



# STATE OF MICHIGAN PROCUREMENT

Department of Natural Resources

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

## NOTICE OF CONTRACT

NOTICE OF CONTRACT NO. **24000000106**

between

THE STATE OF MICHIGAN

and

<b>CONTRACTOR</b>	Johathan D. Kleiber d/b/a PRO Lawn & Landscape
	915 Blackwell Avenue
	Gladstone, MI 49837
	Jonathan David Kleiber
	906-280-5110
	PRO_lawncare@yahoo.com
	VS0299047

<b>STATE</b>	Program Manager	Jason Peterson	DNR
		906-236-9138	
	PetersonJ6@michigan.gov		
	Contract Administrator	Lisa Crozier-Green	DNR
517-388-6626			
CrozierGreenL@michigan.gov			

CONTRACT SUMMARY			
<b>DESCRIPTION: Snow Removal and De-Icing Services at DNR Escanaba Customer Service Center</b>			
INITIAL EFFECTIVE DATE	INITIAL EXPIRATION DATE	INITIAL AVAILABLE OPTIONS	EXPIRATION DATE BEFORE CHANGE(S) NOTED BELOW
11/1/2023	10/31/2026	TWO 1-Year Options to Renew	October 31, 2026
PAYMENT TERMS		DELIVERY TIMEFRAME	
Net 45		Per Schedule A	
ALTERNATE PAYMENT OPTIONS			EXTENDED PURCHASING
<input type="checkbox"/> P-card <input type="checkbox"/> Payment Request (PRC) <input type="checkbox"/> Other			<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
MINIMUM DELIVERY REQUIREMENTS			
N/A			
MISCELLANEOUS INFORMATION			
<b>THIS IS NOT AN ORDER.</b> This Contract Agreement is awarded on the basis of the State's inquiry bearing the solicitation number RFP 24000000035. Orders for Delivery will be issued directly by the Departments through the issuance of a Delivery Order (DO).			
ESTIMATED CONTRACT VALUE AT TIME OF EXECUTION			<b>\$39,750.00</b>

# STANDARD CONTRACT TERMS

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This STANDARD CONTRACT (“**Contract**”) is agreed to between the State of Michigan (the “**State**”) and Johnathan David Kleiber d/b/a PRO Lawn & Landscape (“**Contractor**”), a Michigan company.

This Contract is effective on November 1, 2023 (“**Effective Date**”), and unless terminated, will expire on October 31, 2026 (the “**Term**”).

This Contract may be renewed for up to TWO (2) One-Year Options to Renew. Renewal is at the sole discretion of the State and will automatically extend the Term of this Contract. The State will document its exercise of renewal options via Contract Change Notice.

The parties agree as follows:

- 1. Duties of Contractor.** Contractor must perform the services and provide the deliverables (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 contacting the State.

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

If to State:	If to Contractor:
Lisa Crozier-Green 525 West Allegan Constitution Hall, Third Floor Lansing, MI 48933 CrozierGreenL@michigan.gov 517-388-6626	John Kleiber 915 Blackwell Avenue Gladstone, MI 49837 PRO_lawncare@yahoo.com 906-280-5110

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:
Lisa Crozier-Green 525 West Allegan Constitution Hall, Third Floor Lansing, MI 48933 CrozierGreenL@michigan.gov 517-388-6626	John Kleiber 915 Blackwell Avenue Gladstone, MI 49837 PRO_lawncare@yahoo.com 906-280-5110

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 Peterson PetersonJ6@michigan.gov 906-236-9138	John Kleiber 915 Blackwell Avenue Gladstone, MI 49837 PRO_lawncare@yahoo.com 906-280-5110

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.**

- a. **General Requirements.** Contractor, at its sole expense, must maintain the insurance coverage as specified herein for the duration of the Term. Minimum limits may be satisfied by any combination of primary liability, umbrella or excess liability, and self-insurance coverage. To the extent damages are covered by any required insurance, Contractor waives all rights against the State for such damages. Failure to maintain required insurance does not limit this waiver.
- b. **Qualification of Insurers.** Except for self-insured coverage, all policies must be written by an insurer with an A.M. Best rating of A- VII or higher unless otherwise approved by DTMB Enterprise Risk Management.

- c. **Primary and Non-Contributory Coverage.** All policies for which the State of Michigan is required to be named as an additional insured must be on a primary and non-contributory basis.
- d. **Claims-Made Coverage.** If any required policies provide claims-made coverage, Contractor must:
  - (1) Maintain coverage and provide evidence of coverage for at least 3 years after the later of the expiration or termination of the Contract or the completion of all its duties under the Contract;
  - (2) Purchase extended reporting coverage for a minimum of 3 years after completion of work if coverage is cancelled or not renewed, and not replaced with another claims-made policy form with a retroactive date prior to the Effective Date of this Contract
- e. **Proof of Insurance**
  - (1) Insurance certificates showing evidence of coverage as required herein must be submitted to the Contract Administrator within 10 days of the contract execution date.
  - (2) Renewal insurance certificates must be provided on annual basis or as otherwise commensurate with the effective dates of coverage for any insurance required herein.
  - (3) Insurance certificates must be in the form of a standard ACORD Insurance Certificate unless otherwise approved by DTMB Enterprise Risk Management.
  - (4) All insurance certificates must clearly identify the Contract Number (e.g., noted under the Description of Operations on an ACORD form).
  - (5) The State may require additional proofs of insurance or solvency, including but not limited to policy declarations, policy endorsements, policy schedules, self-insured certification/authorization, and balance sheets.
  - (6) In the event any required coverage is cancelled or not renewed, Contractor must provide written notice to the Contract Administrator no later than 5 business days following such cancellation or nonrenewal.
- f. **Subcontractors.** Contractor is responsible for ensuring its subcontractors carry and maintain insurance coverage.
- g. **Limits of Coverage & Specific Endorsements.** (See Table 6.1 Below)

TABLE 6.1

Required Limits	Additional Requirements
<b>Commercial General Liability Insurance</b>	
<b>Minimum Limits:</b> \$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.
<b>Umbrella or Excess Liability Insurance</b>	
<b>Minimum Limits:</b> \$5,000,000 General Aggregate	Contractor must have their policy follow form.
<b>Automobile Liability Insurance</b>	
<b>Minimum Limits:</b> \$1,000,000 Per Accident	Contractor must have their policy: (1) endorsed to add “the State of Michigan, its departments,

Required Limits	Additional Requirements
	divisions, agencies, offices, commissions, officers, employees, and agents” as additional insureds; and (2) include Hired and Non-Owned Automobile coverage.
<b>Workers' Compensation Insurance</b>	
<b>Minimum Limits:</b> Coverage according to applicable laws governing work activities.	Waiver of subrogation, except where waiver is prohibited by law.
<b>Employers Liability Insurance</b>	
<b>Minimum Limits:</b> \$500,000 Each Accident \$500,000 Each Employee by Disease \$500,000 Aggregate Disease	

h. **Non-Waiver.** This Section 6 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. **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.
8. **Subcontracting.** Contractor may not delegate any of its obligations under the Contract without the prior written approval of the State. Contractor must notify the State at least 90 calendar days before the proposed delegation and provide the State any information it requests to determine whether the delegation is in its best interest. If approved, Contractor must: (a) be the sole point of contact regarding all contractual matters, including payment and charges for all Contract Activities; (b) make all payments to the subcontractor; and (c) incorporate the terms and conditions contained in this Contract in any subcontract with a subcontractor. Contractor remains responsible for the completion of the Contract Activities, compliance with the terms of this Contract, and the acts and omissions of the subcontractor. The State, in its sole discretion, may require the replacement of any subcontractor.
9. **Staffing.** The State’s Contract Administrator may require Contractor to remove or reassign personnel providing services by providing a notice to Contractor.
10. **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.

- 11. Assignment.** Contractor may not assign this Contract to any other party without the prior approval of the State. Upon notice to Contractor, the State, in its sole discretion, may assign in whole or in part, its rights or responsibilities under this Contract to any other party. If the State determines that a novation of the Contract to a third party is necessary, Contractor will agree to the novation and provide all necessary documentation and signatures.
- 12. Change of Control.** Contractor will notify 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.
- 13. Ordering.** Contractor is not authorized to begin performance until receipt of authorization as identified in a Statement of Work.
- 14. Acceptance.** Contract Activities are subject to inspection and testing by the State within 30 calendar days of the State's receipt of them ("**State Review Period**"), unless otherwise provided in 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.

- 15. 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 [www.michigan.gov/SIGMAVSS](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.

- 16. 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.
- 17. 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.
- 18. 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.

- 19. 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.
- 20. 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.
- 21. 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.
- 22. 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.

- 23. Infringement Remedies.** If, in either party’s opinion, any piece of equipment, software, commodity, or service supplied by Contractor or its subcontractors, or its operation, use or reproduction, is likely to become the subject of a copyright, patent, trademark, or trade secret infringement claim, Contractor must, at its expense: (a) procure for the State the right to continue using the equipment, software, commodity, or service, or if this option is not reasonably available to Contractor, (b) replace or modify the same so that it becomes non-infringing; or (c) accept its return by the State with appropriate credits to the State against Contractor’s charges and reimburse the State for any losses or costs incurred as a consequence of the State ceasing its use and returning it.
- 24. Limitation of Liability and Disclaimer of Damages. IN NO EVENT WILL THE STATE’S AGGREGATE LIABILITY TO CONTRACTOR UNDER THIS CONTRACT, REGARDLESS OF THE FORM OF ACTION, WHETHER IN CONTRACT, TORT, NEGLIGENCE, STRICT LIABILITY OR BY STATUTE OR OTHERWISE, FOR ANY CLAIM RELATED TO OR ARISING UNDER THIS CONTRACT, EXCEED THE MAXIMUM AMOUNT OF FEES PAYABLE UNDER THIS CONTRACT.** The State is not liable for consequential, incidental, indirect, or special damages, regardless of the nature of the action.
- 25. Disclosure of Litigation, or Other Proceeding.** Contractor must notify the State within 14 calendar days of receiving notice of any litigation, investigation, arbitration, or other proceeding (collectively, “**Proceeding**”) involving Contractor, a subcontractor, or an officer or director of Contractor or subcontractor, that arises during the term of the Contract, including: (a) a criminal Proceeding; (b) a parole or probation Proceeding; (c) a Proceeding under the Sarbanes-Oxley Act; (d) a civil Proceeding involving: (1) a claim that might reasonably be expected to adversely affect Contractor’s viability or financial stability; or (2) a governmental or public entity’s claim or written allegation of fraud; or (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.

- 26. State Data.** All data and information provided to Contractor by or on behalf of the State, and all data and information derived therefrom, is the exclusive property of the State (“**State Data**”); this definition is to be construed as broadly as possible. Upon request, Contractor must provide to the State, or a third party designated by the State, all State Data within 10 calendar days of the request and in the format requested by the State. Contractor will assume all costs incurred in compiling and supplying State Data. No State Data may be used for any marketing or commercial purposes.
- 27. 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, though, 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.

**28. 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.

- 29. 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.
- 30. 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.
- 31. Compliance with Laws.** Contractor must comply with all federal, state and local laws, rules and regulations.
- 32. Nondiscrimination.** Under the Elliott-Larsen Civil Rights Act, 1976 PA 453, MCL 37.2101, *et seq.*, the Persons with Disabilities Civil Rights Act, 1976 PA 220, MCL 37.1101, *et seq.*, and [Executive Directive 2019-09](#). Contractor and its subcontractors agree not to discriminate against an employee or applicant for employment with respect to hire, tenure, terms, conditions, or privileges of employment, or a matter directly or indirectly related to employment, because of race, color, religion, national origin, age, sex (as defined in Executive Directive 2019-09), height, weight, marital status, partisan considerations, any mental or physical disability, or genetic information that is unrelated to the person's ability to perform the duties of a particular job or position. Breach of this covenant is a material breach of this Contract.
- 33. Unfair Labor Practice.** Under MCL 423.324, the State may void this Contract if the name of the Contractor, or the name of a subcontractor, manufacturer, or supplier of the Contractor, subsequently appears on the Unfair Labor Practice register compiled under MCL 423.322.

- 34. **Governing Law.** This Contract is governed, construed, and enforced in accordance with Michigan law, excluding choice-of-law principles, and all claims relating to or arising out of this Contract are governed by Michigan law, excluding choice-of-law principles. Any dispute arising from this Contract must be resolved in the Michigan Court of Claims. 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.
- 35. **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.
- 36. **Force Majeure.** Neither party will be in breach of this Contract because of any failure arising from any disaster or acts of god that are beyond their control and without their fault or negligence. Each party will use commercially reasonable efforts to resume performance. Contractor will not be relieved of a breach or delay caused by its subcontractors. If immediate performance is necessary to ensure public health and safety, the State may immediately contract with a third party.
- 37. **Dispute Resolution.** The parties will endeavor to resolve any Contract dispute in accordance with this provision. The dispute will be referred to the parties' respective Contract Administrators or Program Managers. Such referral must include a description of the issues and all supporting documentation. The parties must submit the dispute to a senior executive if unable to resolve the dispute within 15 business days. The parties will continue performing while a dispute is being resolved, unless the dispute precludes performance. A dispute involving payment does not preclude performance. Litigation to resolve the dispute will not be instituted until after the dispute has been elevated to the parties' senior executive and either concludes that resolution is unlikely or fails to respond within 15 business days. The parties are not prohibited from instituting formal proceedings: (a) to avoid the expiration of statute of limitations period; (b) to preserve a superior position with respect to creditors; or (c) where a party decides that a temporary restraining order or other injunctive relief is the only adequate remedy. This Section does not limit the State's right to terminate the Contract.
- 38. **Media Releases.** News releases (including promotional literature and commercial advertisements) pertaining to the Contract or project to which it relates must not be made without the prior written approval of the State, and then only in accordance with the explicit written instructions of the State.
- 39. **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
Exhibit A - Map	Aerial Map of Escanaba CSC Snow Removal Locations

- 40. **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.

- 41. Severability.** If any part of this Contract is held invalid or unenforceable, by any court of competent jurisdiction, that part will be deemed deleted from this Contract and the severed part will be replaced by agreed upon language that achieves the same or similar objectives. The remaining Contract will continue in full force and effect.
- 42. Waiver.** Failure to enforce any provision of this Contract will not constitute a waiver.
- 43. Survival.** 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.
- 44. Contract Modification.** This Contract may not be amended except by signed agreement between the parties (a "**Contract Change Notice**"). Notwithstanding the foregoing, no subsequent Statement of Work or Contract Change Notice executed after the Effective Date will be construed to amend this Contract unless it specifically states its intent to do so and cites the section or sections amended.

# SCHEDULE A – STATEMENT OF WORK CONTRACT ACTIVITIES

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**Department of Natural Resources**  
**Snow and Ice Removal Services**  
**DNR Escanaba Customer Service Center**  
**Contract No. 24000000106**

## **SCOPE**

This Contract is for Snow and Ice Removal Services. The initially anticipated location is the DNR Escanaba Customer Service Center, 6833 US Highway 2, 41, M35, Gladstone, Michigan 49837.

## **REQUIREMENTS**

### **1. Requirements**

#### **1.1. General Requirements**

- A. The Contractor agrees to provide all personnel, equipment, tools, materials, supervision, and other items and / or services necessary to perform the Contract Activities as described in Section 1, Requirements. The required objective is to maintain facility parking lot, sidewalks and drive entrances in a safe condition for use by State employees and DNR customers.
- B. The Contractor agrees to provide all personnel, equipment, tools, materials, supervision and any other items and / or services necessary to perform the Contract Activities described in this RFP to maintain facility parking lot, sidewalks and drive entrances in a safe condition for use by State employees and DNR Customers.
- C. The Contractor agrees to provide all supervision necessary to oversee all Contract Activities performed by Contractor personnel or subcontractors.
- D. The State reserves the right to approve personnel and / or subcontractors for the Contract Activities, and to require placement of personnel found unacceptable.
- E. The State reserves the right to modify the services required under this RFP and / or any resulting contract to meet the State of Michigan's future needs.
- F. The State of Michigan will not pay for unperformed services, or for services performed on State Holidays unless pre-approved in writing (email acceptable) by Program Manager or designee.
- G. State Holidays include:
  - New Year's Eve / New Year's Day
  - Martin Luther King, Jr. Birthday
  - Presidents Day
  - Memorial Day
  - Independence Day
  - Labor Day
  - Veteran's Day
  - Election Day (even numbered years)

Thanksgiving Day (Thursday and Friday)  
Christmas Eve / Christmas Day

## 1.2 Specifications

### A. Snow and Ice Removal Specifications

1. The Contractor agrees all snow and ice removal services shall be performed according to Schedule A – Statement of Work Specifications and / or Requirements, and any schedules mutually agreed upon by the contractor and Program Manager.
2. The Contractor agrees:
  - a. All automatic snow and ice removal services shall be completed prior to 7:00 a.m., Monday through Friday, excluding State Holidays. (Refer to Section 1.1, F, for a list of State Holidays).
  - b. On-Call snow and ice removal services shall be completed within two (2) hours of the request for service.
  - c. Holiday service, if required, shall be requested at least 24 hours in advance by the Program Manager or designee. No Contract Activities will be required on Saturdays or Sundays.
3. The Contract Administrator or Program Manager shall provide the Contractor with a list of DNR contacts authorized to approve snow and ice removal activities.
4. The Contractor shall provide the Contract Administrator with a contact name and telephone number to be used as a 24-hour contact.
5. Exact snow and ice removal requirements are unknown. The Contractor shall be responsible for providing services as described and / or as requested.
6. The State is not obligated to purchase these services in any specific amounts.
7. The Contractor agrees to use care and caution while performing snow plowing, shoveling, de-icing or snow removal near structures, landscaping, vehicles and pedestrians to avoid personal injury or property damage.
8. The Contractor agrees to remain responsibility for the repair, replacement or cleanup of damages incurred to State managed property or private owned property performing Contract Activities.
9. The Contractor agrees to perform a **fall site inspection** of the parking lot, sidewalks, and entrances prior to first snowfall (but not later than October 30<sup>th</sup>) each year, to verify the location of curbs, parking bumpers, speed bumps, walkways, obstructions, landscaping, site features, etc. which may incur damage during snow and ice removal. Damage and / or defects noted at the fall site inspection must be documented and reported to the Program Manager. The Contractor may provide written and / or photographic documentation to establish conditions prior to beginning snow and ice removal each year.
10. The Contractor agrees to perform a **spring site inspection** of the parking lot, sidewalks, and entrances by May 1<sup>st</sup> each year, or as soon as conditions permit, to determine whether damage has occurred during service and to schedule repair or replacement with the Program Manager or designee. Damage or defects noted during the spring site inspection which were not documented during the prior fall site inspection will be attributed to the Contractor.
12. The Contractor agrees all repairs and / or replacement will be completed by June 1<sup>st</sup> each year, or as soon as conditions permit. Failure to complete may result in an invoice deduction per Section 6.3, below.

13. Snow and ice removal services shall be considered as both “automatic” and “on-call.”
- a. The Contractor agrees to provide “automatic” snow removal / plowing services prior to 7:00 .a.m. Monday – Friday for snowfalls of THREE (3) inches or more.
  - b. The Contractor agrees to provide “on-call” snow removal / plowing services, de-icing, and / or parking lot sand application within two (2) hours of request for service by the Program Manager or designee, and accumulated snow removal within 24 hours of request by Program Manager or designee.
  - c. The Contractor agrees to plow snow from the parking lot and driving areas, leaving all parking spaces available for continuous use.
  - d. The Contractor agrees to remove snow from building entrances and sidewalks. The Contractor may remove snow with a shovel or snow blower.
  - e. The Contractor agrees to supply and spread Program Manager approved deicer at building entrances and sidewalks when a snowfall occurs, and / or icy conditions exist.
  - f. The Contractor agrees to utilize best judgment when applying deicer in order to prevent slip and fall accidents and ensure the safety and security of the public and employees.  
 NOTE: Spreading of Contractor supplied deicer may be required on a frequent basis, as often as necessary, and as requested by the Program Manager or designee. The Contractor and the Program Manager should discuss spreading of deicer prior to the start of snow removal season to clarify expectations.
  - g. The Contractor agrees to provide and apply sand for the parking lot and driving areas. Sand spreading shall be performed on an “on-call” basis only, when requested by the Program Manager or designee.
  - h. The Contractor agrees to push or relocate accumulated snow when snowbanks interfere with traffic, parking, and / or clear vision to roadways. Removal of accumulated snow to be performed “on-call” within 24 hours of request for service by the Program Manager or designee. Service may require the use of heavy equipment (i.e., front-end loader). The Contractor may use owned or rented equipment or a subcontractor to remove accumulated snow.
  - i. Failure to perform Contract Activities as specified may result in an invoice deduction per Section 6.3, below.

**B. Snow and Ice Removal Equipment**

1. The Contractor agrees to provide a variety of equipment (snowplow, snow blower, shovels, salt spreaders, etc.) in quantities necessary to adequately perform the Contract Activities.
2. At a MINIMUM Contractor must provide the following equipment: Pick up with V Plow
3. Equipment failure **WILL NOT** constitute an acceptable reason for failure to perform Contract Activities. In the event of mechanical breakdown, the Contractor will be expected to provide backup so that snow and ice removal services are performed as requested.

Contractor Equipment
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<i>Equipment</i>	<i>Quantity</i>	<i>Owned or Rented</i>
Plow Truck	2	Owned
Salt Truck	2	Owned
Loader	2	Owned

**C. Equipment Failure / Backup Equipment**

1. Mechanical failure WILL NOT constitute an acceptable reason for failure to perform the Contract Activities.
2. In the event of mechanical failure, the Contractor agrees to provide backup equipment to continue and / or complete the Contract Activities.

**1.3. Warranties**

- A. The State reserves the right to require additional warranties other than those identified by the Contractor.

**1.4. Incentives**

- A. Explain any special incentives or services including, but not limited to, return policies, trade-in programs, quantity discounts, etc.

**The Contractor is offering a quick payment discount of 5% off invoice if paid with SEVEN (7) days after receipt of invoice.**

**1.5. Transition**

**A. Contract Execution:**

1. The Contractor agrees to sign and date the Contract by the estimated Contract Start Date (or within 24 hours of request for signature) and provide a current certificate of liability insurance with the required coverage and limits of liability as stated in Section 6 of the Standard Contract Terms.

**B. Post-Contract Transition:**

2. Invoices must be received by the State within 45 days after expiration of contract. Any invoices received after 45 days may result in a non-payment of invoice.
3. The Contractor agrees, if required, to continue providing Contract Activities for the length of time specified in Section 21 of the Standard Contract Terms.

**2. Service Requirements**

**2.1. Timeframes**

- A. All Contract Activities must be performed in compliance with all Schedule A requirements, Schedule B, or as requested by the Program Manager or designee.
- B. Contract Activities may commence from receipt of Delivery Order.
- C. The receipt of order date is pursuant to Section 2, Notices, of the Standard Contract Terms.

**2.2. Reporting**

**A. Reports and Forms**

1. The Contractor agrees to provide all required reports and complete all required forms. The Program Manager or designee will provide Contractor with DNR required forms.
2. The Contractor agrees to provide all required reports and complete all required forms. The Program Manager or designee will provide Contractor with DNR required forms.
3. Reports and forms may include, but are not limited to:
  - a. Notice of Service Provided Slip
  - b. Damage Reports
  - c. Accident / Incident Reports
  - d. Contractor Evaluation
  - e. Time Keeping Reports
  - f. MSDS Forms
4. The Contractor agrees to provide the Program Manager or designee with Notice of Service to verify service was performed. Notice of service must be emailed to the Program Manager within 24 hours of each service.
5. The Contractor agrees to provide all required reports and complete all required forms. The Program Manager or designee will provide Contractor with DNR required forms.
6. Reports and forms may include, but are not limited to:
  - g. Notice of Service Provided Slip
  - h. Damage Reports
  - i. Accident / Incident Reports
  - j. Contractor Evaluation
  - k. Time Keeping Reports
  - l. MSDS Forms
7. The Contractor agrees to provide the Program Manager or designee with Notice of Service to verify service was performed. Notice of service must be emailed to the Program Manager within 24 hours of each service.
8. The State reserves the right to require other reports or completion of additional forms.
9. Damage Reports
  - a. In all instances where State property or equipment is damaged, the Contractor shall submit to the Program Manager or designee a Damage Report containing the facts and extent of the damage.
  - b. Damage reports must be submitted verbally within one hour of the damage, and in writing within twenty-four (24) hours of the damage.
10. Accident Reports
  - a. The Contractor shall comply with State of Michigan, OSHA, and other regulatory agency requirements for record keeping and reporting of all accidents resulting in death, trauma, or occupational illness.
  - b. The Contractor must provide a verbal report to the Program Manager or designee within one hour of the accident, and a written report within twenty-four (24) hours of the accident.

**2.3. Meetings**

- A. The Contractor must attend the following meetings:
  - 1. Service Review and Progress Meeting. The Program Manager or designee may, if necessary, request meetings with the Contractor to discuss Contract Activities provided under the specifications, terms, and conditions of the contract. The Contractor’s total service quality may be evaluated including responsiveness, timeliness of required reporting, or any other specifics as required under the terms of the contract. Unsatisfactory services may result in contract cancellation.
  - 2. The State may request other meetings as it deems appropriate

**3. Staffing**

**3.1. Contractor Representative**

- A. The Contractor must appoint one (1) individual, specifically assigned to any resulting Contract who will be available to receive calls for service prior to 7:00 a.m. Monday – Friday, respond to notice of unacceptable conditions within four (4) business hours and respond to State inquiries regarding the Contract Activities.
- B. The Contractor agrees to notify the Contract Administrator at least ten (10) calendar days before removing or assigning a new Contractor Representative. The Contract Administrator will draft a Change Notice for signature by the Contractor.
- C. The Contractor must identify the Contractor Representative, indicate where they will be physically located, provide contact information and describe the functions they will perform.

Contractor Representative:	John Kleiber
Address:	915 Blackwell Avenue, Gladstone, MI
Telephone:	906-280-5110
Email:	PRO-lawncare@yahoo.com

**3.2. Disclosure of Subcontractors**

- A. The Contractor does not intend to utilize subcontractors.
- B. In the event the Contract requires the use of a subcontractor, the Contractor agrees to remain responsible for the management of any subcontractors utilized for the performance of Contract Activities. Subcontractors will be bound to the Contractor by the terms of any resulting Contract.
- C. The State reserves the right to review and approve any subcontractor or require replacement of unacceptable subcontractors. The State’s written approval of any subcontractor does not relieve the Contractor of any obligation or performance required under any resulting Contract.
- D. Any change in subcontractor(s) should be pre-approved, in writing (email is acceptable) by the Program Manager, with notice to the Contract Administrator.
- E. The State will direct payments for Contract Activities only to the Contractor. The State will not direct payment to a subcontractor.
- F. If the Contractor intends to utilize a subcontractor for any portion of the Contract Activities including accumulated snow removal, the Contractor must provide the following:

Subcontractor:	
Business Name:	
Address:	

Telephone:	
Email:	
Description of organization:	
Services provided:	
Detail on Subcontractor's ability to provide Contract Activities:	
Previous working relationship with Contractor:	
Description of Contract Activities to be performed:	

**4. Pricing**

**4.1. Price Term**

A. Pricing is firm for a 365-day period ("Pricing Period") which begins on the Effective Date of any resulting Contract. Adjustments may be requested, in writing, by either party and will become effective no earlier than the next Pricing Period.

**4.2. Price Changes**

- A. Adjustments will be based only on actual changes in 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.
- B. 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.
- C. The Contractor remains responsible for Contract Activities at the current price for all orders received before the mutual execution of a Change Notice indicating the start date of the new Pricing Period.

**5. Ordering**

**5.1. Authorizing Document**

A. The appropriate authorizing document to begin Contract Activities will be properly executed delivery order (DO). Delivery orders will be provided to the Contractor via the email address in their SIGMA VSS account.

**5.2 Order Verification**

A. The Contractor must have internal controls to verify abnormal orders and to ensure that only authorized individuals place orders.

**6. Acceptance, Inspection, Contractual Deductions**

**6.1. Acceptance**

A. The Program Manager or designee is the only individual authorized to inspect the Contract Activities and determine whether the Contract Activities are acceptable. Notice of unacceptable conditions by anyone other than the Program Manager or designee should be forwarded to the Program Manager for verification.

- B. If the Program Manager or designee determine any portion of the Contract Activities are unacceptable, the Program Manager or designee will immediately notify the Contractor Representative by telephone with follow up written notice by email.
- C. Acceptance of Contract Activities is pursuant to Section 14 of the Standard Contract Terms.

## **6.2. Causes for Contractual Deductions**

- A. Contractor Representative failure to respond to notice of an unacceptable condition within the four (4) hours of telephone notification may result in a \$100.00 invoice deduction and an additional deduction of \$50.00 for every ½ hour of delay.
- B. Failure to *correct* the unacceptable condition within eight (8) business hours of telephone notice may result in an additional \$100.00 invoice deduction and an additional \$50.00 deduction for every ½ hour of delay.
- C. Deductible Incidents
  - 1. Failure to perform Contract Activities as required.
  - 5. Incomplete or Missing Records, Reports or MSDS sheets
  - 6. Failure to complete and submit any required report or form within the specified timeframe
  - 7. Failure to attend required meetings.
  - 8. Failure to Respond to Emergency Situations
  - 9. Unsatisfactory / Incomplete Snow Removal
  - 10. Inadequate Supplies
  - 11. Inadequate Equipment
  - 12. Failure to perform fall and / or spring site inspection.
  - 13. Failure to repair and / or replace damage or defects incurred as a result of Contract Activities.

## **6.3 Deductible Incidents, Escalation and Vendor Performance**

- A. Contractual Deductions and Deductible Incidents
  - 1. Failure to Respond to Emergency Situations
    - a. In the event of an emergency, the Program Manager or designee will telephone the Contractor.
    - b. Contractor failure to respond to the Program Manager or designee within TWO (2) hours of the initial call may result in a \$75.00 invoice deduction and an additional deduction of \$25.00 for every ½ hour of delay.
  - 2. Unsatisfactory / Incomplete Snow Removal, Inadequate Supplies / Equipment
    - a. The Program Manager or designee is authorized to determine whether Contract Activities are satisfactory.
    - b. If the Program Manager or designee determines any Contract Activity has not been adequately performed, the Program Manager or designee will immediately notify the Contractor of the unsatisfactory condition.
    - c. The Contractor must correct the unsatisfactory condition within eight (8) business hours from notice of the deficiency.
    - d. Failure to correct the unsatisfactory condition within eight (8) business hours may result in a \$25.00 invoice deduction.
  - 3. Inadequate or Unapproved Supplies

- a. Inadequate or unapproved supplies provided by Contractor may result in a \$50.00 invoice deduction.
4. Failure to perform fall and / or spring site inspection.
  - a. Failure to perform fall / spring site inspections and report observed conditions to the Program Manager may result in a \$250.00 invoice deduction.
  - b. Failure to repair and / or replace damage or defects incurred as a result of Contract Activities may result in the Program Manager taking appropriate measures to repair and / or replace damage or defects with an invoice deduction equal to the expense incurred. The Contractor will be provided with a copy of any invoice(s) for the repair / replacement.
- B. Escalation (Contract Compliance)
  1. First Instance –
    - a. If the Program Manager or designee determines the Contractor is non-compliant with the terms, conditions and / or specifications of the contract, or a Deductible Incident or Condition has occurred, the Program Manager or designee will:
      - i. Verbally notify the Contractor of the situation or issue
      - ii. Provide a description of the non-compliance or Deductible Incident or Condition.
      - iii. Specify a date by which the issue must be resolved.
    - b. The Contractor should provide the Program Manager or designee with a verbal root cause analysis and corrective action plan.
    - c. The Program Manager or designee will preserve a written record of the issue, proposed resolution, and time frame for inclusion in the annual Contract Compliance Report and provide a copy to the Contractor.
  2. Second Instance –
    - a. If resolution is not achieved, or the issue arises again, the Program Manager or designee will:
      - i. Schedule an in-person meeting with the Contractor and provide, in writing:
        - A description of the specific problem
        - A description of the actions the Contractor is expected to take to resolve the problem
        - A date by which the Contractor is expected to resolve the problem
        - Notify Contractor of the intent to exercise the Contractual Deduction
        - Request, in writing, the Contractor’s root cause and corrective action plan.
      - ii. Program Manager or designee should preserve a written record of the meeting, expectations, and resolution for inclusion in the annual Contract Compliance Report and provide a copy for the Contractor.
      - iii. Exercise the Contractual Deduction as a deduction from the next invoice.
      - iv. Enter a Vendor Performance Report in SIGMA.

3. If resolution is not achieved or the issue arises again, a written notice of termination may be sent to the Contractor.
4. In the event a contract is cancelled, the State may award the contract to the next lowest qualified bidder.

## **7. Invoice and Payment**

### **7.1. Invoice Requirements**

- A. All invoices submitted to the State must include: (a) date; (b) delivery order number (doc I.D.); (c) quantity; (d) description of the Contract Activities; (e) unit price; and (f) total price.
- B. All invoices will be verified against service receipts.
- C. Prior to release of payment, invoices will be adjusted to account for any outstanding invoice deductions, damaged or missing items and / or liquidated damages.

### **7.2. Payment Methods**

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

### **7.3. Procedure / Payment Terms**

- A. Payment terms are Net 45 Days after receipt of invoice (ARI).

## **8.0. Project Plan**

- A. The Contractor will carry out this project under the direction and control of the Program Manager. Within 30 calendar days of the Effective Date, the Contractor may be required to submit a project plan to the Program Manager for final approval. If requested the plan must include: (a) the Contractor's organizational chart with names and title of personnel assigned to the project, which must align with the staffing stated in accepted proposals; and (b) the project breakdown showing sub-projects, tasks, and resources required.

## **9.0. Liquidated Damages**

- A. 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 in the amount of \$500 and an additional \$100 per day for each day Contractor fails to remedy the late or improper completion of the Work.

## **SCHEDULE B - PRICING**

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**Department of Natural Resources**  
**Snow and Ice Removal Services**  
**DNR Escanaba Customer Service Center**  
**Contract No. 24000000106**

**MANDATORY DOCUMENT – SCORED FOR TECHNICAL EVALUATION**  
**COMPLETE AND ATTACH WITH PROPOSAL IN SIGMA VSS**

1. The Contractor is offering quick payment terms. The number of days does not include processing time for payment to be received by the Contractor's financial institution. Quick payment terms: 5% discount off invoice if paid within 7 days after receipt of invoice.

**SNOW AND ICE REMOVAL PRICING**

\*\*\* SNOW REMOVAL EQUIPMENT, DE-ICER AND SAND TO BE PROVIDED BY THE CONTRACTOR \*\*\*

Description of service required	Price per occasion	Estimated occasions	Estimated quote per year*
Plowing - plow snow from parking lot and driving areas when snow accumulation equals or exceeds 3".	\$175.00	30 Per Year	\$5,250.00
Shoveling - blow/shovel snow from sidewalks and entrances when snow accumulation equals or exceeds 3" and apply contractor supplied, program manager approved deicer to sidewalks and entrances.	\$ 50.00	30 Per Year	\$1,500.00
Sanding - apply contractor supplied sand to parking lot and driveway as requested by program manager or designee.	\$150.00	4 Per Year	\$600.00
Salting - apply contractor supplied deicer to parking lot and driveway as requested by program manager or designee.	\$150.00	4 Per year	\$600.00
<b>TOTAL QUOTE PER YEAR</b>			<b>\$ 7,950.00</b>
<b>TOTAL QUOTE FOR FIVE (5) YEAR CONTRACT (TOTAL QUOTE PER YEAR X 5)</b>			<b>\$39,750.00</b>