



STATE OF MICHIGAN PROCUREMENT
 Department of Natural Resources
 525 W Allegan, Lansing, MI 48933

NOTICE OF CONTRACT

NOTICE OF CONTRACT NO. **230000000529**

between

THE STATE OF MICHIGAN

and

CONTRACTOR	Forest Resource Services, LLC
	PO Box 219
	Frederic, MI 49733
	Gerald Lambert
	989-619-2882
	jlambert@forestresourceservices.com
	CV0014335

STATE	Program Manager	Jason Hartman	DNR
		989-390-0279	
	hartmanj@michigan.gov		
	Contract Administrator	Kip Conley	DNR
517-388-5956			
conleyk1@michigan.gov			

CONTRACT SUMMARY			
DESCRIPTION: Planting oversight			
INITIAL EFFECTIVE DATE	INITIAL EXPIRATION DATE	INITIAL AVAILABLE OPTIONS	EXPIRATION DATE BEFORE CHANGE(S) NOTED BELOW
3/3/23	3/2/28	5 – 1-year	3/2/28
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			
THIS IS NOT AN ORDER: This Contract Agreement is awarded on the basis of our inquiry bearing the solicitation (RFP) No. 230000000711. Orders for delivery will be issued directly by the Michigan Department of Natural Resources.			
ESTIMATED CONTRACT VALUE AT TIME OF EXECUTION			\$1,280,190.00

FOR THE CONTRACTOR:

Forest Resource Services, LLC
Company Name


Authorized Agent Signature

Gerald Lambert
Authorized Agent (Print or Type)

3/30/2023
Date

FOR THE STATE:

E-SIGNED by Laura Gyorkos
on 2023-03-30 11:40:22 EDT

Signature

Laura Gyorkos, Procurement Manager
Name&Title

Department of Natural Resources
Agency

Date

STANDARD CONTRACT TERMS

This STANDARD CONTRACT (“**Contract**”) is agreed to between the State of Michigan (the “**State**”) and Forest Resource Services, LLC (“**Contractor**”). This Contract is effective on 3/3/23 (“**Effective Date**”), and unless terminated, will expire on 3/2/28 (the “**Term**”).

This Contract may be renewed for up to 5 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 (the “**Contract Activities**”) described in a Statement of Work, the initial Statement of Work is attached as Schedule A – Statement of Work. 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 unless otherwise specified in a Statement of Work.

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) 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; (i) comply with all State physical and IT security policies and standards which will be made available upon request; and (j) 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:
See Contract Administrator information shown below.	Gerald Lambert PO BOX 219 Frederic, MI 49733 jlambert@forestresourceservices.com 989-619-2882

3. Contract Administrator. The Contract Administrator, or the individual duly authorized 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 525 W Allegan Lansing, MI 48933 Conleyk1@michigan.gov 517-388-5956	Gerald Lambert PO BOX 219 Frederic, MI 49733 jlambert@forestresourceservices.com 989-619-2882

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 989-390-0279	Gerald Lambert PO BOX 219 Frederic, MI 49733 jlambert@forestresourceservices.com 989-619-2882

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 a Statement of Work) if, in the opinion of the State, it will ensure performance of the Contract.

6. Insurance Requirements.
Contractor, at its sole expense, must maintain the insurance coverage identified below. All required insurance must: (a) protect the State from claims that may arise out of, are alleged to arise out of, or otherwise 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.

TABLE 6.1

Required Limits	Additional Requirements
Commercial General Liability Insurance	
Minimum Limits: \$1,000,000 Each Occurrence \$1,000,000 Personal & Advertising Injury \$2,000,000 Products/Completed Operations \$2,000,000 General Aggregate	Contractor must have their policy endorsed to add “the State of Michigan, its departments, divisions, agencies, offices, commissions, officers, employees, and agents” as additional insureds using endorsement CG 20 10 11 85, or both CG 20 10 12 19 and CG 20 37 12 19.
Automobile Liability Insurance	
Minimum Limits: \$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.
Workers' Compensation Insurance	
Minimum Limits: Coverage according to applicable laws governing work activities.	Waiver of subrogation, except where waiver is prohibited by law.
Employers Liability Insurance	
Minimum Limits: \$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 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 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 insurance 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. Relationship of the Parties. The relationship between the parties is that of independent contractors. 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. Neither party has authority to contract for nor bind the other party in any manner whatsoever.

10. Intellectual Property Rights. If a Statement of Work requires Contractor to create any intellectual property, Contractor hereby acknowledges that the State is and will be the sole and exclusive owner of all right, title, and interest in the Contract Activities and all associated intellectual property rights, if any. Such Contract Activities are works made for hire as defined in Section 101 of the Copyright Act of 1976. To the extent any Contract Activities and related intellectual property do not qualify as works made for hire under the Copyright Act, Contractor will, and hereby does, immediately on its creation, assign, transfer and otherwise convey to the State, irrevocably and in perpetuity, throughout the universe, all right, title and interest in and to the Contract Activities, including all intellectual property rights therein.

11. 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.

12. Staffing. The State's Contract Administrator may require Contractor to remove or reassign personnel providing services by providing a notice to Contractor.

- 13. 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, or as may be specified in a Statement of Work, 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.
- 14. 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.
- 15. Change of Control.** Contractor will notify the State, within 30 days of any public announcement or otherwise once legally permitted to do so, 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.
- 16. Ordering.** Contractor is not authorized to begin performance until receipt of authorization as identified in a Statement of Work.
- 17. 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 a Statement of Work. 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 24, 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.

18. RESERVED.

19. RESERVED.

20. RESERVED.

21. Invoices and 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 provided as specified in a Statement of Work. 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 fees 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.

Excluding federal government charges and terms, Contractor warrants and agrees that each of the fees, economic or product terms or warranties granted pursuant to this Contract are comparable to or better than the equivalent fees, economic or product term or warranty being offered to any commercial or government customer (including any public educational institution within the State of Michigan) of Contractor. If Contractor enters into any arrangements with another customer of Contractor to provide the products or services, available under this Contract, under more favorable prices, as the prices may be indicated on Contractor's current U.S. and International price list or comparable document, then this Contract will be deemed amended as of the date of such other arrangements to incorporate those more favorable prices, and Contractor will immediately notify the State of such fee and formally memorialize the new pricing in a change notice.

22. Liquidated Damages. Liquidated damages, if applicable, will be assessed as described in a Statement of Work. The parties understand and agree that any liquidated damages (which includes but is not limited to applicable credits) set forth in this Contract are reasonable estimates of the State's damages in accordance with applicable law. The parties acknowledge and agree that Contractor could incur liquidated damages for more than 1 event. The assessment of liquidated damages will not constitute a waiver or release of any other remedy the State may have under this Contract for Contractor's breach of this Contract, including without limitation, the State's right to terminate this Contract for cause under Section 24 and the State will be entitled in its discretion to recover actual damages caused by Contractor's failure to perform its obligations under this Contract. However, the State will reduce such actual damages by the amounts of liquidated damages received for the same events causing the actual damages. Amounts due the State as liquidated damages may be set off against any fees payable to Contractor under this Contract, or the State may bill Contractor as a separate item and Contractor will promptly make payments on such bills.

23. 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.

24. Termination for Cause. (a) The State may terminate this Contract for cause, in whole or in part, if Contractor, as determined by the State: (i) endangers the value, integrity, or security of any facility, data, or personnel; (ii) becomes insolvent, petitions for bankruptcy court proceedings, or has an involuntary bankruptcy proceeding filed against it by any creditor; (iii) engages in any conduct that may expose the State to liability; (iv) breaches any of its material duties or obligations under this Contract; or (v) fails to cure a breach within the time stated by the State in a notice of breach, if in its sole discretion the State has chosen to provide a time to cure. Any reference to specific breaches being material breaches within this Contract will not be construed to mean that other breaches are not material.

(b) If the State terminates this Contract under this Section, the State will issue a termination notice specifying whether Contractor must: (i) cease performance immediately. Contractor must submit all invoices for Contract Activities accepted by the State within 30 days of the date of termination. Failure to submit an invoice within that timeframe will constitute a waiver by Contractor for any amounts due to Contractor for Contract Activities accepted by the State under this Contract or (ii) 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 25, 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. Contractor must promptly reimburse to the State any fees prepaid by the State prorated to the date of such termination, including any prepaid fees. 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.

25. Termination for Convenience. The State may immediately terminate this Contract in whole or in part without penalty and for any reason or no 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. Contractor must submit all invoices for Contract Activities accepted by the State within 30 days of the date of termination. Failure to submit an invoice within that timeframe will constitute a waiver by Contractor for any amounts due Contractor for Contract Activities accepted by the State under this Contract, or (b) continue to perform the Contract Activities in accordance with Section 26, 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 to the extent the funds are available.

- 26. 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) 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 (d) 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.
- 27. Return of State Property.** Upon termination or expiration of this Contract for any reason, Contractor must take 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 the Contractor by any entity, agent, vendor, or employee of the State.
- 28. 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, at its own cost and expense, if the State deems necessary. Contractor will not, without the State's prior 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.

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.

The State is constitutionally prohibited from indemnifying Contractor or any third parties.

- 29. 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.
- 30. 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.

- 31. 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 (3) any complaint filed in a legal or administrative proceeding alleging the Contractor or its subcontractors discriminated against its employees, subcontractors, vendors, or suppliers during the term of this Contract; or (e) a Proceeding involving any license that Contractor is required to possess in order to perform under this Contract.
- 32. 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 or commercial purposes.
- 33. RESERVED.**
- 34. 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.
- 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; or, (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 or is: (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.

35. RESERVED.

36. RESERVED.

37. RESERVED.

38. Records Maintenance, Inspection, Examination, and Audit. Pursuant to MCL 18.1470, 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 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 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.

39. Representations and Warranties. 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 24, Termination for Cause.

- 40. 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.
- 41. Compliance with Laws.** Contractor must comply with all federal, state and local laws, rules and regulations.
- 42. RESERVED.**
- 43. RESERVED.**
- 44. 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.

- 45. 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.
- 46. 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 the Michigan Court of Claims. Complaints against the State must be initiated in Ingham County, Michigan. Contractor waives any objections, such as lack of personal jurisdiction or *forum non conveniens*. Contractor must appoint an agent in Michigan to receive service of process.
- 47. Non-Exclusivity.** Nothing contained in this Contract is intended nor is to be construed as creating any requirements contract with Contractor, nor does it provide Contractor with a right of first refusal for any future work. This Contract does not restrict the State or its agencies from acquiring similar, equal, or like Contract Activities from other sources.
- 48. 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.
- 49. 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.

- 50. 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 the prior written approval of the State, and then only in accordance with the explicit written instructions of the State.
- 51. 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:

Document Title	Document Description
Schedule A	Statement of Work
Schedule B	Pricing

- 52. Entire Agreement and Order of Precedence.** This Contract, which includes Statement of Work, and 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 Statement of Work; (b) second, 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, OR DOCUMENTATION HEREUNDER, EVEN IF ATTACHED TO THE STATE'S DELIVERY OR PURCHASE ORDER, WILL CONSTITUTE A PART OR AMENDMENT OF THIS CONTRACT OR IS BINDING ON THE STATE OR ANY AUTHORIZED USER FOR ANY PURPOSE. ALL SUCH OTHER TERMS AND CONDITIONS HAVE NO FORCE AND EFFECT AND ARE DEEMED REJECTED BY THE STATE AND THE AUTHORIZED USER, EVEN IF ACCESS TO OR USE OF THE CONTRACT ACTIVITIES REQUIRES AFFIRMATIVE ACCEPTANCE OF SUCH TERMS AND CONDITIONS.
- 53. 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.
- 54. Waiver.** Failure to enforce any provision of this Contract will not constitute a waiver.
- 55. Survival.** Any right, obligation or condition that, by its express terms or nature and context is intended to survive, will survive the termination or expiration of this Contract; such rights, obligations, or conditions include, but are not limited to, those related to transition responsibilities; indemnification; disclaimer of

damages and limitations of liability; State Data; non-disclosure of Confidential Information; representations and warranties; insurance and bankruptcy.

- 56. 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

This addendum applies to purchases that will be paid for in whole or in part with funds obtained from the federal government. The provisions below are required, and the language is not negotiable. Contractor agrees to comply with all obligations under federal rules or regulations for such funding, including but not limited to the provisions contained in this addendum. If any provision below conflicts with the State's terms and conditions, including any attachments, schedules, or exhibits to this 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. Further, Contractor agrees to, through a Contract Change Notice, append or modify specific federal provisions to this Contract, if reasonably necessary to keep the State and Contractor in compliance with federal funding requirements, and comply with the terms set forth therein. Hyperlinks are provided for convenience only; broken hyperlinks will not relieve Contractor from compliance with the law.

A. Equal Employment Opportunity

This Contract is not a “**federally assisted construction contract**” as defined in [41 CFR Part 60-1.3](#).

B. Davis-Bacon Act (Prevailing Wage)

This Contract is not a “**federally assisted construction contract**” as defined in [41 CFR Part 60-1.3](#), nor is it a prime construction contract in excess of \$2,000.

C. Copeland “Anti-Kickback” Act

This Contract is not a “**federally assisted construction contract**” as defined in [41 CFR Part 60-1.3](#), nor is it a prime construction contract in excess of \$2,000 where the Davis-Bacon Act applies.

D. Contract Work Hours and Safety Standards Act

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, and during performance of this Contract the Contractor agrees as follows:

- a. **Overtime requirements.** No Contractor or subcontractor contracting for any part of the contract work which may require or involve the employment of laborers or mechanics shall require or permit any such laborer or mechanic in any workweek in which he or she is employed on such work to work in excess of forty hours in such workweek unless such laborer or mechanic receives compensation at a rate not less than one and one-half times the basic rate of pay for all hours worked in excess of forty hours in such workweek.

- b. Violation; liability for unpaid wages; liquidated damages.** In the event of any violation of the clause set forth in paragraph (1) of this section the Contractor and any Subcontractor responsible therefor shall be liable for the unpaid wages. In addition, such Contractor and Subcontractor shall be liable to the United States (in the case of work done under contract for the District of Columbia or a territory, to such District or to such territory), for liquidated damages. Such liquidated damages shall be computed with respect to each individual laborer or mechanic, including watchmen and guards, employed in violation of the clause set forth in paragraph (1) of this section, in the sum of \$27 for each calendar day on which such individual was required or permitted to work in excess of the standard work week of forty hours without payment of the overtime wages required by the clause set forth in paragraph (1) of this section.
- c. Withholding for unpaid wages and liquidated damages.** The State shall upon its own action or upon written request of an authorized representative of the Department of Labor withhold or cause to be withheld, from any moneys payable on account of work performed by the Contractor or Subcontractor under any such contract or any other Federal contract with the same prime contractor, or any other federally-assisted contract subject to the Contract Work Hours and Safety Standards Act, which is held by the same prime contractor, such sums as may be determined to be necessary to satisfy any liabilities of such contractor or subcontractor for unpaid wages and liquidated damages as provided in the clause set forth in paragraph (2) of this section.
- d. Subcontracts.** The Contractor or Subcontractor shall insert in any subcontracts the clauses set forth in paragraph (1) through (4) of this section and also a clause requiring the Subcontractors to include these clauses in any lower tier subcontracts. The prime contractor shall be responsible for compliance by any subcontractor or lower tier subcontractor with the clauses set forth in paragraphs (1) through (4) of this section.
- e.** Further, for contracts that are only subject to Contract Work Hours and Safety Standards Act and are not subject to the other statutes in 29 C.F.R. § 5.1 where an additional contract provision is required, during performance of this Contract the Contractor agrees as follows:
- a. The contractor or subcontractor shall maintain payrolls and basic payroll records during the course of the work and shall preserve them for a period of three years from the completion of the contract for all laborers and mechanics, including guards and watchmen, working on the contract. Such records shall contain the name and address of each such employee, social security number, correct classifications, hourly rates of wages paid, daily and weekly number of hours worked, deductions made, and actual wages paid.

- b. Records to be maintained under this provision shall be made available by the contractor or subcontractor for inspection, copying, or transcription by authorized representatives of the Department of Homeland Security, the Federal Emergency Management Agency, and the Department of Labor, and the contractor or subcontractor will permit such representatives to interview employees during working hours on the job.
- f. These requirements do not apply to the purchases of supplies or materials or articles ordinarily available on the open market, or contracts for transportation or transmission of intelligence.

E. Rights to Inventions Made Under a Contract or Agreement

If this 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.

F. Clean Air Act and the Federal Water Pollution Control 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](#)), and during performance of this Contract the Contractor agrees as follows:

(1) Clean Air Act

- (i) The Contractor agrees to comply with all applicable standards, orders or regulations issued pursuant to the Clean Air Act, as amended, 42 U.S.C. § 7401 et seq.
- (ii) The Contractor agrees to report each violation to the State and understands and agrees that the State will, in turn, report each violation as required to assure notification to the Federal Emergency Management Agency or the applicable federal awarding agency, and the appropriate Environmental Protection Agency Regional Office.
- (iii) The Contractor agrees to include these requirements in each subcontract exceeding \$150,000 financed in whole or in part with Federal assistance provided by FEMA or the applicable federal awarding agency.

(2) Federal Water Pollution Control Act

- (i) The Contractor agrees to comply with all applicable standards, orders, or regulations issued pursuant to the Federal Water Pollution Control Act, as amended, 33 U.S.C. 1251 et seq.
- (ii) The Contractor agrees to report each violation to the State and understands and agrees that the State will, in turn, report each violation as required to assure notification to the Federal Emergency Management Agency or the applicable federal awarding agency, and the appropriate Environmental Protection Agency Regional Office.
- (iii) The Contractor agrees to include these requirements in each subcontract exceeding \$150,000 financed in whole or in part with Federal assistance provided by FEMA or the applicable federal awarding agency.

G. 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](#) ([51 FR 6370; February 21, 1986](#)) and [12689](#) ([54 FR 34131; August 18, 1989](#)), “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](#).

- a. This Contract is a covered transaction for purposes of 2 C.F.R. Part 180 and 2 C.F.R. Part 3000. As such, the Contractor is required to verify that none of the Contractor’s principals (defined at 2 C.F.R. § 180.995) or its affiliates (defined at 2 C.F.R. § 180.905) are excluded (defined at 2 C.F.R. § 180.940) or disqualified (defined at 2 C.F.R. § 180.935).
- b. The Contractor must comply with 2 C.F.R. Part 180, subpart C and 2 C.F.R. Part 3000, subpart C, and must include a requirement to comply with these regulations in any lower tier covered transaction it enters into.
- c. This certification is a material representation of fact relied upon by the State. If it is later determined that the contractor did not comply with 2 C.F.R. Part. 180, subpart C and 2 C.F.R. Part. 3000, subpart C, in addition to remedies available to the State, the Federal Government may pursue available remedies, including but not limited to suspension and/or debarment.
- d. The bidder or proposer agrees to comply with the requirements of 2 C.F.R. Part 180, subpart C and 2 C.F.R. Part 3000, subpart C while this offer is valid and throughout the period of any contract that may arise from this offer. The bidder or proposer further agrees to include a provision requiring such compliance in its lower tier covered transactions.

H. Byrd Anti-Lobbying Amendment, 31 U.S.C. § 1352 (as amended)

Contractor has applied or bid for an award of **more than \$100,000** and shall file the required certification in *Exhibit 1 – Byrd Anti-Lobbying Certification* attached to the end of this Addendum. Each tier certifies to the tier above that it will not and has not used federally appropriated funds to pay any person or organization for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, officer or employee of Congress, or an employee of a Member of Congress in connection with obtaining any federal contract, grant, or any other award covered by 31 U.S.C. § 1352. Each tier shall also disclose any lobbying with non-federal funds that takes place in connection with obtaining any federal award. Such disclosures are forwarded from tier to tier up to the recipient who in turn will forward the certification(s) to the federal awarding agency.

I. Procurement of Recovered Materials

If this Contract is a procurement to purchase products or items designated by the EPA under [40 C.F.R. part 247](#) during the course of a fiscal year, then under [2 CFR 200.323](#), Contractors must comply with section 6002 of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act.

- a. In the performance of this contract, the Contractor shall make maximum use of products containing recovered materials that are EPA-designated items unless the product cannot be acquired:
 - a. Competitively within a timeframe providing for compliance with the contract performance schedule;
 - b. Meeting contract performance requirements; or
 - c. At a reasonable price.
- b. Information about this requirement, along with the list of EPA- designated items, is available at EPA’s Comprehensive Procurement Guidelines web site, <https://www.epa.gov/smm/comprehensive-procurement-guideline-cpq-program>.
- c. The Contractor also agrees to comply with all other applicable requirements of Section 6002 of the Solid Waste Disposal Act.

J. Prohibition on Contracting for Covered Telecommunications Equipment or Services

Contractor acknowledges and agrees that [Section 889\(b\) of the John S. McCain National Defense Authorization Act for Fiscal Year 2019, Pub. L. No. 115-232 \(the “McCain Act”\)](#), and [2 C.F.R. §200.216](#), prohibit the obligation or expending of federal award funds on certain telecommunication products or with certain entities for national security reasons on or after August 13, 2020.

During performance of this Contract, the Contractor agrees as follows:

- (a) *Definitions.* As used in this Section J. Prohibition on Contracting for Covered Telecommunications Equipment or Services (“Section J”):
- (1) the terms “backhaul,” “critical technology,” “interconnection arrangements,” “reasonable inquiry,” “roaming,” and “substantial or essential component” have the meanings defined in 48 CFR § 4.2101;
 - (2) the term “covered foreign country” has the meanings defined in § 889(f)(2) of the McCain Act; and
 - (3) the term “covered telecommunications equipment or services” has the meaning defined in § 889(f)(3) of the McCain Act.
- (b) *Prohibitions.*
- (1) Unless an exception in paragraph (c) of this Section J applies, neither the Contractor nor any of its subcontractors may use funds received under this Contract to:
 - (i) Procure or obtain any equipment, system, or service that uses covered telecommunications equipment or services as a substantial or essential component of any system, or as critical technology of any system;
 - (ii) Enter into, extend, or renew a contract to procure or obtain any equipment, system, or service that uses covered telecommunications equipment or services as a substantial or essential component of any system, or as critical technology of any system;
 - (iii) Enter into, extend, or renew a contract with an entity that uses any covered telecommunications equipment or services as a substantial or essential component of any system, or as critical technology as part of any system; or
 - (iv) Provide, as part of its performance of this contract, subcontract, or other contractual instrument, any equipment, system, or service that uses covered telecommunications equipment or services as a substantial or essential component of any system, or as critical technology as part of any system.
- (c) *Exceptions.*
- (1) This Section J does not prohibit Contractor from providing—
 - (i) A service that connects to the facilities of a third-party, such as backhaul, roaming, or interconnection arrangements; or
 - (ii) Telecommunications equipment that cannot route or redirect user data traffic or permit visibility into any user

data or packets that such equipment transmits or otherwise handles.

(d) *Reporting requirement.*

- (1) In the event the Contractor identifies covered telecommunications equipment or services used as a substantial or essential component of any system, or as critical technology as part of any system, during contract performance, or the contractor is notified of such by a subcontractor at any tier or by any other source, the Contractor shall report the information in paragraph (d)(2) of this Section J to the recipient or subrecipient, unless elsewhere in this contract are established procedures for reporting the information.
- (2) The Contractor shall report the following information pursuant to paragraph (d)(1) of this Section J:
 - (i) Within one business day from the date of such identification or notification: The contract number; the order number(s), if applicable; supplier name; supplier unique entity identifier (if known); supplier Commercial and Government Entity (CAGE) code (if known); brand; model number (original equipment manufacturer number, manufacturer part number, or wholesaler number); item description; and any readily available information about mitigation actions undertaken or recommended.
 - (ii) Within 10 business days of submitting the information in paragraph (d)(2)(i) of this Section J: Any further available information about mitigation actions undertaken or recommended. In addition, the contractor shall describe the efforts it undertook to prevent use or submission of covered telecommunications equipment or services, and any additional efforts that will be incorporated to prevent future use or submission of covered telecommunications equipment or services.

(e) *Subcontracts.* The Contractor shall insert the substance of this Section J, including this paragraph (e), in all subcontracts and other contractual instruments.

K. Domestic Preferences for Procurements

As appropriate, and to the extent consistent with law, the Contractor should, to the greatest extent practicable, provide a preference for the purchase, acquisition, or use of goods, products, or materials produced in the United States. This includes, but is not limited to iron, aluminum, steel, cement, and other manufactured products.

For purposes of this Section K – **Domestic Preferences for Procurements:**

“Produced in the United States” means, for iron and steel products, that all manufacturing processes, from the initial melting stage through the application of coatings, occurred in the United States.

“Manufactured products” mean items and construction materials composed in whole or in part of non-ferrous metals such as aluminum; plastics and polymer-based products such as polyvinyl chloride pipe; aggregates such as concrete; glass, including optical fiber; and lumber.

L. Affirmative Socioeconomic Steps

For all contracts utilizing federal funding sources subject to Title 2 of the Code of Federal Regulations (C.F.R.) Part 200 issued on or after November 12, 2020, if subcontracts are to be let, the prime contractor is required to take all necessary steps identified in 2 C.F.R. § 200.321(b)(1)-(5) to ensure that small and minority businesses, women’s business enterprises, and labor surplus area firms are used when possible.

M. Copyright and Data Rights

Pursuant to 2 CFR § 200.315(b), the State may copyright any work which is subject to copyright and was developed, or for which ownership was acquired, under a Federal award. The Federal awarding agency reserves a royalty-free, nonexclusive and irrevocable right to reproduce, publish, or otherwise use the work for Federal purposes, and to authorize others to do so.

N. Additional FEMA Contract Provisions

This Contract does not involve purchases that will be paid for in whole or in part with funds obtained from the Federal Emergency Management Agency (FEMA).

O. Other Federal Contract Provisions

No additional federal provisions currently apply to this Contract.

EXHIBIT 1

BYRD ANTI-LOBBYING CERTIFICATION

Contractor must complete this certification if the purchase will be paid for in whole or in part with funds obtained from the federal government and the purchase is greater than \$100,000.

APPENDIX A, 44 C.F.R. PART 18 – CERTIFICATION REGARDING LOBBYING

Certification for Contracts, Grants, Loans, and Cooperative Agreements

The undersigned certifies, to the best of his or her knowledge and belief, that:

1. No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of an agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress 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.
2. If any funds other than 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 in connection with this Federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.
3. The undersigned shall require that the language of this certification be included in the award documents for all subawards at all tiers (including subcontracts, subgrants, and contracts under grants, loans, and cooperative agreements) and that all subrecipients shall certify and disclose accordingly.

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by section 1352, Title 31, U.S. C. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

The Contractor, Forest Resource Services, LLC, certifies or affirms the truthfulness and accuracy of each statement of its certification and disclosure, if any. In addition, the Contractor understands and agrees that the provisions of 31 U.S.C. Chap. 38, Administrative Remedies for False Claims and Statements, apply to this certification and disclosure, if any.

Signature of Contractor's Authorized Official

Gerald Lambert, Owner

Name and Title of Contractor's Authorized Official

Date

SCHEDULE A – STATEMENT OF WORK CONTRACT ACTIVITIES

BACKGROUND

The Department of Natural Resources (DNR) has an established contract with a reforestation contractor to hand plant approximately 6 million tree seedlings annually. The reforestation contractor furnishes crews of planters to plant tree seedlings and provides foremen who directly oversee the work crews. In the past, the reforestation contractor used two to three crews for most of the planting season however, in more recent years five crews are common to be used simultaneously to complete this work.

SCOPE

The Contractor will oversee multiple planting crews, conduct quality control/quality assurance (QC/QA) auditing on work performed by the planting crews, and work with the foremen of each crew to correct deficiencies. The Contractor will provide summary reports to the DNR on the planting work, QC/QA checks, and status updates as the work progresses in each planting season. The Contractor will work with DNR representatives from each District to coordinate work scheduling, delivery of seedlings, and identification of planting sites and access routes.

Planting oversight work will be performed during the spring planting season, which commonly occurs from April 15 to May 15. Two-thirds of the annual volume is planted in the lower peninsula.

Forestry plantings of red pine and jack pine are generally 25 to 150 acres in size. Trees are normally planted at spacing equivalent to 680 to 908 seedlings per acre. The majority of these sites are sprayed and trenched, but the DNR is increasing the proportion of unfurrowed plantings that also receive an herbicide treatment prior to planting.

Planting work may also be performed for Kirtland's warbler (KW) habitat. KW sites are generally 200 to 500 acres in size. Jack pine seedlings are normally planted at 5 foot spacing within trenches that are 6 feet apart while following an opposing wave pattern. The wave pattern leaves 25% of each site not planted resulting in a total trees per acre of 1089.

The DNR is also building a hardwood planting program. The hardwood seedlings are planted in gaps or small stands with browse protections tubes. It is the Contractors responsibility to ensure that the tube is installed properly. Hardwood seedling volume is only 20,000 to 60,000 seedlings annually. A sapling program is also being developed. These trees will usually be planted on the edge of a

larger planting. Volume will begin around 500 and reach 10,000 annually by 2025.

1. Requirements

1.1. General Requirements

The Contractor will be expected to:

- Oversee the seedling planting program for the DNR.
- Establish check plots (both ongoing and stratified) to ensure that quality specifications are met.
- Coordinate planting with the crew foremen who are under the employ of the reforestation contractor.
- Coordinate with DNR personnel regarding overall program coordination.
- Conduct pre-planting site inspections for planning and layout.
- Maintain a site-by-site log detailing how many trees were planted at each site, as well as the number of tree bags used. Updates of this log will be sent to DNR representatives on a weekly basis while planting is occurring.
- Prepare all necessary post-planting forms, maps and a formal annual report.
- Monitor refrigerated vans for fuel or other maintenance needs
- Move trees to planting sites as needed.
- Organize boxes for recycling or disposal. The DNR will provide locations, but contractor will facilitate transport from the planting sites to those locations.
- Be prepared to work long days. Planting crews frequently work 10-to-12-hour days, six or seven days a week. **The Contractor will be expected to be on-site for the duration while trees are being planted.**
- Oversee several different planting crews simultaneously. **The Contractor will be expected to provide planting oversight for ALL the planting crews used by the reforestation contractor. The Contractor must provide a minimum of one overseer per crew, unless approved by the DNR representative.**
- Conduct on-going and stratified checks behind individual planters and for planting crews upon completion of each site as specified.
- The Contractor must attend any meetings that the DNR deems necessary and/or appropriate.

1.2. Supplies and Seedling Transportation

The Contractor will supply:

- Labor
- Transportation
- Staff
- Hand-held GPS units
- Measuring rope

- Shovel
- Any and all miscellaneous items needed to carry out the provisions of this contract

The DNR will supply:

- Representatives to answer questions and help resolve problems
- Maps and shapefiles of each planting area
- Field tally sheets for quality check plots
- Tree seedlings and refrigerated vans
- Maintenance and fuel for refrigerated vans

Seedling Transportation:

The contractor will be responsible for assuring the seedlings are transported from the cold storage facility in Grayling (for LP) and strategically located reefer trailers (for UP) to the planting sites in the field. The planting crews usually pull trailers that can be used to transport seedlings, but this may not always be the case. The reefer locations will be mutually agreed upon between the Contractor and the DNR. Seedlings must be transported in enclosed trailers.

1.3. Quality Surveys

To ensure tree planting is done according to DNR specifications, quality checks must be performed in the field. Two types of quality checks are required for this Contract. **Ongoing** quality checks monitor planting quality while its occurring. These checks are used to instigate corrective actions as needed. Data will be collected on **stratified** quality check plots that are established following planting. The **stratified** quality check plots will be used to document quality planting or evidence necessary for collection of damages.

Ongoing quality checks procedure:

The Contractor shall follow directly behind the planting crew assessing that specifications are being met and corrected when necessary. No specific number of plots is required, but it is necessary that the Contractor has staff conducting ongoing checks at all times while the crew is planting. The field techniques for monitoring can be determined by the Contractor, however, the metrics must assess seedling spacing, planting depth, stem angle, firmness and J/L-rooting. These measurements must be sent with the weekly data.

- If problems with planting quality are found, the Contractor will accelerate sampling, notify the planting crew foreman (in the employ of the reforestation contractor) of these problems, and see that corrective measures are taken with individual planters and/or the entire crew.

- Seedling spacing – if tree spacing deviates more than six (6) inches from the in-furrow spacing goal for ten consecutive trees measured, corrective actions must be taken.
 - Planting depth – if more than 20% of the measured trees are found to be planted outside the “allowable depth zone” as defined by DNR staff, corrective actions must be taken.
 - Stem angle – if more than 20% of the measured trees are found with stem angles that exceed a 30-degree angle from true vertical, corrective actions must be taken.
 - Firmness – if more than 10% of the measured trees are found to be too loose in the ground, corrective action must be taken.
 - J-Rooting or L-Rooting – when a J/L-rooted seedling is detected, the Contractor must immediately check two more seedlings in the same furrow to confirm that J/L-rooting is a problem. If a second J/L-root is discovered, the Contractor must take corrective action with the planter and the planting crew foreman as described below.
- If unacceptable work by a planter is detected, the Contractor must continue monitoring the same planter(s) until the problem is corrected.
 - Corrective actions will be summarized and provided to DNR staff via email with the weekly data.
 - The Contractor is also responsible for monitoring planters hiding seedlings during the planting process or when leaving the trailer.
 - If problems persist with any planter(s), the Contractor shall notify the appropriate DNR personnel.

Stratified:

The Contractor shall pre-stratify and install (1/100th acre circular plots) across the planted area at 1 plot per 2 acres for sites less than 80 acres and 1 plot per 4 acres for sites greater than 80 acres. These plots will be flagged and numbered on the planting site corresponding with the plot numbers on the planting map. These plots can be installed as planters progress across each site if enough staff are on-site to continue with ongoing monitoring at the same time. These plots can also be installed up to one week following planting such that data is submitted in the weekly report. The purpose of these plots is to document that the ongoing monitoring and corrective actions were successful. These plots are not meant to instigate corrective actions, but instead document successful completion and/or the need to assess monetary damages.

- The following criteria will be used to evaluate the adherence to specifications and report planting quality at a per acre basis:

- Stocking – (seedlings/ac)-if the number of seedlings deviates by more than 10% from the prescribed density for the site, liquidated damages may be assessed to the planting contractor.
 - Planting depth – (number of seedlings/ac planted outside the “allowable depth zone”)-if more than 20% of the measured trees are found to be planted outside the criteria established, liquidated damages may be assessed to the planting contractor.
 - Stem angle – (number of seedlings/ac planted exceeding a 30-degree angle)-if more than 20% of the measured trees are found with stem angles exceeding the criteria, liquidated damages may be assessed to the planting contractor.
 - Firmness – (number of seedlings/ac that can be lifted out of the ground with two fingers)-if more than 10% of the measured trees are found to be too loose, liquidated damages may be assessed to the planting contractor.
 - J-Rooting and L-Rooting – (number of J/L-rooted seedlings/ac)-the closest seedling to plot center will be inspected for J/L-rooting. If more than 20% of the seedlings are found to be J/L-rooted, liquidated damages may be assessed to the planting contractor.
- Other data: number of furrows intersecting each plot will also be collected.

Corrective Actions:

Corrective actions may include partial or entire excavating and planting of the same seedlings. If a corrective action planting of an FTP is deemed necessary by the Contractor, the DNR designee must be contacted for approval. The Contractor is responsible for preventing this occurrence by following the ongoing monitoring procedures and correcting issues immediately following their occurrence.

2. Delivery

2.1. Coordinating Deliver of Seedlings to Planting Sites

The Contractor will coordinate with area DNR representative(s) the transportation of tree seedlings to planting sites from the distribution point. The Contractor is responsible for ensuring that appropriate number of seedlings that are loaded and transported to the field based on the site and weather conditions. The Contractor must also ensure that seedlings are protected from heat and wind during transportation and temporary storage at the field site prior to planting. The Contractor is responsible for ensuring any leftover trees are returned to cold storage at the distribution point at the end of each day’s work.

3. Acceptance

3.1. Acceptance, Inspection, and Testing

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

- DNR staff may be on-site taking random plots while planting is in progress. This information may be utilized to take corrective actions with the oversight contractor or with the planting contractor at any time.
- The Contractor shall submit a current treatment summary on a weekly basis.
- For each planting site the DNR may establish check plots located in the same locations as the Contractor's stratified quality check plots.
- To determine accuracy of Contractor's data for each site or parts thereof, DNR may check 10% or more of the total number of stratified plots put in by the Contractor.
- All planted trees falling within DNR's established check plots will be measured by DNR personnel. DNR will measure the same checks as required by the Contractor – i.e. a) tree spacing within the furrow, b) stem angle, c) firmness, d) planting depth, and e) j/l-rooting.
- Each planted tree within the check plot will be compared on a one-to-one basis to the Contractor's measurement. The Contractor will be assigned points based on how well their measurement compares to the DNR's measurement of the same planted tree.
- A perfect score is when the Contractor measurement of the planted tree equals the DNR tally (in this case no points would be assessed).
- The final score will be determined by taking the sum total of all points and comparing the total to the DNR tally.
- If the Contractor's score falls within 0-25%, the Contractor's measurements will be considered accurate.
- If the Contractor's score is greater than 25%, the tally would be considered inaccurate, and the Contractor must re-check all final quality check plots.
- After the Contractor has re-checked all of their plots, the DNR will establish another set of check points (different than the original) equal to 5% of the total number of final quality check plots. The DNR will again measure all planted trees within the check plots and compare to the Contractor's measurements.
- If the Contractor's score then falls within 25%, the Contractor's measurements will be considered accurate.

- If the Contractor's score is again greater than 25%, measurements will still be considered inaccurate and the process will be repeated a third and final time.
- If at the end of the third re-measurement the Contractor's score is still greater than 25%, liquidated damages will be assessed equal to 20% of the total payment for the treatment area checked and at the option of the DNR the Contract may be terminated.
- Random plots may also be installed by DNR staff. If DNR measurements indicate that errors exceed the acceptable thresholds then the DNR may install a stratified survey at the same density installed by the Contractor. If this survey documents errors in measurement by more than 10%, then damages may be assessed, which could include partial or full revocation of payment by treatment.

3.2. Decertification Process

POSSIBLE DECERTIFICATION OF FIRST LINE SUPERVISORS OR ON-SITE WORKERS

- In the event that the DNR Project Manager is dissatisfied with the quality of the work provided by the Contractor's first line supervisor or on-site worker, the DNR Project Manager shall meet with the Contractor to explain the reasons for dissatisfaction and advise appropriate improvements. The DNR Project Manager shall accompany the Contractor's first line supervisor or on-site worker in the field as reasonably necessary or as time permits to direct corrective action.
- If the DNR Project Manager remains dissatisfied with work performance and feels further time in the field with the Contractor's first line supervisor or on-site worker would be unproductive, a performance review will be called for the purpose of determining whether the supervisor/worker should be removed.
- The performance review will be conducted by the DNR Project Manager, a DNR forester, the Contractor, and a forester of the Contractor's choice. The Contractor's forester must hold a bachelor's degree in forestry or better and must not be employed by the Contractor.
- If at the completion of the review, the DNR finds the Contractor has not complied with the DNR's instructions, the Contractor's first line supervisor and/or on-site field worker may be decertified. The decision for decertification will be made solely by the DNR forester, in consultation with the DNR Project Manager after hearing and carefully weighing the case presented by both sides. Decertification will result in the immediate termination of all work by the decertified first line supervisor and/or on-site field worker.

3.3. Final 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 a Statement of Work. 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 24, 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.

4. Staffing

4.1. Contractor Representative

The Contractor must appoint one individual specifically assigned to State of Michigan accounts, who will respond to State inquiries regarding the Contract Activities, answer questions related to ordering and delivery, etc. (the “Contractor Representative”).

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

Contract Representative	Gerald Lambert TX: 989-619-2882
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4.2. Customer Service Number

The Contractor must customer service number for the State to contact the Contractor Representative. The Contractor Representative must be available for calls during the hours of 8:00 am to 5:00 pm EST.

Customer Service Number	Gerald Lambert TX: 989-619-2882
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4.3. 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 (up to 10–12-hour days) and possible night and weekend hours depending on the requirements of the project.

4.4. Key Personnel

The Contractor must appoint one Project Manager individual who will be directly responsible for the day-to-day operations of the Contract (“Key Personnel”). Key Personnel must be specifically assigned to the State account, be knowledgeable on the contractual requirements, and respond to State inquiries within 24 hours.

Contractor’s Key Personnel must be on-site at each site for the duration while trees are being planted.

The State has the right to recommend and approve in writing the initial assignment, as well as any proposed reassignment or replacement, of any Key Personnel. Before assigning an individual to any Key Personnel position, Contractor will notify the State of the proposed assignment, introduce the individual to the State’s Project Manager, and provide the State with a resume and any other information about the individual reasonably requested by the State. The State reserves the right to interview the individual before granting written approval. In the event the State finds a proposed individual unacceptable, the State will provide a written explanation including reasonable detail outlining the reasons for the rejection. The State may require a 30-calendar day training period for replacement personnel.

Contractor will not remove any Key Personnel from their assigned roles on this Contract without the prior written consent of the State. The Contractor’s removal of Key Personnel without the prior written consent of the State is an unauthorized removal (“Unauthorized Removal”). An Unauthorized Removal does not include replacing Key Personnel for reasons beyond the reasonable control of Contractor, including illness, disability, leave of absence, personal emergency circumstances, resignation, or for cause termination of the Key Personnel’s employment. Any Unauthorized Removal may be considered by the State to be a material breach of this Contract, in respect of which the State may elect to terminate this Contract for cause under the **Termination for Cause** section of

the Standard Contract Terms. It is further acknowledged that an Unauthorized Removal will interfere with the timely and proper completion of this Contract, to the loss and damage of the State, and that it would be impracticable and extremely difficult to fix the actual damage sustained by the State as a result of any Unauthorized Removal. Therefore, Contractor and the State agree that in the case of any Unauthorized Removal in respect of which the State does not elect to exercise its rights under Termination for Cause, Contractor will issue to the State the corresponding credits set forth below (each, an “Unauthorized Removal Credit”):

- i. For the Unauthorized Removal of any Key Personnel designated in the applicable Statement of Work, the credit amount will be \$3,000.00 per individual if Contractor identifies a replacement approved by the State and assigns the replacement to shadow the Key Personnel who is leaving for a period of at least 30-calendar days before the Key Personnel’s removal.
- ii. If Contractor fails to assign a replacement to shadow the removed Key Personnel for at least 30-calendar days, in addition to the \$3,000.00 credit specified above, Contractor will credit the State \$500.00 per calendar day for each day of the 30-calendar day shadow period that the replacement Key Personnel does not shadow the removed Key Personnel, up to \$15,000.00 maximum per individual. The total Unauthorized Removal Credits that may be assessed per Unauthorized Removal and failure to provide 30-calendar days of shadowing will not exceed \$18,000.00 per individual.

Contractor acknowledges and agrees that each of the Unauthorized Removal Credits assessed above: (i) is a reasonable estimate of and compensation for the anticipated or actual harm to the State that may arise from the Unauthorized Removal, which would be impossible or very difficult to accurately estimate; and (ii) may, at the State’s option, be credited or set off against any fees or other charges payable to Contractor under this Contract.

The Contractor must identify the Key Personnel, indicate where they will be physically located, describe the functions they will perform, and provide current chronological résumés.

- A.** The Contractor must identify all Key Personnel that will be assigned to this contract in the table below which includes the following:
 1. Name and title of staff that will be designated as Key Personnel.
 2. Key Personnel years of experience in the current classification.
 3. Key Personnel’s roles and responsibilities, as they relate to this Contract. Descriptions of roles should be functional and not just by title.
 4. Identify if each Key Personnel is a direct, subcontract, or contract employee.

5. Identify each Key Personnel's percentage of work time devoted to this Contract.
6. Identify where each Key Personnel staff member will be physically located (city and state) during the Contract performance.

1. Name	2. Years of Experience in Current Classification	3. Role(s) / Responsibilities	4. Direct / Subcontract / Contract	5. % of Work Time	6. Physical Location
Gerald J. Lambert, Owner	23	Contract Administrator & On-Site Field Worker / To ensure completion of the contract	Direct	20-100	Frederic, MI
Andrew Widmar, Project Manager	6	Assistant Contract administrator & On-Site Field Worker / Project and Data management	Direct	20-100	Kronenwetter, WI
Greg Horton, Forester	9 months	On-Site Field worker / Will be assigned a planting crew and will oversee crews day to day planting and perform quality control as outlined in the contract.	Direct	100	Frederic, MI
Jacob Blanz, Forester	4 months	On-Site Field worker / Will be assigned a planting crew and will oversee	Direct	100	Frederic, MI

1. Name	2. Years of Experience in Current Classification	3. Role(s) / Responsibilities	4. Direct / Subcontract / Contract	5. % of Work Time	6. Physical Location
		crews day to day planting and perform quality control as outlined in the contract.			
Joe George, Forest Technician	1.5 years	On-Site Field worker / Will be assigned a planting crew and will oversee crews day to day planting and perform quality control as outlined in the contract.	Direct	100	Frederic, MI
Eric White, Forest Technician	7 months	On-Site Field worker / Will be assigned a planting crew and will oversee crews day to day planting and perform quality control as outlined in the contract.	Direct	100	Frederic, MI
Chirs Thompson	16 years	On-Site Field worker / Will be assigned a planting crew and will oversee crews day to day	Contractor	100	Frederic, MI

1. Name	2. Years of Experience in Current Classification	3. Role(s) / Responsibilities	4. Direct / Subcontract / Contract	5. % of Work Time	6. Physical Location
		planting and perform quality control as outlined in the contract.			

4.5. Organizational Chart

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

Forest Resource Services, LLC		
<u>Staff Members</u>	<u>Title</u>	<u>Employment</u>
Gerald J. Lambert	Owner	FRS
Andrew Widmar	Project Manager	FRS
Greg Horton	Forester	FRS
Jacob Blanz	Forester	FRS
Joe George	Forest Technician	FRS
Eric White	Forest Technician	FRS
Chris Thompson	Forester	Contractor

4.6. 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.

Contractor must provide detailed information as requested in the above requirement(s).	
The legal business name, address, telephone number of the subcontractor(s).	Chris Thompson, Forester P.O. Box 1010 Olla, La. 71465 Cell 318.623.6095
A description of subcontractor's organization and the services it will provide and information concerning subcontractor's ability to provide the Contract Activities.	Chris is a self-employed subcontractor. He provides contract forestry services such as tree planting oversight and timber cruising in Louisiana and Michigan.
The relationship of the subcontractor to the contractor.	Subcontractor - Contractor
Whether the contractor has a previous working experience with the subcontractor. If yes, provide the details of that previous relationship.	Chris has assisted FRS with the tree planting oversight for the past 11 years as well conducting inventory plots and audits for the past 16 years.
A complete description of the Contract Activities that will be performed or provided by the subcontractor.	Subcontractor will be provided a list of sites to plant and planting specification by contractor; will plan his and assigned planting crew sites each day; meet with planting crew each morning and pick up trees and return boxes; escort planting crew to planting site; provide planting specs to crew foreman; perform and establish quality control plots, work with foreman to ensure quality; return any unused trees to trailer; upload planting information each night.
Of the total contract, the price of the subcontractor's work.	About \$20,000
Total percentage of work that will be performed by subcontractors:	8%
Total percentage of subcontracted work that will be performed by GDBE subcontractors:	NA

4.7. Security

The Contractor must explain any additional security measures in place to ensure the security of State facilities. The State may require the Contractor's personnel to wear State issued identification badges.

5. Project Management

5.1. Project Plan

The Contractor must coordinate the progression of planting and assure that the volume of planting labor doesn't overwhelm the ability to provide the specified quality control. The Contractor shall oversee the project, address issues/changes as they may arise, and keep the appropriate parties apprised of progress by executing the following project management plan:

- The Contractor will meet with the DNR prior to planting season to discuss the year's planting and review site maps and shape files.
- The Contractor will prepare project maps of all planting sites and roads.
- The Contractor must prepare a procedure for conducting ongoing checks that document the metrics identified by DNR staff and the corrective actions that are taken by the Contractor as needed.
- The Contractor will prepare an excel spreadsheet for use in reporting ongoing and stratified plot data. The data must be reported electronically at the plot level and summarized by treatment.
- The Contractor will coordinate the number, arrival and location of tree planting crews with the reforestation contractor.
- The Contractor will adjust the number of oversight supervisors accordingly. At a minimum, the Contractor must supply one oversight personnel per planting crew.
- The Contractor will meet with planters and lead the crews to the planting sites.
- The Contractor will inform the planting supervisor of the spacing for the planting site and will assist planters to determine proper tree spacing at start of work.
- The Contractor will provide verbal or email updates to the DNR and reforestation contractor twice per week or upon request.
- The Contractor will be prepared to adapt to any situation and will promptly address a problem, should it arise, and advise the DNR by phone as soon as possible.

5.2. Meetings

The Contractor must attend the following meetings:

- A Kick-off meeting with the DNR Program Manager

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

5.3. Reporting

The Contractor must submit, to the Program Manager or designee, the following reports:

- Bi-weekly verbal reports on work progress for each planting area. These status reports consist of informal updates by telephone with the DNR representatives in each district where planting is occurring.
- Weekly reports will consist of an email with a current workbook documenting plot and treatment level summaries. The body of the email will briefly summarize progress and any corrective actions that were taken.
- Shapefiles of all stratified plot locations with links to the attribute data
- Shapefiles of any changes in the boundaries from what was planned to the area planted
- A final compiled excel document indicating actual number of trees planted, number of tree containers used, dates planted, weather conditions, etc. Separate tabs will include ongoing plot data and stratified plot level data.
- An annual formal written report summarizing the progression of the planting season along with the corrective actions, statistics, and other information that documents the annual work completed on this Contract (approximately 3-5 pages with graphs or charts).

6. Pricing

6.1. Price Term

Pricing is firm for the entire length of the Contract.

6.2. 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.

7. Ordering

7.1. Authorizing Document

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

8. Invoice and Payment

8.1. 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); (g) vendor-generated invoice number; and (h) total price. Overtime, holiday pay, and travel expenses will not be paid.

8.2. Payment Methods

The State will make payment for Contract Activities via EFT.

8.3. Procedure

Invoices will be sent to the Program Manager or designee for review and approval.

9. Liquidated Damages

Late or improper completion of the Contract Activities will cause loss and damage to the State, and it would be impracticable and extremely difficult to fix the actual damage sustained by the State. Therefore, if there is late or improper completion of the Contract Activities the State is entitled to collect liquidated damages as indicated in Section 3.1 Acceptance Inspection and Testing: If at the end of the third re-measurement the Contractor's score is still greater than 25%, liquidated damages will be assessed equal to 20% of the total payment for the treatment area checked and at the option of the DNR the Contract may be terminated.

SCHEDULE B - PRICING

Price includes all costs, including but not limited to, any one-time or set-up charges, fees, and potential costs that Contractor may charge the State (e.g., shipping and handling, per piece pricing, and palletizing).

Description	Quantity (Per Year)	Unit Price per Thousand	Total Price
<p>Initial Plant in trenches – High Density</p> <p>Average planting density – 800 to 1,000 seedlings per acre.</p> <p>Range of planting area sizes – 25 to 150 acres.</p>	4,500,000 seedlings	\$31.11	\$139,995.00
<p>Initial plant in trenches – Low Density</p> <p>Average planting density – 600-800 seedlings per acre.</p> <p>Range of planting area sizes – 25 to 150 acres.</p>	200,000 seedlings	\$39.19	\$7,838.00
<p>Unfurrowed initial plant – High Density</p> <p>Average planting density – 800 to 1,000 seedlings per acre.</p> <p>Range of planting area sizes – 25 to 150 acres.</p>	300,000 seedlings	\$48.46	\$14,538.00
<p>Unfurrowed initial plant – Low Density</p> <p>Average planting density – 600-800 seedlings per acre.</p> <p>Range of planting area sizes – 25 to 150 acres.</p>	200,000 seedlings	\$54.23	\$10,846.00

Description	Quantity (Per Year)	Unit Price per Thousand	Total Price
<p>Supplemental plant in trenches</p> <p>Average planting density – 300-600 seedlings per acre.</p> <p>Range of planting area sizes – 25 to 150 acres.</p>	200,000 seedlings	\$57.25	\$11,450.00
<p>Interplant (unfurrowed supplemental plant) or underplant</p> <p>Average planting density – 300-600 seedlings per acre.</p> <p>Range of planting area sizes – 25 to 150 acres.</p>	50,000 seedlings	\$68.46	\$3,423.00
<p>KW planting in trenches</p> <p>Average planting density – 1,452 seedlings per acre (excluding openings) 5 x 6 ft spacing.</p>	1,500,000 seedlings	\$27.88	\$41,820.00
<p>Hardwood seedling planting</p> <p>Average planting density – 600-900 seedlings per acre.</p> <p>Range of planting area sizes – ¼ acre gaps to 10 acres.</p>	60,000 seedlings	\$78.20	\$4,692.00
<p>Installing tubes over hardwood seedlings</p>	60,000 seedlings	\$98.10	\$5,886.00

Description	Quantity (Per Year)	Unit Price per Thousand	Total Price
Average planting density – 600-900 seedlings per acre. Range of planting area sizes – ¼ acre gaps to 10 acres.			
Sapling planting Randomly scattered. Sometimes adjacent to other plantings	10,000 seedlings	\$1,550.00	\$15,550.00
TOTAL ESTIMATED PRICE PER YEAR:			\$259,600.00
TOTAL ESTIMATED CONTRACT VALUE (Per year x 5 years):			\$1,280,190.00
**Initial plant in trenches – Low Density - Average planting density – 300-600 seedlings per acre. Range of planting area sizes – 25 to 150 acres. Rate - \$57.25			\$11,450.00