description	Estimated Annual Tests	Price Per Test	Total Estimated Annual Price
Resting EKG with Physician Interpretation	250	\$55.00	\$13,750.00
Physician Interpretation of Previous EKG	25	\$30.00	\$ 750.00
Fitness Test Conducted by Staff	300	\$70.00	\$21,000.00
<b>Total Estimated Annual Price</b>			<b>\$35,500.00</b>
<b>Total Estimated Aggregate Contract Value</b>			<b>\$355,000.00</b>