



# STATE OF MICHIGAN PROCUREMENT

Department of Natural Resources

525 West Allegan, Lansing, MI 48933  
PO Box 30028

## CONTRACT CHANGE NOTICE

Change Notice Number 5  
to  
Contract Number 20000000006

<b>CONTRACTOR</b>	Holli Forest Products Inc.
	PO Box 117
	Ishpeming, MI 48949
	Julie Penrose
	906-485-6351
	HolliForestProd@aol.com
	CV0037582

<b>STATE</b>	Program Manager	Jason Hartman	DNR
		989-275-5151 Ext 2722247	
		hartmanj@michigan.gov	
	Contract Administrator	Kip Conley	DNR
		517-388-5956	
		Conleyk1@michigan.gov	

CONTRACT SUMMARY				
<b>DESCRIPTION:</b> Forest Site Preparation – Scarification: Anchor Chain				
INITIAL EFFECTIVE DATE	INITIAL EXPIRATION DATE	INITIAL AVAILABLE OPTIONS	EXPIRATION DATE BEFORE CHANGE(S) NOTED BELOW	
11/20/19	11/19/23	4 – 1-year options	11/19/25	
PAYMENT TERMS		DELIVERY TIMEFRAME		
Net 45		NA		
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				
NA				
DESCRIPTION OF CHANGE NOTICE				
OPTION	LENGTH OF OPTION	EXTENSION	LENGTH OF EXTENSION	REVISED EXP. DATE
<input type="checkbox"/>		<input type="checkbox"/>		
CURRENT VALUE		VALUE OF CHANGE NOTICE	ESTIMATED AGGREGATE CONTRACT VALUE	
\$494,000.00		\$100,000.00	\$594,000.00	
<b>DESCRIPTION:</b> Effective 2/13/25 this contract adds \$100,000.00 to the total contract value. All other terms, conditions, specifications, and pricing remain the same per contractor and agency agreement and DTMB Central Procurement Services approval.				

**FOR THE CONTRACTOR:**

**Holli Forest Products, Inc.**  
Company Name

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

**Julie A Penrose**  
Authorized Agent (Print or Type)

\_\_\_\_\_  
Date

**FOR THE STATE:**

\_\_\_\_\_  
Signature

**Laura Gyorkos, Procurement Manager**  
Name & Title

**DNR**  
Agency

\_\_\_\_\_  
Date



# STATE OF MICHIGAN PROCUREMENT

Department of Natural Resources

525 West Allegan, Lansing, MI 48933  
PO Box 30028

## CONTRACT CHANGE NOTICE

Change Notice Number **4**  
to  
Contract Number **20000000006**

<b>CONTRACTOR</b>	Holli Forest Products Inc.
	PO Box 117
	Ishpeming, MI 48949
	Julie Penrose
	906-485-6351
	HolliForestProd@aol.com
	CV0037582

<b>STATE</b>	Program Manager	Jason Hartman	DNR
		989-275-5151 Ext 2722247	
		hartmanj@michigan.gov	
	Contract Administrator	Kip Conley	DNR
		517-388-5956	
		Conleyk1@michigan.gov	

CONTRACT SUMMARY				
<b>DESCRIPTION:</b> Forest Site Preparation – Scarification: Anchor Chain				
INITIAL EFFECTIVE DATE	INITIAL EXPIRATION DATE	INITIAL AVAILABLE OPTIONS	EXPIRATION DATE BEFORE CHANGE(S) NOTED BELOW	
11/20/19	11/19/23	4 – 1-year options	11/19/24	
PAYMENT TERMS		DELIVERY TIMEFRAME		
Net 45		NA		
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				
NA				
DESCRIPTION OF CHANGE NOTICE				
OPTION	LENGTH OF OPTION	EXTENSION	LENGTH OF EXTENSION	REVISED EXP. DATE
<input checked="" type="checkbox"/>	1 year	<input type="checkbox"/>		11/19/25
CURRENT VALUE		VALUE OF CHANGE NOTICE	ESTIMATED AGGREGATE CONTRACT VALUE	
\$494,000.00		\$0.00	\$494,000.00	
<b>DESCRIPTION:</b> Effective 11/19/24 the second option year will be exercised with a new expiration of 11/19/25. All other terms, conditions, specifications, and pricing remain the same per contractor and agency agreement and DTMB Central Procurement Services approval.				

**FOR THE CONTRACTOR:**

**Holli Forest Products, Inc.**  
\_\_\_\_\_  
Company Name

On file with DNR Procurement

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

**Julie A Penrose**  
\_\_\_\_\_  
Authorized Agent (Print or Type)

\_\_\_\_\_  
Date

**FOR THE STATE:**

On file with DNR Procurement

\_\_\_\_\_  
Signature

**Laura Gyorkos, Procurement Manager**  
\_\_\_\_\_  
Name & Title

**DNR**  
\_\_\_\_\_  
Agency

\_\_\_\_\_  
Date



# STATE OF MICHIGAN PROCUREMENT

Department of Natural Resources

525 West Allegan, Lansing, MI 48933  
PO Box 30028

## CONTRACT CHANGE NOTICE

Change Notice Number 3  
to  
Contract Number 20000000006

<b>CONTRACTOR</b>	Holli Forest Products Inc.
	PO Box 117
	Ishpeming, MI 48949
	Julie Penrose
	906-485-6351
	HolliForestProd@aol.com
	CV0037582

<b>STATE</b>	Program Manager	Jason Hartman	DNR
		989-275-5151 Ext 2722247	
	hartmanj@michigan.gov		
	Contract Administrator	Kip Conley	DNR
517-388-5956			
Conleyk1@michigan.gov			

CONTRACT SUMMARY				
<b>DESCRIPTION:</b> Forest Site Preparation – Scarification: Anchor Chain				
INITIAL EFFECTIVE DATE	INITIAL EXPIRATION DATE	INITIAL AVAILABLE OPTIONS	EXPIRATION DATE BEFORE CHANGE(S) NOTED BELOW	
11/20/19	11/19/23	4 – 1-year options	11/19/24	
PAYMENT TERMS		DELIVERY TIMEFRAME		
Net 45		NA		
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				
NA				
DESCRIPTION OF CHANGE NOTICE				
OPTION	LENGTH OF OPTION	EXTENSION	LENGTH OF EXTENSION	REVISED EXP. DATE
<input type="checkbox"/>		<input type="checkbox"/>		
CURRENT VALUE		VALUE OF CHANGE NOTICE	ESTIMATED AGGREGATE CONTRACT VALUE	
\$344,000.00		\$150,000.00	\$494,000.00	
<b>DESCRIPTION:</b> Effective 2/5/2024 this contract is increased by \$150,000.00. All other terms, conditions, specifications, and pricing remain the same per contractor and agency agreement and DTMB Central Procurement Services approval.				

**FOR THE CONTRACTOR:**

**Holli Forest Products, Inc.**  
Company Name

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

**Julie A Penrose**  
Authorized Agent (Print or Type)

\_\_\_\_\_  
Date

**FOR THE STATE:**

\_\_\_\_\_  
Signature

**Laura Gyorkos, Procurement Manager**  
Name & Title

**DNR**  
Agency

\_\_\_\_\_  
Date



# STATE OF MICHIGAN PROCUREMENT

Department of Natural Resources

525 West Allegan, Lansing, MI 48933  
PO Box 30028

## CONTRACT CHANGE NOTICE

Change Notice Number 2  
to  
Contract Number 20000000006

<b>CONTRACTOR</b>	Holli Forest Products Inc.
	PO Box 117
	Ishpeming, MI 48949
	Julie Penrose
	906-485-6351
	HolliForestProd@aol.com
	CV0037582

<b>STATE</b>	Program Manager	Jason Hartman	DNR
		989-275-5151 Ext 2722247	
		hartmanj@michigan.gov	
	Contract Administrator	Kip Conley	DNR
		517-388-5956	
		Conleyk1@michigan.gov	

CONTRACT SUMMARY				
<b>DESCRIPTION:</b> Forest Site Preparation – Scarification: Anchor Chain				
INITIAL EFFECTIVE DATE	INITIAL EXPIRATION DATE	INITIAL AVAILABLE OPTIONS	EXPIRATION DATE BEFORE CHANGE(S) NOTED BELOW	
11/20/19	11/19/23	4 – 1-year options	11/19/23	
PAYMENT TERMS		DELIVERY TIMEFRAME		
Net 45		NA		
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				
NA				
DESCRIPTION OF CHANGE NOTICE				
OPTION	LENGTH OF OPTION	EXTENSION	LENGTH OF EXTENSION	REVISED EXP. DATE
<input type="checkbox"/>		<input type="checkbox"/>		11/19/24
CURRENT VALUE		VALUE OF CHANGE NOTICE	ESTIMATED AGGREGATE CONTRACT VALUE	
\$344,000.00		\$0.00	\$344,000.00	
<b>DESCRIPTION:</b> Effective 11/19/2023 this contract is extended by one option year with a new expiration of 11/19/2024. All other terms, conditions, specifications, and pricing remain the same per contractor and agency agreement and DTMB Central Procurement Services approval.				

**FOR THE CONTRACTOR:**

**Holli Forest Products, Inc.**  
Company Name

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

**Julie A Penrose**  
Authorized Agent (Print or Type)

\_\_\_\_\_  
Date

**FOR THE STATE:**

\_\_\_\_\_  
Signature

**Laura Gyorkos, Procurement Manager**  
Name & Title

**DNR**  
Agency

\_\_\_\_\_  
Date



# STATE OF MICHIGAN PROCUREMENT

Department of Natural Resources

525 West Allegan, Lansing, MI 48933

PO Box 30028

## CONTRACT CHANGE NOTICE

Change Notice Number **1**  
to  
Contract Number **20000000006**

<b>CONTRACTOR</b>	Holli Forest Products Inc.
	PO Box 117
	Ishpeming, MI 48949
	Julie Penrose
	906-485-6351
	HolliForestProd@aol.com
	CV0037582

<b>STATE</b>	Program Manager	Jason Hartman	DNR
		989-275-5151 Ext 2722247	
	hartmanj@michigan.gov		
	Contract Administrator	Kip Conley	DNR
517-388-5956			
Conleyk1@michigan.gov			

CONTRACT SUMMARY				
<b>DESCRIPTION:</b> Forest Site Preparation – Scarification: Anchor Chain				
INITIAL EFFECTIVE DATE	INITIAL EXPIRATION DATE	INITIAL AVAILABLE OPTIONS	EXPIRATION DATE BEFORE CHANGE(S) NOTED BELOW	
11/20/19	11/19/23	4 – 1-year options	11/19/23	
PAYMENT TERMS		DELIVERY TIMEFRAME		
Net 45		NA		
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				
NA				
DESCRIPTION OF CHANGE NOTICE				
OPTION	LENGTH OF OPTION	EXTENSION	LENGTH OF EXTENSION	REVISED EXP. DATE
<input type="checkbox"/>		<input type="checkbox"/>		
CURRENT VALUE		VALUE OF CHANGE NOTICE	ESTIMATED AGGREGATE CONTRACT VALUE	
\$344,000.00		\$0.00	\$344,000.00	
<b>DESCRIPTION:</b> Effective 8/13/22 the DNR is adding a line to the contract for fuel surcharge. All other terms, conditions, specifications, and pricing remain the same. Per contractor and agency agreement, and DTMB Central Procurement Services approval.				

**FOR THE CONTRACTOR:**

**Holli Forest Products, Inc.**  
Company Name

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

**Julie A Penrose**  
Authorized Agent (Print or Type)

\_\_\_\_\_  
Date

**FOR THE STATE:**

\_\_\_\_\_  
Signature

**Laura Gyorkos, Procurement Manager**  
Name & Title

**DNR**  
Agency

\_\_\_\_\_  
Date

# STATE OF MICHIGAN

## SCHEDULE B PRICING

Category	Activity	Price per Acre Upper Peninsula	Estimated Annual Acreage Upper Peninsula	Price Per Acre Northern Lower Peninsula	Estimated Annual Acreage Lower Peninsula	Annual Total
Scarification	Anchor Chains	\$86.00	1000	N/A	0	\$86,000.00
FUEL SURCHARGE of \$6.05 per acre of operational work when fuel exceeds \$4.00 a gallon.						
1. Annual Total						\$86,000.00
2. Contract Length						4 Years
ESTIMATED CONTRACT VALUE (Line 1 X Line 2)						\$344,000.00



# STATE OF MICHIGAN PROCUREMENT

Department of Natural Resources

525 West Allegan, Lansing, MI 48933  
PO Box 30028

## NOTICE OF CONTRACT

NOTICE OF CONTRACT NO. **200000000006**

between

THE STATE OF MICHIGAN

and

<b>CONTRACTOR</b>	Holli Forest Products Inc.
	PO Box 117
	Ishpeming, MI 48949
	Julie Penrose
	906-485-6351
	HolliForestProd@aol.com
	CV0037582

<b>STATE</b>	Program Manager	Jason Hartman	DNR
		989-275-5151 Ext 2722247	
	hartmanj@michigan.gov		
	Contract Administrator	Kip Conley	DNR
517-284-5975			
Conleyk1@michigan.gov			

### CONTRACT SUMMARY

**DESCRIPTION: Forest Site Preparation – Scarification: Anchor Chain**

INITIAL EFFECTIVE DATE	INITIAL EXPIRATION DATE	INITIAL AVAILABLE OPTIONS	EXPIRATION DATE BEFORE CHANGE(S) NOTED BELOW
11/20/19	11/19/23	4 – 1 year	
PAYMENT TERMS		DELIVERY TIMEFRAME	
Net 45		NA	
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			
NA			
MISCELLANEOUS INFORMATION			
<p>The terms and conditions of this Contract are those of RFP 190000002800. This Contract Agreement and the vendor's quote dated September 9, 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.</p>			
ESTIMATED CONTRACT VALUE AT TIME OF EXECUTION			<b>\$344,000.00</b>

**FOR THE CONTRACTOR:**


**Holli Forest Products, Inc.**  
Company Name

  
Authorized Agent Signature

**JULIE A. PENROSE**  
Authorized Agent (Print or Type)

**10-8-19**  
Date

**FOR THE STATE:**

  
Signature

**Laura Gyorkos, Procurement Manager**  
Name & Title

**Department of Natural Resources**  
Agency

**11/20/19**  
Date

# STATE OF MICHIGAN

## SCHEDULE A STATEMENT OF WORK CONTRACT ACTIVITIES

### BACKGROUND

This long-term project is focused on forestry equipment and operator needs for reforestation efforts on State and Federal forest lands in Michigan. Work on Federal lands will be under Good Neighbor Authority agreements with the U.S. Forest Service. There are several operations requiring various equipment and techniques being advertised. Contractors may bid only on operations and services that they can feasibly provide. *Multiple contracts may be awarded.* Some operations require significant capital investment in equipment. Therefore, the State is willing to commit specific annual acreage to those operations through the length of this contract.

Most of the work will occur between April and October of each year with some exceptions under favorable operational weather conditions.

Contracted treatments will begin in April of 2020.

### SCOPE

Summary of activities are categorized as followed;

#### Scarification:

- Anchor chains: This is the most common scarification technique. It is generally used in jack pine clear-cuts. Sites range from 20 to 100 acres in size. Most sites will be located in the Eastern Upper Peninsula (EUP). A minimum of one set of anchor chains must be owned by the Contractor. DNR chains may be available to borrow when available. Maintenance of borrowed chains is the responsibility of the Contractor. Chain links will need to weigh a minimum of 40 pounds, contain 16 links per chain, and contain 4 chains per drag. Average annual work will be approximately 1,000 acres.

### REQUIREMENTS

- A GPS unit will be required. GPS files of each treatment must be submitted electronically in a shapefile format with 2 weeks of each project completion.
- GPS polygon data will be required for all mechanical treatments. This data will exclude roads, powerlines, wetlands, and all areas not treated.
- Linear GPS data will be required for all spraying treatments.
- Upon completion of operations all camps and equipment must be removed.
- The Contractor must formulate and apply the pesticide specified for each site as stated on the prescription. All applications, materials handling, safety procedures, mixing and MIOSHA requirements must be in accordance with the manufacturer's instructions contained on the pesticide label, safety data sheet, and Michigan and Federal pesticide laws and regulations. All water in the spray mixture must be clear water and preferably from a domestic water source. Emptied pesticide containers must be triple rinsed and rinse materials added to the spray mixture. The Contractor is responsible to container disposal. Equipment must be rinsed thoroughly before switching to a different pesticide.
- The spraying contractor must follow the Pesticide Application Plan produced by DNR staff. Additional resources must be provided as needed to block trails/roads during the spraying operation

- The Contractor for any mechanical site preparation operations is obligated to contact MissDig prior to beginning treatments on any individual sites.
- The Contractor is required to visually inspect each site prior to treatment. If a change in acreage is expected to be more than 10% then the contract administrator must be notified before the equipment leaves the site.

**TECHNICAL SPECIFICATIONS:**

**1.1. Specifications**

Specifications that apply to all categories:

- At least 50% of the dead standing snags (greater than 6" in diameter measured at 4 ½ feet above the ground) must be left standing after the area has been treated.
- The Contract administrator in each District will determine allowable operational periods related to each specific operation and the current conditions. Examples include, frozen ground, curing in slash, leaf development, etc. These factors don't always follow specific dates.

**Scarification:**

- Anchor chains
  - 90% of the upland work (non-wetlands) site shall be dragged.
  - 50% of the prepared site shall be an acceptable seed bed consisting of bare mineral soil or a mixture of duff and mineral soil.
  - If a site has to be dragged twice in order to achieve the desired seed bed (scarification), this will be included in the stand prescription sheet and the acreage treated will be determined by the number of acres treated in each pass. For example, if a twenty-acre site requires double dragging, the contractor will be paid for forty-acres.

<b>Equipment List:</b>
John Deere 748 Site Preparation Skidders, Anchor Chains meeting States Specs, DNR owned anchor chains if available.

**1.2. Training**

- The Contractor for any pesticide operations must maintain a Michigan commercial pesticide applicators license with endorsements required by Michigan law for pesticide use in forestry operations.

**1.3. Work Plans**

The State will supply a work plan that includes acreage by activity and District by April 1 of each year.

**2. Acceptance**

**2.1. Acceptance, Inspection and Testing**

The Project Manager within each District will evaluate quality of treatments for acceptance. The State will use the Technical Specifications to inspect and accept of Contract Activities.

**3. Staffing**

**3.1. Contractor Representative**

The Contractor must appoint a Customer Service Representative, specifically assigned to State of Michigan accounts, that will respond to State inquiries regarding the Contract Activities, answering questions related to ordering and delivery, etc. (the "Contractor Representative").

The Contractor must notify the Contract Administrator at least 10 calendar days before removing or assigning a new Contractor Representative.

Contract Representative:

Todd Penrose  
906-235-1500

### **3.2. Customer Service Number**

The Contractor must specify its Customer Service number for the State to make contact with the Contractor Representative. The Contractor Representative must be available for calls during the hours of 8 am to 5 pm EST. Customer Service Number: 906-235-1500

### **3.3. Technical Support, Repairs and Maintenance**

Contractor is responsible for technical support, repairs and maintenance of equipment under their ownership. Contractor will fix any state owned equipment if damaged.

### **3.4. Work Hours**

The Contractor must provide Contract Activities during the State's normal working hours Monday – Friday, 7:00 a.m. to 6:00 p.m. EST, and possible night and weekend hours depending on the requirements of the project.

### **3.5. Key Personnel**

Contractor must assign 1 individual who will be directly responsible for the day to day operations of the Contract ("Key Personnel") for each DNR District (this can be the same person). Key Personnel must be specifically assigned to the State account, be knowledgeable on the contractual requirements, and respond to State inquires within 2 business days.

The Contractor may not remove or assign Key Personnel without the prior consent of the State. Prior consent is not required for reassignment for reasons beyond the Contractor's control, including illness, disability, death, leave of absence, personal emergency circumstances, resignation, or termination for cause. The State may request a résumé and conduct an interview before approving a change. The State may require a 30-calendar day training period for replacement personnel.

#### Key Personnel:

Todd Penrose  
906-235-1500  
Supervisor

### **3.6. Organizational Chart**

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

### **3.7. Disclosure of Subcontractors**

If the Contractor intends to utilize subcontractors, the Contractor must disclose the following:

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

The relationship of the subcontractor to the Contractor.

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

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

### **3.8. Security**

A spraying Contractor must have the capacity to address chemical spills as required for certified applicators. The Contractor must also provide secure and lockable storage for chemicals on each site.

## **4. Project Management**

### **4.1. Project Plan**

The Contractor must annually communicate with a representative in each respective District where treatments are to occur. When an order has been issued the Contractor must organize a planned sequence in which the treatments will occur and include this data within an excel spreadsheet. Completion information will be tracked within the same spreadsheet as the season progresses.

### **4.2. Meetings**

A pre-season meeting will be required. Other face to face meetings may be required at times, but most communication can occur over the phone and via email.

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

#### **4.3. Reporting**

A basic excel database must be managed by the Contractor that reports various completion information based on treatment type. This data includes type of, and volume of pesticide applied by site. This data must be supplied to the contract administrator on a monthly basis.

A brief (1-2 page) written report must be provided annually accompanying the excel data. This report will describe the progression of the season and any communication issues, equipment problems, or other contractual issues that need to be reconciled.

### **5. Ordering and Pricing**

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

The appropriate authorizing document for the Contract will be a Delivery Order.

#### **5.2. 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, by either party and will take effect no earlier than the next Pricing Period.

#### **5.3. Price Changes**

Adjustments will be based on changes in actual Contractor costs. Any request must be supported by written evidence documenting the change in costs. The State may consider sources, such as the Consumer Price Index; Producer Price Index; other pricing 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.

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

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

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

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

The State will make payment for Contract Activities via EFT through SIGMA VSS.

#### **6.3 Mobilization Costs**

All mobilization costs shall be included in the rate per acre in the Upper Peninsula or Lower Peninsula.

### **7. Vendor Performance and Contractual Deductions**

- A. If the Program Manager or designee determines there are deficiencies with any portion of the Contract Activities, the Program Manager or designee will provide the Contractor with written notice (email is acceptable) of any deficiencies in the performance of Contract Activities.
- B. The Contractor agrees to correct any deficiencies within 48 hours of notification.
- C. Failure to perform or failure to correct deficiencies within the specified time may result in a deductible incident, Vendor Performance Report entered against the Contractor, and / or contract cancellation. Refer to Section 7.1 for detail regarding deductible incidents.

- D. Performance Evaluations will be provided to the Contractor noting exceptions in performance to the required specifications.

#### **7.1 Vendor Performance and Contractual Deductions**

Contractual Deductions will not be charged for unacceptable spraying, scarification, mastication or disking services. Instead, the Contractor shall have an opportunity to correct any deviation from the service specifications.

However, Contractual Deductions shall be charged for deviation from the specifications for trenching. If trenching operations are not performed within the specifications set forth, the deviation will interfere with the State's program utilizing the proposed contract, resulting in loss and damage of the State. As it would be impractical and extremely difficult to fix the actual damage sustained in the event of any deviation, the State and the Contractor, therefore, presume that in the event of any such deviation the amount of damage which will be sustained from a deviation will be in the amount set forth below. The State and the Contractor agree that in the event of any such deviation, the Contractor shall pay such amount as liquidated damages and not as a penalty. The State at its option, for amounts due the State as liquidated damages may deduct such from any money payable to the Contractor or may bill the Contractor as a separate item.

- 1) On greater than 10% of the site, distance between trenches is greater or less than specifications by 1.0 to 1.99 feet    *10% deduction from total site payment*
- 2) On greater than 10% of the site, distance between trenches is greater or less than specifications by 2.0 to 2.99 feet    *25% deduction from total site payment*
- 3) On greater than 10% of the site, distance between trenches is greater or less than specifications by 3.0 or more feet    *50% deduction from total site payment*

Deductions for non-compliance with specifications are cumulative.



# STATE OF MICHIGAN

## STANDARD CONTRACT TERMS

This STANDARD CONTRACT (“**Contract**”) is agreed to between the State of Michigan (the “**State**”) and Holli Forest Products, Inc. (“**Contractor**”). This Contract is effective on 10/08/2019 (“**Effective Date**”), and unless terminated, expires on 10/07/2023.

This Contract may be renewed for up to 4 additional 1-year period(s). 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 making contact with the State.

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

If to State:	If to Contractor:
Kip Conley, Buyer DNR Procurement 525 West Allegan Street Lansing, MI 48915 Conleyk1@michigan.gov (517) 284-5975	Todd Penrose PO Box 117 Ishpeming, MI 49849 HolliForestProd@aol.com 906-235-1500

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

State:	Contractor:
Kip Conley, Buyer DNR Procurement 525 West Allegan Street Lansing, MI 48915 Conleyk1@michigan.gov (517) 284-5975	Todd Penrose PO Box 117 Ishpeming, MI 49849 HolliForestProd@aol.com 906-235-1500

4. **Program Manager.** The Program Manager for each party will monitor and coordinate the day-to-day activities of the Contract (each a “**Program Manager**”):

State:	Contractor:
Jason Hartman 8717 N Roscommon Rd Roscommon, MI 48653 Hartmanj@michigan.gov 989-275-5151 Ext 2722247	Todd Penrose PO Box 117 Ishpeming, MI 49849 HolliForestProd@aol.com 906-235-1500

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 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>Employers Liability Insurance</b>	
<u>Minimum Limits:</u> \$500,000 Each Accident \$500,000 Each Employee by Disease \$500,000 Aggregate Disease.	

If any of the required policies provide **claims-made** coverage, the Contractor must: (a) provide coverage with a retroactive date before the effective date of the contract or the beginning of Contract Activities; (b) maintain coverage and provide evidence of coverage for at least three (3) years after completion of the Contract Activities; and (c) if coverage is 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 delivery 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. **Reserved.**
8. **Reserved.**
9. **Independent Contractor.** Contractor is an independent contractor and assumes all rights, obligations and liabilities set forth in this Contract. Contractor, its employees, and agents will not be considered employees of the State. No partnership or joint venture relationship is created by virtue of this Contract. Contractor, and not the State, is responsible for the payment of wages, benefits and taxes of Contractor's employees and any subcontractors. Prior performance does not modify Contractor's status as an independent contractor..
10. **Subcontracting.** Contractor may not delegate any of its obligations under the Contract without the prior written approval of the State. Contractor must notify the State at least 90 calendar days before the proposed delegation and provide the State any information it requests to determine whether the delegation is in its best interest. If approved, Contractor must: (a) be the sole point of contact regarding all contractual matters, including payment and charges for all Contract Activities; (b) make all payments to the subcontractor; and (c) incorporate the terms and conditions contained in this Contract in any subcontract with a subcontractor. Contractor remains responsible for the completion of the Contract Activities, compliance with the terms of this Contract, and the acts and omissions of the subcontractor. The State, in its sole discretion, may require the replacement of any subcontractor.
11. **Staffing.** The State's Contract Administrator may require Contractor to remove or reassign personnel by providing a notice to Contractor.
12. **Background Checks.** Pursuant to Michigan law, all agencies subject to IRS Pub. 1075 are required to ask the Michigan State Police to perform fingerprint background checks on all employees, including Contractor and Subcontractor employees, who may have access to any database of information maintained by the federal government that contains confidential or personal information, including, but not limited to, federal tax information. Further, pursuant to Michigan law, any agency described above is prohibited from providing Contractors or Subcontractors with the result of such background check. For more information, please see Michigan Public Act 427 of 2018. Upon request, Contractor must perform background checks on all employees and subcontractors and its employees prior to their assignment. The scope is at the discretion of the State and documentation must be provided as requested. Contractor is responsible for all costs associated with the requested background checks. The State, in its sole discretion, may also perform background checks.
13. **Assignment.** Contractor may not assign this Contract to any other party without the prior approval of the State. Upon notice to Contractor, the State, in its sole discretion, may assign in whole or in part, its rights or responsibilities under this Contract to any other party. If the State determines that a novation of the Contract

to a third party is necessary, Contractor will agree to the novation and provide all necessary documentation and signatures.

14. **Change of Control.** Contractor will notify within 30 days of any public announcement or otherwise once legally permitted to do so, the State of a change in Contractor's organizational structure or ownership. For purposes of this Contract, a change in control means any of the following: (a) a sale of more than 50% of Contractor's stock; (b) a sale of substantially all of Contractor's assets; (c) a change in a majority of Contractor's board members; (d) consummation of a merger or consolidation of Contractor with any other entity; (e) a change in ownership through a transaction or series of transactions; (f) or the board (or the stockholders) approves a plan of complete liquidation. A change of control does not include any consolidation or merger effected exclusively to change the domicile of Contractor, or any transaction or series of transactions principally for bona fide equity financing purposes.

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

15. **Ordering.** Contractor is not authorized to begin performance until receipt of authorization as identified in Schedule A.
16. **Acceptance.** Contract Activities are subject to inspection and testing by the State within 30 calendar days of the State's receipt of them ("**State Review Period**"), unless otherwise provided in 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 23, Termination for Cause.

Within 10 business days from the date of Contractor's receipt of notification of acceptance with deficiencies or rejection of any Contract Activities, Contractor must cure, at no additional cost, the deficiency and deliver unequivocally acceptable Contract Activities to the State. If acceptance with deficiencies or rejection of the Contract Activities impacts the content or delivery of other non-completed Contract Activities, the parties' respective Program Managers must determine an agreed to number of days for re-submission that minimizes the overall impact to the Contract. However, nothing herein affects, alters, or relieves Contractor of its obligations to correct deficiencies in accordance with the time response standards set forth in this Contract.

If Contractor is unable or refuses to correct the deficiency within the time response standards set forth in this Contract, the State may cancel the order in whole or in part. The State, or a third party identified by the State, may perform the Contract Activities and recover the difference between the cost to cure and the Contract price plus an additional 10% administrative fee.

17. **Reserved.**
18. **Reserved.**
19. **Reserved.**
20. **Terms of Payment.** Invoices must conform to the requirements communicated from time-to-time by the State. All undisputed amounts are payable within 45 days of the State's receipt. Contractor may only charge for Contract Activities performed as specified in 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. All prices are exclusive 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.

21. **Liquidated Damages.** Liquidated damages, if applicable, will be assessed as described in Schedule A.
22. **Stop Work Order.** The State may suspend any or all activities under the Contract at any time. The State will provide Contractor a written stop work order detailing the suspension. Contractor must comply with the stop work order upon receipt. Within 90 calendar days, or any longer period agreed to by Contractor, the State will either: (a) issue a notice authorizing Contractor to resume work, or (b) terminate the Contract or delivery order. The State will not pay for Contract Activities, Contractor's lost profits, or any additional compensation during a stop work period.
23. **Termination for Cause.** The State may terminate this Contract for cause, in whole or in part, if Contractor, as determined by the State: (a) endangers the value, integrity, or security of any location, data, or personnel; (b) becomes insolvent, petitions for bankruptcy court proceedings, or has an involuntary bankruptcy proceeding filed against it by any creditor; (c) engages in any conduct that may expose the State to liability; (d) breaches any of its material duties or obligations; or (e) fails to cure a breach within the time stated in a notice of breach. Any reference to specific breaches being material breaches within this Contract will not be construed to mean that other breaches are not material.

If the State terminates this Contract under this Section, the State will issue a termination notice specifying whether Contractor must: (a) cease performance immediately, or (b) continue to perform for a specified period. If it is later determined that Contractor was not in breach of the Contract, the termination will be deemed to have been a Termination for Convenience, effective as of the same date, and the rights and obligations of the parties will be limited to those provided in Section 24, Termination for Convenience.

The State will only pay for amounts due to Contractor for Contract Activities accepted by the State on or before the date of termination, subject to the State's right to set off any amounts owed by the Contractor for the State's reasonable costs in terminating this Contract. The Contractor must pay all reasonable costs incurred by the State in terminating this Contract for cause, including administrative costs, attorneys' fees, court costs, transition costs, and any costs the State incurs to procure the Contract Activities from other sources.

24. **Termination for Convenience.** The State may immediately terminate this Contract in whole or in part without penalty and for any reason, including but not limited to, appropriation or budget shortfalls. The termination notice will specify whether Contractor must: (a) cease performance of the Contract Activities immediately, or (b) continue to perform the Contract Activities in accordance with Section 25, Transition Responsibilities. If the State terminates this Contract for convenience, the State will pay all reasonable costs, as determined by the State, for State approved Transition Responsibilities.
25. **Transition Responsibilities.** Upon termination or expiration of this Contract for any reason, Contractor must, for a period of time specified by the State (not to exceed 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.

- 26. General Indemnification.** Contractor must defend, indemnify and hold the State, its departments, divisions, agencies, offices, commissions, officers, and employees harmless, without limitation, from and against any and all actions, claims, losses, liabilities, damages, costs, attorney fees, and expenses (including those required to establish the right to indemnification), arising out of or relating to: (a) any breach by Contractor (or any of Contractor's employees, agents, subcontractors, or by anyone else for whose acts any of them may be liable) of any of the promises, agreements, representations, warranties, or insurance requirements contained in this Contract; (b) any infringement, misappropriation, or other violation of any intellectual property right or other right of any third party; (c) any bodily injury, death, or damage to real or tangible personal property occurring wholly or in part due to action or inaction by Contractor (or any of Contractor's employees, agents, subcontractors, or by anyone else for whose acts any of them may be liable); and (d) any acts or omissions of Contractor (or any of Contractor's employees, agents, subcontractors, or by anyone else for whose acts any of them may be liable).

The State will notify Contractor in writing if indemnification is sought; however, failure to do so will not relieve Contractor, except to the extent that Contractor is materially prejudiced. Contractor must, to the satisfaction of the State, demonstrate its financial ability to carry out these obligations.

The State is entitled to: (i) regular updates on proceeding status; (ii) participate in the defense of the proceeding; (iii) employ its own counsel; and to (iv) retain control of the defense if the State deems necessary. Contractor will not, without the State's written consent (not to be unreasonably withheld), settle, compromise, or consent to the entry of any judgment in or otherwise seek to terminate any claim, action, or proceeding. To the extent that any State employee, official, or law may be involved or challenged, the State may, at its own expense, control the defense of that portion of the claim.

Any litigation activity on behalf of the State, or any of its subdivisions under this Section, must be coordinated with the Department of Attorney General. An attorney designated to represent the State may not do so until approved by the Michigan Attorney General and appointed as a Special Assistant Attorney General.

- 27. Infringement Remedies.** If, in either party's opinion, any piece of equipment, software, commodity, or service supplied by Contractor or its subcontractors, or its operation, use or reproduction, is likely to become the subject of a copyright, patent, trademark, or trade secret infringement claim, Contractor must, at its expense: (a) procure for the State the right to continue using the equipment, software, commodity, or service, or if this option is not reasonably available to Contractor, (b) replace or modify the same so that it becomes non-infringing; or (c) accept its return by the State with appropriate credits to the State against Contractor's charges and reimburse the State for any losses or costs incurred as a consequence of the State ceasing its use and returning it.
- 28. Limitation of Liability 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.

29. **Disclosure of Litigation, or Other Proceeding.** Contractor must notify the State within 14 calendar days of receiving notice of any litigation, investigation, arbitration, or other proceeding (collectively, "**Proceeding**") involving Contractor, a subcontractor, or an officer or director of Contractor or subcontractor, that arises during the term of the Contract, including: (a) a criminal Proceeding; (b) a parole or probation Proceeding; (c) a Proceeding under the Sarbanes-Oxley Act; (d) a civil Proceeding involving: (1) a claim that might reasonably be expected to adversely affect Contractor's viability or financial stability; or (2) a governmental or public entity's claim or written allegation of fraud; or (e) a Proceeding involving any license that Contractor is required to possess in order to perform under this Contract.
30. **State Data.** All data and information provided to Contractor by or on behalf of the State, and all data and information derived therefrom, is the exclusive property of the State ("**State Data**"); this definition is to be construed as broadly as possible. Upon request, Contractor must provide to the State, or a third party designated by the State, all State Data within 10 calendar days of the request and in the format requested by the State. Contractor will assume all costs incurred in compiling and supplying State Data. No State Data may be used for any marketing purposes.
31. **Reserved.**
32. **Non-Disclosure of Confidential Information.** The parties acknowledge that each party may be exposed to or acquire communication or data of the other party that is confidential, privileged communication not intended to be disclosed to third parties. The provisions of this Section survive the termination of this Contract.
- a. Meaning of Confidential Information. For the purposes of this Contract, the term "**Confidential Information**" means all information and documentation of a party that: (a) has been marked "confidential" or with words of similar meaning, at the time of disclosure by such party; (b) if disclosed orally or not marked "confidential" or with words of similar meaning, was subsequently summarized in writing by the disclosing party and marked "confidential" or with words of similar meaning; and, (c) should reasonably be recognized as confidential information of the disclosing party. The term "Confidential Information" does not include any information or documentation that was: (a) subject to disclosure under the Michigan Freedom of Information Act (FOIA); (b) already in the possession of the receiving party without an obligation of confidentiality; (c) developed independently by the receiving party, as demonstrated by the receiving party, without violating the disclosing party's proprietary rights; (d) obtained from a source other than the disclosing party without an obligation of confidentiality; or, (e) publicly available when received, or thereafter became publicly available (other than through any unauthorized disclosure by, through, or on behalf of, the receiving party). For purposes of this Contract, in all cases and for all matters, State Data is deemed to be Confidential Information.
- b. Obligation of Confidentiality. The parties agree to hold all Confidential Information in strict confidence and not to copy, reproduce, sell, transfer, or otherwise dispose of, give or disclose such Confidential Information to third parties other than employees, agents, or subcontractors of a party who have a need to know in connection with this Contract or to use such Confidential Information for any purposes whatsoever other than the performance of this Contract. The parties agree to advise and require their respective employees, agents, and subcontractors of their obligations to keep all Confidential Information confidential. Disclosure to a subcontractor is permissible where: (a) use of a subcontractor is authorized under this Contract; (b) the disclosure is necessary or otherwise naturally occurs in connection with work that is within the subcontractor's responsibilities; and (c) Contractor obligates the subcontractor in a written contract to maintain the State's Confidential Information in confidence. At the State's request, any employee of Contractor or any subcontractor may be required to execute a separate agreement to be bound by the provisions of this Section.
- c. Cooperation to Prevent Disclosure of Confidential Information. Each party must use its best efforts to assist the other party in identifying and preventing any unauthorized use or disclosure of any Confidential Information. Without limiting the foregoing, each party must advise the other party immediately in the event either party learns or has reason to believe that any person who has had access to Confidential Information has violated or intends to violate the terms of this Contract and each party will cooperate with the other party in seeking injunctive or other equitable relief against any such person.
- d. Remedies for Breach of Obligation of Confidentiality. Each party acknowledges that breach of its obligation of confidentiality may give rise to irreparable injury to the other party, which damage may be

inadequately compensable in the form of monetary damages. Accordingly, a party may seek and obtain injunctive relief against the breach or threatened breach of the foregoing undertakings, in addition to any other legal remedies which may be available, to include, in the case of the State, at the sole election of the State, the immediate termination, without liability to the State, of this Contract or any Statement of Work corresponding to the breach or threatened breach.

- e. **Surrender of Confidential Information upon Termination.** Upon termination of this Contract or a Statement of Work, in whole or in part, each party must, within 5 calendar days from the date of termination, return to the other party any and all Confidential Information received from the other party, or created or received by a party on behalf of the other party, which are in such party's possession, custody, or control; provided, however, that Contractor must return State Data to the State following the timeframe and procedure described further in this Contract. Should Contractor or the State determine that the return of any Confidential Information is not feasible, such party must destroy the Confidential Information and must certify the same in writing within 5 calendar days from the date of termination to the other party. However, the State's legal ability to destroy Contractor data may be restricted by its retention and disposal schedule, in which case Contractor's Confidential Information will be destroyed after the retention period expires.

33. **Reserved.**

34. **Reserved.**

35. **Reserved.**

- 36. **Records Maintenance, Inspection, Examination, and Audit.** The State or its designee may audit Contractor to verify compliance with this Contract. Contractor must retain and provide to the State or its designee and the auditor general upon request, all financial and accounting records related to the Contract through the term of the Contract and for 4 years after the latter of termination, expiration, or final payment under this Contract or any extension ("**Audit Period**"). If an audit, litigation, or other action involving the records is initiated before the end of the Audit Period, Contractor must retain the records until all issues are resolved.

Within 10 calendar days of providing notice, the State and its authorized representatives or designees have the right to enter and inspect Contractor's premises or any other places where Contract Activities are being performed, and examine, copy, and audit all records related to this Contract. Contractor must cooperate and provide reasonable assistance. If any financial errors are revealed, the amount in error must be reflected as a credit or debit on subsequent invoices until the amount is paid or refunded. Any remaining balance at the end of the Contract must be paid or refunded within 45 calendar days.

This Section applies to Contractor, any parent, affiliate, or subsidiary organization of Contractor, and any subcontractor that performs Contract Activities in connection with this Contract.

- 37. **Warranties and Representations.** Contractor represents and warrants: (a) Contractor is the owner or licensee of any Contract Activities that it licenses, sells, or develops and Contractor has the rights necessary to convey title, ownership rights, or licensed use; (b) all Contract Activities are delivered free from any security interest, lien, or encumbrance and will continue in that respect; (c) the Contract Activities will not infringe the patent, trademark, copyright, trade secret, or other proprietary rights of any third party; (d) Contractor must assign or otherwise transfer to the State or its designee any manufacturer's warranty for the Contract Activities; (e) the Contract Activities are merchantable and fit for the specific purposes identified in the Contract; (f) the Contract signatory has the authority to enter into this Contract; (g) all information furnished by Contractor in connection with the Contract fairly and accurately represents Contractor's business, properties, finances, and operations as of the dates covered by the information, and Contractor will inform the State of any material adverse changes; (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 23, Termination for Cause.

38. **Conflicts and Ethics.** Contractor will uphold high ethical standards and is prohibited from: (a) holding or acquiring an interest that would conflict with this Contract; (b) doing anything that creates an appearance of impropriety with respect to the award or performance of the Contract; (c) attempting to influence or appearing to influence any State employee by the direct or indirect offer of anything of value; or (d) paying or agreeing to pay any person, other than employees and consultants working for Contractor, any consideration contingent upon the award of the Contract. Contractor must immediately notify the State of any violation or potential violation of these standards. This Section applies to Contractor, any parent, affiliate, or subsidiary organization of Contractor, and any subcontractor that performs Contract Activities in connection with this Contract.
39. **Compliance with Laws.** Contractor must comply with all federal, state and local laws, rules and regulations.
40. **Reserved.**
41. **Reserved.**
42. **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.
43. **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.
44. **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.
45. **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.
46. **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.
47. **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.

- 48. **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.
- 49. **Website Incorporation.** The State is not bound by any content on Contractor's website unless expressly incorporated directly into this Contract.
- 50. **Schedules.** All Schedules and Exhibits that are referenced herein and attached hereto are hereby incorporated by reference. The following Schedules are attached hereto and incorporated herein:

<b>Schedule A</b>	Statement of Work
<b>Schedule B</b>	Pricing

- 51. **Entire Agreement and Order of Precedence.** This Contract, which includes Schedule A – Statement of Work, and schedules and exhibits which are hereby expressly incorporated, 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.
- 52. **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.
- 53. **Waiver.** Failure to enforce any provision of this Contract will not constitute a waiver.
- 54. **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.
- 55. **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

## SCHEDULE B PRICING

Category	Activity	Price per Acre Upper Peninsula	Estimated Annual Acreage Upper Peninsula	Price Per Acre Northern Lower Peninsula	Estimated Annual Acreage Lower Peninsula	Annual Total
Scarification	Anchor Chains	\$86.00	1000	N/A	0	\$86,000.00
1. Annual Total						\$86,000.00
2. Contract Length						4 Years
ESTIMATED CONTRACT VALUE (Line 1 X Line 2)						\$344,000.00