



STATE OF MICHIGAN PROCUREMENT

Department of Natural Resources

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

NOTICE OF CONTRACT

NOTICE OF CONTRACT NO. **24000000489**

between

THE STATE OF MICHIGAN

and

CONTRACTOR	Beaver Creek Wood Products, LLC
	993 – 26 th Street
	Menominee, MI 49858
	Chad Lemery
	715-330-5997
	chad@beavercreakwoodproducts.com
	VS0003706

STATE	Program Manager	Varies by Location	DNR
		Refer to Attached Location Specification	
STATE	Contract Administrator	Sheets for Program Manager Information	
		Lisa Crozier-Green	DNR
		517-388-6626	
		CrozierGreenL@michigan.gov	

CONTRACT SUMMARY			
DESCRIPTION: Heat-Treated Bundled Firewood for Resale at Bewabic State Park and Highland Recreation Area			
INITIAL EFFECTIVE DATE	INITIAL EXPIRATION DATE	INITIAL AVAILABLE OPTIONS	EXPIRATION DATE BEFORE CHANGE(S) NOTED BELOW
May 1, 2024	April 30, 2029	FIVE 1-Year Options to Renew	April 30, 2029
PAYMENT TERMS		DELIVERY TIMEFRAME	
Net 45		Per Location Specification Sheets	
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			
THIS IS NOT AN ORDER. This Contract Agreement is awarded on the basis of the State's inquiry bearing the solicitation number RFP 24000000806. 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			\$241,650.00

FOR THE CONTRACTOR:

Beaver Creek Wood Products, LLC

Company Name

E-SIGNED by Chad Lemery
on 2024-03-28 10:42:26 EDT

Authorized Agent Signature

Chad Lemery

Authorized Agent (Print or Type)

2024-03-28 10:42:26 UTC

Date

FOR THE STATE:

E-SIGNED by Laura Gyorkos
on 2024-03-28 10:43:16 EDT

Signature

Laura L. Gyorkos, Procurement Section Manager

Name & Title

Department of Natural Resources

Agency

2024-03-28 10:43:16 UTC

Date

STANDARD CONTRACT TERMS

This STANDARD CONTRACT (“**Contract**”) is agreed to between the State of Michigan (the “**State**”) and Beaver Creek Wood Products, LLC (“**Contractor**”), a Wisconsin Limited Liability Company.

This Contract is effective on May 1, 2024, (“**Effective Date**”), and unless terminated, will expire on April 30, 2029 (the “**Term**”).

This Contract may be renewed for up to FIVE (5) additional 1-Year Options to Renew.

Renewal is at the sole discretion of the State and will automatically extend the Term of this Contract. The State will document its exercise of renewal options via Contract Change Notice.

The parties agree as follows:

- 1. Duties of Contractor.** Contractor must perform the services and provide the deliverables (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 Department of Natural Resources 525 West Allegan, Constitution Hall Lansing, MI 48933 CrozierGreenL@michigan.gov 517-388-6626	Chad Lemery Director of Operations 993 – 26 th Street Menominee, MI 49858 chad@beavercreekwoodproducts.com 715-330-5997

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 Department of Natural Resources 525 West Allegan, Constitution Hall Lansing, MI 48933 CrozierGreenL@michigan.gov 517-388-6626	Chad Lemery Director of Operations 993 – 26 th Street Menominee, MI 49858 chad@beavercreekwoodproducts.com 715-330-5997

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:
See Schedule B1 – Location Specification Sheets for Program Manager contact information for each location included in this Contract.	Chad Lemery Director of Operations 993 – 26 th Street Menominee, MI 49858 chad@beavercreekwoodproducts.com 715-330-5997

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., notated 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
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	

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. **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.

- 9. 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.
- 10. Staffing.** The State's Contract Administrator may require Contractor to remove or reassign personnel providing services by providing a notice to Contractor.
- 11. 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.
- 12. 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.
- 13. 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.

14. **Ordering.** Contractor is not authorized to begin performance until receipt of authorization as identified in a Statement of Work.
15. **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.

16. **Delivery.** Contractor must deliver all Contract Activities F.O.B. destination, within the State premises with transportation and handling charges paid by Contractor, unless otherwise specified in a Statement of Work. All containers and packaging become the State's exclusive property upon acceptance.
17. **Risk of Loss and Title.** Until final acceptance, title and risk of loss or damage to Contract Activities remains with Contractor. Contractor is responsible for filing, processing, and collecting all damage claims. The State will record and report to Contractor any evidence of visible damage. If the State rejects the Contract Activities, Contractor must remove them from the premises within 10 calendar days after notification of rejection. The risk of loss of rejected or non-conforming Contract Activities remains with Contractor. Rejected Contract Activities not removed by Contractor within 10 calendar days will be deemed abandoned by Contractor, and the State will have the right to dispose of it as its own property. Contractor must reimburse the State for costs and expenses incurred in storing or effecting removal or disposition of rejected Contract Activities.
18. **Warranty Period.** The warranty period, if applicable, for Contract Activities is a fixed period commencing on the date specified in a Statement of Work. If the Contract

Activities do not function as warranted during the warranty period, the State may return such non-conforming Contract Activities to the Contractor for a full refund.

- 19. Invoices and Payment.** Invoices must conform to the requirements communicated from time-to-time by the State. All undisputed invoice 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.

- 20. 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.

21. 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.

22. 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.

- 23. 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.
- 24. 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.
- 25. 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.
- 26. 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.

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

- 30. State Data.** All data and information provided to Contractor by or on behalf of the State, and all data and information derived therefrom, is the exclusive property of the State (“**State Data**”); this definition is to be construed as broadly as possible. Upon request, Contractor must provide to the State, or a third party designated by the State, all State Data within 10 calendar days of the request and in the format requested by the State. Contractor will assume all costs incurred in compiling and supplying State Data. No State Data may be used for any marketing or commercial purposes.
- 31. 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.

- 32. 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.

- 33. 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.
- 34. 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.
- 35. Compliance with Laws.** Contractor must comply with all federal, state and local laws, rules and regulations.
- 36. Prevailing Wage.** Contractor must comply with prevailing wage requirements, to the extent applicable to this Contract.
- 37. 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.

- 38. 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.
- 39. 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.
- 40. 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.
- 41. 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.
- 42. 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.
- 43. 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.

44. 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 B1	Location Specification Sheets and Vendor Pricing

45. 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.

46. 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.

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

48. 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.

49. 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

Department of Natural Resources Bundled Firewood for State Park Campgrounds Contract No. 24000000489

The Contractors agrees to comply with all statutes, quarantines, requirements, and safe movement recommendations for non-heat-treated wood which includes, but is not limited to, movement of wood from the point of origin to the point of firewood processing, and movement of wood from point of firewood processing to delivery location. For information on current firewood regulations, the Contractor may contact the Michigan Department of Agriculture and Rural Development at <https://www.michigan.gov/mdard>.

Failure to move firewood according to all statutes, quarantines, requirements and safe movement recommendations for non-heat-treated wood may result in contract cancellation and re-award to another vendor.

The Contractor agrees to carry out the Contract Activities under the direction and control of the Department of Natural Resources (DNR) Contract Administrator and // or the location Program Manager.

The Contractor agrees to work in cooperation with the State to provide the safest, highest quality firewood available, at the lowest price possible, in a timely and efficient manner.

The Contractors agrees to work in partnership with awarded location staff, and agrees to deliver firewood to each location as specified.

Locations requiring the Contractor to unload, move pallets, or hand-stack do not have staff or equipment available and must be able to rely on the Contractor to perform as required.

Locations stating “preferred but not required” have staff and equipment available but must rely on their vendor to deliver on the preferred day and timeframe to ensure staff and equipment are in place and available to handle delivery.

REQUIREMENTS

A. General Requirements

1.1. Product Specifications

- A. The Contractor will be providing bundled firewood for resale. Bundled firewood has been heat treated in a USDA / APHIS certified kiln per Heat Treatment Schedule T314-a at 140° Fahrenheit for 60 minutes.
- B. The State reserves the right to independently verify USDA / APHIS kiln certification.

1. Non-heat-treated firewood (logs prior to cutting into firewood) should be obtained by the Contractor within the same county as the delivery location, whenever possible, and no more than fifty (50) miles from the point of origin to the delivery location, per National Firewood Task Force Recommendations <https://www.dontmovefirewood.org/resources/national-firewood-task-force-recommendations>. Non-heat-treated firewood should originate and be processed within one county, or within 50 miles of the delivery location. The transportation distance must not violate any Federal or State EAB (or other species) quarantines currently in place, or that may be instituted during the duration of this Contract.
2. All firewood, heat-treated and non-heat-treated, must be transported in accordance with restrictions under federal and / or state quarantines. <https://www.michigan.gov/mdard>. Hardwood firewood that has been heat treated per USDA / APHIS heat treatment schedule T314-a or T314-c is exempt from quarantine movement restrictions if it is packaged, bears a USDA compliance stamp, and is clearly marked with the producer's name and address.

C. Bundle Size. The Contractor agrees all firewood bundles will meet Industry Standard - $\frac{3}{4}$ of a cubic foot per bundle. The bundle size will be 12" x 12" x 16".

D. Bundled Firewood The Contractor will be supplying split log firewood.

1. **Split Log Firewood Bundles** will contain:
 - a. at least **60% hardwood**, excluding **poplar, ash, and hemlock**.
 - b. no more than 10% bark.
 - c. wood pieces of varying sizes.
 - d. at least 10 pieces of wood.
 - e. The largest piece of wood should be no larger than 5" x 5" x bundle length, the smallest piece should be no smaller than 1" x 2" x bundle length.

E. Wrapping Material.

1. The Contractor agrees all firewood bundles will be securely wrapped or banded with non-toxic, combustible, stretch netting.
2. Stretch netting will be wrapped a minimum of 3 to 4 times around the bundle.
3. Stretch netting will not fully enclose the bundle and will allow air circulation.
4. The Contractor will include 65 – 75 bundles per pallet.
5. The Contractor agrees pallets will not be stacked higher than 60", including the depth of the pallet, and will be securely banded or wrapped to prevent shifting of bundles during transport and movement to storage.

F. Location Specification Sheets and Vendor Pricing

1. Schedule B1 – Location Specification Sheets (LSS) are included for each location included in this Contract and provide the location name and address, site contact information, estimated annual requirements, unloading requirements, price per bundle, designated point of contact, and preferred days and timeframes for delivery.
2. **Estimated annual requirements.**
 - a. Estimated annual requirements are based on the average number of bundles sold at each location over the previous five-year period and are provided for bidding purposes only.

- b. Estimated annual requirements are not a guarantee of the number of bundles that may be purchased annually.
 - c. Estimated annual requirements are not a limit to the number of bundles that may be required.
- 3. Maximum Delivery Vehicle Length.**
- a. State Park campgrounds are high-use areas with large numbers of campers and traffic and some locations do not have space to maneuver large delivery vehicles, i.e., semi-trailers.
 - b. The Contractor has reviewed the LSS for each location included in this Contract and agrees delivery vehicle(s) are acceptable.
- 4. Bundles Delivered on Pallets / Maximum Pallets per Delivery.**
- a. All locations included in this Contract allow delivery on pallets and have specified the maximum number of pallets they can accept per delivery. The maximum number of pallets is based on storage availability.
 - The maximum number of pallets per delivery is NOT a guarantee of the number of pallets that may be ordered.
 - Locations may order less than, or more than, the maximum number of pallets stated per delivery.
 - b. Contractor Pallets – Each location included in this Contract has stated the maximum number of empty Contractor pallets that may remain on site. The Contractor agrees to work with the Designated Point of Contact at each awarded location to arrange a suitable location for empty pallets to be stored prior to Contractor retrieval.
 - i. Empty pallets left on site remain the Contractor's responsible and may be subject to damage or theft.
 - ii. Empty pallets in excess of the number specified which are left on site more than 30 calendar days become the property of the DNR.
- 5. Contractor to Unload Truck.**
- a. The Contractor has reviewed the LSS for each location included in this Contract and agrees to unloading requirements.
 - b. The Contractor agrees to provide Lift Gate Service.
 - c. The Contractor will be using a third-party delivery service and agrees the delivery company will be required to provide a pallet jack will be responsible for moving pallets to the rear of the delivery vehicle.
 - d. The Contractor agrees to ensure the delivery company complies with any location delivery requirements, i.e., maximum vehicle size / type, unloading, moving pallets to storage and / or moving pallets to rear of delivery vehicle.
- 6. Contractor to Move Pallets to Storage.**
- a. The Contractor agrees to move pallets to storage for locations requiring this service.
- 7. Contractor to Hand Stack Wood.**
- a. Locations originally included in this Contract do not require the Contractor to hand-stack bundles.
- 8. Other Requirements.**
- a. The Contractor has reviewed the LSS for each location included in this Contract and agrees to Other Requirements stated.
- 9. Price per Bundle.**

- a. The Contractor has provided a Price per Bundle on each Location Specification Sheet included in this Contract. Pricing is per bundle for standard delivery, and a quoted price per bundle for “on-call” or less than 7-day delivery.
- 10. Designated Point of Contact.**
- a. The preferred method of communication between the Contractor and Designated Point of Contact is email.
 - b. The Designated Point of Contact is the authorized contact for each location. The Designated Point of Contact is responsible for placing orders, accepting / rejecting deliveries, confirming / rescheduling deliveries, receiving invoices, etc.
- 11. Preferred Delivery Day / Preferred Delivery Timeframe.**
- a. A Preferred Delivery Day and Timeframe has been provided for each location requiring bundled firewood.
 - b. The Contract Administrator and Designated Point of Contact will work with the Contractor to negotiate and confirm preferred delivery days and timeframes prior to Contract execution.
 - c. After Contract execution, the Contractor agrees to organize their delivery schedules to meet the preferred delivery day and timeframe for each location on Contract.
- 12. Orders for Firewood.**
- a. Orders may be periodic or scheduled, pre-arranged, standing weekly / biweekly deliveries.
 - b. Periodic orders will be placed to allow:
 - i. 7-calendar days prior to the preferred delivery day / timeframe AND 14-calendar days prior to Holiday or high-use weekends. See Section 18, below, for anticipated Holiday and high-use weekend timeframes.
 - Orders requesting less than 7-day lead time are subject to Contractor agreement and any quoted upcharge.
 - ii. Pre-arranged, standing orders are encouraged and the Contractor may allow scheduling priority.
 - iii. If the Contractor is unable to make delivery on the established day, or within the established timeframe, the Contractor agrees to notify the Designated Point of Contact within 8 business hours after receipt of order to arrange an alternate delivery day / timeframe as soon as possible and preferably within 7 calendar days of receipt of order.
- 13. Holidays and High-Use Weekends.**
- a. The Contractor is aware of potential substantial increases in firewood orders prior to a Holiday or High-Use weekend and will be prepared to ensure locations are adequately stocked before campers arrive by monitoring / managing deliveries, maintaining adequate inventory, and ensuring delivery vehicles and drivers are available.
 - b. Holiday weekends include:
 - 1. Memorial Day Weekend. Camping increases from Thursday before to Wednesday after. This is the first busy weekend of the season. Most locations are stocked. Depending on the weather during May, could require additional firewood.

2. Father's Day Weekend. Camping increases from Friday before to Tuesday after. Expect an increase in orders the first two full weeks in June.
3. Fourth of July Weekend. Camping increases from Thursday before to weekend after. Expect an increase in orders the last week in June through the third week in July.
4. Fourth of July through Labor Day. Depends on the weather, but Contractors must be aware this is the heart of camping season and firewood requirements are high.
5. Labor Day Weekend. Camping increases from Thursday before to Tuesday after.
6. Post-Labor Day – many campgrounds will place “top-off” orders to ensure a full supply for the next camping season.
7. High-Use Weekends and Special Event Weekends – Contractors must discuss with the Designated Point of Contract and be prepared for increased requirements for high-use periods and special events.

14. Pre-Season Start up and Post-Season Top Off

- a. Some locations prefer to order a “post-season top off” delivery late in the camping season to ensure a full supply of firewood is on hand at the beginning of the next camping season, avoid the spring rush, and potential delivery delays due to MDOT spring load restrictions. Locations with inadequate storage order “pre-season start-up” delivery as soon as location conditions allow. The Contractor agrees to monitor locations on Contract and note which locations request post-season top off and which are likely to order in spring.

15. If the Contractor experiences *extended lead times due to increased DNR location requirements or supply chain issues*, the Contractor agrees to contact the Contract Administrator as soon as they are aware of any potential disruption to delivery schedules.

- a. The Contract Administrator will contact backup suppliers to ensure adequate firewood supplies at DNR locations.
- b. Disruptions to Contractor schedules due to non-DNR contracts or other disruptions in service may result in contract locations being removed from the Contract and may result in contract termination.

1.2. Delivery Vehicles

- A. Unless otherwise stated in the Location Specification Sheet, delivery may be by semi-trailer, cargo trailer, box truck, stake truck, truck and trailer or third-party vendor (subcontractor).
- B. If the Contractor delivers firewood in an open vehicle or trailer, the Contractor agrees to provide load protection to ensure the wood remains dry during transport to the delivery location.
 - a. Load protection may include, but is not limited to, plywood or other sheathing placed below pallets or bundles, tarps placed under and/or secured around / over pallets or bundles, etc.
 - b. The State reserves the right to reject any firewood delivered damp or found to be damp as bundles are sold and removed from pallets. See Section 7.1 below for Inspection and Correction of Deficiencies, and Section 7.2 for Vendor Performance and Contractual Deductions.

- c. The Contractor will utilize third-party vendors (subcontractors) for deliveries. The subcontractor are:
 - 1. US Special Delivery
 - 2. DMA, Inc.
- d. Please refer to Section 3.3 Disclosure of Subcontractors, for additional subcontractor information.
- e. The Contractor agrees to assume responsibility for the subcontractor and ensure the subcontractor complies with all location delivery requirements.

1.3. Warranties

- A. The Contractor agrees all firewood shall be dry and free from mold, insects, and disease at the time of delivery.
- B. The Contractor agrees to comply with all stated and / or negotiated requirements for each location included in any resulting Contract.
- C. The State reserves the right to require additional warranties other than those identified by the Contractor in response to this RFP.

1.4. Transition

A. Contract Execution:

- 1. This Contract is effective May 1, 2024.
- 2. Locations included in this Contract may begin placing orders for firewood delivery as soon as Delivery Orders are issued (see Section 5, Ordering).
- 3. The Contractor agrees to be prepared to begin making deliveries as early as May 8, 2323 (subject to any MDOT spring load restrictions) to ensure all locations on Contract are fully stocked for the beginning of the 2024 camping season.

B. Post-Contract Transition:

- 1. At Contract Expiration – If no Option Years are available on the Contract, The Contractor agrees final invoices will be sent no later than 45 days after contract expiration.
- 2. Invoices received more than 45 days after contract expiration will result in a non-payment of invoice.

2.0 Service Requirements

2.1 Timeframes

- A. The Contractor agrees all Contract Activities will be delivered within SEVEN (7) calendar days from receipt of order OR within FOURTEEN (14) calendar days for orders required for Holiday or high-use weekends OR per scheduled, pre-arranged delivery.
- B. The Contractor agrees all Contract Activities will be delivered per Location Specification Sheet requirements, on the pre-arranged delivery day and timeframe.
- C. The receipt of order date is pursuant to the **Notices** section of the *Standard Contract Terms*.

3.0 Staffing

3.1 Contractor Representative

- A. The Contractor has appointed ONE (1) individual specifically assigned to any resulting Contract who will respond to DNR inquiries regarding the Contract Activities, answer questions related to ordering and delivery, etc. (the “Contractor Representative”).
- B. The Contractor must notify the Contract Administrator at least TEN (10) business days before removing or assigning a new Contractor Representative.

Contractor Representative	
Name:	Chad Lemery
Phone:	715-330-5997
Email:	chad@beavercreekwoodproducts.com
Days Available:	Monday - Friday
Times Available:	8:00 a.m. – 5:00 p.m. CST
Preferred Contact Method:	<input checked="" type="checkbox"/> Phone Call <input type="checkbox"/> Text <input checked="" type="checkbox"/> Email

3.2 Key Personnel

- A. The Contractor has appointed one individual who will be directly responsible for the day-to-day operations of the Contract (“Key Personnel”).
- B. Key Personnel will be specifically assigned to the State account, be knowledgeable on the contractual requirements, and respond to State inquiries within 8 business hours.
- C. The Contractor agrees they will not remove or assign Key Personnel without the prior consent of the State. Prior consent is not required for reassignment for reasons beyond the Contractor’s control, including illness, disability, death, leave of absence, personal emergency circumstances, resignation, or termination for cause.

Key Personnel	
Name:	Megan Koesling
Phone:	715-330-5997
Email:	mkoesling@beavercreekwoodproducts.com
Days Available:	Monday - Friday
Times Available:	8:00 a.m. – 4:00 p.m. CST
Preferred Contact Method:	<input checked="" type="checkbox"/> Phone Call <input type="checkbox"/> Text <input checked="" type="checkbox"/> Email

3.3 Disclosure of Subcontractors

- A. The Contractor intends to utilize subcontractors, and agrees to remain responsible for Subcontractor during performance of Contract Activities.
- B. The Contractor must guarantee the subcontract will deliver per all Location Specification Sheet requirements.

Subcontractor	
Name:	US Special Delivery
Phone:	800-775-2829
Email:	jray@usspecial.com
Preferred Contact Method:	<input type="checkbox"/> Phone Call <input type="checkbox"/> Text <input checked="" type="checkbox"/> Email
Contract Activities to be performed by the Subcontractor:	Pallet delivery.

Subcontractor	
Name:	DMA, Inc.
Phone:	317-638-7258
Email:	nickb@saltedawg.com
Preferred Contact Method:	<input type="checkbox"/> Phone Call <input type="checkbox"/> Text <input checked="" type="checkbox"/> Email
Contract Activities to be performed by the Subcontractor:	Pallet delivery.

4. Pricing

4.1 Price Term

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

4.2 Price Changes

- A. 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.
- 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 for the Contract will be a properly executed Delivery Order (DO). Contractor is not permitted to begin service at any location on Contract until a Delivery Order for that location has been executed.

6. Delivery

6.1 Delivery Programs

- A. The Contractor intends to utilize a third-party delivery service (subcontractor) and has provided detailed information in Section 3.3 Disclosure of Subcontractors, above.

6.2 Packaging and Palletizing

- A. The Contractor agrees palletized firewood will be stacked no more than 60” high, including depth of pallet and will be securely banded or wrapped to prevent shifting of bundles during transport and movement to storage.

- B. The Contractor agrees to work with the Designated Point of Contact at each awarded location to arrange a suitable location for empty pallets and the maximum number of pallets to be stored on site.
- C. The Contractor agrees empty pallets will be retrieved at each new delivery, or when the quantity of empty pallets reaches the maximum number allowed.
- D. The Contractor agrees pallets left on site remain the Contractor's responsible and may be subject to damage or theft.
- E. Pallets left on site more than 30 calendar days become the property of the DNR and may be removed or destroyed.

7. Acceptance

7.1 Acceptance, Inspection and Correction of Deficiencies

- A. Deliveries will be accepted on the negotiated and confirmed Preferred Delivery Day and during the Preferred Delivery Timeframe.
- B. Inspection / Acceptance may occur any time after delivery. Bundles will be inspected as used / sold.
- C. The Program Manager or Designated Point of Contact or designee will notify the Contractor by email of any deficiencies including but not limited to, failure to meet delivery time frame, failure to meeting unloading or stacking requirements, unseasoned (green), damp, moldy, insects, disease, incorrect quantities of wood, prohibited wood species, wood sizes that do not meet specifications, prohibited wood species, undersized bundles, or inadequately or inappropriately wrapped bundled wood.
- D. Upon receipt of notification of deficiencies, the Contractor agrees to respond to the Program Manager, Designated Point of Contact or designee by email to schedule a date and time to correct any deficiencies within 48 hours of notification by retrieving and replacing any deficient bundles at no additional cost to the State.
- E. Failure to perform or failure to correct deficiencies within the specified time may result in a deductible incident, Vendor Performance Report entered against the Contractor, and / or contract cancellation.
- F. Performance Evaluations will be provided to the Contractor noting exceptions in performance to the required specifications.

7.2 Vendor Performance and Contractual Deductions

- A. Contractual Deductions and Deductible Incidents
 - 1. Deductible Incidents include, but are not limited to:
 - a. Failure to meet delivery time frames.
 - b. Failure to meet unloading or stacking requirements.
 - c. Unseasoned (green) or Damp firewood bundles
 - d. Moldy firewood bundles
 - e. Diseased wood in bundles
 - f. Prohibited wood species in bundles.
 - g. Undersized bundles
 - h. Inadequate wrapping or bundling
 - i. In appropriate wrapping or bundling (i.e., toxic or non-combustible materials).
 - 2. Failure to Meet Delivery Time Frames

- a. Contractors unable to meet scheduled delivery time frames are required to notify the Program Manager or designee of the delay and reschedule the delivery date and / or time. Contractor failure to meet delivery time frame, or failure to notify the Program Manager or designee of the inability to meet the scheduled delivery time frame, may result in a \$75.00 invoice deduction and an additional deduction of \$25.00 for every four hours of delay.
3. Failure to Meet Unloading or Stacking Requirements
 - a. If the Program Manager or designee determines that the Contractor has failed to meet unloading or stacking requirements, the Program Manager or designee will immediately notify the Contractor of the failure.
 - b. The Contractor must correct the unsatisfactory condition within 48 hours from notice of the deficiency.
 - c. Failure to correct the unsatisfactory condition within 48 hours may result in a \$100.00 invoice deduction.
4. Unseasoned (green), Damp or Moldy Firewood Bundles
 - a. DNR staff will notify Contractor of any unseasoned (green) or damp firewood bundles discovered.
 - b. Within 48 hours of notification, the Contractor will pick up, properly dispose of, and replace the Unseasoned (green) or damp bundles free of charge.
 - c. Failure to correct the unsatisfactory condition with 48 hours may result in a \$100.00 invoice deduction and an additional deduction of \$100.00 for each day of delay.
5. Moldy, Insect Infested, Diseased Wood, Prohibited Wood in Firewood Bundles
 - a. DNR staff will notify Contractor of any moldy, insect infested, diseased, prohibited species firewood bundles discovered and will immediately dispose of the bundles.
 - b. Within 48 hours of notification, the Contractor will replace the deficient bundles free of charge.
 - c. Failure to correct the unsatisfactory condition with 48 hours may result in a \$100.00 invoice deduction and an additional deduction of \$100.00 for each day of delay.
6. Undersized Bundles or Inadequate wrapping or bundling.
 - a. DNR staff will notify Contractor of any undersized or inadequately wrapped or bundled firewood discovered.
 - b. Within 48 hours of notification, the Contractor will pick up, properly dispose of, and replace the deficient bundled firewood, free of charge.
 - c. Failure to correct the unsatisfactory condition with 48 hours may result in a \$100.00 invoice deduction and an additional deduction of \$100.00 for each day of delay.
7. Inappropriate wrapping or bundling (i.e., toxic or non-combustible materials).
 - a. DNR staff will notify Contractor of any inappropriately wrapped or bundled firewood discovered.

- b. Within 48 hours of notification, the Contractor will pick up, properly dispose of, and replace the inappropriately wrapped or bundled firewood, free of charge.
 - c. Failure to correct the unsatisfactory condition with 48 hours may result in a \$100.00 invoice deduction and an additional deduction of \$100.00 for each day of delay.
 - 8. In the event that the Contractor has not corrected the unsatisfactory condition and the State is forced to sell damp, moldy, or inadequately wrapped or bundled wood, the State may elect to sell the bundles at a discounted price. The State will photograph the unsatisfactory condition and provide the Contractor with the photograph and a total number of unsatisfactory bundles sold. The Contractor will replace the unsatisfactory bundles at no charge to the State.
 - 9. If the deficiency results in an inadequate supply of firewood available for resale, the Program Manager, Designated Point of Contact or designee may order an adequate supply of firewood from an alternate vendor. The purchase of firewood from an alternate vendor may result in an invoice credit equal to any incurred additional expense to the State.
- 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:
 - 1. A description of the specific problem
 - 2. A description of the actions the Contractor is expected to take to resolve the problem.
 - 3. A date by which the Contractor is expected to resolve the problem.
 - 4. Notify Contractor of the intent to exercise the Contractual Deduction
 - 5. Request, in writing, the Contractor's root cause and corrective action plan.

- b. 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.
 - c. Exercise the Contractual Deduction as a deduction from the next invoice.
 - d. 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.

10. Invoice and Payment

10.1 Invoice Requirements

- A. 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.
- B. End of Fiscal Year Invoices
 - a. The State of Michigan fiscal year runs from October 1 through September 30 of the following year.
 - b. All invoices for firewood deliveries made prior to September 30 each year must be submitted no later than October 10th.

10.2 Payment Methods

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

11. 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.

12. Additional Requirements

12.1 Environmental and Energy Efficiency Product Standards

- A. The Contractor must identify any energy efficient, bio-based, or otherwise environmentally friendly products used in the products. Contractor must include any relevant third-party certification, including the verification of a United States Department of Agriculture certified bio-based product label. Contractor must describe how products that meet these requirements are identified or otherwise labelled.

12.2 Hazardous Chemical Identification

- A. In accordance with the federal Emergency Planning and Community Right-to-Know Act, 42 USC 11001, et seq., as amended, the Contractor must provide a Material Safety Data Sheet listing any hazardous chemicals as defined in 40 CFR §370.2, to be delivered. Each hazardous chemical must be properly

identified, including any applicable identification number, such as a National Stock Number or Special Item Number.

12.3 Mercury Content

- A. Pursuant to MCL 18.1261d, mercury-free products must be procured when possible. The Contractor must explain if it intends to provide products containing mercury, the amount or concentration of mercury, and whether cost competitive alternatives exist. If a cost competitive alternative does exist, the Contractor must provide justification as to why the particular product is essential. All products containing mercury must be labeled as containing mercury.

SCHEDULE B - PRICING

**Department of Natural Resources
Bundled Firewood for State Park Campgrounds
Contract No. 240000000489**

1. 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).
2. The Contractor is not offering quick payment terms. The number of days must not include processing time for payment to be received by the Contractor's financial institution.

SCHEDULE B1 - LOCATION SPECIFICATION SHEETS and VENDOR PRICING

Location:	Bewabic State Park
Address:	720 Idlewild Road, Crystal Falls, MI 49920
County:	Iron
Project Manager:	Joseph Freiberg
Title:	Unit Supervisor
Email:	FreibergJ2@michigan.gov
Phone:	906-875-3324
Accounting Asst:	Kristie Peterson
Email:	petersonk14@michigan.gov
Phone:	906-842-3341
Estimated Annual Requirements:	1500 bundles
Maximum Delivery Vehicle Length:	N/A – location can accept any size delivery vehicle
Bundles Delivered on Pallets:	Yes
Maximum Pallets per Delivery:	7
Maximum Empty Pallets On Site:	40
Designated Empty Pallet Location:	Behind Headquarters building
Contractor to Unload Truck:	Yes
Lift Gate Required:	Yes
Contractor to Move Pallets to Storage:	No
Pallet Jack Required:	Yes – Contract must move pallets to rear of truck
Contractor to Hand Stack Bundles:	No
Other Requirements:	Pallets cannot weigh more than 1,100 lbs.
Price per Bundle:	\$4.49
Less Than 7 Day Delivery:	\$5.49
Designated Point of Contact:	Kristie Peterson
Preferred Weekly Delivery:	Tuesday 8:00 a.m. – noon (LOCAL TIME)

Location:	Highland Recreation Area
Address:	5200 Highland Road, White Lake MI 48383
County:	Oakland
Project Manager:	Paul Majchrowski
Title:	Unit Supervisor
Email:	MajchrowskiP@michigan.gov
Phone:	248-889-3750
Accounting Technician:	Holly Wilson
Email:	WilsonH3@michigan.gov
Delivery Address:	248-685-2433
Estimated Annual Requirements:	3500 bundles
Maximum Delivery Vehicle Length:	N/A – Location can accept any size delivery vehicle
Bundles Delivered on Pallets:	Yes
Maximum Pallets per Delivery:	2
Maximum Empty Pallets On Site:	6
Designated Empty Pallet Location:	Front office next to storage shed
Contractor to Unload Truck:	Yes
Lift Gate Required:	Yes
Contractor to Move Pallets to Storage:	Yes
Pallet Jack Required:	Yes – Contractor must move pallets to rear of truck
Contractor to Hand Stack Bundles:	No
Other Requirements:	N/A
Price per Bundle:	\$4.98
Less Than 7 Day Delivery:	\$5.98
Designated Point of Contact:	Paul Majchrowski
Delivery Day and Time:	Wednesday noon – 4:00 p.m.