Form No. DTMB-3521 (Rev. 4/2012)
AUTHORITY: Act 431 of 1984
COMPLETION: Required
PENALTY: Contract change will not be executed unless form is filed

**STATE OF MICHIGAN**
**DEPARTMENT OF TECHNOLOGY, MANAGEMENT AND BUDGET** **May 23, 2012**
**PROCUREMENT**
**P.O. BOX 30026, LANSING, MI 48909**
**OR**
**530 W. ALLEGAN, LANSING, MI 48913**

# CHANGE NOTICE NO. 3
**To**
# CONTRACT NO. 071B8200297
**Between**
# THE STATE OF MICHIGAN
**And**

| NAME & ADDRESS OF CONTRACTOR: | PRIMARY CONTACT | EMAIL |
|---|---|---|
| **Western Tel-Com** | **Kurt Friedriechsen** | **KurtF@westerntel-com.com** |
| **P. O. Box 1317** | TELEPHONE | CONTRACTOR #, MAIL CODE |
| **Holland, MI 49422-0000** | **(616) 393-0138** | |

| STATE CONTACTS | AGENCY | NAME | PHONE | EMAIL |
|---|---|---|---|---|
| CONTRACT COMPLIANCE INSPECTOR: | **DTMB** | **Steve McMahon** | **(517) 373-6353** | **McmahonS@michigan.gov** |
| BUYER: | **DTMB** | **Christine Mitchell** | **(517) 335-0462** | **mitchellc4@michigan.gov** |

| INITIAL CONTRACT SUMMARY: | | | |
|---|---|---|---|
| DESCRIPTION: **Cable Materials and Installation, Voice & Data – DIT – Statewide** | | | |
| INITIAL TERM | EFFECTIVE DATE | INITIAL EXPIRATION DATE | AVAILABLE OPTIONS |
| **3 Years** | **September 1, 2008** | **August 30, 2011** | **None** |
| PAYMENT TERMS | F.O.B | SHIPPED | SHIPPED FROM |
| **N/A** | **Delivered/Installed** | **N/A** | **N/A** |
| ALTERNATE PAYMENT OPTIONS: | | | AVAILABLE TO MiDEAL PARTICIPANTS |
| ☐ P-card ☐ Direct Voucher (DV) ☐ Other | | | ☒ YES ☐ NO |
| MINIMUM DELIVERY REQUIREMENTS: | | | |
| **N/A** | | | |

| DESCRIPTION OF CHANGE NOTICE: | |
|---|---|
| OPTION EXERCISED: ☒ NO ☐ YES | IF YES, NEW EXPIRATION DATE: |
| **The attached Statement of Work (SOW) and the associated pricing for Tracable Patchcoards is hereby added to this contract with no additional changes to existing Contract parameters. This Change will allow for the use of traceable patchcords in the States communication network, which will allow troubleshooting and repair of troubles to occur in a more expedient manner. See attached product description and pricing.** | |
| VALUE/COST OF CHANGE NOTICE: | **$0** |
| ESTIMATED REVISED AGGREGATE CONTRACT VALUE: | **$5,000,000.00** |

Western Tel-Com, Inc.
11751 Levan
Livonia, MI 48150

Office: 734 432 5138
Fax: 734 432 5139
Email: rogerm@westerntel-com.com

April 2, 2012

State of Michigan
Stan Paterson, RCDD
3068 W. Grand Blvd. Suite 7-500
Detroit, MI 48202

Subject: Traceable Patch Cords

Dear Mr. Paterson,

WTC respectfully submits the following pricing for the provision of Tracable Patch Cords:

**See the attached Spreadsheet:**

Please review the following scopes of work and contact me with questions at 734 432 5138 x12 or 810 343 5140.

Regards,

Roger A. Mahlmeister, RCDD
Area Manager

1-Attachment

April 2, 2012
Subject: Traceable Patch Cords

The following information is provided:

- Assembled in U.S.A.
- Batteries typcally last between 5 to 7 years depending upon enviornment
- Presently batteries will be replaced at no charge (a small shipping charge would be applicable)
- Lead times vary depended upon quantities and cordaged ordered (typically two weeks)
- Orders over 1,000 would qualifiy for discounted pricing

**Contingincies:**

Pricing does not include shipping. Shipping based on weight. See below for a estimate of weights for the various patch cords:

| | | |
|---|---|---|
| 2FT | QTY 10 | = 1LB |
| 3FT | QTY 10 | = 1LB |
| 5FT | QTY 10 | =2 LB |
| 6FT | QTY 10 | =2 LB |
| 7FT | QTY 10 | =2 LB |
| 10FT | QTY 10 | =3 LB |
| 15FT | QTY 10 | =4 LB |
| 16FT | QTY 10 | =5 LB |
| 20FT | QTY 10 | =6 LB |
| 25FT | QTY 10 | =7 LB |
| 35FT | QTY 5 | =5 LB |
| 50FT | QTY 5 | =7 LB |
| 100FT | QTY 5 | =14 LB |

| Part Number | Description | Unit Cost |
|---|---|---|
| Category 6 | | |
| EVO-6U-03-CC | CAT6 Patch Cord | $ 8.45 |
| EVO-6U-05-CC | CAT6 Patch Cord | $ 9.25 |
| EVO-6U-06-CC | CAT6 Patch Cord | $ 9.65 |
| EVO-6U-07-CC | CAT6 Patch Cord | $ 10.04 |
| EVO-6U-10-CC | CAT6 Patch Cord | $ 11.24 |
| EVO-6U-15-CC | CAT6 Patch Cord | $ 13.23 |
| EVO-6U-16-CC | CAT6 Patch Cord | $ 13.63 |
| EVO-6U-20-CC | CAT6 Patch Cord | $ 15.22 |
| EVO-6U-025-CC | CAT6 Patch Cord | $ 17.41 |
| EVO-6U-50-CC | CAT6 Patch Cord | $ 27.98 |
| EVO-6U-100-CC | CAT6 Patch Cord | $ 48.71 |

| Part Number | Description | Unit Cost |
|---|---|---|
| Category 6A | | |
| EVO-6F-03-CC | CAT6A Patch Cord | $ 10.14 |
| EVO-6F-05-CC | CAT6A Patch Cord | $ 11.39 |
| EVO-6F-06-CC | CAT6A Patch Cord | $ 12.11 |
| EVO-6F-07-CC | CAT6A Patch Cord | $ 12.75 |
| EVO-6F-10-CC | CAT6A Patch Cord | $ 14.67 |
| EVO-6F-15-CC | CAT6A Patch Cord | $ 17.85 |
| EVO-6F-16-CC | CAT6A Patch Cord | $ 18.50 |
| EVO-6F-20-CC | CAT6A Patch Cord | $ 21.05 |
| EVO-6F-025-CC | CAT6A Patch Cord | $ 24.24 |
| EVO-6F-50-CC | CAT6A Patch Cord | $ 41.04 |
| EVO-6F-100-CC | CAT6A Patch Cord | $ 73.80 |

| Part Number | Description | Unit Cost |
|---|---|---|
| Regular Fiber | | |
| EVOF-LL-MD-01M | 1 Meter LC/LC MM 62.5 125 Duplex Orange | $ 23.89 |
| EVOF-LL-MD-02M | 2 Meter LC/LC MM 62.5 125 Duplex Orange | $ 25.14 |
| EVOF-LL-MD-03M | 3 Meter LC/LC MM 62.5 125 Duplex Orange | $ 26.38 |
| EVOF-LL-MD-05M | 5 Meter LC/LC MM 62.5 125 Duplex Orange | $ 28.89 |
| EVOF-LL-MD-10M | 10 Meter LC/LC MM 62.5 125 Duplex Orange | $ 35.15 |
| EVOF-LL-SD-01M | 1 Meter LC/LC SM 9/125 Duplex Yellow | $ 26.47 |
| EVOF-LL-SD-02M | 2 Meter LC/LC SM 9/125 Duplex Yellow | $ 27.58 |
| EVOF-LL-SD-03M | 3 Meter LC/LC SM 9/125 Duplex Yellow | $ 28.68 |
| EVOF-LL-SD-05M | 5 Meter LC/LC SM 9/125 Duplex Yellow | $ 30.88 |
| EVOF-LL-SD-10M | 10 Meter LC/LC SM 9/125 Duplex Yellow | $ 36.40 |
| EVOF-LL-LO3-01M | 1 Meter LC/LC 10G OM3 | $ 26.45 |
| EVOF-LL-LO3-02M | 2 Meter LC/LC 10G OM3 | $ 28.72 |
| EVOF-LL-LO3-03M | 3 Meter LC/LC 10G OM3 | $ 31.00 |
| EVOF-LL-LO3-05M | 5 Meter LC/LC 10G OM3 | $ 35.53 |
| EVOF-LL-LO3-10M | 10 Meter LC/LC 10G OM3 | $ 46.88 |
| EVOF-LL-LO4-01M | 1 Meter LC/LC 10G OM4 MM-50 50/125 Purple | $ 27.44 |
| EVOF-LL-LO4-02M | 2 Meter LC/LC 10G OM4 MM-50 50/125 Purple | $ 30.72 |
| EVOF-LL-LO4-03M | 3 Meter LC/LC 10G OM4 MM-50 50/125 Purple | $ 33.98 |
| EVOF-LL-LO4-05M | 5 Meter LC/LC 10G OM4 MM-50 50/125 Purple | $ 40.51 |
| EVOF-LL-LO4-10M | 10 Meter LC/LC 10G OM4 MM-50 50/125 Purple | $ 56.85 |

| Part Number | Description | Unit Cost |
|---|---|---|
| Bend Sensitive | | |
| | | |
| EVOF-LL-BI-SD-01M | 1 Meter LC/LC LED BI-SM 9/125 Duplex Yellow | $ 26.69 |
| EVOF-LL-BI-SD-02M | 2 Meter LC/LC LED BI-SM 9/125 Duplex Yellow | $ 28.00 |
| EVOF-LL-BI-SD-03M | 3 Meter LC/LC LED BI-SM 9/125 Duplex Yellow | $ 29.32 |
| EVOF-LL-BI-SD-05M | 5 Meter LC/LC LED BI-SM 9/125 Duplex Yellow | $ 31.94 |
| EVOF-LL-BI-SD-10M | 10 Meter LC/LC LED BI-SM 9/125 Duplex Yellow | $ 38.52 |
| | | |
| EVOF-LL-BI-LO-01M | 1 Meter LC/LC BI OM3 9/125 Duplex Aqua | $ 27.09 |
| EVOF-LL-BI-LO-02M | 2 Meter LC/LC BI OM3 9/125 Duplex Aqua | $ 29.99 |
| EVOF-LL-BI-LO-03M | 3 Meter LC/LC BI OM3 9/125 Duplex Aqua | $ 32.90 |
| EVOF-LL-BI-LO-05M | 5 Meter LC/LC BI OM3 9/125 Duplex Aqua | $ 38.71 |
| EVOF-LL-BI-LO-10M | 10 Meter LC/LC BI OM3 9/125 Duplex Aqua | $ 53.25 |
| | | |
| EVOF-LL-BI-O4-01M | 1 Meter LC/LC BI OM4 50/125 Duplex Purple | $ 28.09 |
| EVOF-LL-BI-O4-02M | 2 Meter LC/LC BI OM4 50/125 Duplex Purple | $ 31.99 |
| EVOF-LL-BI-O4-03M | 3 Meter LC/LC BI OM4 50/125 Duplex Purple | $ 35.88 |
| EVOF-LL-BI-O4-05M | 5 Meter LC/LC BI OM4 50/125 Duplex Purple | $ 43.70 |
| EVOF-LL-BI-O4-10M | 10 Meter LC/LC BI OM4 50/125 Duplex Purple | $ 63.21 |

Form No. DMB 234A (Rev. 1/96)
AUTHORITY: Act 431 of 1984
COMPLETION: Required
PENALTY: Failure to deliver in accordance with Contract terms and conditions and this notice may be considered in default of Contract

**STATE OF MICHIGAN**
**DEPARTMENT OF TECHNOLOGY, MANAGEMENT AND BUDGET** **June 23, 2011**
**PURCHASING OPERATIONS**
**P.O. BOX 30026, LANSING, MI 48909**
**OR**
**530 W. ALLEGAN, LANSING, MI 48933**

# CHANGE NOTICE NO. 2
# TO
# CONTRACT NO. 071B8200297

**(Supersedes Contract No. )**

**between**
**THE STATE OF MICHIGAN**
**and**

| | |
|---|---|
| NAME & ADDRESS OF CONTRACTOR<br>**Western Tel-Com**<br>**P. O. Box 1317**<br>**Holland, MI 49422-0000**<br>**KurtF@westerntel-com.com** | TELEPHONE Kurt Friedriechsen<br>**(616) 393-0138**<br>CONTRACTOR NUMBER/MAIL CODE<br>BUYER/CA (517) 335-0462<br>**Christine Mitchell** |
| CONTRACT COMPLIANCE INSPECTOR: Steve McMahon (517) 373-6353<br>**Cable Materials and Installation, Voice & Data – DIT - Statewide** | |
| CONTRACT PERIOD: From: **September 1, 2008** To: **August 30, 2013** | |
| TERMS<br>**N/A** | SHIPMENT<br>**N/A** |
| F.O.B.<br>**N/A** | SHIPPED FROM<br>**N/A** |
| ALTERNATE PAYMENT OPTIONS:<br>☐ P-card ☐ Direct Voucher (DV) ☐ Other | |
| MINIMUM DELIVERY REQUIREMENTS<br>**N/A** | |

**NATURE OF CHANGE(S):**

**The attached Statement of Work (SOW) and the associated pricing for Fiber Optic Cable Enhancements is hereby added to this contract with no additional changes to existing Contract parameters. The enhancements were competitively bid under solicitation number RFP-CM-071I1300160 posted on Bid4Michigan, and are awarded from the proposal submitted and accepted for that solicitation. Terms and conditions which vary from those in the existing Contract are included in the attached SOW, and apply to this SOW only.**

**All other terms and conditions, pricing and specifications remain unchanged.**

The following individual will oversee this SOW:

Stan Paterson, RCCD
DTMB Telecommunications Planning
Patersons@michigan.gov
(313) 456-4007

**AUTHORITY/REASON(S):**

**Per RFP-CM-071I1300160 posted on Bid4Michigan, Vendor and Vendor Response received 6/8/2011.**

**TOTAL ESTIMATED CONTRACT VALUE REMAINS: $5,000,000.00**

Western Tel-Com, Inc.

Quotation

Proposal for:

**State of Michigan RFP No. CM-071I1300160**
**State of Michigan Fiber Optic Ring Enhancement**

Submitted by:

Kurt Friedriechsen, RCDD
President
Western Tel-Com, Inc.
A-4273 Blue Star Hwy.
Holland, MI 49423
Telephone: 616.393.0138
Facsimile: 616.393.0132
E-mail: kurtf@westerntel-com.com

Western Tel-Com Inc.

Western Tel-Com, Inc.
Kurt Friedriechsen, RCDD
A-4273 Blue Star Hwy
Holland, MI 49423

State of Michigan MDTMB
Attn: Christine Mitchell
Contract Administrator

Subject: State of Michigan RFP No. CM-071I1300160 - State of Michigan Fiber Optic Ring Enhancement

Christine,

Western Tel-Com, Inc. (WTC) would like to submit the following proposal for the “State of Michigan RFP No. CM-071I1300160 - State of Michigan Fiber Optic Ring Enhancement”.

The signature below attests that proposal submitted in the following pages is authorized and will be honored by Western Tel-Com, Inc.

Western Tel-Com, Inc. will also adhere to all of the specifications in the RFP including but not limited to the Scope of Work portion.

Sincerely,

Kurt Friedriechsen

Kurt Friedriechsen, RCDD
President
Western Tel-Com, Inc.

**General Assumptions:**
Western Tel-Com, Inc. has read and understands the scope of this project and all of the specification outlined in RFP Number CM-071I1300160.

Western Tel-Com, Inc. has received all 3 addendums and their associated files via the Bid4Michigan website.

Western Tel-Com, Inc. is aware of and has received the latest revision of the RFP provided on SOM website.

Should any right of ways be denied and alternate cable routes be required additional charges may be incurred.

**1. Executive Summary:**
WTC is providing a brief overview of the scope of work to ensure to the State that we understand and are capable of completing this project.

The State is adding 96 strands of fiber to the north portion of its ring to better serve the State's growing needs.

The 96 fiber will terminate at the General Office building in the secondary complex. The fiber will run approximately 3300' through existing duct to the Secretary of State building, change sheath and run approximately 300' through the SOS building. The fiber will then change sheath again and run approximately 3400' in the existing tunnel to the Operations building, all 96 strand will terminate in the ops switch room.

WTC will then place approximately 6200' of new 2" HDPE duct from the Ops. Building to the corner of Davis Hwy and Canal Rd. WTC will then place a 144 strand from the Ops. Building to a splice point at the corner of Davis hwy and Canal, 96 strands will be terminated at the Ops switch room and splice to a 96 strand fiber at the splice point.

WTC will run a 96 strand fiber from the splice point through existing duct approximately 900' under Interstate 96 to a riser pole on the North side of the expressway.

WTC will then aerial over lash the 96 fiber approximately 30332' to the splice point at W. St Joseph Hwy and Dibble blvd.

WTC will build new strand and 24 fibers from this splice point approximately 4200' to 3111 St Joseph Hwy, Terminating all 24 strand in the building.

WTC will also over lash a 96 fiber from this splice point approximately 33000' to the next splice location on Filley Street. This route will also include approximately 1200' of new build on Logan Street. The route will also pass through building #44 leaving a slack could in the building for future use.

WTC will over lash the 96 strand fiber from the splice point on Filley Street approximately 12500' the splice point at the Corner of Capital and Saginaw.

WTC will over lash the 96 fiber from the splice point at Capital and Saginaw to the riser pole at the corner of Walnut and Ottawa; from there we will place the fiber in existing duct approximately 700' into the Von Wagoner Bldg. and then through the parking structure approximately 600' to the Switch room in the Mason Bldg. The fiber will terminate in an existing rack in Mason.

WTC will place slack coils in snow shoes along the aerial route per the drawings.

WTC will test the fibers and provide test results and as-builts to the customer.

## 2. Article 1 – Statement of Work (SOW)

### 1.001 Project Request

State of Michigan – Department of Technology, Management & Budget (DTMB) (hereinafter referred to as the "owner") is soliciting a fixed bid price on the placing and splicing of a fiber optic cable network connecting the General Office Building in the Secondary Complex with the downtown offices at the Mason Building. Additionally, a fiber cable will be installed connecting the Surplus Bldg. with a splice case on the North ring at Dibble St. & St. Joe Hwy.

1. Locations involved; Steven T Mason Building, State building 44, the Secondary Complex and 3111 St. Joe Highway.
2. All applicable Federal, State and local Codes, Standards and industry best practices are to be adhered to in the implementation of this project. This includes but is not limited to the National Electric Code, BOCA, MIOSHA, TIA, EIA, ANSI, BICSI, etc.

## 1.100 Scope of Work and Deliverables

### 1.101 In Scope

The Contractor will provide the following services for the complete and successful implementation of a fiber optic cable transport system as specified in the following paragraphs and providing the functionality required for State business operations for DTMB at the locations and routes identified above and as indicated on the construction drawings included with RFP-CM-071I1300160, attachments and addendums posted on Bid4Michigan.

This project consists of the following scope:

A. Business Requirements
   Facilitated Sessions
   Validation and Verification
B. Hardware
   Testing
C. Documentation

### 1.102 Out Of Scope

Any deviation from but not limited to the construction drawings, material lists, timeframes will be considered as "out-of-scope". Any changes affecting the project must be submitted in writing to the Project Manager and approved by same prior to change order being implemented.

### 1.104 Work And Deliverables

**I. Services and Deliverables To Be Provided**

The system will be installed and in operation by December 1, 2011. The hardware must be installed and fully operational by December 1, 2011. These deliverables are not all inclusive. Contractors may propose other deliverables.

**Hardware**

The Contractor shall provide all materials, equipment, miscellaneous parts, labor, tools and test sets required to successfully complete this project according to the specifications and construction drawings.

- *Information Transport System Description*
  1. Materials: All materials shall be new and unused. The vendor awarded the project must submit product specification sheets for the cable, patch panels, connectors, splice trays and closures for approval prior to use for construction. The optical cable will be single mode all-dielectric filled cable and single-armored jacketed. The fiber optic cable must adhere to *NEC 770-50* for cable marking. Where applicable, material must be Underwriter Laboratories (UL) approved or UL listed.

  2. All fiber strands must be usable fibers and meet manufacturer's specifications. The single mode fiber cable utilized shall comply with the following specifications:
     - Typical core diameter: 8.3 um
     - Cladding diameter: 125.0 +/- 1.0 um by fiber end measurement
     - The operating wavelength for this single mode fiber will be at 1310 nm & 1550 nm.
     - Maximum cable attenuation of 0.5 dB/km @ 1310 nm and 0.2 dB/km @ 1550 nm.
     - Fusion splice attenuation shall not exceed 0.2 dB.

3. Termination of the fiber cable
   - All fibers shall be terminated as specified by the construction drawings.
   - The fiber cable connectors shall be SC connectors.

4. Splice Closures and Splice Trays
   - The vendor shall supply and install all necessary fiber optic splice closures and splice trays required for the splicing and connection of fibers as specified by the construction drawings.
   - All splicing of the fiber cable shall use the fusion method of splicing
   - All splices and associated splice closures shall be installed per the manufacturer's specifications.

5 Patch Panels
   - The vendor shall supply and install all necessary fiber optic termination shelves and SC connectors required for termination of fibers.
   - The SC connectors shall be terminated directly onto the end of the fiber cables.

- *Testing*
  - The Contractor shall be responsible for OTDR testing of all fiber strands. The strands shall be tested at 1310 nm and 1550 nm. The attenuation must be equal to or less than the manufacturer's specifications and shall be recorded on a hard copy printout from the OTDR. The hard copy printout shall include end-to-end attenuation as well as attenuation detail for each splice. The acceptable loss limit of each fiber splice shall not exceed 0.2 dB. The results of these tests shall be provided to the MDTMB Project Manager.

**Deliverables**

- *Work Overview*

  ***1.*** *A 96 strand single-mode (or 48 strand single-mode), single armored jacketed fiber cable shall be over-lashed onto the existing State of Michigan cable (s) in all aerial places on the work drawings. The same type of fiber cable shall be pulled through a hand hole and manhole pathway in the Secondary Complex area and the downtown route to the Mason building. The bid pricing shall include placing, splicing and terminations of both a 96 strand single-mode and a 48 strand single-mode fiber cable (St. Joe Hwy to Dibble St.) in their endeavor to increase the capacity of the network. The vendor will have a fiber splicer on hand at all times during construction as you will be working around live fiber cable in all situations. If an accident occurs, the response repair time must be within the half hour of the incident. Emergency phone numbers will be given to all crews upon start-up.*

- *General Office Building to the Operations Center*

  *1. A 96 strand single-mode, single jacketed armored fiber cable shall be terminated on a 19" rack mount shelf in the General Office Building switchroom. Route the cable in an existing 2" conduit, which contains an existing 48 strand fiber cable, to the Secretary of State building. Pass through the building leaving a 50' coil in the data room to the west side of the building. Follow the existing 48 strand fiber cable in an existing 4" conduit path south to the walk-through tunnel. Place the 96 strand singlemode cable in the same cable tray as the existing 48 strand fiber cable, to the Operations Center building as shown on construction drawings.*

- *Operations Center Building*

  *1. A 96 strand and 144 strand single-mode, single jacketed armored fiber cable shall be terminated on a 19" rack mounted fiber shelf in the Operations Center switchroom. The 144 strand fiber cable shall be routed in a vendor provide 2" duct to the first existing hand hole along the designated route. Plow in the new 2" HDPE conduit parallel to the existing route. Connecting the existing hand holes along with 2 new pull boxes along the route to the corner of Davis Road and Canal Road. Place a new 24"X 36" hand hole at the above corner capturing the existing conduit and ring cable*

*according to the construction drawings. Splice the 144 strand cable to the new 96 strand cable and continue north across the I-96 interchange in the existing conduit to an existing hand hole at the riser power pole. Continue placing the new 96 strand fiber cable on power poles, over-lashing onto the existing 48 strand fiber ring cable, to the #44 Building on North MLK Blvd.*

- *#44 Building Switchroom*

1. *Enter the conduit system leading to the #44 Bldg. as shown on construction drawings. Continue to and through the switch room leaving a 50' coil. Exit the switch room utilizing the existing 2" conduit back to the pole lead on MLK Blvd. Continue over-lashing onto the existing ring cable to the Mason Building.*

- *Mason Building Switchroom*

1. *The fiber cable route shall transition to underground at the end pole located at Walnut and Ottawa Streets and enter an existing hand hole. Place the fiber cable through the existing 2" duct and the two existing hand holes through upper parking structure in the Von Wagoner Building and leave a 50' coil in the utility room (which will be identified at walkthrough). Continue pulling the fiber cable through to the Mason Building switch room in an existing 1 ¼" duct. Terminate the cable in a vendor provided shelf in the Mason Switch Building room on a rack to be designated by the MDTMB Project Manager.*

- *Building at 3111 St. Joe Hwy Fiber Extension*

1. *Place a 48 strand single-mode, single jacketed armored fiber cable from the existing aerial splice case at St. Joe Hwy. near Dibble Street to the switch room in the building located at 3111 St. Joe Hwy. Terminate fibers on vendor provided fiber optic shelf. This is done in accordance with the construction drawings.*

**Fiber Cable Placement**

1. Direct buried cable must be placed a minimum of 36" deep in 2" HDPE duct, unless otherwise specified on the construction drawings.

2. All building innerduct will be specified as fire retardant orange polyethylene and will be corrugated if applicable.

3. Dynamometers are to be used to monitor the tension of pulling lines during the placement operation of the fiber cable.

4. Pulling tension on the fiber cable shall not exceed 600 pounds of pull during any operation. Breakaway swivels rated at no more than 600 lbs will be used to pull all fiber cables.

5. Do not exceed the maximum bending radius of the fiber (10 times the diameter of the cable under a no load condition and 20 times the diameter of the cable under a load condition).

6. Anticipated outside diameter of the largest fiber cable will be approximately 0.57 at a cable weight of 137 lbs/KF.

7. Aerial cables are to be double lashed using stainless steel lashing wire.

8. All fiber strands shall be tested for attenuation as measured in dB/Km after placing operations and compared to the measurements prior to placing to ensure there is no cable damage during construction.

9. A # 12 coated tracer wire shall be placed with all direct buried and underground cables unless wire is already present.

10. Underground and/or directional bored cable and tracer wire shall be placed in 2" orange HDPE duct (or equivalent). A fiber warning tape shall be placed 12" below ground surface above trenched cable.

11. Buried cable markers shall be placed at all hand holes in the public road right-of-way as noted on the construction drawings.

12. Fiber cable in buildings, if exposed, shall be in color-coordinated raceway as indicated on the construction drawings and in accordance with the building owner.

13. Restoration of all disturbed areas shall be equal to or better than the original condition. Should the vendor fail to complete the required restoration within three weeks, the owner may employ other personnel and charge the cost to the vendor.

14. All existing ducts shall be sealed following cable installation.

15. All OSP fiber cable on this project will be single-mode, single armored, with sequential markings.

16. A copy of all applicable permits must be in the possession of each crew in the field at all times.

## C. Documentation

### Deliverables

**1. As-Built Drawings**

- The Contractor shall supply a set of as-built drawings. The project shall not be deemed completed until the owner receives a complete set of approved as-built drawings.

**2. Permits**

- The Owner requires a copy of all applicable permits.

**3. Test Records**

- The Owner requires a copy of all OTDR test records. The project shall not be deemed completed until the owner receives a complete set of test records indicating all fibers pass transmission requirements.

## 1.200 Roles and Responsibilities

### 1.201 Contractor Staff, Roles, And Responsibilities

| | |
|---|---|
| **Proposed Resource Name:** | **Jon Freriks** |
| **Proposed Classification:** | **Single Point of Contact** |
| **Key Personnel:** | **Yes ☒ *or* No ☐** |
| **If resource is associated with a subcontractor provide name of company:** | |
| **Percentage of time resource will be allocated to project:** | Percentage will vary from 25% to 45% |

| Certifications/Affiliations | |
|---|---|
| Name | Comm Scope Certified Design Engineer |
| Topic/Description | Design and engineer fiber and copper cabling systems |
| Date completed | May 19,2011 |

| | |
|---|---|
| **Proposed Resource Name:** | **Jon Freriks** |
| **Proposed Classification:** | **Technical Lead** |
| **Key Personnel:** | **Yes ☒ *or* No ☐** |
| **If resource is associated with a subcontractor provide name of company:** | |
| **Percentage of time resource will be allocated to project:** | Percentage will vary from 25% to 45% |

**A. Contractor Staff & On Site Work Requirements**

**1. Location of Work Greater Lansing Area**

The work is to be performed, completed, and managed at the affected locations in the greater Lansing area.

**2. Hours of Operation:**

a. Normal State working hours are 8:00 a.m. to 5:00 p.m. EST, Monday through Friday, with work performed as necessary after those hours to meet project deadlines. No overtime will be authorized or paid.
b. The State is not obligated to provide State management of assigned work outside of normal State working hours. The State reserves the right to modify the work hours in the best interest of the project.
c. Contractor shall observe the same standard holidays as State employees. The State does not compensate for holiday pay.

**3. Travel:**

a. No travel or expenses will be reimbursed. This includes travel costs related to training provided to the State by Contractor.
b. Travel time will not be reimbursed.

**4. Additional Security and Background Check Requirements:**

Contractor must present certifications evidencing satisfactory Michigan State Police Background checks ICHAT and drug tests for all staff identified for assignment to this project.

In addition, proposed Contractor personnel will be required to complete and submit an RI-8 Fingerprint Card for the National Crime Information Center (NCIC) Finger Prints, if required by project.

Contractor will pay for all costs associated with ensuring their staff meets all requirements.

1. WTC agrees and will adhere to this section. WTC regularly works in SOM secured areas and has no issue with providing the requested security and background information.

**1.202 State Staff, Roles, And Responsibilities**

Agency should specify State personnel dedicated to project, and identify their associated roles and responsibilities.

The SOM project team will consist of a project manager and local coordinators.

DTMB will provide a Project Manager who will be responsible for the State's infrastructure and coordinate with the Contractor in determining the system configuration.

The State's Project Manager will provide the following services:

A. Provide State facilities, as needed
B. Coordinate the State resources necessary for the project
C. Facilitate coordination between various external contractors
D. Facilitate communication between different State departments/divisions
E. Provide acceptance and sign-off of deliverable/milestone
F. Review and sign-off of timesheets and invoices
G. Resolve project issues
H. Escalate outstanding/high priority issues
I. Utilize change control procedures
J. Conduct regular and ongoing review of the project to confirm that it meets original objectives and requirements
K. Document and archive all important project decisions
L. Arrange, schedule and facilitate State staff attendance at all project meetings.

| Name | Agency/Division | Title | Phone/e-mail |
|---|---|---|---|
| Stan Paterson, RCCD | DTMB Telecommunications Planning | Project Manager | Patersons@michigan.gov (313) 456-4007 |

MDTMB shall provide a Contract Administrator whose duties shall include, but not be limited to, supporting the management of the Contract.

| Name | Agency/Division | Title | Phone/e-mail |
|---|---|---|---|
| Christine Mitchell | MDTMB | Contract Administrator | Mitchellc4@michigan.gov (517) 335-0462 |

**Contract Compliance Manager**

DTMB will assign a Contract Compliance Manager who will be responsible for the SOM's infrastructure and coordinate with the Contractor in determining the system configuration.

The SOM's Contract Compliance Manager will provide the following services:

- Coordinate the SOM resources necessary for the project.
- Provide acceptance and sign-off of deliverable/milestone and invoices.
- Collect information necessary to monitor Contractors performance against SLA requirements.
- Attend periodic meetings to review Contractor deliverables and metrics.
- Facilitate coordination between various external contractors.
- Facilitate communication between different SOM departments/divisions.
- Escalate outstanding/high priority issues.
- Utilize change control procedures and resolve project related issues.
- Conduct regular and ongoing reviews of the project to confirm that it meets original objectives and requirements.
- Document and archive all important project decisions.
- Make key implementation decisions, as identified by the Contractor's project manager, within 48-hours of their expected decision date.
- Interface with Local Agencies to resolve delivery and change control issues.

| Name | Agency/Division | Title | Phone/e-mail |
|---|---|---|---|
| Steve McMahon | DTMB Telecommunications Planning | Manager | McMahons@michigan.gov (517) 373-6353 |

### 1.203 Other Roles and Responsibilities

MDTMB shall provide contracted staff whose duties shall include, but not be limited to, responding to design questions, conducting quality assurance inspections and attending various project meetings.

| Name | Agency/Division | Title |
|---|---|---|
| David Killian | MDTMB | Contracted staff |

## 1.300 Project Plan

### Project Plan Management

#### Preliminary Project Plan

Western Tel-Com has provided, in an attached MS Project 2003 format, a project plan (Attachment 2). This plan is titled "SOM Fiber Ring Enhancement Project Plan and Timelines". The following details are provided in the MS Project attachment:

1. Description of the deliverables to be provided under this contract.
2. Target dates and critical paths for the deliverables.
3. Identification of roles and responsibilities, including the organization responsible.
4. Internal milestones
5. Task durations

Along with the MS Project the following approach outlined below will also be utilized to meet the criteria for the **Preliminary Project Plan, Orientation Meeting and Performance Review Meetings**.

1. Project planning and preparation
    a. Meet with SOM and the engineering company to review the routes and prints and identify any foreseeable issues, constraints or risks. Incorporate any risks into the risk management plan established in accordance with the SOM's PMM and agreeable to SOM personnel.
    b. Identify the order of construction and completion deadlines. Populate the agreed upon time frames and resources into MS Project.
    c. Identify and develop progress reporting procedures.
    d. Determine with SOM the criteria and format for any change orders that may occur.
    e. Agree upon format for the as-built.
    f. Collect existing permits and determine approximately when outstanding permits will be available.

2. Project Implementation
    a. Implement agreed upon internal tracking, reporting procedures. Update as required throughout the project. Submit as required by SOM.
    b. Pre-Survey routes.
        i. Take pictures of the route where necessary, to document the conditions prior to construction.
        ii. Investigate make ready for aerial. Make sure that is has been complete and if we hang strand where assigned it won't be in NESC violation.
        iii. Inform SOM of any possible conflicts with the routes as engineered.
        iv. Contact local municipalities and authorities having jurisdiction and provide them with construction schedules and traffic plans.
            1. Adjust any scheduling or engineering plans if necessary and submit to SOM for approval.
    c. Construction – Pre Cable
        i. Aerial - Place new strand and poles where needed and where permits allow.
            1. Aerial crews will be deployed to place strand per the agreed upon

schedule.
2. The aerial crews will consist of bucket trucks and digger derricks (to set poles).
3. The crews will consist of experienced Linemen, Foreman, Apprentices and Laborers

ii. UG – Place ducts and hand hole's where needed.
1. UG Crews will be deployed to place duct per the agreed upon schedule.
2. The UG crews will consist of directional drills, backhoes, track plows and vac machines.
3. The Crews will consist of experienced Operators, Apprentices, Foreman and Laborers.

iii. Inspect aerial and UG pathways prior to placing the fiber.

iv. All construction will comply with all local, State and Industry standards.

d. Construction - Cabling

i. Coordinate routes that have both aerial portions and UG. Schedule cable placement with both aerial and UG crews so as not to leave the cable unattended for extended periods of time

ii. Aerial – Double Lash cable to new strand or existing cable & strand.
1. Approximately 2 aerial crews will be deployed to place strand per the agreed upon schedule.
2. The aerial crews will consist of bucket trucks and digger derricks (to set poles).
3. The crews will consist of experienced Linemen, Foreman, Apprentices and Laborers.

iii. UG – All fiber to be placed will be air blown or utilize tensioning devices so as not to damage the fiber.
1. 1 to 2 UG Crews will be deployed to place cable per the agreed upon schedule.
2. The UG crews will consist of directional drills, backhoes, track plows and vac machines.
3. The Crews will consist of experienced Operators, Apprentices, Foreman and Laborers.

iv. All construction will comply with all local, State and Industry standards.

v. All fiber placements will adhere to NESC, EIA/TIA, BICSI codes and standard.

vi. WTC is certified to install many manufactures fiber cable, including Commscope and Corning and we are authorized to supply the extended warranties for both of these companies.

e. Construction - Splicing and testing

i. WTC has experienced and trained personnel in fusion splicing and testing of fiber optic cables.
1. WTC has quality fiber splicing and testing equipment that is sent in regularly for maintenance.

ii. We will utilize 1 to 2 fiber crews to splice, terminate and test fibers.
1. All fibers will be tested prior to installation as well as after installation.

f. As-built documentation – As-built drawings required of the contractor will be imported to the existing drawing and prints.
1. Route and method of construction changes.
2. Detailed locations of splices and slack loops.
3. Cable footage readings at the beginning and end or every slack loop, at every splice point, at every riser pole, at every entrance point and at every termination point.

3. Project Close out

a. Post-Construction – Deliverables for entire route

i. Updated drawings to include all as-builts and construction notes.

ii. Provide all fiber test results.
iii. SOM approval, sign off and acceptance of the Fiber optic plant and post construction deliverables.

Materials- WTC plans to use Draka fiber optic cable, Systimax hardware for the fiber terminations and housing.

### 1.400 Project Management – See Contract 071B8200297

### 1.500 Acceptance

### 1.501 Criteria

The acceptance criteria are completion of tasks on time, provisioning within budget and delivering the features and material as specified in this RFP and construction documents.

### 1.502 Final Acceptance

Final acceptance requirements include cleared punchlists, final inspection and walkthrough, as-built documentation and test records.

### 1.600 Compensation and Payment

### 1.601 Compensation And Payment

**Method of Payment**

The project will be paid firm, fixed price, deliverables/milestones based. The Costs Table(s) attached must be used as the format for submitting pricing information.

| |
|---|
| 1.601 Compensation And Payment – WTC has completed the **Cost Table Attachments 3 & 4** |

### 1.602 Holdback

The State shall have the right to hold back an amount equal to ten percent (10%) of all amounts invoiced by Contractor for Services/Deliverables. The amounts held back shall be released to Contractor after the State has granted Final Acceptance.

## 3. Article 2 – Terms and Conditions

**The following terms and conditions are including for this SOW in addition to all other terms and conditions of Contract 071B8200297:**

### 2.243 Liquidated Damages

The parties acknowledge that late or improper completion of the Work will cause loss and damage to the State, and that it would be impracticable and extremely difficult to fix the actual damage sustained by the State as a result. Therefore, Contractor and the State agree that if there is late or improper completion of the Work and the State does not elect to exercise its rights under **Section 2.152**, the State is entitled to collect liquidated damages in the amount of $100.00 per day for each day Contractor fails to remedy the late or improper completion of the Work.

**WTC understands, agrees and will adhere to this section.**

## 4. Article 4 – Required Contractor Information

**Subcontractor(s):**

| |
|---|
| Fultz Aerial Construction – 1485 Havenga, Muskegon MI 49445 - Contact: John Fultz 231-206-7140<br>Fultz will be supplementing our crew on aerial work only. |

SIGNATURE AUTHORITY

I/We certify that the undersigned is authorized to submit bids/quotations on behalf of __Western Tel-Com Inc.. The information provided about __ Western Tel-Com Inc..__ ability to provide the goods and/or services outlined in this solicitation document is true and accurate. I/We understand that our product and/or service offerings must be in compliance with all requirements of this solicitation document.

**_____Western Tel-Com Inc _____**
**Name of Bidder/Contractor/Supplier**

**_____PO Box 1317_____**
**_____Holland MI 49422_____**
**Address of Contractor/Supplier**

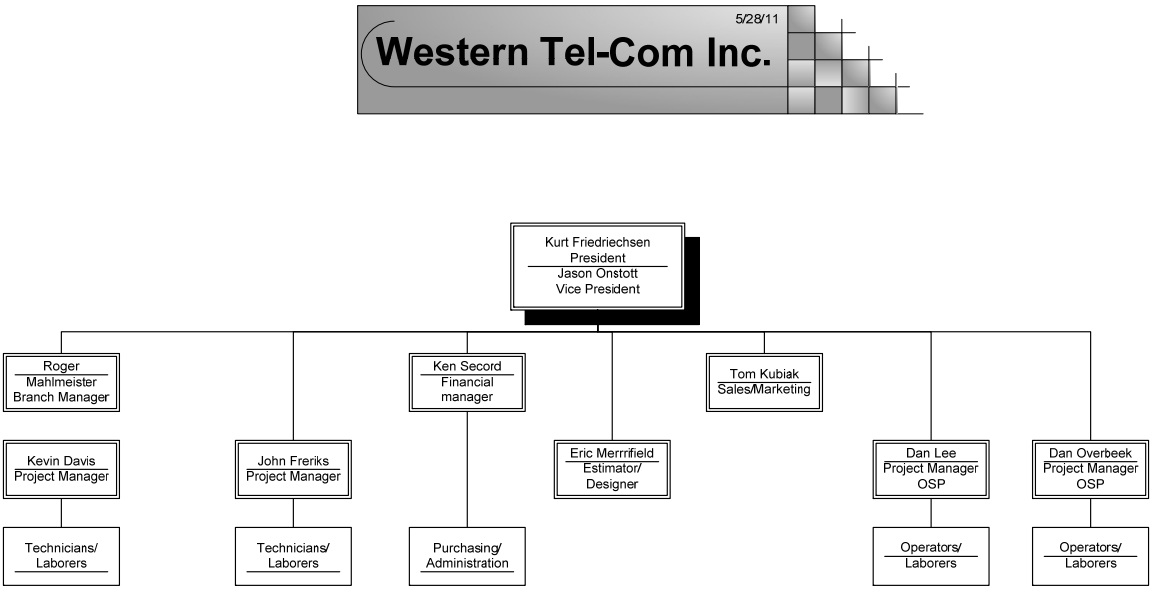
**_____616-393-0138_____**
**Telephone and Fax No. of Contractor/Supplier**

**_____Kurtf@westerntel-com.com_____**
**E-mail Address of Contractor/Supplier**

**_____President_____**
**Title of Supplier Representative**

**_____6-08-11_____**
**Date**

# Attachment 1 – Organization Chart



# Attachment #4 SOM Fiber Ring Enhancement Project Plan and Timelines

| ID | Task Name | Duration | Start | Finish | Predecessors |
|---|---|---|---|---|---|
| 1 | **SOM North Fiber Ring Enhancement** | **90 days** | **Tue 7/26/11** | **Mon 11/28/11** | |
| 2 | Contract Award | 1 day | Tue 7/26/11 | Tue 7/26/11 | |
| 3 | Preconstruction Meetings/Local Permits | 30 days | Wed 7/27/11 | Tue 9/6/11 | 2 |
| 4 | Material Specifically Fiber with is approximately 7 to 14 weeks | 70 days | Wed 7/27/11 | Tue 11/1/11 | 2 |
| 5 | **North Route 96 fiber enhancement** | **59 days** | **Wed 9/7/11** | **Mon 11/28/11** | |
| 6 | Aerial new Strand and fiber Completion - 1300ft | 2 days | Wed 9/7/11 | Thu 9/8/11 | 3 |
| 7 | Aerial fiber placement overlash 79,000ft | 13 days | Wed 11/2/11 | Fri 11/18/11 | 6,4 |
| 8 | **UG Completion - approx. 6350ft new duct 900ft existing** | **44 days** | **Wed 9/7/11** | **Mon 11/7/11** | |
| 9 | Directional Bore 2" duct approx. 850ft | 2 days | Wed 9/7/11 | Thu 9/8/11 | 3 |
| 10 | Plow 2" duct approximately 5500ft | 5 days | Wed 9/7/11 | Tue 9/13/11 | 3 |
| 11 | Place new hand holes - 2 - 24" x 36" x 30" and 2 - 12" x 24" | 3 days | Wed 9/14/11 | Fri 9/16/11 | 10 |
| 12 | Place fiber in duct, new and existing from Operations North 7250ft | 4 days | Wed 11/2/11 | Mon 11/7/11 | 11,4 |
| 13 | **Place fiber in Tunnels/duct secondary complex** | **11 days** | **Tue 11/8/11** | **Tue 11/22/11** | |
| 14 | Place 96 strand fiber in existing tunnel system approx. 3400ft | 2 days | Tue 11/8/11 | Wed 11/9/11 | 12 |
| 15 | Place 96 strand fiber in existing duct system approx. 3400ft | 2 days | Thu 11/10/11 | Fri 11/11/11 | 14 |
| 16 | Place fiber in Duct/parking from Walnut to Mason Telcom Rm. 1300ft | 2 days | Mon 11/21/11 | Tue 11/22/11 | 15,7 |
| 17 | Splicing, Terminating and Testing | 2 days | Wed 11/23/11 | Thu 11/24/11 | 16 |
| 18 | Submit as-builts and test results | 2 days | Fri 11/25/11 | Mon 11/28/11 | 17 |
| 19 | | | | | |
| 20 | **3111 St Joe Spur to Back bone** | **44 days** | **Fri 9/9/11** | **Wed 11/9/11** | |
| 21 | Aerial Strand Completion | 2 days | Fri 9/9/11 | Mon 9/12/11 | 6 |
| 22 | Aerial fiber placement | 1 day | Wed 11/2/11 | Wed 11/2/11 | 4 |
| 23 | Place fiber in building - 3111 St Joe Hwy | 1 day | Thu 11/3/11 | Thu 11/3/11 | 22 |
| 24 | Splicing, Terminating and Testing | 2 days | Fri 11/4/11 | Mon 11/7/11 | 23 |
| 25 | Submit as-builts and test results | 2 days | Tue 11/8/11 | Wed 11/9/11 | 24 |

Project: Attachment Project Plan
Date: Wed 6/8/11

| | | | | | |
|---|---|---|---|---|---|
| Task | | Milestone | | External Tasks | |
| Split | | Summary | | External Milestone | |
| Progress | | Project Summary | | Deadline | |



Attachment 2

**Attachment 3 - Additional T&M Labor and Tool Rates for Fiber Optic Cable Solicitation.**

In the Table below please provide the Firm Fixed Hourly Rates for the Staffing Categories listed. Since the State of Michigan does not pay for travel time or expenses, the rates provided should be all-inclusive, with travel and any other non-labor expense factored in. Prices quoted herein will be used for change, addition and/or deletion of work associated with this ITB.

| Staffing Category | UNIT | COST | Comments |
|---|---|---|---|
| Foreman | Hr | $65.00 | |
| Lineman | Hr | $60.00 | |
| Tree Trimmer | Hr | $60.00 | |
| Laborer | Hr | $45.00 | |
| Technician | Hr | $75.00 | |
| Bidders May Propose Additional Positions | | | |
| | | | |
| **Tool List** | | $ | |
| Dump Truck | | $20.00 | |
| Bucket Truck | | $15.00 | |
| Reel Trailer | | $5.00 | |
| OTDR | | $15.00 | |
| Flashing Arrow Trailer | | $17.50 | |
| Fusion Splice Machine | | $15.00 | |
| Bidders May Propose Additional Tools | | | |

**Attachment 4 – OSP and OFNR Fiber Optic Cable Materials required per this Fiber Optic Cable Solicitation**

In the Table below please provide the Material list including material description, quantity of units, unit cost and total cost for materials and miscellaneous part required to fulfill the request. Prices quoted herein will be used for change, addition and/or deletion of materials associated with this ITB.

| Item | Qty. | Unit | Material Description | Unit Cost | Total |
|---|---|---|---|---|---|
| 1 | 6000 | Feet | Draka Fiber Optic Cable 24 strand outdoor shielded | $.37 | $2,220.00 |
| 2 | 104,000 | Feet | Draka Fiber Optic Cable 96 strand outdoor shielded | $.87 | $90,480.00 |
| 3 | 6000 | Feet | Draka Fiber Optic Cable 144 strand outdoor shielded | $1.26 | $7,560.00 |
| 4 | 1645 | Feet | Draka Fiber Optic Cable 96 strand indoor plenum | $6.26 | $10,297.70 |
| 5 | 4 | each | Splice Cases – Coyote Dome closure with 8 splice trays | $700.00 | $2,800.00 |
| 6 | 5 | each | Fiber shelves – rack mounted includes loaded SC panels - Systimax | $536.28 | $2,681.00 |
| 7 | 384 | each | SC type connectors - Systimax | 4.75 | $1,824.00 |
| 8 | 2 | each | 24” x 36” Hand holes with cover | $245.25 | $490.50 |
| 9 | 6500 | Feet | 2” HDPE duct 13.5 | $.99 | $6,435.00 |
| | 1 | each | Aerial material for over lash -79000’ and new build -5300’ | | $6,800.00 |
| | | | | | |

Form No. DMB 234 (Rev. 1/96)
AUTHORITY: Act 431 of 1984
COMPLETION: Required
PENALTY: Contract will not be executed unless form is filed

**STATE OF MICHIGAN**
**DEPARTMENT OF MANAGEMENT AND BUDGET** **May 7, 2010**
**PURCHASING OPERATIONS**
**P.O. BOX 30026, LANSING, MI 48909**
**OR**
**530 W. ALLEGAN, LANSING, MI 48933**

# CHANGE NOTICE NO. 1
# TO
# CONTRACT NO. 071B8200297
# between
# THE STATE OF MICHIGAN
# and

| | |
|---|---|
| NAME & ADDRESS OF VENDOR<br><br>**Western Tel-Com**<br>**P. O. Box 1317**<br>**Holland, MI 49422-0000**<br>**KurtF@westerntel-com.com** | TELEPHONE Kurt Friedriechsen<br>**(616) 393-0138**<br>VENDOR NUMBER/MAIL CODE<br><br>BUYER (517) 241-3215<br>**Steve Motz** |
| Contract Administrator: Mike Breen<br>**Cable Materials and Installation, Voice & Data – DIT - Statewide** | |
| CONTRACT PERIOD: From: **September 1, 2008** To: **August 30, 2011** | |
| TERMS<br>**N/A** | SHIPMENT<br>**N/A** |
| F.O.B.<br>**Delivered/Installed** | SHIPPED FROM<br>**N/A** |
| MINIMUM DELIVERY REQUIREMENTS<br>**N/A** | |
| MISCELLANEOUS INFORMATION: | |

**NATURE OF CHANGE(S):**

**Effective immediately, this contract is hereby INCREASED by $2,000,000.00 and EXTENDED 2 years to August 30, 2013, utilizing two available one-year contract options, as defined in the original contract language. In exchange for exercising both remaining option years, the Contractor has provided rate reductions which are identified in the attached.**

**All other terms and conditions, pricing and specifications remain unchanged.**

**AUTHORITY/REASON(S):**

**Per State request, Vendor agreement and Administrative Board approval on May 4, 2010.**

**INCREASE: $2,000,000.00**

**TOTAL REVISED ESTIMATED CONTRACT VALUE: $5,000,000.00**

Western Tel-Com, Inc.

January 4, 2010

Steve Motz
Buyer, IT Division
Purchasing Operations
Department of Management and Budget

Dear Steve,

Western Tel-Com would like to submit for your approval this cover letter and "Attachment A – Cost reduction effort for contract #071B8200297".

Attachment A is a spreadsheet that shows the cost changes Western Tel-Com proposes and would like to officially add this as an addendum to Contract #071B8200297 for the final two years of the current contract. To help Western Tel-Com and its suppliers offset this reduction we ask to have the contract extended through August 2013; with the ability to negotiate the material and labor prices when the current contract ends in August, 2011.

The ability of our suppliers to be able to keep their product lines in the State Agencies and Western Tel-Com to keep the contract the additional three years makes it more viable to reduce margins at this time.

I hope this is an acceptable proposal and will help the State with the current financial situation.

Western Tel-Com would also like to submit additional material not currently in the contract. The State agencies have need to utilize these items and WTC would like to amend the contract to also include "Attachment B – Addition to contract 07B8200297".

Please contact myself at 616-393-0138 to review the details in more depth, if necessary.

Sincerely,

Kurt Friedriechsen, RCDD
President
Western Tel-Com Inc.
Phone: 616-393-0138

CONTRACT #071B8200297

# Attachment A – Cost Reductions Summary (Revised Pricing)

**Western Tel-Com, Inc.**
SOM PROJECT ESTIMATE

| Material Manufacturer: | Systimax | Zone: | 1 through 7 |
|---|---|---|---|

| Quanity | Description | HORIZONITAL WIRING | # of Cable Runs 1-24 Labor | 1-24 Material | 25-48 Labor | 25-48 Material | 49-144 Labor | 49-144 Material | 145-336 Labor | 145-336 Material | | Current cost | Proposed cost | % Reduced |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| 1 | 1 cat 5E Cable | Plenum / Suspended Ceiling / Flush Mount | 0.50 | 0.27 | 0.47 | 0.27 | 0.46 | 0.27 | 0.44 | 0.27 | | 0.28 | 0.27 | 4% |
| 1 | Drops | | ^ | ^ | | | | | | | | | | |
| 1 | 1 cat 5E Cable | Non-Plenum / Suspended Ceiling / Flush Mount | 0.50 | 0.14 | 0.47 | 0.14 | 0.46 | 0.14 | 0.44 | 0.14 | | 0.15 | 0.14 | 4% |
| 1 | Drops | | ^ | ^ | | | | | | | | | | |
| 1 | 1 cat 6 Cable | Plenum / Suspended Ceiling / Flush Mount | 0.55 | 0.44 | 0.53 | 0.44 | 0.51 | 0.44 | 0.49 | 0.44 | | 0.46 | 0.44 | 4% |
| 1 | Drops | | ^ | ^ | | | | | | | | | | |
| 1 | 1 cat 6A Cable | Non-Plenum / Suspended Ceiling / Flush Mount | 0.61 | 0.27 | 0.58 | 0.27 | 0.56 | 0.27 | 0.54 | 0.27 | | 0.23 | 0.27 | |
| 1 | Drops | | ^ | ^ | | | | | | | | | | |

| Quanity | Description | TERMINATING HARDWARE | Price for Each Item based on Quanity 1-24 Labor | 1-24 Material | 25-48 Labor | 25-48 Material | 49-72 Labor | 49-72 Material | 72 & Up Labor | 72 & Up Material | Total Price per Unit | Current cost | Proposed cost | % Reduced |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| 1 | Cat 5E Modular Jack, RJ45 Type (data) - All Colors | | | 5.73 | | 5.73 | | 5.73 | | 5.73 | | 5.94 | 5.73 | 5% |
| 1 | Cat 6 Modular Jack, RJ45 Type (data) - All Colors | | | 6.87 | | 6.87 | | 6.87 | | 6.87 | | 7.16 | 6.87 | 5% |
| 1 | Cat 6A Modular Jack, RJ45 Type (data) - All Colors | | | 10.24 | | 10.24 | | 10.24 | | 10.24 | | 8.52 | 10.24 | 5% |
| 1 | Modular Faceplate Single Outlet | | 1.63 | 1.40 | 1.56 | 1.40 | 1.53 | 1.40 | 1.45 | 1.40 | | 1.53 | 1.40 | 10% |
| 1 | Modular Faceplate Duplex Outlet | | 1.63 | 1.40 | 1.56 | 1.40 | 1.53 | 1.40 | 1.45 | 1.40 | | 1.53 | 1.40 | 10% |
| 1 | Modular Faceplate Triplex Outlet | | 1.63 | 1.40 | 1.56 | 1.40 | 1.53 | 1.40 | 1.45 | 1.40 | | 1.53 | 1.40 | 10% |
| 1 | Modular Faceplate Quadplex Outlet | | 1.63 | 1.40 | 1.56 | 1.40 | 1.53 | 1.40 | 1.45 | 1.40 | | 1.53 | 1.40 | 10% |
| 1 | Modular Faceplate Sixplex Outlet | | 1.63 | 1.40 | 1.56 | 1.40 | 1.53 | 1.40 | 1.45 | 1.40 | | 1.53 | 1.40 | 10% |
| 1 | Modular Faceplate Eightplex Outlet | | 1.63 | 3.58 | 1.56 | 3.58 | 1.53 | 3.58 | 1.45 | 3.58 | | 3.90 | 3.58 | 10% |
| 1 | Modular Faceplate Tenplex Outlet | | 3.27 | 3.58 | 3.12 | 3.58 | 3.05 | 3.58 | 2.90 | 3.58 | *1 | 3.90 | 3.58 | 10% |
| 1 | Modular Furniture Faceplate Duplex Outlet | | 3.32 | 2.00 | 3.17 | 2.00 | 3.10 | 2.00 | 2.95 | 2.00 | *2 | 2.13 | 2.00 | 7% |
| 1 | Modular Furniture Faceplate Triplex Outlet | | 3.32 | 2.01 | 3.17 | 2.01 | 3.10 | 2.01 | 2.95 | 2.01 | | 2.14 | 2.01 | 7% |
| 1 | Modular Furniture Faceplate Quadplex Outlet | | 3.32 | 2.01 | 3.17 | 2.01 | 3.10 | 2.01 | 2.95 | 2.01 | | 2.14 | 2.01 | 7% |
| 1 | Surface Mount Box (2 Outlet) | | 6.58 | 2.69 | 6.29 | 2.69 | 6.15 | 2.69 | 5.85 | 2.69 | | 2.85 | 2.69 | 7% |
| 1 | Surface Mount Box (4 Outlet) | | 6.58 | 3.15 | 6.29 | 3.15 | 6.15 | 3.15 | 5.85 | 3.15 | | 3.34 | 3.15 | 7% |
| 1 | Surface Mount Box (6 Outlet) | | 6.58 | 7.57 | 6.29 | 7.57 | 6.15 | 7.57 | 5.85 | 7.57 | | 8.24 | 7.57 | 10% |
| 1 | Wall Mount Faceplate 630b | | 8.27 | 10.69 | 7.90 | 10.69 | 7.72 | 10.69 | 7.35 | 10.69 | | 11.33 | 10.69 | 7% |
| 1 | 110 Type Wiring Block 25 Pair | | 28.07 | 6.12 | 26.82 | 6.12 | 26.20 | 6.12 | 24.95 | 6.12 | | 6.38 | 6.12 | 5% |
| 1 | 110 Type Wiring Block 50 Pair | | 47.87 | 7.32 | 45.74 | 7.32 | 44.68 | 7.32 | 42.55 | 7.32 | | 7.63 | 7.32 | 5% |
| 1 | 110 Type Wiring Block 100 Pair | | 91.58 | 12.66 | 87.51 | 12.66 | 85.47 | 12.66 | 81.40 | 12.66 | | 13.19 | 12.66 | 5% |
| 1 | 110 Type Wiring Block 300 Pair | | 254.08 | 29.85 | 242.79 | 29.85 | 237.15 | 29.85 | 225.85 | 29.85 | | 31.10 | 29.85 | 5% |
| 1 | 110 Type Connecting Block - 3 Pair | | 1.63 | 0.50 | 1.56 | 0.50 | 1.53 | 0.50 | 1.45 | 0.50 | | 0.55 | 0.50 | 10% |
| 1 | 110 Type Connecting Block - 4 Pair | | 1.63 | 0.57 | 1.56 | 0.57 | 1.53 | 0.57 | 1.45 | 0.57 | | 0.60 | 0.57 | 5% |
| 1 | 110 Type Connecting Block - 5 Pair | | 1.63 | 0.66 | 1.56 | 0.66 | 1.53 | 0.66 | 1.45 | 0.66 | | 0.69 | 0.66 | 5% |
| 1 | 110 Type Wiring Block e/w Legs 25 Pair and/or 50 Pair | | 47.87 | 13.75 | 45.74 | 13.75 | 44.68 | 13.75 | 42.55 | 13.75 | | 14.33 | 13.75 | 5% |
| 1 | 110 Type Wiring Block e/w Legs 100 Pair | | 91.58 | 13.75 | 87.51 | 13.75 | 85.47 | 13.75 | 81.40 | 13.75 | | 14.33 | 13.75 | 5% |

CONTRACT #071B8200297

| | | | | | | | | | | | | | |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| 1 | 110 Type Wiring Block e/w Legs 300 Pair | 254.08 | 32.34 | 242.79 | 32.34 | 237.15 | 32.34 | 225.85 | 32.34 | | 33.69 | 32.34 | 4% |
| 1 | Ten Outlet Surge Protector - Eq. Rack Mountable | | 120.49 | | 120.49 | | 120.49 | | 120.49 | | 123.46 | 120.49 | 3% |
| 1 | Lightguide Interconnection Unit - Wall Mountable 12 Fibers | 51.13 | 104.64 | 48.86 | 104.64 | 47.73 | 104.64 | 45.45 | 104.64 | | 111.80 | 104.64 | 8% |
| 1 | Lightguide Interconnection Unit - Wall Mountable 24 Fibers | 51.13 | 138.49 | 48.86 | 138.49 | 47.73 | 138.49 | 45.45 | 138.49 | | 147.96 | 138.49 | 8% |
| 1 | Lightguide Interconnection Unit - Wall Mountable 48 Fibers | 51.13 | 299.52 | 48.86 | 299.52 | 47.73 | 299.52 | 45.45 | 299.52 | | 320.00 | 299.52 | 8% |
| 1 | Lightguide Distribution Shelf - 24 Fiber Rack Mount | 51.13 | 182.87 | 48.86 | 182.87 | 47.73 | 182.87 | 45.45 | 182.87 | | 198.78 | 182.87 | 10% |
| 1 | Lightguide Distribution Shelf - 72 Fiber Rack Mount | 75.88 | 346.80 | 72.51 | 346.80 | 70.83 | 346.80 | 67.45 | 346.80 | *4 | 376.96 | 346.80 | 10% |
| 1 | Lightguide Splice Shelf - 72 Fiber Rack Mount | 75.88 | 577.71 | 72.51 | 577.71 | 70.83 | 577.71 | 67.45 | 577.71 | | 627.95 | 577.71 | 10% |
| 1 | Lightguide Splice Shelf - 144 Fiber Rack Mount | 100.63 | 751.11 | 96.16 | 751.11 | 93.93 | 751.11 | 89.45 | 751.11 | | 816.43 | 751.11 | 10% |
| 1 | Modular to 110 Category 5E Patch Panel - 24 Port | 178.20 | 157.24 | 170.28 | 157.24 | 166.32 | 157.24 | 158.40 | 157.24 | | 163.80 | 157.24 | 5% |
| 1 | Modular to 110 Category 5E Patch Panel - 48 Port | 316.80 | 314.50 | 302.72 | 314.50 | 295.68 | 314.50 | 281.60 | 314.50 | | 327.61 | 314.50 | 5% |
| 1 | Modular to 110 Category 5EV Patch Panel - 96 Port | 158.40 | 629.01 | 151.36 | 629.01 | 147.84 | 629.01 | 140.80 | 629.01 | | 655.23 | 629.01 | 5% |
| 1 | Modular to 110 Category 6 Patch Panel - 24 Port | 178.20 | 218.90 | 170.28 | 218.90 | 166.32 | 218.90 | 158.40 | 218.90 | | 228.03 | 218.90 | 5% |
| 1 | Modular to 110 Category 6 Patch Panel - 48 Port | 316.80 | 432.00 | 302.72 | 432.00 | 295.68 | 432.00 | 281.60 | 432.00 | | 450.00 | 432.00 | 5% |
| 1 | Modular to 110 Category 6 Patch Panel - 96 Port | 158.40 | 864.00 | 151.36 | 864.00 | 147.84 | 864.00 | 140.80 | 864.00 | | 900.00 | 864.00 | 5% |

| Quanity | Description | RISER / FIBER CABLE / FIBER SPLICING |
|---|---|---|

| Quanity | Description | MISCELLANEOUS | | | | | | | | |
|---|---|---|---|---|---|---|---|---|---|---|
| 1 | Each | Cat 5E Patch Cord 2' | | | Material $ / Cable | 2.890 | | 3.09 | 2.89 | 8% |
| 1 | Each | Cat 5E Patch Cord 4' | | | Material $ / Cable | 3.380 | | 3.65 | 3.38 | 9% |
| 1 | Each | Cat 5E Patch Cord 6' | | | Material $ / Cable | 3.920 | | 4.23 | 3.92 | 9% |
| 1 | Each | Cat 5E Patch Cord 8' | | | Material $ / Cable | 4.440 | | 4.79 | 4.44 | 9% |
| 1 | Each | Cat 5E Patch Cord 10' | | | Material $ / Cable | 4.990 | | 5.34 | 4.99 | 8% |
| 1 | 6' X 19" B-Line | Equipment Rack - Floor Mounted | Labor $$ / Rack | 110.00 | Material $ / Cable | 170.220 | | 175.85 | 170.22 | 4% |
| 1 | 7' X 19" Homaco | Equipment Rack - Floor Mounted | Labor $$ / Rack | 110.00 | Material $ / Cable | 127.050 | | 131.25 | 127.05 | 4% |
| 1 | 8' X 19" B-Line | Equipment Rack - Floor Mounted | Labor $$ / Rack | 110.00 | Material $ / Cable | 338.030 | | 349.21 | 338.03 | 4% |
| 1 | 9' X 19" B-Line | Equipment Rack - Floor Mounted | Labor $$ / Rack | 110.00 | Material $ / Cable | 358.920 | | 370.78 | 358.92 | 4% |
| 1 | 6' X 23" B-Line | Equipment Rack - Floor Mounted | Labor $$ / Rack | 110.00 | Material $ / Cable | 435.660 | | 450.06 | 435.66 | 4% |
| 1 | 7' X 23" B-Line | Equipment Rack - Floor Mounted | Labor $$ / Rack | 110.00 | Material $ / Cable | 245.500 | | 253.62 | 245.50 | 4% |
| 1 | 8' X 23" B-Line | Equipment Rack - Floor Mounted | Labor $$ / Rack | 110.00 | Material $ / Cable | 329.870 | | 340.77 | 329.87 | 4% |
| 1 | 9' X 23" B-Line | Equipment Rack - Floor Mounted | Labor $$ / Rack | 110.00 | Material $ / Cable | 395.000 | | 408.06 | 395.00 | 4% |
| 1 | 3' X 19" Homaco | Equipment Rack - Wall Mounted | Labor $$ / Cable | 134.75 | Material $ / Cable | 103.910 | | 107.35 | 103.91 | 4% |
| 1 | 4' X 19" Homaco | Equipment Rack - Wall Mounted | Labor $$ / Cable | 134.75 | Material $ / Cable | 117.970 | | 121.87 | 117.97 | 4% |
| 1 | 5' X 19" Homaco | Equipment Rack - Wall Mounted | Labor $$ / Cable | 134.75 | Material $ / Cable | 176.350 | | 182.18 | 176.35 | 4% |
| 1 | 6' X 19" Homaco | Equipment Rack - Wall Mounted | Labor $$ / Cable | 134.75 | Material $ / Cable | 186.410 | | 192.57 | 186.41 | 4% |
| 1 | 3' X 23" Chatsworth | Equipment Rack - Wall Mounted | Labor $$ / Cable | 134.75 | Material $ / Cable | 314.230 | | 324.62 | 314.23 | 4% |
| 1 | 6' X 23" Chatsworth | Equipment Rack - Wall Mounted | Labor $$ / Cable | 134.75 | Material $ / Cable | 489.880 | | 506.07 | 489.88 | 4% |
| 1 | 3' X 19" Homaco | Equipment Rack - Wall Mounted - Hinged | Labor $$ / Cable | 134.75 | Material $ / Cable | 154.610 | | 159.72 | 154.61 | 4% |
| 1 | 4' X 19" Homaco | Equipment Rack - Wall Mounted - Hinged | Labor $$ / Cable | 134.75 | Material $ / Cable | 160.930 | | 166.25 | 160.93 | 4% |
| 1 | 5' X 19" Homaco | Equipment Rack - Wall Mounted - Hinged | Labor $$ / Cable | 134.75 | Material $ / Cable | 222.640 | | 230.00 | 222.64 | 4% |
| 1 | 6' X 19" Homaco | Equipment Rack - Wall Mounted - Hinged | Labor $$ / Cable | 134.75 | Material $ / Cable | 232.220 | | 240.00 | 232.22 | 4% |
| 1 | 3' X 23" Chatworth | Equipment Rack - Wall Mounted - Hinged | Labor $$ / Cable | 134.75 | Material $ / Cable | 313.39 | | 323.75 | 313.39 | 4% |
| 1 | 4' X 23" Chatsworth | Equipment Rack - Wall Mounted - Hinged | Labor $$ / Cable | 134.75 | Material $ / Cable | 345.16 | | 356.45 | 345.16 | 4% |
| 1 | 5' X 23" Chatworth | Equipment Rack - Wall Mounted - Hinged | Labor $$ / Cable | 134.75 | Material $ / Cable | 404.14 | | 418.66 | 404.14 | 4% |
| 1 | 6' X 23" Chatsworth | Equipment Rack - Wall Mounted - Hinged | Labor $$ / Cable | 134.75 | Material $ / Cable | 446.34 | | 461.10 | 446.34 | 4% |

4

# Attachment B – Addition to Contract 071B8200297

**Western Tel-Com, Inc.**
SOM PROJECT ESTIMATE

| Material Manufacturer: | Systimax | Zone: | 1 |
|---|---|---|---|

| | | | # of Cable Runs | | | | | | | | | TOTAL COST | | |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| | | | 1-24 | | 25-48 | | 49-144 | | 145-336 | | | | | |
| | | | Labor | Material | Labor | Material | Labor | Material | Labor | Material | | Labor | Material | |
| **Quanity** | **Description** | **HORIZONITAL WIRING** | | | | | | | | | | | | |

| | | | Price for Each Item based on Quanity | | | | | | | | Total | | | |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| | | | 1-24 | | 25-48 | | 49-72 | | 72 & Up | | Price | | | |
| | | | Labor | Material | Labor | Material | Labor | Material | Labor | Material | per Unit | | | |
| **Quanity** | **Description** | **TERMINATING HARDWARE** | | | | | | | | | | | | |
| 1 | Surface Mount Box (2 Outlet) 10 Gig | | 6.58 | 4.85 | 6.29 | 4.85 | 6.15 | 4.85 | 5.85 | 4.85 | | 6.58 | 4.85 | |
| 1 | Surface Mount Box (4 Outlet) 10 Gig | | 6.58 | 8.65 | 6.29 | 8.65 | 6.15 | 8.65 | 5.85 | 8.65 | | 6.58 | 8.65 | |
| **Quanity** | **Description** | **RISER / FIBER CABLE / FIBER SPLICING** | | | | | | | | | | | | |
| **Quanity** | **Description** | **MISCELLANEOUS** | | | | | | | | | | | | |
| 1 | | SC Coupler SM & MM | | 7.260 | | | 7.260 | | | 7.260 | | | $ 7.26 | |
| 1 | | ST Coupler SM | | 7.040 | | | 7.04 | | | 7.040 | | | $ 7.04 | |
| 1 | | ST Coupler MM | | 6.750 | | | 6.750 | | | 6.750 | | | $ 6.75 | |
| 1 | | LC Coupler SM | | 6.150 | | | 6.15 | | | 6.150 | | | $ 6.15 | |
| 1 | | LC coupler MM | | 6.900 | | | 6.90 | | | 6.900 | | | $ 6.90 | |
| | | | | | | | | | | Sub-Total - Labor / Material | | $13.16 | $47.60 | |
| | | | | | | | | | | **Total** | | **$** | | **60.76** |

Form No. DMB 234 (Rev. 1/96)
AUTHORITY: Act 431 of 1984
COMPLETION: Required
PENALTY: Contract will not be executed unless form is filed

**STATE OF MICHIGAN**
**DEPARTMENT OF MANAGEMENT AND BUDGET** **September 8, 2008**
**PURCHASING OPERATIONS**
**P.O. BOX 30026, LANSING, MI 48909**
**OR**
**530 W. ALLEGAN, LANSING, MI 48933**

# NOTICE
# OF
# CONTRACT NO. 071B8200297
# between
# THE STATE OF MICHIGAN
# and

| | |
|---|---|
| NAME & ADDRESS OF VENDOR<br><br>**Western Tel-Com**<br>**P. O. Box 1317**<br>**Holland, MI 49422-0000**<br>**KurtF@westerntel-com.com** | TELEPHONE Kurt Friedriechsen<br>**(616) 393-0138**<br>VENDOR NUMBER/MAIL CODE<br><br>BUYER (517) 241-3215<br>**Steve Motz** |
| Contract Administrator: Mike Breen<br>**Cable Materials and Installation, Voice & Data – DIT - Statewide** | |
| CONTRACT PERIOD: From: **September 1, 2008** To: **August 30, 2011** | |
| TERMS<br>**N/A** | SHIPMENT<br>**N/A** |
| F.O.B.<br>**Delivered/Installed** | SHIPPED FROM<br>**N/A** |
| MINIMUM DELIVERY REQUIREMENTS<br>**N/A** | |
| MISCELLANEOUS INFORMATION: | |

**Estimated Contract Value: $3,000,000.00**

Form No. DMB 234 (Rev. 1/96)
AUTHORITY: Act 431 of 1984
COMPLETION: Required
PENALTY: Contract will not be executed unless form is filed

**STATE OF MICHIGAN**
**DEPARTMENT OF MANAGEMENT AND BUDGET**
**PURCHASING OPERATIONS**
**P.O. BOX 30026, LANSING, MI 48909**
**OR**
**530 W. ALLEGAN, LANSING, MI 48933**

# CONTRACT NO. 071B8200297
# between
# THE STATE OF MICHIGAN
# and

| | |
|---|---|
| NAME & ADDRESS OF VENDOR<br><br>**Western Tel-Com**<br>**P. O. Box 1317**<br>**Holland, MI 49422-0000**<br>**KurtF@westerntel-com.com** | TELEPHONE Kurt Friedriechsen<br>**(616) 393-0138**<br>VENDOR NUMBER/MAIL CODE<br><br>BUYER (517) 241-3215<br>**Steve Motz** |
| Contract Administrator: Mike Breen<br>**Cable Materials and Installation, Voice & Data – DIT - Statewide** | |
| CONTRACT PERIOD: From: **September 1, 2008** To: **August 30, 2011** | |
| TERMS<br>**N/A** | SHIPMENT<br>**N/A** |
| F.O.B.<br>**Delivered/Installed** | SHIPPED FROM<br>**N/A** |
| MINIMUM DELIVERY REQUIREMENTS<br>**N/A** | |
| MISCELLANEOUS INFORMATION:<br>**In the event of any conflicts between the specifications, terms and conditions indicated by the State and those indicated by the vendor, those of the State take precedence.**<br><br>**Estimated Contract Value: $3,000,000.00** | |

**THIS IS NOT AN ORDER: This Contract Agreement is awarded on the basis of a Request For Proposal, inquiry number 071I8200187. All terms and conditions of the invitation to bid are made a part hereof.**

| **FOR THE VENDOR:** | **FOR THE STATE:** |
|---|---|
| **Western Tel-Com**<br>Firm Name | Signature |
| Authorized Agent Signature | **Greg Faremouth, Director**<br>Name |
| Authorized Agent (Print or Type) | **IT Division**<br>Title |
| Date | Date |

**STATE OF MICHIGAN**
**Department of Management and Budget**
**Purchasing Operations**

Contract No. **071I8200297**
(Statewide Infrastructure Cable)

Buyer Name: Steve Motz
Telephone Number: (517) 241-3215
E-Mail Address: motzs@michigan.gov

## Table of Contents


Table of Contents ..... 9
Article 1 – Statement of Work (SOW) ..... 13
1.0 Project Identification ..... 13
1.001 PROJECT REQUEST ..... 13
1.002 BACKGROUND ..... 13
1.1 Scope of Work and Deliverables ..... 13
1.101 IN SCOPE ..... 13
1.102 OUT OF SCOPE ..... 14
1.103 ENVIRONMENT ..... 14
1.104 WORK AND DELIVERABLE ..... 16
1.2 Roles and Responsibilities ..... 20
1.201 CONTRACTOR STAFF, ROLES, AND RESPONSIBILITIES ..... 20
1.202 STATE STAFF, ROLES, AND RESPONSIBILITIES ..... 24
1.3 Project Plan ..... 25
1.301 PROJECT PLAN MANAGEMENT ..... 25
1.302 REPORTS ..... 26
1.4 Project Management ..... 26
1.401 ISSUE MANAGEMENT ..... 26
1.402 RISK MANAGEMENT ..... 28
1.403 CHANGE MANAGEMENT ..... 28
1.5 Acceptance ..... 28
1.501 CRITERIA ..... 28
1.502 FINAL ACCEPTANCE ..... 28
1.6 Compensation and Payment ..... 28
1.601 COMPENSATION AND PAYMENT ..... 28
Article 1, Attachment A ..... 30
Article 1, Attachment B ..... 31
Special Secured Facilities ..... 31
Laborer ..... 32
Article 2 – General Terms and Conditions ..... 39
2.010 Contract Structure and Administration ..... 39
2.011 Definitions ..... 39
2.012 Attachments and Exhibits ..... 39
2.013 Statements of Work ..... 39
2.014 Issuing Office ..... 40
2.015 Contract Compliance Inspector ..... 40
2.016 Project Manager ..... 41
2.020 Contract Objectives/Scope/Background ..... 41
2.021 Background ..... 41
2.022 Purpose ..... 41
2.023 Objectives and Scope ..... 41
2.024 Interpretation ..... 41
2.025 Form, Function and Utility ..... 41
2.030 Legal Effect and Term ..... 41
2.031 Legal Effect ..... 41
2.032 Contract Term ..... 41
2.033 Renewal(s) ..... 42
2.040 Contractor Personnel ..... 42
2.041 Contractor Personnel ..... 42

2.042 Contractor Identification ... 44
2.043 Cooperation with Third Parties ... 44
2.044 Subcontracting by Contractor ... 44
2.045 Contractor Responsibility for Personnel ... 45
2.050 State Standards ... 45
2.051 Existing Technology Standards ... 45
2.052 PM Methodology Standards ... 45
2.053 Adherence to Portal Technology Tools ... 45
2.054 Acceptable Use Policy ... 45
2.060 Deliverables ... 46
2.061 Ordering ... 46
2.062 RESERVED - Software ... 46
2.063 RESERVED - Hardware ... 46
2.064 Equipment to be New and Prohibited Products ... 46
2.070 Performance ... 46
2.071 Performance, In General ... 46
2.072 Time of Performance ... 46
2.073 RESERVED - Liquidated Damages ... 47
2.074 Bankruptcy ... 47
2.075 Time is of the Essence ... 47
2.080 Delivery and Acceptance of Deliverables ... 48
2.081 Delivery Responsibilities ... 48
2.082 Delivery of Deliverables ... 48
2.083 Testing ... 48
2.084 Approval of Deliverables, In General ... 49
2.085 Process For Approval of Written Deliverables ... 50
2.086 Process for Approval of Services ... 50
2.087 Process for Approval of Physical Deliverables ... 50
2.088 Final Acceptance ... 50
2.090 Financial ... 51
2.091 Pricing ... 51
2.092 Invoicing and Payment Procedures and Terms ... 51
2.093 State Funding Obligation ... 52
2.094 RESERVED - Holdback ... 52
2.095 Electronic Payment Availability ... 52
2.100 Contract Management ... 52
2.101 Contract Management Responsibility ... 52
2.102 Problem and Contract Management Procedures ... 53
2.104 System Changes ... 53
2.105 Reserved ... 53
2.106 Change Requests ... 54
2.110 Records and Inspections ... 55
2.111 Records and Inspections ... 55
2.112 Errors ... 55
2.120 State Responsibilities ... 55
2.121 State Performance Obligations ... 55
2.130 Security ... 56
2.131 Background Checks ... 56
2.140 Reserved ... 56
2.150 Confidentiality ... 56
2.151 Freedom of Information ... 56
2.152 Confidentiality ... 57
2.153 Protection of Confidential Information ... 57

2.154 Exclusions ... 57
2.155 No Implied Rights ... 57
2.156 Remedies ... 58
2.157 Security Breach Notification ... 58
2.158 Survival ... 58
2.159 Destruction of Confidential Information ... 58
2.160 Proprietary Rights ... 58
2.163 Rights in Data ... 59
2.164 Ownership of Materials ... 60
2.165 Standard Software ... 60
2.166 Pre-existing Materials for Custom Software Deliverables ... 60
2.167 General Skills ... 60
2.170 Warranties And Representations ... 61
2.171 Warranties and Representations ... 61
2.175 Standard Warranties ... 62
2.176 Consequences For Breach ... 63
2.180 Insurance ... 63
2.181 Liability Insurance ... 63
2.190 Indemnification ... 66
2.191 Indemnification ... 66
2.192 Continuation of Indemnification Obligations ... 67
2.193 Indemnification Procedures ... 67
2.200 Limits of Liability and Excusable Failure ... 67
2.201 Limits of Liability ... 67
2.202 Excusable Failure ... 68
2.203 Disaster Recovery ... 69
2.210 Termination/Cancellation by the State ... 69
2.211 Termination for Cause ... 69
2.212 Termination for Convenience ... 69
2.213 Non-Appropriation ... 70
2.214 Criminal Conviction ... 70
2.216 Rights and Obligations Upon Termination ... 70
2.217 Reservation of Rights ... 71
2.218 Contractor Transition Responsibilities ... 71
2.219 State Transition Responsibilities ... 72
2.220 Termination by Contractor ... 72
2.221 Termination by Contractor ... 72
2.230 Stop Work ... 72
2.231 Stop Work Orders ... 72
2.232 Cancellation or Expiration of Stop Work Order ... 72
2.233 Allowance of Contractor Costs ... 73
2.240 Reserved ... 73
2.250 Dispute Resolution ... 73
2.251 In General ... 73
2.252 Informal Dispute Resolution ... 73
2.253 Injunctive Relief ... 74
2.254 Continued Performance ... 74
2.260 Federal and State Contract Requirements ... 74
2.261 Nondiscrimination ... 74
2.262 Unfair Labor Practices ... 74
2.263 Workplace Safety and Discriminatory Harassment ... 74
2.270 Litigation ... 74
2.271 Disclosure of Litigation ... 74

2.272 Governing Law ..... 75
2.273 Compliance with Laws ..... 75
2.274 Jurisdiction ..... 75
2.280 Environmental Provision ..... 76
2.281 Environmental Provision ..... 76
2.290 General ..... 76
2.291 Amendments ..... 76
2.292 Assignment ..... 77
2.293 Entire Contract; Order of Precedence ..... 77
2.294 Headings ..... 77
2.295 Relationship of the Parties (Independent Contractor Relationship) ..... 77
2.296 Notices ..... 77
2.297 Media Releases and Contract Distribution ..... 78
2.298 Reformation and Severability ..... 78
2.299 Consents and Approvals ..... 78
2.300 No Waiver of Default ..... 78
2.301 Survival ..... 79
2.302 Covenant of Good Faith ..... 79
2.303 Permits ..... 79
2.304 Website Incorporation ..... 79
2.305 Taxes ..... 79
2.306 Prevailing Wage ..... 79
2.307 Call Center Disclosure ..... 80
2.308 Future Bidding Preclusion ..... 80
2.310 Reserved ..... 80
2.320 Extended Purchasing ..... 80
2.321 MiDEAL ..... 80
2.330 Federal Grant Requirements ..... 81
2.331 Federal Grant Requirements ..... 81
Exhibit A ..... 82

# Article 1 – Statement of Work (SOW)

## *1.0 Project Identification*

### 1.001 PROJECT REQUEST

The State of Michigan (State), through the Michigan Department of Management & Budget (DMB), with assistance of the Michigan Department of Information Technology (MDIT), has issued this contract. The Contractor will furnish and install new materials per State provided specifications and drawings. There are State owned and/or leased buildings and campuses which may require new and/or upgraded information transport infrastructure. The contractor will provide an end to end information transport solution which will consist of new materials, all labor and all tools required to install, terminate and test the information transport system. The telecommunications cabling company is to perform services for the Department of Information Technology in support of any State agency requesting these services. The infrastructure materials and labor to install said materials shall meet ANSI EIA/TIA, NFPA and BICSI standards and UL Listed. In addition, all applicable National Electric Codes, Building Codes, Local Codes and any other jurisdictional requirements are to be met.

### 1.002 BACKGROUND

The Michigan Department of Information Technology, Telecommunications and Network Management Division, is mandated to manage, maintain and provision cost effective voice, data, video and any other required telecommunication products and services that enable the agencies of the State of Michigan to productively conduct their functions in a timely manner.

The placement of information transport systems is required to provide State communication network connectivity in support of all branches of State government. The job locations may be throughout the State of Michigan.

## *1.1 Scope of Work and Deliverables*

### 1.101 IN SCOPE

Contractor will provide the following services for the complete and successful addition of **Information Transport Systems (ITS)** which may consist of fiber optic cable and/or copper cable to the State's communication network.

- Project Design and Discovery
- Project Work Plan Development
- Furnish and install materials and associated equipment
- Provide As Built Drawings and Specifications
- Conduct Testing and Provide Test Results
- Restoration
- Obtain Required Permits

The State seeks to have services begin **upon** execution of the Contract.

This contract is for a term of **three (3) years** with the option of **two (2) one-year extensions**.

The estimated spend for this contract is **$3,000,000** over the base years, based on a historical perspective and projected utilization over the three years.

A more complete description of the supplies and/or services sought for this project is provided in Section 1.104, Work and Deliverables.

## 1.102 OUT OF SCOPE

The following are out of the scope of this Request for Proposals:

- Integration to electronic equipment including jumper cables will be handled internally by MDIT.

## 1.103 ENVIRONMENT

**1) Zones**:

The pricing structure is based upon each of the seven (7) geographic areas (zones) described as follows:

The area within the below stated boundaries is **Zone 1**. As a point of clarification, be aware that the Detroit Metropolitan Area, Ann Arbor, Flint and Port Huron are part of Zone 1.

| | | |
|---|---|---|
| **Zone 1:** | **East boundary**: | Lake Erie, Detroit River, Lake St. Clair, St. Clair River and Lake Huron. |
| **Zone 1:** | **South boundary**: | Michigan State line from Lake Erie west to State Route 52. |
| **Zone 1:** | **West boundary:** | State Route 52 from the Michigan State line north to I94. I94 East to US-23. US-23 North to State Route 57. |
| **Zone 1:** | **North boundary:** | State Route 57 at US-23 West to State Route 15. State Route 15 South to I-69 East. I-69 East to St. Clair River and/or Lake Huron. |

The area within the below stated boundaries is **Zone 2**.

| | | |
|---|---|---|
| **Zone 2:** | **East boundary**: | State Route 52 North from the Michigan State line to I94. I94 East to US-23. US-23 North to State Route 57. |
| **Zone 2:** | **South boundary**: | Michigan State line from State Route 52 west to I-69. |
| **Zone 2:** | **West boundary:** | I-69 North to I94 West to State Route 66 North to tate Route 57. |
| **Zone 2:** | **North boundary:** | State Route 57 East from State Route 66 to US-23. |

The area within the below stated boundaries is **Zone 3.**

| | | |
|---|---|---|
| **Zone 3:** | **East boundary**: | Lake Huron from I-69 north to I-75. |
| **Zone 3:** | **South boundary**: | I-69 at Lake Huron west to State Route 15 North to State Route 57 West to US-27. |
| **Zone 3:** | **West boundary:** | US-27 at State Route 57 North to I-75 North to Lake Michigan shoreline. |
| **Zone 3:** | **North boundary:** | Lower Peninsula, Lake Michigan shoreline East of I-75 south to I-69. |

The area within the below stated boundaries is **Zone 4.** As a point of clarification be aware that Muskegon is included as part of Zone 4.

| | | |
|---|---|---|
| **Zone 4:** | **East boundary**: | US-27 at State Route 57 North to I-75 North to Lake Michigan shoreline. |
| **Zone 4:** | **South boundary**: | State Route 46 at Lake Michigan south of Muskegon East to State Route 57 East to Us-27. |
| **Zone 4:** | **West boundary:** | Lower Peninsula, Lake Michigan shoreline bordering West side of State of Michigan at State Route 46 North to I-75 at Mackinaw Bridge. |
| **Zone 4:** | **North boundary:** | Lower Peninsula, Lake Michigan shoreline West of I-75 at Mackinaw Bridge. |

The area within the below stated boundaries is **Zone 5.**

| | | |
|---|---|---|
| **Zone 5:** | **East boundary**: | I-69 at the Michigan State line North to I94 West to State Route 66 North to State Route 57. |
| **Zone 5:** | **South boundary**: | Michigan State line from I-69 west to Lake Michigan shoreline. |
| **Zone 5:** | **West boundary:** | Lake Michigan shoreline from Michigan State line to State Route 46 at Lake Michigan shoreline south of Muskegon. |
| **Zone 5:** | **North boundary:** | Route 46 at Lake Michigan shoreline south of Muskegon east to State Route 57 east to US-27. |

The area within the below stated boundaries is **Zone 6.** As a point of clarification be aware that Escanaba is included as part of Zone 6.

| | | |
|---|---|---|
| **Zone 6:** | **East boundary**: | Michigan Upper Peninsula farthest point east |
| **Zone 6:** | **South boundary**: | Upper Peninsula Lake Michigan and Lake Huron shoreline most easternly point to US-41 at Lake Michigan. |
| **Zone 6:** | **West boundary:** | US-41 at Lake Michigan shoreline north to Lake Superior shoreline. |
| **Zone 6:** | **North boundary:** | Lake Superior shoreline at US-41 east to most easternly point of Michigan Upper Peninsula. |

The area within the below stated boundaries is **Zone 7.**

| | | |
|---|---|---|
| **Zone 7:** | **East boundary**: | US-41 at Lake Michigan shoreline north to Lake Superior shoreline. |
| **Zone 7:** | **South boundary**: | Lake Michigan shoreline west of US-41 to Michigan Wisconsin border. |
| **Zone 7:** | **West boundary:** | Michigan Wisconsin border from Lake Michigan to Lake superior. |
| **Zone 7:** | **North boundary:** | Lake Superior shoreline from the Michigan Wisconsin border to US-41 at Lake Superior shoreline. |

**2) Technical Environment**:

The State's technical environment for this project consists of:

- 8.3 micron single mode fiber optic cable
- 50.0 micron multi mode fiber optic cable
- 62.5 micron multi mode fiber optic cable
- ST Connectors
- SC Connectors
- Termination Shelves
- Mounting hardware
- Terminal Strips
- Equipment Racks
- Distributing Frame equipment
- Miscellaneous construction materials (nails, screws, glue, batons, etc)
- Cat 5E UTP
- Cat 6A UTP
- Copper riser cables with various number of conductor pairs
- Firestopping materials
- Telephone ground systems
- Cable Trays
- Aerial Cable construction
- Buried conduit and cable construction
- Underground conduit and cable construction

**3) Methods, Policies, Standards and Guidelines**:

Contractors are advised that the State has methods, policies, standards and guidelines that have been developed over the years. Contractors are expected to provide proposals that conform to State IT policies and standards. All services and products provided through this contract must comply with all applicable State IT policies and standards. The Contractor must request exceptions to State IT policies and standards in accordance with MDIT processes. It will be the responsibility of the State to deny the exception request or to seek a policy or standards exception.

The links below will provide information on State of Michigan IT strategic plans, current environment, policies, and standards.

Strategic Plan:
http://www.michigan.gov/dit/0,1607,7-139-30637-135173--,00.html

Enterprise Policies, Procedures and Standards:
http://www.michigan.gov/dit/0,1607,7-139-34305---,00.html

The State's Project Management Methodology (PMM) must be followed:
http://www.michigan.gov/dit/0,1607,7-139-30637_31101-58009--,00.html

Information regarding the State's telecommunications policies and procedures may be found at:
http://www.michigan.gov/dit/0,1607,7-139-34305-109932--,00.htm

The Contractor shall comply with all security standards and the security access requirements for individual State facilities.

### 1.104 WORK AND DELIVERABLE

The Contractor shall provide Deliverables/Services and staff, and otherwise do all things necessary for or incidental to the performance of work, as set forth below and in the attachments.

**A. Mandatory Requirements** – Contractor shall meet the following requirements:

| **A. Mandatory Requirements** |
|---|
| **1. Standards** |
| a. The infrastructure materials and labor to install said materials shall meet ANSI EIA/TIA, NFPA and BICSI standards and UL Listed. |
| b. All applicable National Electric Codes, Building Codes, Local Codes and any other jurisdictional requirements shall be met. |
| c. The installation of materials for this project shall conform to the latest accepted best practices as specified by Occupational Safety and Health Administration (OSHA), Michigan Occupational Safety and Health Administration (MIOSHA), National Electrical Safety Code (NESC). |
| d. Must be a member of BICSI |
| e. Must comply with all local and national electrical and building codes. |
| f. Must be constructed in accordance with the instructions in the individual project scope of work. |
| **2. Delivery** |
| a. The deliverables shall be shipped F.O.B. Destination, freight prepaid and allowed, directly to each entity, unless otherwise requested, and to the exact locations shall be specified in the purchase order. |
| b. If, during the term of the Agreement, Contractor enters into a contract with any other customer for substantially the same quantity, equipment, fiber cable, related material, terms and conditions for a lower cost, Contractor will offer the same decrease in rates to the State. |
| **3. Installation requirements** |
| a. Must meet all manufacturers' installation requirements. |
| b. The vendor will maintain a work area free of debris, trash, empty cable reels, scrap cable, etc. and dispose of such items on a daily basis. |
| c. The vendor is to provide building protection to walls and floors as required to maintain startup condition of building. |
| d. All penetration of firewalls used by the Vendor will be sealed by the Vendor with an approved fire rated sealant. |
| e. All conduits, other than those used for flush mount information outlets, will be sealed by the Vendor. |

| A. Mandatory Requirements |
|---|
| The sealant will be an approved fire rated sealant. |
| f. The Vendor will not compromise safe work techniques nor a safe work environment during any portion of work associated with any resulting contract/contracts. Safety to life and property are of the utmost importance. |
| g. All materials are to be new and 100% free of defects. |
| **4. Testing and Functionality** |
| a. All fiber strands within fiber optic cable placed shall be functional and tested with an OTDR to maximum capacity according to the manufacturer's specifications. |
| b. Fiber cables shall be tested bidirectional at 1310 nm and 1550 nm with a maximum cable attenuation of .5 dB/km at 1310 nm and .4 dB/km at 1550 nm. |
| c. All fibers spliced and terminated shall be functional to the maximum requirements of the cable manufacturer's specifications. |
| **5. Information Transport System** |
| a. The system will transport optical telecommunication information signals between the Saginaw State office building and 999 South Washington, Saginaw Michigan. |
| b. The system enables optical telecommunication information equipment to transport and receive light signals between data centers. |
| c. The system provides the ability of interconnection and interoperability at Layer 1 of the OSI (Open System Interconnection) Model between this information transport system and other State information transport systems and networks. |
| d. The system is part of an information network that enables agencies to communicate within themselves and with other agencies in diverse locations and over large distances. |
| e. The system is normally available for usage by the agencies 24/7 and 365. |
| f. The system complies with all national and local Electrical and Building Codes and Standards. |
| **6. Fiber Cable Protection** |
| a. The fiber cable shall be protected from lightning damage and mechanical damage by an internal metallic armored layer which shall be grounded in accordance with industry Standards, manufacturer's instructions and applicable electrical Codes. |
| b. Contractor shall provide adequate personnel equipped with fiber splicing / repair material and tools to restore any Contractor-created outages to the existing in-place fiber network. |
| c. Contractor shall report any repair at their own cost any damages to the existing in-place fiber network that are a result of contractors work. |
| **7. Warranties** |
| a. The equipment manufacturer shall provide a warranty that covers product, labor, and future applications for a minimum of 20 years. |
| b. Warranty commences on the date products are accepted by the State. |
| c. All applicable third party warranties for deliverables are assigned to the State. |

## B. Services to be Provided

The State will provide to the vendor a description of the project scope and the vendor is to fulfill these requirements in a reasonable and timely manner. The State's needs and requirements will vary depending on the project. The contractor must have the ability to respond on short notice. Although, short notice will be the exception, the contractor must be aware of this possibility. There is the possibility that a contractor may be required to contact and meet with various agencies of the State; it is also possible that total, partial, or no contractor services may be requested. Written reports of all meetings attended and/or quality audits performed by the contractor must be provided to the State's Contract Manager. Section 1.104.B outlines tasks, which may or may not be required by the contractor. The State will make determination of which services, if any are required on a job by job basis.

The Contractor will not have exclusivity on the functions stated below and/or in Section 1.104.B, nor are the functions stated below and/or in Section 1.104.B all inclusive of what the contractor may be called upon to do,

yet remaining within the scope of this contract. It is possible that the State may decide to undertake some of the projects in-house.

All activities that are contracted, including, but not limited to, labor, materials, reports and any correspondence will be coordinated with the Contractor's Contract Administrator or their duly assigned designee.

Contractor will provide at the State's request the following:

1. **Project Design and Discovery**
   The following is a preliminary analysis of the major tasks involved for developing the end product of this project. The Contractor is not, however constrained from supplementing this listing with additional steps, subtasks or elements deemed necessary to permit the development of alternative approaches or the application of proprietary analytical techniques. It is the State's responsibility to select projects and work operations which will involve the contractor. The State will submit to the contractor in writing, the selected project, contractors involvement and required schedule.

   The table that follows provides an overview of a typical project process flow and associated deliverables for the project phases:

| Task | Description of Tasks | Contractor Role/ (Deliverable) | State Role |
|---|---|---|---|
| Walkthrough | Identify work to be done by Contractor | Provide Contractor with deliverable requirements as a result of the walkthrough | Schedule, identify location and inform Contractor of walkthrough |
| Preparation | Procurement of materials, work planning and scheduling and clarification of roles | Contractor to provide project plan, procure materials, identify key personnel ,and identify single point of contact, | Identify State's project manager, co-ordinate building access and schedule project meetings |
| Production | Furnish and install fiber optic cable and associated equipment | Contractor installs all materials in accordance with cable design. | Identify and assist in resolution of problems that arise. Verify project progress quality of workmanship and materials |
| Control | Project meetings, status reports and site inspections | Contractor to provide status reports and attend project meetings as required | Attend project meeting as required and validate progress as reported by Contractor |
| Acceptance | Verify deliverables and perform final walkthrough. Project billing closeout. | Contractor assures deliverables meet or exceed acceptance expectations of the State and provides as-built drawings and test results for each fiber that are within acceptable limits of the design. Contractor submits final invoice to include all remaining charges | State to create punchlist as result of final walkthrough. Contractor is to correct all defects listed on punchlist. Perform final walkthrough once punchlist items have been cleared by Contractor. State project manager processes Contractor's final invoice for payment. |

2. **Project Work Plan Development**
The Contractor will develop work plans and schedules. The contractor work plan shall indicate the number of person-hours allocated for each task. Include a PERT-type display, time related, showing each event, task, and decision point in the work plan. The work plans must agreed upon by the MDIT duly assigned project manager prior to start of job. A copy of the approved work plans along with State provided specifications and drawings will be on the job site at all times during this installation. Location of equipment must be adhered to unless a change is authorized by the duly delegated MDIT Project Manager. The only person and/or persons having the authority to make changes to the work plan is/are the MDIT duly assigned Project Manager(s). All changes must be approved in writing prior to change. It is conceivable that the contractor contact the MDIT Project Manager by telephone and explain the requested changes. At that point in time the Project Manager may fax to the contractor the authority for the change.

The Contractors installation crew will be completely familiar with and understanding of the work plans and contract requirements.

3. **Furnish and install materials and associated equipment**
Contractor furnish and install new materials per State provided specifications and drawings.

The Contractor is responsible for providing all supervision, labor, tools, test sets, equipment, hardware, cabling materials, transportation, hauling and hoisting and miscellaneous materials as part of any resulting contract/contracts.

4. **Provide As Built Drawings and Specifications**
As part of the hardware and services to be delivered, the Contractor will furnish two (2) complete sets of RCDD certified as-built drawings and as-built specifications as required to the MDIT Telecommunications Project Manager within three weeks of project completion and installation. The Contractor must provide the State with as-built drawings that depict discrepancies, changes and additions relating to the installation of the actual physical cable, terminations and associated equipment and hardware. The as-built drawings will be generated on drawings furnished to the Contractor by the MDIT Project Manager. The as-built drawings may include jack location including identification numbers, detailed length of cable runs and type of cable and hardware.

The RCDD must have first hand knowledge concerning the accuracy of the as- built drawings and as-built specifications.

5. **Conduct Testing and Provide Test Results**
Test records including OTDR printouts shall be provided to the State upon submission of each deliverable.

**<u>Copper Cable Testing</u>**
All cables, copper and fiber, will be tested by the contractor to ensure compliance with ANSI EIAITIA standards for the particular type cable being tested. All copper cables will terminate on modular hardware at the work station. All copper cables, including terminating hardware, will be tested using a "Wavetech" or equivalent test set. Hard copy of test set printouts will be turned over to the State as part of the final job papers. The test results pertaining to copper cable, at a minimum, will reveal;

Site Name
Circuit ID
Technician
Date
Cable Category (Type)
Length
Capacitance (pflft)

Attenuation and Frequency (Mhz and db)
Resistance (Ohms)
Signal to Noise Ratio
Noise
Impedance (Ohms)
Near End Crosstalk
PassIFail

Copper cable test results will be required to be turned over to the State as a hard paper copy and/or a CD.

**Fiber Cable Testing**
All fiber cable will be tested using an Optical Time Domain Reflectometer (OTDR). Test results for each strand and terminating hardware will be turned over to the State as palt of the final job papers. Fiber cable will be tested in both directions at 850 and 1300 nanometers. Test results are to be recorded on a summary sheet. The sheet is to be provided as a hard paper copy and/or a CD. This sheet, at a minimum, will indicate;

Site Name
Circuit ID
Circuit ID
Technician
Date
Cable Type (Multi or Single Mode)
DB Loss
Length of Strand

6. **Restoration**
   The Contractor is responsible to repair any damage caused to the facility as a result of Contractor activity. The restoration will be equal to or better than facility condition at startup.

7. **Obtain Required Permits**
   The Contractor is responsible to obtain any required permits for the work completed by the Contractor. The State will reimburse the Contractor for the actual costs associated with obtaining the permit.

*1.2 Roles and Responsibilities*

### 1.201 CONTRACTOR STAFF, ROLES, AND RESPONSIBILITIES

The work is to be performed, completed, and managed at various area locations throughout the State of Michigan as identified in 1.103.1.

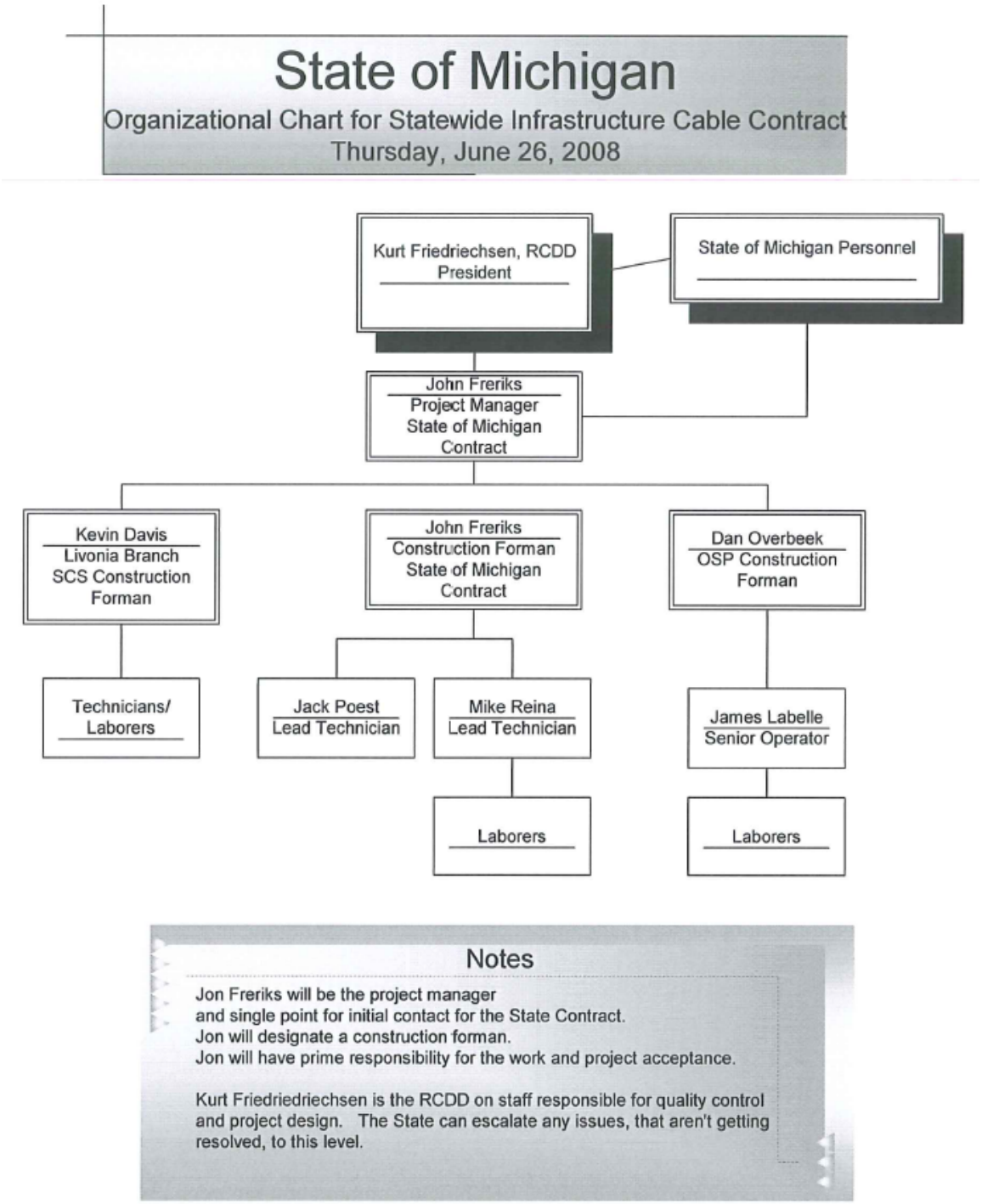
Contractor's staff must be able to pass a security clearance check conducted by the Contractor. Contractors must present certifications evidencing satisfactory background checks and drug tests for all staff identified for assignment to this project. Contractor is responsible for any costs associated with ensuring their staff meets all requirements.

The Contractor will identify to the MDIT Project Manager any work that requires building structure modifications. This is to include, but not limited to, core bores, conduits, etc.

The Contractor shall have and maintain an in-house quality assurance program. This program shall include job audits and employee training.

**Organizational Chart**

The Contractor's Organization Chart is provided below:




The Contractor will update the Organizational Chart when changed, indicating lines of authority for personnel involved in performance of this Contract and relationships of this staff to other programs or functions of the firm. This chart must also show lines of authority to the next senior level of management and indicate who within the firm will have prime responsibility and final authority for the work.

**Contractor Staffing**

The Contractor shall provide and maintain the following Key Personnel positions.

- Project Manager
- Registered Communications Distribution Designer (RCDD)
- Construction Foreman

The Key-Personnel identified below shall be committed, and shall perform the assigned work.

| | | |
|---|---|---|
| **Proposed Role:** | *Project Manager* | |
| **Proposed Resource Name:** | **Jon Freriks** | |
| **Associated with (check one):** | Prime Bidder: **X**<br>(The proposed Project Manager must be employed by the Prime Bidder) | |
| **Percentage of Time to be allocated to Project: 60% to 100% dependent on the State work Load** | | *As required to successfully complete the project* |

I, **Jon Freriks**, submit this statement of commitment, that I intend to work for Western Tel-Com and will be an identified resource for the duration of this state project.

Signed 7-9-08

| | | |
|---|---|---|
| **Proposed Role:** | *RCDD* | |
| **Proposed Resource Name:** | **Kurt Friedriechsen** | |
| **Associated with (check one):** | Prime Bidder: **X**<br>(The proposed RCDD must be employed by the Prime Bidder) | |
| **Percentage of Time to be allocated to Project: As needed** | | *As required to successfully complete the project* |

I, **Kurt Friedriechsen**, submit this statement of commitment, that I intend to work for Western Tel-Com and will be an identified resource for the duration of this state project.

Signed 7-9-08

| | | |
|---|---|---|
| **Proposed Role:** | *Construction Foreman* | |
| **Proposed Resource Name:** | **Kevin Davis** | |
| **Associated with (check one):** | Prime Bidder: **X**<br>(The proposed Construction Foreman must be employed by the Prime Bidder) | |
| **Percentage of Time to be allocated to Project: As needed** | | *As required to successfully complete the project* |

I, Kevin Davis, submit this statement of commitment, that I intend to work for Western Tel-Com and will be an identified resource for the duration of this state project.

Signed 6.24.08
Date

| | | |
|---|---|---|
| **Proposed Role:** | *Construction Foreman* | |
| **Proposed Resource Name:** | **Dan Overbeek** | |
| **Associated with (check one):** | Prime Bidder: **X**<br>(The proposed Construction Foreman must be employed by the Prime Bidder) | |
| **Percentage of Time to be allocated to Project: As needed** | | *As required to successfully complete the project* |

I, Dan Overbeek, submit this statement of commitment, that I intend to work for Western Tel-Com and will be an identified resource for the duration of this state project.

Signed 7-07-2008

Project Manager

The State reserves the right to require a change in the current Project Manager if the assigned Project Manager is not, in the opinion of the State, adequately serving the needs of the State.

The Project Manager will work closely with the designated personnel from the State to insure a smooth transition to the new system. The project manager will coordinate all of the activities of the Contractor personnel assigned to the project and create all reports required by State. The Contractor's project manager responsibilities include, at a minimum:

- Support the management of the Contract
- Facilitate dispute resolution
- Advise the State of performance under the terms and conditions of the Contract.
- Manage all defined Contractor responsibilities in this Scope of Services.
- Develop the project plan and schedule, and update as needed
- Serve as the point person for all project issues
- Coordinate and oversee the day-to-day project activities of the project team
- Assess and report project feedback and status
- Escalate project issues, project risks, and other concerns
- Review all project deliverables and provide feedback
- Proactively propose/suggest options and alternatives for consideration
- Utilize change control procedures
- Prepare project documents and materials
- Manage and report on the project's budget

Registered Communications Distribution Designer (RCDD)

The responsibilities of the **Registered Communications Distribution Designer (RCDD)** shall include, but will are not limited to:

- Verify designs
- Perform quality inspections
- Project Plan design

Construction Foreman

The responsibilities of the **Construction Foreman** shall include, but will are not limited to:

- Managing the construction crew.
- Supervision of cabling work

Minimum qualification for the Construction Foreman are as follows:

- 5 yrs experience running construction crews
- Prior experience with Information Transport Systems, aerial and underground construction methods, and building cable systems.

## 1.202 STATE STAFF, ROLES, AND RESPONSIBILITIES

MDIT will be responsible for the State's infrastructure and work together with the Contractor in determining the system configuration.

The State project team will consist of the following members, with the identified responsibilities:

**Steering Committee**

- Stanley Paterson, MDIT Project Manager, (chairperson of the steering committee.)
- Scott Harvey, MDIT Telecommunication Manager
- Jack Harris, MDIT Telecommunications and Network Management Director

The Steering Committee will provide the following services:

- Approve the project schedule
- Authorize modifications for scope, resources, and budget of the project
- Ensure senior management commitment to the project
- Act as a final arbiter on proposed changes that significantly affect the business interests of the State

**Project Manager/Contract Manager** - Stanley Paterson, RCDD, (Registered Communications Distribution Designer)

The Project Manager/Contract Manager will provide the following services:

- Function as the State Subject Matter Expert (SME)
- Resolve project issues in a timely manner
- Review project plan, status, and issues
- Resolve deviations from project plan
- Provide acceptance sign-off
- Utilize change control procedures
- Ensure timely availability of State resources
- Make key implementation decisions, as identified by the Contractor's project manager, within 48-hours of their expected decision date.
- Provide State facilities, as needed
- Coordinate the State resources necessary for the project
- Facilitate coordination between various external contractors
- Facilitate communication between different State departments/divisions (IT-Networking, Integrated Services, Administration, Accounting, Administration etc.)
- Milestone acceptance sign-off
- Resolution of project issues
- Escalation of outstanding/high priority issues
- Utilize change control procedures
- Conducting regular and ongoing review of the project to confirm that it meets original objectives and requirements
- Documentation and archiving of all important project decisions
- Arrange, schedule and facilitate State staff attendance at all project meetings

**Project Support** - Chris Fink

The Project Support function will provide the following services:

- Provide project support for granting access to locations, or additional project information.

**Issue Escalation Process**

Issues shall be escalated for resolution from level 1 through level 4, as defined below:

Level 1 – Project Support – Chris Fink
Level 2 – Project Manager/Contract Manager– Stanley Paterson, RCDD
Level 3 – Steering Committee Member – Scott Harvey
Level 4 – Steering Committee Member – Jack Harris

*1.3 Project Plan*

**1.301 PROJECT PLAN MANAGEMENT**

A. Orientation Meeting
   1. Upon ten (10) calendar days from execution of the Contract, the Contractor will be required to attend an orientation meeting to discuss the content and procedures of the Contract.
   2. The meeting will be held in location, date and time mutually acceptable to the State and the Contractor.
   3. The State shall bear no additional cost for the time and travel of the Contractor for attendance at the meeting.

B. Performance Review Meetings
   1. After the initial implementation period, the State will require the Contractor to attend bi-weekly meetings, at a minimum, to review the Contractor's performance under the Contract.
   2. The meetings will be held at a State determined location, or by teleconference, as mutually agreed by the State and the Contractor.
   3. The State shall bear no additional cost for the time and travel of the Contractor for attendance at the meeting.

C. Project Control
   1. The Contractor will carry out this project under the direction and control of MDIT.
   2. Within ten (10) working days of the Contract Execution and prior to the orientation meeting, the Contractor will submit the project plan to the State project manager(s) for final approval.
      a. This project plan must be in agreement with section 1.104 Work and Deliverables, and must include the following:
         i. The Contractor's project organizational structure.
         ii. The Contractor's staffing table with names and title of personnel assigned to the project. This must be in agreement with staffing of accepted proposal. Necessary substitutions due to change of employment status and other unforeseen circumstances may only be made with prior approval of the State.
         iii. The project breakdown (work plan) showing sub-projects, activities and tasks, and resources required and allocated to each.
         iv. The time-phased plan in the form of a graphic display, showing each event, task, and decision point in the work plan.

The Contractor will manage the project in accordance with the PMBOK® (Project Management Body of Knowledge from the Project Management Institute) and the state's Project Management Methodology (PMM). Methodology is available at the following link.
http://www.michigan.gov/dit/0,1607,7-139-30637_31101-58009--,00.html

   3. .
      a. Contractor will use an automated tool for planning, monitoring, and tracking the Contract's progress and the level of effort of any Contractor personnel spent performing Services under the Contract.

b. Contractor shall use automated project management tools, as reasonably necessary, in order to perform the cited Services, which shall include, through the end of the Contract, the capability to produce:
   i. Staffing tables with names of personnel assigned to Contract tasks.
   ii. Project plans showing tasks, subtasks, deliverables, and the resources required and allocated to each (including detailed plans for all Services to be performed within the next sixty (60) calendar days, updated semi-monthly).
   iii. Updates must include actual time spent on each task and a revised estimate to complete.
   iv. Graphs showing critical events, dependencies and decision points during the course of the Contract.
c. Any tool(s) used by Contractor for such purposes must produce information of a type and in a manner and format that will support reporting in compliance with the State's standard to the extent such standard is described with reasonable detail in the Statement of Work.

### 1.302 REPORTS

Reporting formats must be submitted to the State's Project Manager for approval within *20* business days after the effective date of the contract. Once both parties have agreed to the format of the report, it shall become the standard to follow for the duration of the contract.

Reports are to be furnished by the Contractor weekly during the implementation period, after that, quarterly. These include all of the following:

- Weekly Project status
- Updated project plan
- Summary of activity during the report period
- Accomplishments during the report period
- Deliverable status
- Schedule status
- Action Item status
- Issues
- Change Control
- Repair status
- Maintenance Activity

## *1.4 Project Management*

### 1.401 ISSUE MANAGEMENT

An issue is an identified event that if not addressed may affect schedule, scope, quality, or budget.

The Contractor shall maintain an issue log for issues relating to the provision of services under this Contract. The issue management log must be communicated to the State's Project Manager on an agreed upon schedule, with email notifications and updates. The issue log must be updated and must contain the following minimum elements:

- Description of issue
- Issue identification date
- Responsibility for resolving issue.
- Priority for issue resolution (to be mutually agreed upon by the State and the Contractor)
- Resources assigned responsibility for resolution
- Resolution date
- Resolution description

### 1.402 RISK MANAGEMENT

A risk is an unknown circumstance or event that, if it occurs, may have a positive or negative impact on the Contract. Risk management generally involves (1) identification of the risk, (2) assigning a level of priority based on the probability of occurrence and impact to the project, (3) definition of mitigation strategies, and (4) monitoring of risk and mitigation strategy.

The Contractor must create a risk management plan. A risk management plan format will be submitted to the State for approval within twenty (20) business days after the effective date of the contract. Once both parties have agreed to the format of the plan, it shall become the standard to follow for the duration of the contract. The plan must be updated bi-weekly, or as agreed upon. The risk management plan will be developed in accordance with the State's PMM methodology and the PMBOK® (Project Management Institute).

### 1.403 CHANGE MANAGEMENT

Change management is defined as the process to communicate, assess, monitor, and control all changes to system resources and processes. The State also employs change management in its administration of the Contract.

If a proposed contract change is approved by the Agency, the Contract Administrator will submit a request for change to the Department of Management and Budget, Purchasing Operations Buyer, who will make recommendations to the Director of Purchasing Operations regarding ultimate approval/disapproval of change request. If the DMB Purchasing Operations Director agrees with the proposed modification, and all required approvals are obtained (including State Administrative Board), the Purchasing Operations Buyer will issue an addendum to the Contract, via a Contract Change Notice. **Contractors who provide products or services prior to the issuance of a Contract Change Notice by the DMB Office of Purchasing Operations, risk non-payment for the out-of-scope/pricing products and/or services.**

The Contractor must employ change management procedures to handle such things as "out-of-scope" requests or changing business needs of the State while the migration is underway.

The Contractor will employ the change control methodologies to justify changes in the processing environment, and to ensure those changes will not adversely affect performance or availability.

## *1.5 Acceptance*

### 1.501 CRITERIA

The following criteria will be used by the State to determine Acceptance of the Services and/or Deliverables provided under this SOW.

All materials furnished are to be installed as designed, all projects tasks are to be complete, quality verifications are to be finalized as well as clearing of punchlist items. As-built drawings, OTDR printouts and test records are to be received by the State.

### 1.502 FINAL ACCEPTANCE

Final acceptance is expressly conditioned upon completion of all deliverables, completion of all tasks in the project plan as approved, completion of all applicable inspection and/or testing procedures, and the certification by the State that the Contractor has met the defined requirements.

## *1.6 Compensation and Payment*

### 1.601 COMPENSATION AND PAYMENT

**Contract Pricing**

The **Unit Pricing Matrix** is provided as **(Attachment A)**

The **Special Secured Facilities** rates are provided as **(Attachment B)**.

**Payment**

Contractor will submit properly itemized invoices. Invoices shall provide and itemize, as applicable:

- Contract number;
- Purchase Order number
- Contractor name, address, phone number, and Federal Tax Identification Number;
- Description of any commodities/equipment, including quantity ordered;
- Date(s) of delivery and/or date(s) of installation;
- Price for each item, or Contractor's list Price for each item and applicable discounts;
- Net invoice (**Net 45**) Price for each item;
- Shipping costs;
- Other applicable charges;
- Total invoice Price; and
- Payment terms including any available prompt payment discounts.

Incorrect or incomplete invoices will be returned to Contractor for correction and reissue.

## Article 1, Attachment A

Unit Pricing Matrix (Excel Spreadsheet)

**Attachment A** contains pricing information for all products and services available through this contract, with the exception of secured facilities (provided in Attachment B).

| | |
|---|---|
| **Zone 1 (Attachment A)** | See Additional Attachments Folder |
| **1) Building Cable** | |
| **2) Fiber** | |
| **3) Riser and Ties** | |
| **4) Fiber Splice and Racks** | |
| **5) Cords and Misc.** | |
| **6) Time and Material** | |
| **Zone 2 (Attachment A)** | See Additional Attachments Folder |
| **1) Building Cable** | |
| **2) Fiber** | |
| **3) Riser and Ties** | |
| **4) Fiber Splice and Racks** | |
| **5) Cords and Misc.** | |
| **6) Time and Material** | |
| **Zone 3 (Attachment A)** | See Additional Attachments Folder |
| **1) Building Cable** | |
| **2) Fiber** | |
| **3) Riser and Ties** | |
| **4) Fiber Splice and Racks** | |
| **5) Cords and Misc.** | |
| **6) Time and Material** | |
| **Zone 4 (Attachment A)** | See Additional Attachments Folder |
| **1) Building Cable** | |
| **2) Fiber** | |
| **3) Riser and Ties** | |
| **4) Fiber Splice and Racks** | |
| **5) Cords and Misc.** | |
| **6) Time and Material** | |
| **Zone 5 (Attachment A)** | See Additional Attachments Folder |
| **1) Building Cable** | |
| **2) Fiber** | |
| **3) Riser and Ties** | |
| **4) Fiber Splice and Racks** | |
| **5) Cords and Misc.** | |
| **6) Time and Material** | |
| **Zone 6 (Attachment A)** | See Additional Attachments Folder |
| **1) Building Cable** | |
| **2) Fiber** | |
| **3) Riser and Ties** | |
| **4) Fiber Splice and Racks** | |
| **5) Cords and Misc.** | |
| **6) Time and Material** | |
| **Zone 7 (Attachment A)** | See Additional Attachments Folder |
| **1) Building Cable** | |
| **2) Fiber** | |
| **3) Riser and Ties** | |
| **4) Fiber Splice and Racks** | |
| **5) Cords and Misc.** | |
| **6) Time and Material** | |

## Article 1, Attachment B

Special Secured Facilities

**Attachment B** contains pricing information for all products and services available through this contract, when utilizing secured facilities.

| | |
|---|---|
| **Zone 1 (Attachment A)** | See Additional Attachments Folder |
| **1) Building Cable** | |
| **2) Fiber** | |
| **3) Riser and Ties** | |
| **4) Fiber Splice and Racks** | |
| **5) Cords and Misc.** | |
| **6) Time and Material** | |
| **Zone 2 (Attachment A)** | See Additional Attachments Folder |
| **1) Building Cable** | |
| **2) Fiber** | |
| **3) Riser and Ties** | |
| **4) Fiber Splice and Racks** | |
| **5) Cords and Misc.** | |
| **6) Time and Material** | |
| **Zone 3 (Attachment A)** | See Additional Attachments Folder |
| **1) Building Cable** | |
| **2) Fiber** | |
| **3) Riser and Ties** | |
| **4) Fiber Splice and Racks** | |
| **5) Cords and Misc.** | |
| **6) Time and Material** | |
| **Zone 4 (Attachment A)** | See Additional Attachments Folder |
| **1) Building Cable** | |
| **2) Fiber** | |
| **3) Riser and Ties** | |
| **4) Fiber Splice and Racks** | |
| **5) Cords and Misc.** | |
| **6) Time and Material** | |
| **Zone 5 (Attachment A)** | See Additional Attachments Folder |
| **1) Building Cable** | |
| **2) Fiber** | |
| **3) Riser and Ties** | |
| **4) Fiber Splice and Racks** | |
| **5) Cords and Misc.** | |
| **6) Time and Material** | |
| **Zone 6 (Attachment A)** | See Additional Attachments Folder |
| **1) Building Cable** | |
| **2) Fiber** | |
| **3) Riser and Ties** | |
| **4) Fiber Splice and Racks** | |
| **5) Cords and Misc.** | |
| **6) Time and Material** | |
| **Zone 7 (Attachment A)** | See Additional Attachments Folder |
| **1) Building Cable** | |
| **2) Fiber** | |
| **3) Riser and Ties** | |
| **4) Fiber Splice and Racks** | |
| **5) Cords and Misc.** | |

| 6) Time and Material | |
|---|---|

The following type of facilities may have a negotiated labor price factor applied to only the labor portion of the unit prices when working in:

Maximum Security Prison
Minimum Security Prison
Maximum Security Mental Hospital
Minimum Security Mental Hospital
Maximum Security Juvenile Facility
Minimum Security Juvenile Facility

It is proper to assume there will be times when workers are not allowed to perform work due to State imposed reasons in the above stated type of facilities. When this work delay occurs the State will assume some financial responsibility for the personnel that are inhibited from performing their work assignments. The State **MUST** be notified that this condition is occurring at the **start** of such work restriction. The person to be notified is the MDIT duly designated Project Manager. The duly authorized MDIT Project manager is the **only** person that can approve payment for such work restriction. Only for persons assigned to and are physically at the job site will billing for lost man-hours be allowed. At the time of such notice the MDIT Project Manager will determine whether to keep the workers at the site or release the workers so the contractor can utilize them at other contractor sites. The billing for lost man-hours, as agreed to by the Project Manager, will be at the following rates:

| Job Classification | Hourly Rate |
|---|---|
| First Line Supervisor | $65.00 |
| Project Manager | $70.00 |
| Cable Installer | $55.00 |
| Laborer | $45.00 |

The following eleven (11) pages are included for information only. They describe special working rules when working in facilities as stated (above) in this Attachment. They are the basis for the State of Michigan allowing up to a 40 % factor in labor prices when performing work in secured facilities as stated above. To determine the labor amounts to which the labor factor will be applied, the contractor must include a pricing sheet which shows the labor portion of the price for each item addressed in the unit pricing sheets in Attachment A.

I. General:

A. The Work comprising this Project will be performed in a hospital for treatment of mentally ill persons and the Contractor shall comply with the following Special Working Rules.

1. Contractor shall submit a list of names, social security numbers, birth dates, and additional information when requested, on all persons expected to be employed on the project site.

2. Contractor will be allowed to work within or on hospital confines from 8:00 a.m. to 5:00 p.m. No Work shall be performed on Saturdays or Sundays without written permission. Other time schedules may be arranged by the Director of Security or his/her designee.

3. All employees of the Contractor may be subject to individual body search each time they enter the hospital. Packages or containers of any kind may be opened for inspection. Lunch boxes are not permitted inside the security perimeter. All employees of the Contractor will be required to have identification cards or badges furnished by the Contractor.

4. All trucks and other mobile equipment may be subject to inspection both on arrival and departure from the hospital. Absolutely no fraternization between patients and Contractor's employees will be tolerated.

5. No requests for visits with patients will be granted to Contractor's employees except where such visiting originated prior to award of the contract.

6. Contractor shall follow rules pertaining to security and parking as established by the hospital. Contractor shall observe all off-limit restricted areas beyond which no unauthorized personnel may trespass. The Contractor and his/her workers may not leave the assigned Work areas.

7. All heavy power tools and machinery such as air hammers, acetylene tanks, etc., must be removed from the inside of the security perimeter, through the assigned gate by 4:30 p.m., which is the closing time for the gate. Such heavy equipment as power shovels, compressors, welding machines, etc., can remain inside but must be immobilized in an acceptable manner. Cutting torches and cutting tools in general shall be securely locked where and as directed by the State Unit, and checked out as needed. No tools, small pipe, copper or wire shall remain on the site over night unless acceptably locked inside shanties or tool chests.

8. There will be no exchange, loaning or borrowing of tools, equipment or manpower between hospital personnel and the Contractor.

9. The assigned gate through which materials, equipment and vehicles must be transported will be opened upon request between the hours of 8:00 a.m. to 4:30 p.m.

10. Sanitary facilities will be assigned by the hospital for the use of the Contractor's employees.

11. Security personnel may be assigned to the working areas. They may inspect and search areas under construction at any time, including the Contractor's equipment.

12. Areas for employee parking, tool boxes, etc., shall be assigned only by hospital authorities. Remove all firearms, weapons, alcoholic beverages, drugs, medicines, or explosives from vehicles before entering hospital property. Lock vehicles when not attended.

13. The Director of this hospital retains the right to revise these "Special Working Conditions" as required to meet hospital needs.

14. The Contractor and her/his workers shall not pick up hitchhikers or take anyone off the grounds who does not work for the Contractor.

B. Interim Life Safety Measures (ILSM) are a series of eleven administrative actions required to be taken to temporarily compensate for the hazards posed by existing Life Safety Code (LSC) deficiencies or construction activities. Note that not all of the interim life safety measures are the responsibility of the Contractor, but are included here for informational purposes. All actions by the Contractor should be coordinated with the State Psychiatric Hospital.

1. Implementation of ILSM is required in or adjacent to all construction areas and throughout buildings with existing LSC deficiencies. ILSM apply to all personnel, including construction workers. Implementation of ILSM must begin upon project development, and be continuously enforced through project completion.

2. ILSM are intended to provide a level of life safety comparable to that described in chapters 1-7, 31, and the applicable occupancy chapters of the 1988 edition of the LSC (NFPA 101). Each ILSM action must be documented. Except as stated below, frequencies for inspection, testing, training, and monitoring and evaluation must be established by the organization.

3. ILSM consists of the following actions.

   a. Ensuring exits provide free and unobstructed egress. Personnel shall receive training if alternative exits must be designated.

   b. Ensuring free and unobstructed access to emergency departments/services and for emergency forces.

   c. Ensuring fire alarm, detection, and suppression systems are not impaired. A temporary, but equivalent system shall be provided when any fire system is impaired. Temporary systems must be inspected and tested monthly.

   d. Ensuring temporary construction partitions are smoke tight and build of noncombustible materials.

   e. Providing additional fire fighting equipment and use training for personnel.

   f. Developing and enforcing smoking policies and procedures in excess of current JCAHO standards. Smoking shall be prohibited in or adjacent to all construction areas.

   g. Developing and enforcing storage, housekeeping, and debris removal policies and procedures that reduce the flammable and combustible fire load to the lowest level necessary for daily operations.

   h. Conducting a minimum of two fire drills per shift per quarter.

   i. Increasing hazard surveillance of buildings, grounds, and equipment with special attention to excavations, construction areas, construction storage, and field offices.

   j. Training personnel when structural or compartmentation features of fire safety are compromised.

   k. Conducting organization-wide safety education programs to ensure awareness of any LSC deficiencies, construction hazards, and these ILSM.

Department of Corrections - Inside PrisonSection 00832

I. General:

A. The Work comprising this project will be performed at a State Correctional Facility and the Contractor shall comply with the following special working rules, adopted by the Michigan Department of Corrections.

1. The Contractor shall submit a list of names, with social security numbers, full legal names and birth dates, and additional information as requested, on all persons to be employed on the project site. Such list shall be submitted directly to the Warden's office or his/her designee for approval prior to any person's appearance at the site for work assignment.

2. All employees of the Contractor will be subject to individual body search each time they enter the correctional facility. Packages or containers of any kind will be opened for inspection. Lunch boxes are not permitted inside the security perimeter. All employees of the Contractor will be required to have identification cards or badges furnished by the Contractor and the institution.

3. The Contractor will normally be allowed to work within or on correctional facility confines from 7:30 a.m. to 4:30 p.m. No work shall be performed on Saturdays, Sundays or State holidays without prior written permission from the Warden or their designee. Other time schedules may be set by the institution. Consideration may be given to using two shifts to minimize the length of time an area is out of service.

4. An officer will be assigned to the working area. They may inspect and search areas under construction at any time, including the Contractor's equipment. Other officers may be available at the discretion of the facility. An officer or maintenance staff must accompany any worker movement in the facility.

5. The Contractor shall follow rules pertaining to foot and vehicle traffic as established by the correctional facility. The Contractor shall observe all off-limit restricted areas beyond which no unauthorized personnel may trespass. The Contractor and his/her workers may not leave the assigned work areas. Should an alarm sound, follow the directions of the officer assigned to the work crew.

6. There will be no exchange, loaning or borrowing of tools, equipment of manpower between correctional facility personnel and the Contractor.

7. The assigned gate through which materials, equipment and vehicles must be transported will be opened upon request between the hours of 8:00 a.m. and 3:30 p.m. Other times may be available at the discretion of the facility.

8. All heavy power tools and machinery such as air hammers, acetylene tanks, etc., must be removed from the inside of the security perimeter, through the assigned gate by the closing time for the gate. Such heavy equipment as power shovels, compressors, welding machines, etc., can remain inside but must be immobilized in an acceptable manner to the institution. Cutting torches and cutting tools in general shall be locked where and as directed by the State Unit, and checked out as needed. No tools, small pipe, copper or wire shall remain on the site overnight unless acceptably locked inside shanties or tool chests.

9. The correctional facility will designate or provide an area for storage of tools an materials (if available).

10. All equipment, materials and tools must be inventoried and manifested in and out of the institution, and a complete inventory provided to the facility.

11. IF ANY TOOLS, MATERIALS OR EQUIPMENT ARE FOUND MISSING, NOTIFY THE OFFICER ASSIGNED TO THE CREW IMMEDIATELY.

12. The correctional facility may provide an area for the fabrication of components if the project is in an occupied building. This should be coordinated with the physical plant superintendent.

13. All trucks and other mobile equipment will be subject to inspection both on arrival and upon departure from the correctional facility. No fraternization between inmates and the contractor's employees will be tolerated. Any attempts at same by inmates are to be reported immediately to correctional officers.

14. No requests for visits with inmates will be granted to the Contractor's employees except where such visiting originated prior to award of contract.

15. Sanitary facilities will be assigned by the facility for use by the Contractor's employees.

16. On site areas for contracting parking, tool boxes, trailers, etc., shall be assigned by correctional facility. Remove all firearms, weapons, alcoholic beverages, drugs, medicines or explosives from vehicles before entering facility property. All vehicles must be locked when not attended.

17. The correctional facility infirmary is not available to the contractor's employees in case of accidents.

18. Should you have any questions, please contact the officer assigned or the physical plant superintendent.

The Warden of this correctional facility retains the right to revise these "Special Working Conditions" as required to meet facility needs.

I. General:

A. The Work comprising this project will be performed at a State Correctional Facility and the Contractor shall comply with the following special working rules, adopted December 1, 1975, by the Michigan Department of Corrections.

1. Contractor shall submit a list of names, social security numbers, birth dates, and additional information when requested, on all persons expected to be employed on the project site. Such list shall be submitted directly to the Warden's office or to the Inspector for approval prior to any person's appearance at the site for Work assignments.

2. Contractor will be allowed to work within or on Correctional Facility confines from 8:00 a.m. to 4:30 p.m. No Work shall be performed on Saturdays or Sundays without written permission. Other time schedules may be set by the State Unit. Consideration will be given to using two shifts to minimize the length of time an area is out of service.

3. All truck and other mobile equipment may be subject to inspection both on arrival and upon departure from the Correctional Facility. Absolution no fraternization between inmates and Contractor's employees will be tolerated. Any attempts at same by inmates are to be reported immediately to Correctional officers.

4. No requests for visits with inmates will be granted to Contractor's employees except where such visiting originated prior to award of the Contract.

5. Contractor shall follow rules pertaining to foot and vehicle traffic strictly in accordance with and as established by the Correctional Facility. Contractor shall observe all off-limit restricted areas beyond which no unauthorized personnel may trespass. The Contractor and his/her workers may not leave the assigned Work areas.

6. Heavy equipment such as bulldozers and power shovels shall be locked or be immobilized in an acceptable manner, when not in use. No tools, small pipe, copper or wire will be allowed to remain on the site overnight unless acceptably locked inside shanties or tool chests. There will be no exchange, loaning or borrowing of tools, equipment or manpower between Correctional Facility personnel and the Contractor.

7. Sanitary facilities will be assigned by the Superintendent or the Inspector for the use of the Contractor's employees.

8. Prison Guards will be assigned to the working areas. They may inspect and search areas under construction at any time, including the Contractor's equipment.

9. Areas for employee parking, tool boxes, etc., shall be assigned only by Correctional Facility authorities on the site. Remove all firearms, weapons, alcoholic beverages, medicines or explosives from vehicles before entering Facility property. Lock vehicles when not attended.

10. Accidents - The Correctional Facility infirmary is <u>not</u> available to Contractor's employees.

11. The Superintendent of this Correctional Facility retains the right to revise these "Special Working Conditions" as required to meet Facility needs.

12. Cooperation with Owner will be required in establishing the sequencing of the work areas to minimize disruption of Facility operations.

13. Utility shutdowns at the State Prison of Southern Michigan can only take place during weekends. Coordinate all work with the State Unit.

Department of Corrections - Outside PrisonSection 00833

I. General:

A. Contractor shall submit a list of names, social security numbers, birth dates, and additional information when requested, on all persons expected to be employed on the project site. Such list shall be submitted directly to the Superintendent's office or to the Inspector for approval prior to any person's appearance at the site for Work assignments.

B. Contractor will be allowed to work within or on Agency confines from 7:00 a.m. to 6:00 p.m., Monday through Friday only. No Work shall be performed outside these hours without written permission from the State Unit.

C. All employees of the Contractor may be subject to individual body search each time they enter the Agency Confines. Packages or containers of any kind may be opened for inspection. All employees of the Contractor will be required to have identification cards or badges furnished by the Contractor.

D. There shall be no fraternization between the State residents and the Contractor's employees. Any attempt by any resident to engage in conversation or interfere in any way with a Contractor's employee shall be reported immediately to Agency staff.

E. No firearms, weapons, explosives, alcoholic beverages, drugs, or medicines may be brought into the confines of the State Unit.

F. Any tools or material left within the confines of the State Unit overnight must be in locked cabinets, locked rooms of otherwise secured.

G. There will be no exchange, loaning or borrowing of tools, equipment or manpower between Social Services personnel and the Contractor.

H. Sanitary facilities will be assigned by the State Unit for the use of the Contractor's employees and it shall be the responsibility of the Contractor to keep said sanitary facilities in clean and neat condition.

I. Contractor shall follow rules pertaining to foot and vehicle traffic as established by the State Unit. Contractor shall observe all off-limit restricted areas beyond which no unauthorized personnel may trespass. The Contractor and his workmen may not leave the assigned Work areas.

J. Security staff may be assigned to the work areas. They may inspect and search areas under construction at any time, including the Contractor's equipment.

K. Keys to certain doors may be assigned to the Contractor. Such doors must be kept locked at all times.

L. The Superintendent of the State Unit reserves the right to revise these rules as required to meet the security needs of the State Unit.

## Article 2 – General Terms and Conditions

*2.010 Contract Structure and Administration*

### 2.011 Definitions

Capitalized terms used in this Contract (including its Exhibits) shall have the meanings given below, unless the context requires otherwise:

(a) "Days" means calendar days unless otherwise specified.
(b) "24x7x365" means 24 hours a day, seven days a week, and 365 days a year (including the 366th day in a leap year).
(c) "Additional Service" means any Services/Deliverables within the scope of the Contract, but not specifically provided under any Statement of Work, that once added will result in the need to provide the Contractor with additional consideration. "Additional Service" does not include New Work.
(d) "Amendment Labor Rates" means the schedule of fully-loaded hourly labor rates attached as **Article 1, Attachment A**.
(e) "Audit Period" has the meaning given in **Section 2.111**.
(f) "Business Day," whether capitalized or not, shall mean any day other than a Saturday, Sunday or State-recognized legal holiday (as identified in the Collective Bargaining Agreement for State employees) from 8:00am EST through 5:00pm EST unless otherwise stated.
(g) "Incident" means any interruption in Services.
(h) "Business Critical" means any function identified in any Statement of Work as Business Critical.
(i) "Deliverable" means physical goods and/or commodities as required or identified by a Statement of Work
(j) "Key Personnel" means any Personnel designated in **Article 1, Section 1.201,** as Key Personnel.
(k) "New Work" means any Services/Deliverables outside the scope of the Contract and not specifically provided under any Statement of Work, that once added will result in the need to provide the Contractor with additional consideration. "New Work" does not include Additional Service.
(l) "Services" means any function performed for the benefit of the State.
(m) "State Location" means any physical location where the State performs work. State Location may include state-owned, leased, or rented space.
(n) "Subcontractor" means a company Contractor delegates performance of a portion of the Services to, but does not include independent contractors engaged by Contractor solely in a staff augmentation role.
(o) "Work in Process" means a Deliverable that has been partially prepared, but has not been presented to the State for Approval.

### 2.012 Attachments and Exhibits

All Attachments and/or Exhibits attached to any, and all Statement(s) of Work, attached to, or referencing this Contract, are incorporated in their entirety into, and form part of, this Contract.

### 2.013 Statements of Work

(a) The parties agree that the Services/Deliverables to be rendered by Contractor pursuant to this Contract (and any future amendments of it) will be defined and described in detail in Statements of Work or Purchase Orders (PO) executed under this Contract. Contractor shall not be obliged or authorized to commence any work to implement a Statement of Work until authorized via a PO issued against this Contract, or an amendment to this Contract (see 2.106). Contractor shall perform in accordance with this Contract, including the Statements of Work/Purchase Orders executed under it.

(b) Unless otherwise agreed by the parties, each Statement of Work (as defined in Article 1) will include, or incorporate by reference to the appropriate Contract Article 1 Attachment containing, the following information:
- a description of the Services to be performed by Contractor under the Statement of Work;
- a project schedule (including the commencement and completion dates for all tasks, subtasks (for all projects of sufficient duration and complexity to warrant sub task breakdown), and Deliverables;
- a list of the Deliverables to be provided, if any, including any particular specifications and acceptance criteria for such Deliverables, and the dates on which the Deliverables are scheduled to be completed and delivered to the State;
- all Deliverable price schedules and other charges associated with the Statement of Work, the overall fixed price for such Statement of Work and any other appropriate pricing and payment terms;
- a specification of Contractor's and the State's respective performance responsibilities with respect to the performance or completion of all tasks, subtasks and Deliverables;
- a listing of any Key Personnel of Contractor and/or its Subcontractors for that Statement of Work and any future Statements of Work;
- any other information or provisions the parties agree to include.

(c) Reserved.

(d) The initial Statements of Work, as of the Effective Date, are attached to this Contract.

### 2.014 Issuing Office

This Contract is issued by the Department of Management and Budget, Office of Purchasing Operations and Department of Information Technology (collectively, including all other relevant State of Michigan departments and agencies, the "State"). Purchasing Operations is the sole point of contact in the State with regard to all procurement and contractual matters relating to the Contract. **Purchasing Operations is the only State office authorized to change, modify, amend, alter or clarify the prices, specifications, terms and conditions of this Contract.** The Contractor Administrator within the Office of Purchasing Operations for this Contract is:

**Steve Motz**
Office of Purchasing Operations
Department of Management and Budget
Mason Bldg, 2nd Floor
PO Box 30026
Lansing, MI 48909
Email: 517-241-3215
Phone: motzs@michigan.gov

### 2.015 Contract Compliance Inspector

Upon receipt at Purchasing Operations of the properly executed Contract, it is anticipated that the Director of DMB Purchasing Operations, in consultation with (insert the end using agency), will direct that the person named below, or any other person so designated, be authorized to monitor and coordinate the activities for the Contract on a day-to-day basis during its term. However, monitoring of this Contract implies **no authority to change, modify, clarify, amend, or otherwise alter the prices, terms, conditions and specifications of such Contract as that authority is retained by the Office of Purchasing Operations**. The Contract Compliance Inspector for this Contract is:

**Michael Breen**
Department of Information Technology
Constitution Hall, 1st Floor N Tower
Lansing, MI 48909
breenm@michigan.gov
(517) 241-7720

### 2.016 Project Manager

The following individual will oversee the project:

**Stanley Paterson**
3068 W. Grand Blvd Ste 7-500
Detroit, 48202
patersons@michigan.gov
(313) 456-4007

## *2.020 Contract Objectives/Scope/Background*

### 2.021 Background

See Article 1

### 2.022 Purpose

See Article 1

### 2.023 Objectives and Scope

See Article 1

### 2.024 Interpretation

Sections 2.021 through 2.023 are intended to provide background and context for this Contract and are not intended to expand the scope of the obligations under this Contract or to alter the plain meaning of the terms and conditions of this Contract. However, to the extent the terms and conditions of this Contract are unclear or otherwise ambiguous, such terms and conditions are to be interpreted and construed in light of the provisions of this Section.

### 2.025 Form, Function and Utility

If the Contract is for use of more than one State agency and if the Deliverable/Service does not the meet the form, function, and utility required by that State agency, that agency may, subject to State purchasing policies, procure the Deliverable/Service from another source.

## *2.030 Legal Effect and Term*

### 2.031 Legal Effect

Except as otherwise agreed in writing by the parties, the State assumes no liability for costs incurred by Contractor or payment under this Contract, until Contractor is notified in writing that this Contract (or Change Order) has been approved by the State Administrative Board (if required), approved and signed by all the parties, and a Purchase Order against the Contract has been issued.

### 2.032 Contract Term

This Contract is for a period of **three (3)** years commencing on the date that the last signature required to make the Contract enforceable is obtained. All outstanding Purchase Orders shall also expire upon the termination (cancellation for any of the reasons listed in 2.210) of the Contract, unless otherwise extended pursuant to the Contract. Absent an early termination for any reason, Purchase Orders issued but not expired, by the end of the Contract's stated term, will remain in effect for the balance of the fiscal year for which they were issued.

**2.033 Renewal(s)**

This Contract may be renewed in writing by mutual agreement of the parties not less than thirty (30) days before its expiration. Successful completion of negotiations surrounding the terms of the extension, will be a pre-requisite for the exercise of any option year.

**Option Year(s)**

This Contract contains two (2), one-year optional extensions.

*2.040 Contractor Personnel*

**2.041 Contractor Personnel**

(a) Personnel Qualifications. All persons assigned by Contractor to the performance of Services under this Contract shall be employees of Contractor or its majority-owned (directly or indirectly, at any tier) subsidiaries (or a State-approved Subcontractor) and shall be fully qualified to perform the work assigned to them. Contractor shall include a similar provision in any subcontract entered into with a Subcontractor. For the purposes of this Contract, independent contractors engaged by Contractor solely in a staff augmentation role shall be treated by the State as if they were employees of Contractor for this Contract only; however, the State understands that the relationship between Contractor and Subcontractor is an independent contractor relationship.

(b) Key Personnel

(i) In discharging its obligations under this Contract, Contractor shall provide the named Key Personnel on the terms indicated. **Section 1.201** provides an organization chart showing the roles of certain Key Personnel, if any.

(ii) Key Personnel shall be dedicated as defined in **Section 1.201** to the Project for its duration in the applicable Statement of Work with respect to other individuals designated as Key Personnel for that Statement of Work.

(iii) The State will have the right to recommend and approve in writing the initial assignment, as well as any proposed reassignment or replacement, of any Key Personnel. Before assigning an individual to any Key Personnel position, Contractor will notify the State of the proposed assignment, will introduce the individual to the appropriate State representatives, and will provide the State with a resume and any other information about the individual reasonably requested by the State. The State reserves the right to interview the individual before granting written approval. In the event the State finds a proposed individual unacceptable, the State will provide a written explanation including reasonable detail outlining the reasons for the rejection. Additionally, the State's request shall be based on legitimate, good-faith reasons. Proposed alternative for the individual denied, shall be fully qualified for the position.

(iv) Contractor shall not remove any Key Personnel from their assigned roles or the Contract without the prior written consent of the State. If the Contractor does remove Key Personnel without the prior written consent of the State, it shall be considered an unauthorized removal ("Unauthorized Removal"). It shall not be considered an Unauthorized Removal if Key Personnel must be replaced for reasons beyond the reasonable control of Contractor, including illness, disability, leave of absence, personal emergency circumstances, resignation or for cause termination of the Key Personnel's employment. It shall not be considered an Unauthorized Removal if Key Personnel must be replaced because of promotions or other job movements allowed by Contractor personnel policies or Collective Bargaining Agreement(s) as long as the State receives prior written notice before shadowing occurs and Contractor provides thirty (30) days of shadowing unless parties agree to a different time period. The Contractor with the State shall review any Key Personnel replacements, and appropriate transition planning will be established. Any Unauthorized Removal may be considered by the State to be a material breach of the Contract, in respect of which the State may elect to exercise its rights under **Section 2.210**.

(v) It is acknowledged that an Unauthorized Removal will interfere with the timely and proper completion of the Contract, to the loss and damage of the State, and that it would be impracticable and extremely difficult to fix the actual damage sustained by the State as a result of any Unauthorized Removal. Therefore, Contractor and the State agree that in the case of any Unauthorized Removal in respect of which the State does not elect to exercise its rights under **Section 2.210**, the State may assess liquidated damages against Contractor as specified below.

(c) Re-assignment of non-Key Personnel. Prior to re-deploying to other projects, at the completion of their assigned tasks on the Project, teams of its non-Key Personnel who are performing Services on-site at State facilities or who are otherwise dedicated primarily to the Project, Contractor will give the State at least ten (10) Business Days notice of the proposed re-deployment to give the State an opportunity to object to the re-deployment if the State reasonably believes such team's Contract responsibilities are not likely to be completed and approved by the State prior to the proposed date of re-deployment.

(d) Re-assignment of Personnel at the State's Request. The State reserves the right to require the removal from the Project of Contractor personnel found, in the judgment of the State, to be unacceptable. The State's request shall be written with reasonable detail outlining the reasons for the removal request. Additionally, the State's request shall be based on legitimate, good-faith reasons. Replacement personnel for the removed person shall be fully qualified for the position. If the State exercises this right, and the Contractor cannot immediately replace the removed personnel, the State agrees to an equitable adjustment in schedule or other terms that may be affected by the State's required removal. If any such incident with removed personnel results in delay not reasonable anticipatable under the circumstances and which is attributable to the State, the applicable SLAs for the affected Service will not be counted in **Section 2.076** for a time as agreed to by the parties.

(e) Staffing Levels.

(i) All staff requirements not specified in the applicable Statement of Work or State-approved project plan as State personnel will be supplied by Contractor. This includes secretarial, clerical and Contract administration support staff necessary for Contractor to perform its obligations hereunder.

(ii) Contractor shall provide sufficient personnel resources for the completion of Contract tasks indicated in Contractor's project plan approved by the State. If the level of personnel resources is insufficient to complete any Contractor Contract tasks in accordance with the Contract time schedule as demonstrated by Contractor's failure to meet mutually agreed to time schedules, Contractor shall promptly add additional qualified personnel resources to the performance of the affected tasks, at no additional charge to the State, in an amount sufficient to complete performance of Contractor's tasks in accordance with the Contract time schedule.

(f) Personnel Turnover. The Parties agree that it is in their best interests to keep the turnover rate of employees of Contractor and its Subcontractors who are performing the Services to a reasonable minimum. Accordingly, if the State determines that the turnover rate of such employees is excessive and so notifies Contractor, Contractor will meet with the State to discuss the reasons for the turnover rate and otherwise use commercially reasonable efforts to minimize such turnover rate. If requested to do so by the State, Contractor will submit to the State its proposals for reducing the turnover rate to an acceptable level. In any event, notwithstanding the turnover of personnel, Contractor remains obligated to perform the Services without degradation and in accordance with the State-approved Contract schedule.

(g) Location. All staff assigned by Contractor to work on the Contract will perform their duties either primarily at Contractor's offices and facilities or at State facilities. Without limiting the generality of the foregoing, Key Personnel will, at a minimum, spend at least the amount of time on-site at State facilities as indicated in the applicable Statement of Work. Subject to availability, selected Contractor personnel may be assigned office space to be shared with State personnel.

### 2.042 Contractor Identification

Contractor employees shall be clearly identifiable while on State property by wearing a State-issued badge, as required. Contractor employees are required to clearly identify themselves and the company they work for whenever making contact with State personnel by telephone or other means.

### 2.043 Cooperation with Third Parties

Contractor agrees to cause its personnel and the personnel of any Subcontractors to cooperate with the State and its agents and other contractors including the State's Quality Assurance personnel, and, as reasonably requested by the State, to provide to the State's agents and other contractors with reasonable access to Contractor's Project personnel, systems and facilities to the extent they relate to activities specifically associated with this Contract and will not interfere or jeopardize the safety or operation of the systems or facilities and provided Contractor receives reasonable prior written notice of such request. The State acknowledges that Contractor's time schedule for the Contract is very specific and agrees not to unnecessarily or unreasonably interfere with, delay or otherwise impeded Contractor's performance under this Contract with such requests for access.

The State has and/or may contract with other entities to perform technical services or provide other equipment and software to work with the items provided under this contract. The Contractor agrees to work with these other entities and provide them necessary technical information and required support to accomplish the efforts required by the contract with the State.

### 2.044 Subcontracting by Contractor

(a) Contractor shall have full responsibility for the successful performance and completion of all of the Services and Deliverables. The State will consider Contractor to be the sole point of contact with regard to all contractual matters under this Contract, including payment of any and all charges for Services and Deliverables.

(b) Contractor shall not delegate any duties under this Contract to a Subcontractor unless the Department of Management and Budget, Office of Purchasing Operations has given written consent to such delegation. The State shall have the right of prior written approval of all Subcontractors and to require Contractor to replace any Subcontractors found, in the reasonable judgment of the State, to be unacceptable. The State's request shall be written with reasonable detail outlining the reasons for the removal request. Additionally, the State's request shall be based on legitimate, good-faith reasons. Replacement Subcontractor(s) for the removed Subcontractor shall be fully qualified for the position. If the State exercises this right, and the Contractor cannot immediately replace the removed Subcontractor, the State will agree to an equitable adjustment in schedule or other terms that may be affected by the State's required removal. If any such incident with a removed Subcontractor results in delay not reasonable anticipatable under the circumstances and which is attributable to the State, the applicable SLAs for the affected Work will not be counted in **Section 2.076** for a time agreed upon by the parties.

(c) In any subcontracts entered into by Contractor for the performance of the Services, Contractor shall require the Subcontractor, to the extent of the Services to be performed by the Subcontractor, to be bound to Contractor by the terms of this Contract and to assume toward Contractor all of the obligations and responsibilities that Contractor, by this Contract, assumes toward the State. The State reserves the right to receive copies of and review all subcontracts, although Contractor may delete or mask any proprietary information, including pricing, contained in such contracts before providing them to the State. The management of any Subcontractor will be the responsibility of Contractor, and Contractor shall remain responsible for the performance of its Subcontractors to the same extent as if Contractor had not subcontracted such performance. Contractor shall make all payments to Subcontractors or suppliers of Contractor. Except as otherwise agreed in writing by the State and Contractor, the State will not be obligated

to direct payments for the Services other than to Contractor. The State's written approval of any Subcontractor engaged by Contractor to perform any obligation under this Contract shall not relieve Contractor of any obligations or performance required under this Contract. Attached as **Exhibit A** is a list of the Subcontractors, if any, approved by the State as of the execution of this Contract, together with a copy of the applicable subcontract.

(d) Except where specifically approved in writing by the State on a case-by-case basis, Contractor shall flow down the obligations in **Sections 2.040, 2.110, 2.150, 2.160, 2.171(c), 2.172(b), 2.180, 2.260, 2.276, 2.297** in all of its agreements with any Subcontractors.

(e) The Contractor shall select subcontractors (including suppliers) on a competitive basis to the maximum practical extent consistent with the objectives and requirements of the Contract.

### 2.045 Contractor Responsibility for Personnel

Contractor shall be responsible for all acts and omissions of its employees, as well as the acts and omissions of any other personnel furnished by Contractor to perform the Services.

## *2.050 State Standards*

### 2.051 Existing Technology Standards

The Contractor will adhere to all existing standards as described within the comprehensive listing of the State's existing technology standards at http://www.michigan.gov/documents/1460_162823_7.00.doc

### 2.052 PM Methodology Standards

The State has adopted a standard documented Project Management Methodology (PMM) for use on all Information Technology (IT) based projects.

The Contractor shall use the State's PPM to manage this Contract. If the Contractor requires training on the PMM, those costs shall be the responsibility of the Contractor, unless otherwise stated.

### 2.053 Adherence to Portal Technology Tools

The State has adopted the following tools for its Portal Technology development efforts:

- Vignette Content Management and personalization Tool
- Inktomi Search Engine
- E-Pay Payment Processing Module
- Websphere Commerce Suite for e-Store applications

Unless otherwise stated, Contractor must use the Portal Technology Tools to implement web content management and deployment efforts. Tools used for web-based application development must work in conjunction with Vignette and Inktomi. The interaction with Vignette and Inktomi must be coordinated with MDIT, Enterprise Application Services Office, e-Michigan Web Development team.

Contractors that are compelled to use alternate tools must have received an exception from MDIT, Enterprise Application Services Office, e-Michigan Web Development team, before this Contract is effective.

### 2.054 Acceptable Use Policy

To the extent that Contractor has access to the State computer system, Contractor must comply with the State's Acceptable Use Policy, see http://www.michigan.gov/ditservice/0,1607,7-179-25781-73760--,00.html. All Contractor employees must be required, in writing, to agree to the State's Acceptable Use Policy before accessing the State system. The State reserves the right to terminate Contractor's access to the State system if a violation occurs.

## *2.060 Deliverables*

### 2.061 Ordering

(a) Any Services/Deliverables to be furnished under this Contract shall be ordered by issuance of written Purchase Orders/Blanket Purchase Order by the State after approval by the Contract Administrator or his/her designee. All orders are subject to the terms and conditions of this Contract. In the event of conflict between an order and this Contract, the Contract shall take precedence as stated in **Section 2.293**. In no event shall any additional terms and conditions contained on a Purchase Order/Blanket Purchase Order be applicable, unless specifically contained in that Purchase Order/Blanket Purchase Order's accompanying Statement of Work.

(b) MDIT will continue to oversee the use of this Contract by End Users. MDIT may, in writing, delegate to agencies the authority to submit requests for certain services directly to the Contractor. MDIT may also designate, in writing, some services as non-delegated and require MDIT review and approval before agency acquisition. MDIT will use Contractor provided management reports and periodic random agency audits to monitor and administer contract usage for delegated services.

### 2.062 RESERVED - Software

### 2.063 RESERVED - Hardware

### 2.064 Equipment to be New and Prohibited Products

(a) Equipment to be New

If applicable, all equipment provided under this Contract by Contractor shall be new where Contractor has knowledge regarding whether the equipment is new or assembled from new or serviceable used parts that are like new in performance or has the option of selecting one or the other. Equipment that is assembled from new or serviceable used parts that are like new in performance is acceptable where Contractor does not have knowledge or the ability to select one or other, unless specifically agreed otherwise in writing by the State.

(b) Prohibited Products

The State will not accept salvage, distressed, outdated or discontinued merchandise. Shipping of such merchandise to any State agency, as a result of an order placed against the Contract, shall be considered default by the Contractor of the terms and conditions of the Contract and may result in cancellation of the Contract by the State. The brand and product number offered for all items shall remain consistent for the term of the Contract, unless Purchasing Operations has approved a change order pursuant to **Section 2.106**.

## *2.070 Performance*

### 2.071 Performance, In General

The State engages Contractor to execute the Contract and perform the Services/provide the Deliverables, and Contractor undertakes to execute and complete the Contract in its entirety in accordance with the terms and conditions of this Contract and with the participation of State representatives as specified in this Contract.

### 2.072 Time of Performance

(a) Contractor shall use commercially reasonable efforts to provide the resources necessary to complete all Services and Deliverables in accordance with the time schedules contained in the Statements of Work and other Exhibits governing the work, and with professional quality.

(b) Without limiting the generality of **Section 2.072(a)**, Contractor shall notify the State in a timely manner upon becoming aware of any circumstances that may reasonably be expected to jeopardize the timely and successful completion of any Deliverables/Services on the scheduled due dates in the latest State-approved delivery schedule and, in such event, shall inform the State of the projected actual delivery date.

(c) If Contractor believes that a delay in performance by the State has caused or will cause Contractor to be unable to perform its obligations in accordance with specified Contract time periods, Contractor shall notify the State in a timely manner and shall use commercially reasonable efforts to perform its obligations in accordance with such Contract time periods notwithstanding the State's failure. Contractor will not be in default for a delay in performance to the extent such delay is caused by the State.

**2.073 RESERVED - Liquidated Damages**

**2.074 Bankruptcy**

If Contractor shall file for protection under the bankruptcy laws, or if an involuntary petition shall be filed against Contractor and not removed within thirty (30) days, or if the Contractor becomes insolvent, be adjudicated bankrupt, or if it should make a general assignment for the benefit of creditors, or if a receiver shall be appointed due to its insolvency, and Contractor and/or its affiliates are unable to provide reasonable assurances that Contractor and/or its affiliates can deliver the services provided herein, the State may, without prejudice to any other right or remedy, terminate this Contract, in whole or in part, and, at its option, may take possession of the "Work in Process" and finish such Works in Process by whatever appropriate method the State may deem expedient. Contractor will fix appropriate notices or labels on the Work in Process to indicate ownership by the State. To the extent reasonably possible, materials and Work in Process shall be stored separately from other stock and marked conspicuously with labels indicating ownership by the State.

To secure the State's progress payments before the delivery of any services or materials required for the execution of Contractor's obligations hereunder, and any work which Contractor may subcontract in the support of the performance of its obligations hereunder, title shall vest in the State to the extent the State has made progress payments hereunder.

**2.075 Time is of the Essence**

The Contractor agrees that time is of the essence in the performance of the Contractor's obligations under this Contract.

**2.076 Service Level Agreements (SLAs)**

(a) SLAs will be completed with the following operational considerations:

(i) SLAs will not be calculated for individual Incidents where any event of Excusable Failure has occurred as defined in **Section 2.202**,

(ii) SLAs will not be calculated for individual Incidents where loss of service is planned and where the State has received prior notification and/or coordination.

(iii) SLAs will not apply if the applicable Incident could have been prevented through planning proposed by Contractor and not implemented at the request of the State. In order to invoke this consideration, complete documentation relevant to the denied planning proposal must be presented to substantiate the proposal.

(iv) Time period measurements will be based on the time Incidents are received by the Contractor and the time that the State receives notification of resolution based on 24x7x365 time period, except that the time period measurement will be suspended based on the following ("Stop-Clock Conditions"):

1. Time period(s) will not apply where Contractor does not have access to a physical State Location and where access to the State Location is necessary for problem identification and resolution.

2. Time period(s) will not apply where Contractor needs to obtain timely and accurate information or appropriate feedback and is unable to obtain timely and accurate information or appropriate feedback from the State.

(b) Chronic Failure for any Service(s) will be defined as three (3) unscheduled outage(s) or interruption(s) on any individual Service for the same reason or cause or if the same reason or cause was reasonably discoverable in the first instance over a rolling thirty (30) day period. Chronic Failure will result in the State's option to terminate the effected individual Service(s) and procure them from a different vendor for the chronic location(s) with Contractor to pay the difference in charges for up to three (3) additional months. The termination of the Service will not affect any tiered pricing levels.

(c) Root Cause Analysis will be performed on any Business Critical outage(s) or outage(s) on Services when requested by the Contract Administrator. Contractor will provide its analysis within two (2) weeks of outage(s) and provide a recommendation for resolution.

(d) All decimals shall be rounded to two decimal places with 5 and greater rounding up and 4 and less rounding down unless otherwise specified.

## *2.080 Delivery and Acceptance of Deliverables*

### 2.081 Delivery Responsibilities

Unless otherwise specified by the State within an individual order, the following shall be applicable to all orders issued under this Contract.

(a) Shipment responsibilities - Services performed/Deliverables provided under this Contract shall be delivered "F.O.B. Destination, within Government Premises." The Contractor shall have complete responsibility for providing all Services/Deliverables to all site(s) unless otherwise stated. Actual delivery dates will be specified on the individual purchase order.

(b) Delivery locations - Services will be performed/Deliverables will be provided at every State of Michigan location within Michigan unless otherwise stated in the SOW. Specific locations will be provided by the State or upon issuance of individual purchase orders.

(c) Damage Disputes - At the time of delivery to State Locations, the State shall examine all packages. The quantity of packages delivered shall be recorded and any obvious visible or suspected damage shall be noted at time of delivery using the shipper's delivery document(s) and appropriate procedures to record such.

Where there is no obvious or suspected damage, all deliveries to a State Location must be opened by the State and the contents inspected for possible internal damage not visible externally within fourteen (14) days of receipt. Any damage must be reported to the Contractor within five (5) days of inspection. If this inspection does not occur and damages not reported within thirty (30) days of receipt, the cure for such damaged deliveries shall transfer to the delivery signing party.

### 2.082 Delivery of Deliverables

(a) Where applicable, the Statements of Work/POs contain lists of the Deliverables to be prepared and delivered by Contractor including, for each Deliverable, the scheduled delivery date and a designation of whether the Deliverable is a document ("Written Deliverable"), a good ("Physical Deliverable") or a Service. All Deliverables shall be completed and delivered for State review and written approval and, where applicable, installed in accordance with the State-approved delivery schedule and any other applicable terms and conditions of the Contract.

### 2.083 Testing

(a) Prior to delivering any of the above-mentioned Statement of Work Physical Deliverables or Services to the State, Contractor will first perform all required quality assurance activities to verify that the Physical Deliverable or Service is complete and in conformance with its specifications listed in the applicable Statement of Work or Purchase Order. Before delivering a Physical Deliverable or Service to the State, Contractor shall certify to the State that (1) it has performed such quality assurance activities, (2) it has performed any applicable testing, (3) it has corrected all material deficiencies discovered during such quality assurance activities and testing, (4) the Deliverable or Service is in a suitable state of readiness for the State's review and approval, and (5) the Deliverable/Service has all Critical Security patches/updates applied.

(b) If a Deliverable includes installation at a State Location, then Contractor shall (1) perform any applicable testing, (2) correct all material deficiencies discovered during such quality assurance activities and testing, and (3) inform the State that the Deliverable is in a suitable state of readiness for the State's review and approval. To the extent that testing occurs at State Locations, the State shall be entitled to observe or otherwise participate in testing.

**2.084 Approval of Deliverables, In General**

(a) All Deliverables (Physical Deliverables and Written Deliverables) and Services require formal written approval by the State, in accordance with the following procedures. Formal approval by the State requires that the Deliverable be confirmed in writing by the State to meet its specifications, which will include the successful completion of Testing as applicable in **Section 2.083**, to be led by the State with the support and assistance of Contractor. The parties acknowledge that the approval process set forth herein will be facilitated by ongoing consultation between the parties, visibility of interim and intermediate Deliverables and collaboration on key decisions.

(b) The State's obligation to comply with any State Review Period is conditioned on the timely delivery of Deliverables/Services being reviewed.

(c) Prior to commencement of its review or testing of a Deliverable/Service, the State may inspect the Deliverable/Service to confirm that all components of the Deliverable/Service have been delivered without material deficiencies. If the State determines that the Deliverable/Service has material deficiencies, the State may refuse delivery of the Deliverable/Service without performing any further inspection or testing of the Deliverable/Service. Otherwise, the review period will be deemed to have started on the day the State receives the Deliverable or the Service begins, and the State and Contractor agree that the Deliverable/Service is ready for use and, where applicable, certification by Contractor in accordance with **Section 2.083(a)**.

(d) The State will approve in writing a Deliverable/Service upon confirming that it conforms to and, performs in accordance with, its specifications without material deficiency. The State may, but shall not be required to, conditionally approve in writing a Deliverable/Service that contains material deficiencies if the State elects to permit Contractor to rectify them post-approval. In any case, Contractor will be responsible for working diligently to correct within a reasonable time at Contractor's expense all deficiencies in the Deliverable/Service that remain outstanding at the time of State approval.

(e) If, after three (3) opportunities (the original and two repeat efforts), Contractor is unable to correct all deficiencies preventing Final Acceptance of a Deliverable/Service, the State may: (i) demand that Contractor cure the failure and give Contractor additional time to cure the failure at the sole expense of Contractor; or (ii) keep the Contract in force and do, either itself or through other parties, whatever Contractor has failed to do, in which event Contractor shall bear any excess expenditure incurred by the State in so doing beyond the Contract price for such Deliverable/Service and will pay the State an additional sum equal to ten percent (10%) of such excess expenditure to cover the State's general expenses provided the State can furnish proof of such general expenses; or (iii) terminate the particular Statement of Work for default, either in whole or in part by notice to Contractor provided Contractor is unable to cure such breach. Notwithstanding the foregoing, the State shall not use, as a basis for exercising its termination rights under this Section, deficiencies discovered in a repeat State Review Period that could reasonably have been discovered during a prior State Review Period.

(f) The State, at any time and in its reasonable discretion, may halt the testing or approval process if such process reveals deficiencies in or problems with a Deliverable/Service in a sufficient quantity or of a sufficient severity as to make the continuation of such process unproductive or unworkable. In such case, the State may stop using the Service or return the applicable Deliverable to Contractor for correction and re-delivery prior to resuming the testing or approval process.

### 2.085 Process For Approval of Written Deliverables

The State Review Period for Written Deliverables will be the number of days set forth in the applicable Statement of Work following delivery of the final version of the Deliverable (failing which the State Review Period, by default, shall be five (5) Business Days for Written Deliverables of one hundred (100) pages or less and ten (10) Business Days for Written Deliverables of more than one hundred (100) pages). The duration of the State Review Periods will be doubled if the State has not had an opportunity to review an interim draft of the Written Deliverable prior to its submission to the State. The State agrees to notify Contractor in writing by the end of the State Review Period either stating that the Deliverable is approved in the form delivered by Contractor or describing any deficiencies that must be corrected prior to approval of the Deliverable (or at the State's election, subsequent to approval of the Deliverable). If the State delivers to Contractor a notice of deficiencies, Contractor will correct the described deficiencies and within thirty (30) Business Days resubmit the Deliverable in a form that shows all revisions made to the original version delivered to the State. Contractor's correction efforts will be made at no additional charge. Upon receipt of a corrected Deliverable from Contractor, the State will have a reasonable additional period of time, not to exceed the length of the original State Review Period, to review the corrected Deliverable to confirm that the identified deficiencies have been corrected.

### 2.086 Process for Approval of Services

The State Review Period for approval of Services is governed by the applicable Statement of Work (failing which the State Review Period, by default, shall be thirty (30) Business Days for Services). The State agrees to notify Contractor in writing by the end of the State Review Period either stating that the Service is approved in the form delivered by Contractor or describing any deficiencies that must be corrected prior to approval of the Services (or at the State's election, subsequent to approval of the Service). If the State delivers to Contractor a notice of deficiencies, Contractor will correct the described deficiencies and within thirty (30) Business Days resubmit the Service in a form that shows all revisions made to the original version delivered to the State. Contractor's correction efforts will be made at no additional charge. Upon implementation of a corrected Service from Contractor, the State will have a reasonable additional period of time, not to exceed the length of the original State Review Period, to review the corrected Service for conformity and that the identified deficiencies have been corrected.

### 2.087 Process for Approval of Physical Deliverables

The State Review Period for approval of Physical Deliverables is governed by the applicable Statement of Work (failing which the State Review Period, by default, shall be thirty (30) continuous Business Days for a Physical Deliverable). The State agrees to notify Contractor in writing by the end of the State Review Period either stating that the Deliverable is approved in the form delivered by Contractor or describing any deficiencies that must be corrected prior to approval of the Deliverable (or at the State's election, subsequent to approval of the Deliverable). If the State delivers to Contractor a notice of deficiencies, Contractor will correct the described deficiencies and within thirty (30) Business Days resubmit the Deliverable in a form that shows all revisions made to the original version delivered to the State. Contractor's correction efforts will be made at no additional charge. Upon receipt of a corrected Deliverable from Contractor, the State will have a reasonable additional period of time, not to exceed the length of the original State Review Period, to review the corrected Deliverable to confirm that the identified deficiencies have been corrected.

### 2.088 Final Acceptance

Unless otherwise stated in the Statement of Work or Purchase Order, "Final Acceptance" of each Deliverable shall occur when each Deliverable/Service has been approved by the State following the State Review Periods identified in **Sections 2.080-2.087**. Payment will be made for Deliverables installed and accepted. Upon acceptance of a Service, the State will pay for all Services provided during the State Review Period that conformed to the acceptance criteria.

## *2.090 Financial*

### 2.091 Pricing

(a) Fixed Prices for Services/Deliverables

Each Statement of Work/PO issued under this Contract shall specify (or indicate by reference to the appropriate Contract Exhibit) the firm, fixed prices for all Services/Deliverables, and the associated payment milestones and payment amounts. To the extent the parties agree that certain specific Services will be provided on a time and materials basis, such Services shall be provided at the Amendment Labor Rates (**Article 1, Attachment A**). The State may make progress payments to the Contractor when requested as work progresses, but not more frequently than monthly, in amounts approved by the Contract Administrator, after negotiation. Contractor must show verification of measurable progress at the time of requesting progress payments.

(b) Adjustments for Reductions in Scope of Services/Deliverables

If the scope of the Services/Deliverables under any Statement of Work issued under this Contract is subsequently reduced by the State, the parties shall negotiate an equitable reduction in Contractor's charges under such Statement of Work commensurate with the reduction in scope, using the rates in **Article 1, Attachment U**nless specifically identified in an applicable Statement of Work.

(c) Services/Deliverables Covered

For all Services/Deliverables to be provided by Contractor (and its Subcontractors, if any) under this Contract, the State shall not be obligated to pay any amounts in addition to the charges specified in this Contract.

(d) Labor Rates

All time and material charges will be at the rates specified in **Article 1, Attachment A**.

### 2.092 Invoicing and Payment Procedures and Terms

(a) Invoicing and Payment – In General

(i) Each Statement of Work issued under this Contract shall list (or indicate by reference to the appropriate Contract Exhibit) the prices for all Services/Deliverables, equipment and commodities to be provided, and the associated payment milestones and payment amounts.

(ii) Each Contractor invoice will show details as to charges by Service/Deliverable component and location at a level of detail reasonably necessary to satisfy the State's accounting and charge-back requirements. The charges for Services billed on a time and materials basis shall be determined based on the actual number of hours of Services performed, at the applicable Labor Rates specified in **Article 1, Attachment A**. Invoices for Services performed on a time and materials basis will show, for each individual, the number of hours of Services performed during the billing period, the billable skill/labor category for such person and the applicable hourly billing rate. Prompt payment by the State is contingent on the Contractor's invoices showing the amount owed by the State minus any holdback amount to be retained by the State in accordance with **Section 2.094**.

(iii) Correct invoices will be due and payable by the State, in accordance with the State's standard payment procedure as specified in 1984 Public Act No. 279, MCL 17.51 et seq., within forty-five (45) days after receipt, provided the State determines that the invoice was properly rendered.

(b) Taxes (See Section 2.305 and Article 3, Section 3.022-3.024 for additional )

The State is exempt from Federal Excise Tax, State and Local Sales Taxes, and Use Tax with respect to the sale to and use by it of tangible personal property. Such taxes shall not be included in Contract prices as long as the State maintains such exemptions. Copies of all tax exemption certificates shall be supplied to Contractor, if requested.

(c) Out-of-Pocket Expenses

Contractor acknowledges that the out-of-pocket expenses that Contractor expects to incur in performing the Services/ providing the Deliverables (such as, but not limited to, travel and lodging, document reproduction and shipping, and long distance telephone) are included in Contractor's fixed price for each Statement of Work. Accordingly, Contractor's out-of-pocket expenses are not separately reimbursable by the State unless, on a case-by-case basis for unusual expenses, the State has agreed in advance and in writing to reimburse Contractor for such an expense at the State's current travel reimbursement rates. See http://www.mi.gov/dmb/0,1607,7-150-9141_13132---,00.html for current rates.

(d) Pro-ration

To the extent there are any Services that are to be paid for on a monthly basis, the cost of such Services shall be pro-rated for any partial month.

(e) Antitrust Assignment

The Contractor assigns to the State any claim for overcharges resulting from antitrust violations to the extent that those violations concern materials or services supplied by third parties to the Contractor, toward fulfillment of this Contract.

(f) Final Payment

The making of final payment by the State to Contractor does not constitute a waiver by either party of any rights or other claims as to the other party's continuing obligations under the Contract, nor will it constitute a waiver of any claims by one party against the other arising from unsettled claims or failure by a party to comply with this Contract, including claims for Services and Deliverables not reasonably known until after acceptance to be defective or substandard. Contractor's acceptance of final payment by the State under this Contract shall constitute 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 unsettled.

### 2.093 State Funding Obligation

The State's obligation under this Contract is payable only and solely from funds appropriated for the purpose of this Contract. Contractor acknowledges and agrees that all funds for payments after the end of the current fiscal year are subject to the availability of a legislative appropriation for the purpose of this Contract. Events of non-appropriation are addressed further in **Section 2.210** of this Contract.

### 2.094 RESERVED - Holdback

### 2.095 Electronic Payment Availability

Public Act 533 of 2004 requires that payments under this contract be processed by electronic funds transfer (EFT). Contractor is required to register to receive payments by EFT at the Contract & Payment Express website (www.cpexpress.state.mi.us).

## *2.100 Contract Management*

### 2.101 Contract Management Responsibility

(a) Contractor shall have overall responsibility for managing and successfully performing and completing the Services/Deliverables, subject to the overall direction and supervision of the State and with the participation and support of the State as specified in this Contract. Contractor's duties will include monitoring and reporting the State's performance of its participation and support responsibilities (as well as Contractor's own responsibilities) and providing timely notice to the State in Contractor's reasonable opinion if the State's failure to perform its responsibilities in accordance with the agreed upon project plan is likely to delay the timely achievement of any Contract tasks.

(b) The Services/Deliverables will be provided by the Contractor either directly or through its affiliates, subsidiaries, subcontractors or resellers. Regardless of the entity providing the Service/Deliverable, the Contractor will act as a single point of contact coordinating these entities to meet the State's need for Services/Deliverables. Nothing in this Contract, however, shall be construed to authorize or require any party to violate any applicable law or regulation in its performance of this Contract.

**2.102 Problem and Contract Management Procedures**

Problem Management and Contract Management procedures will be governed by the Contract and the applicable Statements of Work.

**2.103 Reports and Meetings**

(a) Reports.

Within thirty (30) days after the Effective Date, the parties shall determine an appropriate set of periodic reports to be issued by Contractor to the State. Such reports may include:

(i) separately address Contractor's performance in each area of the Services;

(ii) for each area of the Services, assess the degree to which Contractor has attained or failed to attain the pertinent objectives in that area, including on-time completion and delivery of Deliverables;

(iii) explain the reasons for any failure to achieve on-time completion and delivery of Deliverables and include a plan for corrective action where appropriate;

(iv) describe any circumstances that Contractor anticipates will impair or prevent on-time completion and delivery of Deliverables in upcoming reporting periods;

(v) include plans for corrective action or risk mitigation where appropriate and describe the status of ongoing problem resolution efforts;

(vi) provide reports setting forth a comparison of actual hours spent by Contractor (including its augmented personnel and Subcontractors) in performing the Project versus hours budgeted by Contractor.

(vii) set forth a record of the material personnel changes that pertain to the Services and describe planned changes during the upcoming month that may affect the Services.

(viii) include such documentation and other information may be mutually agreed to verify compliance with, and meeting the objectives of, this Contract.

(ix) set forth an updated schedule that provides information on the status of upcoming Deliverables, expected dates of delivery (or redelivery) of such Deliverables and estimates on timing for completion of the Project.

(b) Meetings.

Within thirty (30) days after the Effective Date, the parties shall determine an appropriate set of meetings to be held between representatives of the State and Contractor. Contractor shall prepare and circulate an agenda sufficiently in advance of each such meeting to give participants an opportunity to prepare for the meeting. Contractor shall incorporate into such agenda items that the State desires to discuss. At the State's request, Contractor shall prepare and circulate minutes promptly after a meeting.

**2.104 System Changes**

Contractor is not responsible for and not authorized to make changes to any State systems without written authorization from the State. Any changes Contractor makes to State systems with the State's approval shall be done in accordance with applicable State procedures, including security, access and configuration management procedures.

**2.105 Reserved**

## 2.106 Change Requests

The State reserves the right to request from time to time, any changes to the requirements and specifications of the Contract and the work to be performed by the Contractor under the Contract. During the course of ordinary business, it may become necessary for the State to discontinue certain business practices or create Additional Services/Deliverables. At a minimum, to the extent applicable, the State would like the Contractor to provide a detailed outline of all work to be done, including tasks necessary to accomplish the services/deliverables, timeframes, listing of key personnel assigned, estimated hours for each individual per task, and a complete and detailed cost justification.
If the State requests or directs the Contractor to perform any Services/Deliverables that are outside the scope of the Contractor's responsibilities under the Contract ("New Work"), the Contractor must notify the State promptly, and before commencing performance of the requested activities, that it believes the requested activities are New Work. If the Contractor fails to notify the State before commencing performance of the requested activities, any such activities performed before notice is given by the Contractor shall be conclusively considered to be in-scope Services/Deliverables, not New Work.

If the State requests or directs the Contractor to perform any services or provide deliverables that are consistent with and similar to the Services/Deliverables being provided by the Contractor under the Contract, but which the Contractor reasonably and in good faith believes are not included within the Statements of Work, then before performing such services or providing such deliverables, the Contractor shall notify the State in writing that it considers the services or deliverables to be an Additional Service/Deliverable for which the Contractor should receive additional compensation. If the Contractor does not so notify the State, the Contractor shall have no right to claim thereafter that it is entitled to additional compensation for performing that service or providing that deliverable. If the Contractor does so notify the State, then such a service or deliverable shall be governed by the Change Request procedure in this Section.

In the event prices or service levels are not acceptable to the State, the Additional Services or New Work shall be subject to competitive bidding based upon the specifications.

(a) Change Requests

(i) State Requests

If the State should require Contractor to perform New Work, Additional Services or make changes to the Services that would affect the Contract completion schedule or the amount of compensation due Contractor (a "Change"), the State shall submit a written request for Contractor to furnish a proposal for carrying out the requested Change (a "Change Request").

(ii) Contractor Recommendations

Contractor shall be entitled to propose a Change to the State, on its own initiative, should it be of the opinion that this would benefit the Contract.

(iii) Upon receipt of a Change Request or on its own initiative, Contractor shall examine the implications of the requested Change on the technical specifications, Contract schedule and price of the Deliverables and Services and shall submit to the State without undue delay a written proposal for carrying out the Change. Contractor's proposal will include any associated changes in the technical specifications, Contract schedule and price and method of pricing of the Services. If the Change is to be performed on a time and materials basis, the Amendment Labor Rates shall apply to the provision of such Services. If Contractor provides a written proposal and should Contractor be of the opinion that a requested Change is not to be recommended, it shall communicate its opinion to the State but shall nevertheless carry out the Change as specified in the written proposal if the State directs it to do so.

(iv) By giving Contractor written notice within a reasonable time, the State shall be entitled to accept a Contractor proposal for Change, to reject it or to reach another agreement with Contractor. Should the parties agree on carrying out a Change, a written Contract Change Notice shall be prepared and issued under this Contract, describing the Change and its effects on the Services and any affected components of this Contract (a "Contract Change Notice").

(v) No proposed Change shall be performed until the proposed Change has been specified in a duly executed Contract Change Notice issued by the Department of Management and Budget, Office of Purchasing Operations.

(vi) If the State requests or directs Contractor to perform any activities that Contractor believes constitute a Change, Contractor must notify the State that it believes the requested activities are a Change prior to commencing the performance of the requested activities. If Contractor fails to so notify the State prior to commencing performance of the requested activities, such activities shall be considered to be performed gratuitously by Contractor, and Contractor shall not have any right thereafter to assert any claim for additional compensation or time for the performance of such activities. If Contractor commences performance of gratuitous services outside the scope of this Contract and subsequently elects to stop performing such out-of-scope services, Contractor must, at the request of the State, back out or reverse any changes resulting from such performance that would adversely affect the Contract.

**2.107 Management Tools**

Contractor will use an automated tool for planning, monitoring and tracking the Contract's progress. In addition, Contractor shall use automated project management tools as reasonably necessary to perform the Services, which tools shall include the capability to produce through the end of the Contract: (i) staffing tables with names of personnel assigned to Contract tasks, (ii) project plans showing tasks, subtasks, Deliverables and the resources required and allocated to each (including detailed plans for all Services to be performed within the next sixty (60) days, updated semi-monthly) and (iii) graphs showing critical events, dependencies and decision points during the course of the Contract. Any tool(s) used by Contractor for such purposes must produce information of a type and in a manner and format that will support reporting in compliance with the State's standard to the extent such information is described with reasonable detail in the Statements of Work and to the extent the related work is of sufficient project complexity and duration to warrant such reporting.

*2.110 Records and Inspections*

**2.111 Records and Inspections**

The Contractor agrees that the State may, upon 24-hour notice, perform an audit at Contractor's location(s) to determine if the Contractor is complying with the requirements of the Contract. The Contractor agrees to cooperate with the State during the audit and produce all records and documentation that verifies compliance with the Contract requirements.

**2.112 Errors**

(a) If the audit demonstrates any errors in the statements provided to the State, then the amount in error shall be reflected as a credit or debit on the next invoice and in subsequent invoices until the amount is paid or refunded in full. However, a credit or debit may not be carried for more than four (4) quarterly statements. If a balance remains after four (4) quarterly statements, then the remaining amount will be due as a payment or refund within forty-five (45) days of the last quarterly statement that the balance appeared on or termination of the contract, whichever is earlier.

(b) In addition to other available remedies, the difference between the payment received and the correct payment amount is greater than ten percent (10%), then the Contractor shall pay all of the reasonable costs of the audit.

*2.120 State Responsibilities*

**2.121 State Performance Obligations**

(a) Equipment and Other Resources. To facilitate Contractor's performance of the Services/Deliverables, the State shall provide to Contractor such equipment and resources as identified in the Statements of Work or other Contract Exhibits as items to be provided by the State.

(b) Facilities. The State shall designate space as long as it is available and as provided in the Statement of Work, to house Contractor's personnel whom the parties agree will perform the Services/Deliverables at State facilities (collectively, the "State Facilities"). Contractor shall have reasonable access to, and unless agreed otherwise by the parties in writing shall observe and comply with all rules and regulations relating to, each of the State Facilities (including hours of operation) used by Contractor in the course of providing the Services. Contractor agrees that it will not, without the prior written consent of the State, use any State Facilities or access any State information systems provided for Contractor's use, or to which Contractor otherwise gains access in the course of performing the Services, for any purpose other than providing the Services to the State.

(c) Return. Contractor shall be responsible for returning to the State any State-furnished equipment, facilities and other resources when no longer required for the Contract in the same condition as when provided by the State, reasonable wear and tear excepted.

(d) Except as otherwise provided in **Section 2.220**, the State's failure to perform its responsibilities as set forth in this Contract shall not be deemed to be grounds for termination by Contractor. However, Contractor will not be liable for any default or delay in the performance of its obligations under this Contract to the extent such default or delay is caused by nonperformance of the State's obligations under this Contract, provided Contractor provides the State with reasonable written notice of such nonperformance and Contractor uses commercially reasonable efforts to perform notwithstanding the State's failure to perform. In addition, if the State's nonperformance of its responsibilities under this Contract materially increases the time required for Contractor's performance or Contractor's cost of performance, Contractor shall be entitled to seek an equitable extension via the Change Request process described in **Section 2.106**.

*2.130 Security*

### 2.131 Background Checks

The Contractor shall authorize the investigation of its personnel proposed to have access to State facilities and systems on a case by case basis. The scope of the background check is at the discretion of the State and the results will be used to determine Contractor personnel eligibility for working within State facilities and systems. Such investigations will include Michigan State Police Background checks (ICHAT) and may include the National Crime Information Center (NCIC) Finger Prints. Proposed Contractor personnel may be required to complete and submit an RI-8 Fingerprint Card for the NCIC Finger Print Check. Any request for background checks will be initiated by the State and will be reasonably related to the type of work requested.

All Contractor personnel will also be expected to comply with the State's security and acceptable use policies for State IT equipment and resources. See http://www.michigan.gov/ditservice/0,1607,7-179-25781-73760--,00.html. Furthermore, Contractor personnel will be expected to agree to the State's security and acceptable use policies before the Contractor personnel will be accepted as a resource to perform work for the State. It is expected the Contractor will present these documents to the prospective employee before the Contractor presents the individual to the State as a proposed resource. Contractor staff will be expected to comply with all Physical Security procedures in place within the facilities where they are working.

*2.140 Reserved*

*2.150 Confidentiality*

### 2.151 Freedom of Information

All information in any proposal submitted to the State by Contractor and this Contract is subject to the provisions of the Michigan Freedom of Information Act, 1976 Public Act No. 442, as amended, MCL 15.231, et seq (the "FOIA").

### 2.152 Confidentiality

Contractor and the State each acknowledge that the other possesses and will continue to possess confidential information that has been developed or received by it. As used in this Section, "Confidential Information" of Contractor shall mean all non-public proprietary information of Contractor (other than Confidential Information of the State as defined below) which is marked confidential, restricted, proprietary or with a similar designation. "Confidential Information" of the State shall mean any information which is retained in confidence by the State (or otherwise required to be held in confidence by the State pursuant to applicable federal, state and local laws and regulations) or which, in the case of tangible materials provided to Contractor by the State pursuant to its performance under this Contract, is marked as confidential, proprietary or with a similar designation by the State. In the case of information of either Contractor or the State "Confidential Information" shall exclude any information (including this Contract) that is publicly available pursuant to the Michigan FOIA.

### 2.153 Protection of Confidential Information

The State and Contractor will each use at least the same degree of care to prevent disclosing to third parties the Confidential Information of the other as it employs to avoid unauthorized disclosure, publication or dissemination of its own confidential information of like character, but in no event less than reasonable care. Neither Contractor nor the State will (i) make any use of the Confidential Information of the other except as contemplated by this Contract, (ii) acquire any right in or assert any lien against the Confidential Information of the other, or (iii) if requested to do so, refuse for any reason to promptly return the other party's Confidential Information to the other party. Each party will limit disclosure of the other party's Confidential Information to employees and Subcontractors who must have access in order to fulfill the purposes of this Contract. Disclosure to, and use by, a Subcontractor is permissible where (A) use of a Subcontractor is authorized under this Contract, (B) such disclosure is necessary or otherwise naturally occurs in connection with work that is within such Subcontractor's scope of responsibility, 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 and of any Subcontractor having access or continued access to the State's Confidential Information may be required to execute an acknowledgment that the employee has been advised of Contractor's and the Subcontractor's obligations under this Section and of the employee's obligation to Contractor or Subcontractor, as the case may be, to protect such Confidential Information from unauthorized use or disclosure.

### 2.154 Exclusions

Notwithstanding the foregoing, the provisions of this Section will not apply to any particular information which the State or Contractor can demonstrate (i) was, at the time of disclosure to it, in the public domain; (ii) after disclosure to it, is published or otherwise becomes part of the public domain through no fault of the receiving party; (iii) was in the possession of the receiving party at the time of disclosure to it without an obligation of confidentiality; (iv) was received after disclosure to it from a third party who had a lawful right to disclose such information to it without any obligation to restrict its further disclosure; or (v) was independently developed by the receiving party without reference to Confidential Information of the furnishing party. Further, the provisions of this Section will not apply to any particular Confidential Information to the extent the receiving party is required by law to disclose such Confidential Information, provided that the receiving party (i) promptly provides the furnishing party with notice of the legal request, and (ii) assists the furnishing party in resisting or limiting the scope of such disclosure as reasonably requested by the furnishing party.

### 2.155 No Implied Rights

Nothing contained in this Section shall be construed as obligating a party to disclose any particular Confidential Information to the other party, or as granting to or conferring on a party, expressly or impliedly, any right or license to the Confidential Information of the other party.

### 2.156 Remedies

Each party acknowledges that, if it breaches (or attempts or threatens to breach) its obligations under this Section, the other party may be irreparably harmed. Accordingly, if a court of competent jurisdiction should find that a party has breached (or attempted or threatened to breach) any such obligations, the non-breaching party shall be entitled to seek an injunction preventing such breach (or attempted or threatened breach).

### 2.157 Security Breach Notification

In the event of a breach of this Section, Contractor shall take (i) prompt corrective action to cure any such deficiencies and (ii) any action pertaining to such unauthorized disclosure required by applicable federal and state laws and regulations. Contractor and the State will cooperate to mitigate, to the extent practicable, the effects of any breach, intrusion, or unauthorized use or disclosure. Contractor shall report to the State in writing any use or disclosure of Confidential Information, whether suspected or actual, other than as provided for by the Contract within ten (10) days of becoming aware of such use or disclosure or such shorter time period as is reasonable under the circumstances.

### 2.158 Survival

The parties' respective obligations under this Section shall survive the termination or expiration of this Contract for any reason.

### 2.159 Destruction of Confidential Information

Promptly upon termination or cancellation of the Contract for any reason, Contractor shall certify to the State that Contractor has destroyed all State Confidential Information.

*2.160 Proprietary Rights*

### 2.161 Ownership

**Ownership of Work Product by State.** All Deliverables shall be owned by the State and shall be considered works made for hire by the Contractor for the State. The State shall own all United States and international copyrights, trademarks, patents or other proprietary rights in the Deliverables.

**Vesting of Rights.** With the sole exception of any preexisting licensed works identified in the Contract, the Contractor shall assign, and upon creation of each Deliverable automatically assigns, to the State, ownership of all United States and international copyrights, trademarks, patents, or other proprietary rights in each and every Deliverable, whether or not registered by the Contractor, insofar as any such Deliverable, by operation of law, may not be considered work made for hire by the Contractor for the State. From time to time upon State's request, the Contractor and/or its personnel shall confirm such assignment by execution and delivery of the assignments, confirmations of assignment, or other written instruments as the State may request. The State shall have the right to obtain and hold in its own name all copyright, trademark, and patent registrations and other evidence of rights that may be available for Deliverables.

### 2.162 Source Code Escrow

(a) Definition. "Source Code Escrow Package" shall mean:

(i) A complete copy in machine-readable form of the source code and executable code of the Licensed Software, including any updates or new releases of the product;

(ii) A complete copy of any existing design documentation and user documentation, including any updates or revisions; and/or

(iii) Complete instructions for compiling and linking every part of the source code into executable code for purposes of enabling verification of the completeness of the source code as provided below. Such instructions shall include precise identification of all compilers, library packages, and linkers used to generate executable code.

(b) Delivery of Source Code into Escrow. Contractor shall deliver a Source Code Escrow Package to the Escrow Agent, pursuant to the Escrow Contract, which shall be entered into on commercially reasonable terms subject to the provisions of this Contract within thirty (30) days of the execution of this Contract.

(c) Delivery of New Source Code into Escrow. If at anytime during the term of this Contract, the Contractor provides a maintenance release or upgrade version of the Licensed Software, Contractor shall within ten (10) days deposit with the Escrow Agent, in accordance with the Escrow Contract, a Source Code Escrow Package for the maintenance release or upgrade version, and provide the State with notice of the delivery.

(d) Verification. The State reserves the right at any time, but not more than once a year, either itself or through a third party contractor, upon thirty (30) days written notice, to seek verification of the Source Code Escrow Package.

(e) Escrow Fees. All fees and expenses charged by the Escrow Agent will be paid by the Contractor.

(f) Release Events. The Source Code Escrow Package may be released from escrow to the State, temporarily or permanently, upon the occurrence of one or more of the following:

(i) The Contractor becomes insolvent, makes a general assignment for the benefit of creditors, files a voluntary petition of bankruptcy, suffers or permits the appointment of a receiver for its business or assets, becomes subject to any proceeding under bankruptcy or insolvency law, whether domestic or foreign;
(ii) The Contractor has wound up or liquidated its business voluntarily or otherwise and the State has reason to believe that such events will cause the Contractor to fail to meet its warranties and maintenance obligations in the foreseeable future;
(iii) The Contractor voluntarily or otherwise discontinues support of the provided products or fails to support the products in accordance with its maintenance obligations and warranties.

(g) Release Event Procedures. If the State desires to obtain the Source Code Escrow Package from the Escrow Agent upon the occurrence of an Event in **Section 2.162(f)**, then:

(i) The State shall comply with all procedures in the Escrow Contract;
(ii) The State shall maintain all materials and information comprising the Source Code Escrow Package in confidence in accordance with this Contract;
(iii) If the release is a temporary one, then the State shall promptly return all released materials to Contractor when the circumstances leading to the release are no longer in effect.

(h) License. Upon release from the Escrow Agent pursuant to an event described in **Section 2.162(f)**, the Contractor automatically grants the State a non-exclusive, irrevocable license to use, reproduce, modify, maintain, support, update, have made, and create Derivative Works. Further, the State shall have the right to use the Source Code Escrow Package in order to maintain and support the Licensed Software so that it can be used by the State as set forth in this Contract.

(i) Derivative Works. Any Derivative Works to the source code released from escrow which are made by or on behalf of the State shall be the sole property of the State. The State acknowledges that its ownership rights are limited solely to the Derivative Works and do not include any ownership rights in the underlying source code.

**2.163 Rights in Data**

(a) The State will be and remain the owner of all data made available by the State to Contractor or its agents, Subcontractors or representatives pursuant to the Contract. Contractor will not use the State's data for any purpose other than providing the Services, nor will any part of the State's data be disclosed, sold, assigned, leased or otherwise disposed of to the general public or to specific third parties or commercially

exploited by or on behalf of Contractor, nor will any employee of Contractor other than those on a strictly need to know basis have access to the State's data. Contractor will not possess or assert any lien or other right against the State's data. Without limiting the generality of this Section, Contractor shall only use personally identifiable information as strictly necessary to provide the Services and shall disclose such information only to its employees who have a strict need to know such information. Contractor shall comply at all times with all laws and regulations applicable to such personally identifiable information.

(b) The State is and shall remain the owner of all State-specific data pursuant to the Contract. The State may use the data provided by the Contractor for any purpose. The State will not possess or assert any lien or other right against the Contractor's data. Without limiting the generality of this Section, the State shall only use personally identifiable information as strictly necessary to utilize the Services and shall disclose such information only to its employees who have a strict need to know such information, except as provided by law. The State shall comply at all times with all laws and regulations applicable to such personally identifiable information. Other material developed and provided to the State shall remain the State's sole and exclusive property.

### 2.164 Ownership of Materials

State and Contractor will continue to own their respective proprietary technologies developed before entering into the Contract. Any hardware bought through the Contractor by the State, and paid for by the State, will be owned by the State. Any software licensed through the Contractor and sold to the State, will be licensed directly to the State.

### 2.165 Standard Software

If applicable and necessary, all Standard Software used in performing the Services shall be provided to the State under a separate license agreement between the State and the owner (or authorized licensor) of such software. Standard Software to be licensed to the State shall be identified in the contract.

### 2.166 Pre-existing Materials for Custom Software Deliverables

Neither Contractor nor any of its Subcontractors shall incorporate any preexisting materials (including Standard Software) into Custom Software Deliverables or use any pre-existing materials to produce Custom Software Deliverables if such pre-existing materials will be needed by the State in order to use the Custom Software Deliverables unless (i) such pre-existing materials and their owners are identified to the State in writing and (ii) such pre-existing materials are either readily commercially available products for which Contractor or its Subcontractor, as the case may be, has obtained a license (in form and substance approved by the State) in the name of the State, or are materials that Contractor or its Subcontractor, as the case may be, has the right to license to the State and has licensed to the State on terms and conditions approved by the State prior to using such pre-existing materials to perform the Services.

### 2.167 General Skills

Notwithstanding anything to the contrary in this Section, each party, its Subcontractors and their personnel shall be free to use and employ its and their general skills, know-how and expertise, and to use, disclose and employ any generalized ideas, concepts, know-how, methods, techniques or skills gained or learned during the course of performing the Services, so long as it or they acquire and apply the foregoing without disclosure of any confidential or proprietary information of the other party.

*2.170 Warranties And Representations*

**2.171 Warranties and Representations**

The Contractor represents and warrants:

(a) It is capable in all respects of fulfilling and shall fulfill all of its obligations under this Contract. The performance of all obligations under this Contract shall be provided in a timely, professional, and workman-like manner and shall meet the performance and operational standards required under this Contract.

(b) The Contract Appendices, Attachments and Exhibits identify the equipment and software and services necessary for the Deliverable(s) to perform and Services to operate in compliance with the Contract's requirements and other standards of performance.

(c) It is the lawful owner or licensee of any Deliverable licensed or sold to the State by Contractor or developed by Contractor under this Contract, and Contractor has all of the rights necessary to convey to the State the ownership rights or licensed use, as applicable, of any and all Deliverables. None of the Deliverables provided by Contractor to the State under this Contract, nor their use by the State, will infringe the patent, copyright, trade secret, or other proprietary rights of any third party.

(d) If, under this Contract, Contractor procures any equipment, software or other Deliverable for the State (including equipment, software and other Deliverables manufactured, re-marketed or otherwise sold by Contractor under Contractor's name), then in addition to Contractor's other responsibilities with respect to such items in this Contract, Contractor shall assign or otherwise transfer to the State or its designees, or afford the State the benefits of, any manufacturer's warranty for the Deliverable.

(e) The contract signatory has the power and authority, including any necessary corporate authorizations, necessary to enter into this Contract, on behalf of Contractor.

(f) It is qualified and registered to transact business in all locations where required.

(g) Neither the Contractor nor any Affiliates, nor any employee of either, has, shall have, or shall acquire, any contractual, financial, business, or other interest, direct or indirect, that would conflict in any manner or degree with Contractor's performance of its duties and responsibilities to the State under this Contract or otherwise create an appearance of impropriety with respect to the award or performance of this Agreement. Contractor shall notify the State within two (2) days of any such interest that may be incompatible with the interests of the State.

(h) Neither Contractor nor any Affiliates, nor any employee of either has accepted or shall accept anything of value based on an understanding that the actions of the Contractor or Affiliates or employee on behalf of the State would be influenced. Contractor shall not attempt to influence any State employee by the direct or indirect offer of anything of value.

(i) Neither Contractor nor any Affiliates, nor any employee of either has paid or agreed to pay any person, other than bona fide employees and consultants working solely for Contractor or such Affiliate, any fee, commission, percentage, brokerage fee, gift, or any other consideration, contingent upon or resulting from the award or making of this Contract.

(j) The prices proposed by Contractor were arrived at independently, without consultation, communication, or agreement with any other bidder for the purpose of restricting competition; the prices quoted were not knowingly disclosed by Contractor to any other bidder; and no attempt was made by Contractor to induce any other person to submit or not submit a proposal for the purpose of restricting competition.

(k) All financial statements, reports, and other information furnished by Contractor to the State as part of its response to the RFP or otherwise in connection with the award of this Contract fairly and accurately represent the business, properties, financial condition, and results of operations of Contractor as of the respective dates, or for the respective periods, covered by such financial statements, reports, other information. Since the respective dates or periods covered by such financial statements, reports, or other information, there have been no material adverse change in the business, properties, financial condition, or results of operations of Contractor.

(m) All written information furnished to the State by or behalf of Contractor in connection with this Contract, including its bid, it true, accurate, and complete, and contains no untrue statement of material fact or omits any material fact necessary to make such information not misleading.

(n) It is not in material default or breach of any other contract or agreement that it may have with the State or any of its departments, commissions, boards, or agencies. Contractor further represents and warrants that it has not been a party to any contract with the State or any of its departments that was terminated by the State or such department within the previous five (5) years for the reason that Contractor failed to perform or otherwise breached an obligation of such contract.

**2.172 RESERVED - Software Warranties**

**2.173 Equipment Warranty**

To the extent Contractor is responsible under this Contract for maintaining equipment/system(s), Contractor represents and warrants that it will maintain such equipment/system(s) in good operating condition and will undertake all repairs and preventive maintenance in accordance with the applicable manufacturer's recommendations for the period specified in this Contract.

The Contractor represents and warrants that the equipment/system(s) shall be in good operating condition and shall operate and perform to the requirements and other standards of performance contained in this Contract, when installed, at the time of Final Acceptance by the State, and for a period of **one (1) year** commencing upon the first day following Final Acceptance.

Within **1 Business Day** of notification from the State, the Contractor shall adjust, repair or replace all equipment that is defective or not performing in compliance with the Contract. The Contractor shall assume all costs for replacing parts or units and their installation including transportation and delivery fees, if any.

The Contractor shall provide a toll-free telephone number to allow the State to report equipment failures and problems to be remedied by the Contractor.

The Contractor agrees that all warranty service it provides under this Contract shall be performed by original equipment manufacturer (OEM) trained, certified and authorized technicians.

The Contractor shall act as the sole point of contact for warranty service. The Contractor warrants that it shall pass through to the State any and all warranties obtained or available from the original equipment manufacturer, including any replacement, upgraded, or additional equipment warranties.

**2.174 RESERVED - Physical Media Warranty**

**2.175 Standard Warranties**

(a) Warranty of Merchantability

Deliverables shall be merchantable. All Deliverables shall be of good quality within the description given by the State, shall be fit for their ordinary purpose, shall be adequately contained and packaged within the description given by the State, shall conform to the agreed upon specifications, and shall conform to the affirmations of fact made by the Contractor on the container or label.

(b) Warranty of fitness for a particular purpose

When Contractor has reason to know or knows any particular purpose for which the Deliverables are required, and when the State is relying on the Contractor's skill or judgment to select or furnish suitable Deliverables, the Contractor warranties that the Deliverables are fit for such purpose.

(c) Warranty of title

Contractor shall convey good title in those Deliverables, whose transfer is right and lawful. All Deliverables provided by Contractor shall be delivered free from any security interest, lien, or encumbrance. Deliverables shall be delivered free of any rightful claim of any third person of ownership, interest, lien or encumbrance.

**2.176 Consequences For Breach**

In addition to any remedies available in law, if the Contractor breaches any of the warranties contained in this section, such breach may be considered as a default in the performance of a material obligation of this Contract.

*2.180 Insurance*

**2.181 Liability Insurance**

(a) Liability Insurance

The Contractor is required to provide proof of the minimum levels of insurance coverage as indicated below. The purpose of this coverage shall be to protect the State from claims which may arise out of or result from the Contractor's performance of services under the terms of this Contract, whether such services are performed by the Contractor, or by any subcontractor, or by anyone directly or indirectly employed by any of them, or by anyone for whose acts they may be liable.

The Contractor waives all rights against the State of Michigan, its departments, divisions, agencies, offices, commissions, officers, employees and agents for recovery of damages to the extent these damages are covered by the insurance policies the Contractor is required to maintain pursuant to this Contract.

All insurance coverages provided relative to this Contract/Purchase Order are PRIMARY and NON-CONTRIBUTING to any comparable liability insurance (including self-insurances) carried by the State.

The insurance shall be written for not less than any minimum coverage specified in this Contract or required by law, whichever is greater.

The insurers selected by Contractor shall have an A.M. Best rating of A or better, or as otherwise approved in writing by the State, or if such ratings are no longer available, with a comparable rating from a recognized insurance rating agency. All policies of insurance required in this Contract shall be issued by companies that have been approved to do business in the State.
See http://www.mi.gov/cis/0,1607,7-154-10555_22535---,00.html.

Where specific limits are shown, they are the minimum acceptable limits. If Contractor's policy contains higher limits, the State shall be entitled to coverage to the extent of such higher limits.

Before the Contract is signed by both parties or before the purchase order is issued by the State, the Contractor must furnish to the Director of Purchasing Operations, certificate(s) of insurance verifying insurance coverage ("Certificates"). The Certificate must be on the standard "accord" form or equivalent. **THE CONTRACT OR PURCHASE ORDER NO. MUST BE SHOWN ON THE CERTIFICATE OF INSURANCE TO ASSURE CORRECT FILING.** All Certificate(s) are to be prepared and submitted by the Insurance Provider. All Certificate(s) shall contain a provision indicating that coverages afforded under the policies WILL NOT BE

CANCELLED, MATERIALLY CHANGED, OR NOT RENEWED without THIRTY (30) days prior written notice, except for ten (10) days for non-payment of premium, having been given to the Director of Purchasing Operations, Department of Management and Budget. The notice must include the Contract or Purchase Order number affected and be mailed to: Director, Purchasing Operations, Department of Management and Budget, P.O. Box 30026, Lansing, Michigan 48909. Failure to provide evidence of coverage, may, at the State's sole option, result in this Contract's termination.

The Contractor is required to pay for and provide the type and amount of insurance checked ☑ below:

☑ 1. Commercial General Liability with the following minimum coverage:
$2,000,000 General Aggregate Limit other than Products/Completed Operations
$2,000,000 Products/Completed Operations Aggregate Limit
$1,000,000 Personal & Advertising Injury Limit
$1,000,000 Each Occurrence Limit
$500,000 Fire Damage Limit (any one fire)

The Contractor must list the State of Michigan, its departments, divisions, agencies, offices, commissions, officers, employees and agents as ADDITIONAL INSUREDS on the Commercial General Liability certificate. The Contractor also agrees to provide evidence that insurance policies contain a waiver of subrogation by the insurance company.

☑ 2. If a motor vehicle is used to provide services or products under this Contract, the Contractor must have vehicle liability insurance on any auto including owned, hired and non-owned vehicles used in Contractor's business for bodily injury and property damage as required by law.

The Contractor must list the State of Michigan, its departments, divisions, agencies, offices, commissions, officers, employees and agents as ADDITIONAL INSUREDS on the vehicle liability certificate. The Contractor also agrees to provide evidence that insurance policies contain a waiver of subrogation by the insurance company.

☑ 3. Workers' compensation coverage must be provided in accordance with applicable laws governing the employees and employers work activities in the state of the Contractor's domicile. If the applicable coverage is provided by a self-insurer, proof must be provided of approved self-insured authority by the jurisdiction of domicile. For employees working outside of the state of qualification, Contractor must provide appropriate certificates of insurance proving mandated coverage levels for the jurisdictions where the employees' activities occur.

Any certificates of insurance received must also provide a list of states where the coverage is applicable.

The Contractor also agrees to provide evidence that insurance policies contain a waiver of subrogation by the insurance company. This provision shall not be applicable where prohibited or limited by the laws of the jurisdiction in which the work is to be performed.

☑ 4. Employers liability insurance with the following minimum limits:
$100,000 each accident
$100,000 each employee by disease
$500,000 aggregate disease

☐ 5. Employee Fidelity, including Computer Crimes, insurance naming the State as a loss payee, providing coverage for direct loss to the State and any legal liability of the State arising out of or related to fraudulent or dishonest acts committed by the employees of Contractor or its Subcontractors, acting alone or in collusion with others, in a minimum amount of one million dollars ($1,000,000.00) with a maximum deductible of fifty thousand dollars ($50,000.00).

☑ 6. Umbrella or Excess Liability Insurance in a minimum amount of ten million dollars ($10,000,000.00), which shall apply, at a minimum, to the insurance required in Subsection 1 (Commercial General Liability) above.

☐ 7. Professional Liability (Errors and Omissions) Insurance with the following minimum coverage: three million dollars ($3,000,000.00) each occurrence and three million dollars ($3,000,000.00) annual aggregate.

☐ 8. Fire and Personal Property Insurance covering against any loss or damage to the office space used by Contractor for any reason under this Contract, and the equipment, software and other contents of such office space, including without limitation, those contents used by Contractor to provide the Services to the State, up to the replacement value thereof, where such office space and its contents are under the care, custody and control of Contractor. Such policy shall cover all risks of direct physical loss or damage, including without limitation, flood and earthquake coverage and coverage for computer hardware and software. The State shall be endorsed on the policy as a loss payee as its interests appear.

(b) Subcontractors

Except where the State has approved in writing a Contractor subcontract with other insurance provisions, Contractor shall require all of its Subcontractors under this Contract to purchase and maintain the insurance coverage as described in this Section for the Contractor in connection with the performance of work by those Subcontractors. Alternatively, Contractor may include any Subcontractors under Contractor's insurance on the coverage required in this Section. Subcontractor(s) shall fully comply with the insurance coverage required in this Section. Failure of Subcontractor(s) to comply with insurance requirements does not limit Contractor's liability or responsibility.

(c) Certificates of Insurance and Other Requirements

Contractor shall furnish to the Office of Purchasing Operations certificate(s) of insurance verifying insurance coverage or providing satisfactory evidence of self-insurance as required in this Section (the "Certificates"). Before the Contract is signed, and not less than 20 days before the insurance expiration date every year thereafter, the Contractor shall provide evidence that the State and its agents, officers and employees are listed as additional insureds under each commercial general liability and commercial automobile liability policy. In the event the State approves the representation of the State by the insurer's attorney, the attorney may be required to be designated as a Special Assistant Attorney General by the Attorney General of the State of Michigan.

Contractor shall maintain all required insurance coverage throughout the term of the Contract and any extensions thereto and, in the case of claims-made Commercial General Liability policies, shall secure tail coverage for at least three (3) years following the expiration or termination for any reason of this Contract. The minimum limits of coverage specified above are not intended, and shall not be construed, to limit any liability or indemnity of Contractor under this Contract to any indemnified party or other persons. Contractor shall be responsible for all deductibles with regard to such insurance. If Contractor fails to pay any premium for required insurance as specified in this Contract, or if any insurer cancels or significantly reduces any required insurance as specified in this Contract without the State's written consent, at the State's election (but without any obligation to do so) after the State has given Contractor at least thirty (30) days written notice, the State may pay such premium or procure similar insurance coverage from another company or companies; and at the State's election, the State may deduct the entire cost (or part thereof) from any payment due Contractor, or Contractor shall pay the entire cost (or any part thereof) upon demand by the State.

*2.190 Indemnification*

**2.191 Indemnification**

(a) General Indemnification

To the extent permitted by law, the Contractor shall indemnify, defend and hold harmless the State from liability, including all claims and losses, and all related costs and expenses (including reasonable attorneys' fees and costs of investigation, litigation, settlement, judgments, interest and penalties), accruing or resulting to any person, firm or corporation that may be injured or damaged by the Contractor in the performance of this Contract and that are attributable to the negligence or tortious acts of the Contractor or any of its subcontractors, or by anyone else for whose acts any of them may be liable.

(b) Code Indemnification

To the extent permitted by law, the Contractor shall indemnify, defend and hold harmless the State from any claim, loss, or expense arising from Contractor's breach of the No Surreptitious Code Warranty.

(c) Employee Indemnification

In any and all claims against the State of Michigan, its departments, divisions, agencies, sections, commissions, officers, employees and agents, by any employee of the Contractor or any of its subcontractors, the indemnification obligation under the Contract shall not be limited in any way by the amount or type of damages, compensation or benefits payable by or for the Contractor or any of its subcontractors under worker's disability compensation acts, disability benefit acts or other employee benefit acts. This indemnification clause is intended to be comprehensive. Any overlap in provisions, or the fact that greater specificity is provided as to some categories of risk, is not intended to limit the scope of indemnification under any other provisions.

(d) Patent/Copyright Infringement Indemnification

To the extent permitted by law, the Contractor shall indemnify, defend and hold harmless the State from and against all losses, liabilities, damages (including taxes), and all related costs and expenses (including reasonable attorneys' fees and costs of investigation, litigation, settlement, judgments, interest and penalties) incurred in connection with any action or proceeding threatened or brought against the State to the extent that such action or proceeding is based on a claim that any piece of equipment, software, commodity or service supplied by the Contractor or its subcontractors, or the operation of such equipment, software, commodity or service, or the use or reproduction of any documentation provided with such equipment, software, commodity or service infringes any United States patent, copyright, trademark or trade secret of any person or entity, which is enforceable under the laws of the United States.

In addition, should the equipment, software, commodity, or service, or its operation, become or in the State's or Contractor's opinion be likely to become the subject of a claim of infringement, the Contractor shall at the Contractor's sole expense (i) procure for the State the right to continue using the equipment, software, commodity or service or, if such option is not reasonably available to the Contractor, (ii) replace or modify to the State's satisfaction the same with equipment, software, commodity or service of equivalent function and performance so that it becomes non-infringing, or, if such option is not reasonably available to Contractor, (iii) accept its return by the State with appropriate credits to the State against the 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.

Notwithstanding the foregoing, the Contractor shall have no obligation to indemnify or defend the State for, or to pay any costs, damages or attorneys' fees related to, any claim based upon (i) equipment developed based on written specifications of the State; or (ii) use of the equipment in a configuration other than implemented or approved in writing by the Contractor, including, but not limited to, any modification of the equipment by the State; or (iii) the combination, operation, or use of the equipment with equipment or software not supplied by the Contractor under this Contract.

### 2.192 Continuation of Indemnification Obligations

The Contractor's duty to indemnify pursuant to this Section continues in full force and effect, notwithstanding the expiration or early cancellation of the Contract, with respect to any claims based on facts or conditions that occurred prior to expiration or cancellation.

### 2.193 Indemnification Procedures

The procedures set forth below shall apply to all indemnity obligations under this Contract.

(a) After receipt by the State of notice of the action or proceeding involving a claim in respect of which it will seek indemnification, the State shall promptly notify Contractor of such claim in writing and take or assist Contractor in taking, as the case may be, any reasonable action to avoid the imposition of a default judgment against Contractor. No failure to notify Contractor shall relieve Contractor of its indemnification obligations except to the extent that Contractor can demonstrate damages attributable to such failure. Within ten (10) days following receipt of written notice from the State relating to any claim, Contractor shall notify the State in writing whether Contractor agrees to assume control of the defense and settlement of that claim (a "Notice of Election"). After notifying Contractor of a claim and prior to the State receiving Contractor's Notice of Election, the State shall be entitled to defend against the claim, at Contractor's expense, and Contractor will be responsible for any reasonable costs incurred by the State in defending against the claim during such period.

(b) If Contractor delivers a Notice of Election relating to any claim: (i) the State shall be entitled to participate in the defense of such claim and to employ counsel at its own expense to assist in the handling of such claim and to monitor and advise the State about the status and progress of the defense; (ii) Contractor shall, at the request of the State, demonstrate to the reasonable satisfaction of the State, Contractor's financial ability to carry out its defense and indemnity obligations under this Contract; (iii) Contractor shall periodically advise the State about the status and progress of the defense and shall obtain the prior written approval of the State before entering into any settlement of such claim or ceasing to defend against such claim and (iv) to the extent that any principles of Michigan governmental or public law may be involved or challenged, the State shall have the right, at its own expense, to control the defense of that portion of such claim involving the principles of Michigan governmental or public law. Notwithstanding the foregoing, the State may retain control of the defense and settlement of a claim by written notice to Contractor given within ten (10) days after the State's receipt of Contractor's information requested by the State pursuant to clause (ii) of this paragraph if the State determines that Contractor has failed to demonstrate to the reasonable satisfaction of the State Contractor's financial ability to carry out its defense and indemnity obligations under this Section. Any litigation activity on behalf of the State of Michigan, or any of its subdivisions pursuant to this Section, must be coordinated with the Department of Attorney General. In the event the insurer's attorney represents the State pursuant to this Section, the insurer's attorney may be required to be designated as a Special Assistant Attorney General by the Attorney General of the State of Michigan.

(c) If Contractor does not deliver a Notice of Election relating to any claim of which it is notified by the State as provided above, the State shall have the right to defend the claim in such manner as it may deem appropriate, at the cost and expense of Contractor. If it is determined that the claim was one against which Contractor was required to indemnify the State, upon request of the State, Contractor shall promptly reimburse the State for all such reasonable costs and expenses.

## *2.200 Limits of Liability and Excusable Failure*

### 2.201 Limits of Liability

The Contractor's liability for damages to the State shall be limited to two times the value of the Contract or $200,000, which ever is higher. The foregoing limitation of liability shall not apply to claims for infringement of United States patent, copyright, trademarks or trade secrets; to claims for personal injury or damage to property caused by the gross negligence or willful misconduct of the Contractor; to claims covered by other specific provisions of this Contract calling for liquidated damages; or to court costs or attorney's fees awarded by a court in addition to damages after litigation based on this Contract.

The State's liability for damages to the Contractor shall be limited to the value of the Contract.

Neither the Contractor nor the State shall be liable to each other, regardless of the form of action, for consequential, incidental, indirect, or special damages. This limitation of liability shall not apply to claims for infringement of United States patent, copyright, trademark or trade secrets; to claims for personal injury or damage to property caused by the gross negligence or willful misconduct of the Contractor; to claims covered by other specific provisions of this Contract calling for liquidated damages; or to court costs or attorney's fees awarded by a court in addition to damages after litigation based on this Contract.

### 2.202 Excusable Failure

Neither party will be liable for any default, damage or delay in the performance of its obligations under the Contract to the extent such default, damage or delay is caused by government regulations or requirements (executive, legislative, judicial, military or otherwise), power failure, electrical surges or current fluctuations, lightning, earthquake, war, water or other forces of nature or acts of God, delays or failures of transportation, equipment shortages, suppliers' failures, or acts or omissions of common carriers, fire; riots, civil disorders; strikes or other labor disputes, embargoes; injunctions (provided the injunction was not issued as a result of any fault or negligence of the party seeking to have its default or delay excused); or any other cause beyond the reasonable control of such party; provided the non-performing party and its Subcontractors are without fault in causing such default or delay, and such default or delay could not have been prevented by reasonable precautions and cannot reasonably be circumvented by the non-performing party through the use of alternate sources, workaround plans or other means, including disaster recovery plans.

In such event, the non-performing party will be excused from any further performance or observance of the obligation(s) so affected for as long as such circumstances prevail and such party continues to use its commercially reasonable efforts to recommence performance or observance whenever and to whatever extent possible without delay and provided further that such party promptly notifies the other party in writing of the inception of the excusable failure occurrence, and also of its abatement or cessation.

If any of the above-enumerated circumstances substantially prevent, hinder, or delay Contractor's performance of the Services/provision of Deliverables for more than ten (10) Business Days, and the State determines that performance is not likely to be resumed within a period of time that is satisfactory to the State in its reasonable discretion, then at the State's option: (a) the State may procure the affected Services/Deliverables from an alternate source, and the State shall not be liable for payment for the unperformed Services/ Deliverables not provided under the Contract for so long as the delay in performance shall continue; (b) the State may terminate any portion of the Contract so affected and the charges payable there under shall be equitably adjusted to reflect those Services/Deliverables terminated; or (c) the State may terminate the affected Statement of Work without liability to Contractor as of a date specified by the State in a written notice of termination to Contractor, except to the extent that the State shall pay for Services/Deliverables provided through the date of termination.

Contractor will not have the right to any additional payments from the State as a result of any Excusable Failure occurrence or to payments for Services not rendered/Deliverables not provided as a result of the Excusable Failure condition. Defaults or delays in performance by Contractor which are caused by acts or omissions of its Subcontractors will not relieve Contractor of its obligations under the Contract except to the extent that a Subcontractor is itself subject to an Excusable Failure condition described above and Contractor cannot reasonably circumvent the effect of the Subcontractor's default or delay in performance through the use of alternate sources, workaround plans or other means.

### 2.203 Disaster Recovery

Contractor and the State recognize that the State provides essential services in times of natural or man-made disasters. Therefore, except as so mandated by Federal disaster response requirements, Contractor personnel dedicated to providing Services/Deliverables under this Contract will provide the State with priority service for repair and work around in the event of a natural or manmade disaster.

### *2.210 Termination/Cancellation by the State*

The State may terminate this Contract without further liability or penalty to the State, its departments, divisions, agencies, offices, commissions, officers, agents and employees for any of the following reasons:

### 2.211 Termination for Cause

(a) In the event that Contractor breaches any of its material duties or obligations under this Contract (including a Chronic Failure to meet any particular SLA as defined in **Section 2.076**), which are either not capable of or subject to being cured, or are not cured within the time period specified in the written notice of breach provided by the State (such time period not to be less than thirty (30) days), or pose a serious and imminent threat to the health and safety of any person, or the imminent loss, damage or destruction of any real or tangible personal property, the State may, having provided written notice of termination to Contractor, terminate this Contract in whole or in part, for cause, as of the date specified in the notice of termination.

(b) In the event that this Contract is terminated for cause, in addition to any legal remedies otherwise available to the State by law or equity, Contractor shall be responsible for all costs incurred by the State in terminating this Contract, including but not limited to, State administrative costs, reasonable attorneys' fees and court costs, and any reasonable additional costs the State may incur to procure the Services/Deliverables required by this Contract from other sources. Re-procurement costs shall not be considered by the parties to be consequential, indirect or incidental damages, and shall not be excluded by any other terms otherwise included in this Contract, provided such costs are not in excess of fifty percent (50%) more than the prices for such Service/Deliverables provided under this Contract.

(c) In the event the State chooses to partially terminate this Contract for cause, charges payable under this Contract will be equitably adjusted to reflect those Services/Deliverables that are terminated and the State shall pay for all Services/Deliverables for which Final Acceptance has been granted provided up to the termination date. Services and related provisions of this Contract that are terminated for cause shall cease on the effective date of the termination.

(d) In the event this Contract is terminated for cause pursuant to this Section, and it is determined, for any reason, that Contractor was not in breach of contract pursuant to the provisions of this section, that termination for cause shall be deemed to have been a termination for convenience, effective as of the same date, and the rights and obligations of the parties shall be limited to that otherwise provided in this Contract for a termination for convenience.

### 2.212 Termination for Convenience

The State may terminate this Contract for its convenience, in whole or part, if the State determines that such a termination is in the State's best interest. Reasons for such termination shall be left to the sole discretion of the State and may include, but not necessarily be limited to (a) the State no longer needs the Services or products specified in the Contract, (b) relocation of office, program changes, changes in laws, rules, or regulations make implementation of the Services no longer practical or feasible, (c) unacceptable prices for Additional Services or New Work requested by the State, or (d) falsification or misrepresentation, by inclusion or non-inclusion, of information material to a response to any RFP issued by the State. The State may terminate this Contract for its convenience, in whole or in part, by giving Contractor written notice at least thirty (30) days prior to the date of termination. If the State chooses to terminate this Contract in part, the charges payable under this Contract shall be equitably adjusted to reflect those Services/Deliverables that are terminated. Services and related provisions of this Contract that are terminated for cause shall cease on the effective date of the termination.

### 2.213 Non-Appropriation

(a) Contractor acknowledges that, if this Contract extends for several fiscal years, continuation of this Contract is subject to appropriation or availability of funds for this Contract. If funds to enable the State to effect continued payment under this Contract are not appropriated or otherwise made available, the State shall have the right to terminate this Contract and all affected Statements of Work, in whole or in part, at the end of the last period for which funds have been appropriated or otherwise made available by giving written notice of termination to Contractor. The State shall give Contractor at least thirty (30) days advance written notice of termination for non-appropriation or unavailability (or such time as is available if the State receives notice of the final decision less than thirty (30) days before the funding cutoff).

(b) If funding for the Contract is reduced by law, or funds to pay Contractor for the agreed-to level of the Services or production of Deliverables to be provided by Contractor are not appropriated or otherwise made available, the State may, upon thirty (30) days written notice to Contractor, reduce the level of the Services or the change the production of Deliverables in such manner and for such periods of time as the State may elect. The charges payable under this Contract will be equitably adjusted to reflect any equipment, services or commodities not provided by reason of such reduction.

(c) In the event the State terminates this Contract, eliminates certain Deliverables, or reduces the level of Services to be provided by Contractor pursuant to this Section, the State shall pay Contractor for all Work-in-Process performed through the effective date of the termination or reduction in level, as the case may be and as determined by the State, to the extent funds are available. For the avoidance of doubt, this Section will not preclude Contractor from reducing or stopping Services/Deliverables and/or raising against the State in a court of competent jurisdiction, any claim for a shortfall in payment for Services performed or Deliverables finally accepted before the effective date of termination.

### 2.214 Criminal Conviction

The State may terminate this Contract immediately and without further liability or penalty in the event Contractor, an officer of Contractor, or an owner of a 25% or greater share of Contractor is convicted of a criminal offense incident to the application for, or performance of, a State, public or private Contract or subcontract; convicted of a criminal offense, including any of the following: embezzlement, theft, forgery, bribery, falsification or destruction of records, receiving stolen property, attempting to influence a public employee to breach the ethical conduct standards for State of Michigan employees; convicted under State or federal antitrust statutes; or convicted of any other criminal offense which in the sole discretion of the State reflects upon Contractor's business integrity.

### 2.215 Approvals Rescinded

The State may terminate this Contract without further liability or penalty in the event any final administrative or judicial decision or adjudication disapproves a previously approved request for purchase of personal services pursuant to Constitution 1963, Article 11, § 5, and Civil Service Rule 7-1. Termination may be in whole or in part and may be immediate as of the date of the written notice to Contractor or may be effective as of the date stated in such written notice.

### 2.216 Rights and Obligations Upon Termination

(a) If this Contract is terminated by the State for any reason, Contractor shall (a) stop all work as specified in the notice of termination, (b) take any action that may be necessary, or that the State may direct, for preservation and protection of Deliverables or other property derived or resulting from this Contract that may be in Contractor's possession, (c) return all materials and property provided directly or indirectly to Contractor by any entity, agent or employee of the State, (d) in the event that the Contractor maintains title in Deliverables that is intended to be transferred to the State at the termination of the Contract, Contractor will transfer title in, and deliver to, the State, unless otherwise directed, all Deliverables intended to be transferred to the State at the termination of the Contract and which are resulting from the Contract (which shall be

provided to the State on an "As-Is" basis except to the extent the amounts paid by the State in respect of such items included compensation to Contractor for the provision of warranty services in respect of such materials), and (e) take any action to mitigate and limit any potential damages, or requests for Contractor adjustment or termination settlement costs, to the maximum practical extent, including terminating or limiting as otherwise applicable those subcontracts and outstanding orders for material and supplies resulting from the terminated Contract.

(b) In the event the State terminates this Contract prior to its expiration for its own convenience, the State shall pay Contractor for all charges due for Services provided prior to the date of termination and, if applicable, as a separate item of payment pursuant to this Contract, for Work In Process, on a percentage of completion basis at the level of completion determined by the State. All completed or partially completed Deliverables prepared by Contractor pursuant to this Contract shall, at the option of the State, become the State's property, and Contractor shall be entitled to receive equitable fair compensation for such Deliverables. Regardless of the basis for the termination, the State shall not be obligated to pay, or otherwise compensate, Contractor for any lost expected future profits, costs or expenses incurred with respect to Services not actually performed for the State.

(c) Upon a good faith termination, the State shall have the right to assume, at its option, any and all subcontracts and agreements for services and deliverables provided under this Contract, and may further pursue completion of the Services/Deliverables under this Contract by replacement contract or otherwise as the State may in its sole judgment deem expedient.

### 2.217 Reservation of Rights

Any termination of this Contract or any Statement of Work issued under it by a party shall be with full reservation of, and without prejudice to, any rights or remedies otherwise available to such party with respect to any claims arising prior to or as a result of such termination.

### 2.218 Contractor Transition Responsibilities

In the event this contract is terminated, for convenience or cause, dissolved, voided, rescinded, nullified, expires or is otherwise rendered unenforceable, the Contractor agrees to comply with direction provided by the State to assist in the orderly transition of equipment, services, software, leases, etc. to the State or a third party designated by the State. In the event of termination or the expiration of this Contract, the Contractor agrees to make all reasonable efforts to effect an orderly transition of services within a reasonable period of time that in no event will exceed **ninety (90)** days. These efforts shall include, but are not limited to, the following:

(a) Personnel - The Contractor shall work with the State, or a specified third party, to develop a transition plan setting forth the specific tasks and schedule to be accomplished by the parties, to effect an orderly transition. The Contractor shall allow as many personnel as practicable to remain on the job to help the State, or a specified third party, maintain the continuity and consistency of the services required by this Contract. In addition, during or following the transition period, in the event the State requires the Services of the Contractor's subcontractors or vendors, as necessary to meet its needs, Contractor agrees to reasonably, and with good-faith, work with the State to use the Services of Contractor's subcontractors or vendors. Contractor will notify all of Contractor's subcontractors of procedures to be followed during transition.

(b) Information - The Contractor agrees to provide reasonable detailed specifications for all Services/Deliverables needed by the State, or specified third party, to properly provide the Services/Deliverables required under this Contract. The Contractor will provide the State with asset management data generated from the inception of this Contract through the date on which this Contractor is terminated in a comma-delineated format unless otherwise requested by the State. The Contractor will deliver to the State any remaining owed reports and documentation still in Contractor's possession subject to appropriate payment by the State.

(d) Software. - The Contractor shall reasonably assist the State in the acquisition of any Contractor software required to perform the Services/use the Deliverables under this Contract. This shall include any documentation being used by the Contractor to perform the Services under this Contract. If the State transfers any software licenses to the Contractor, those licenses shall, upon expiration of the Contract, transfer back to

the State at their current revision level. Upon notification by the State, Contractor may be required to freeze all non-critical changes to Deliverables/Services.

(e) Payment - If the transition results from a termination for any reason, reimbursement shall be governed by the termination provisions of this Contract. If the transition results from expiration, the Contractor will be reimbursed for all reasonable transition costs (i.e. costs incurred within the agreed period after contract expiration that result from transition operations) at the rates specified by **Article 1, Attachment A**. The Contractor will prepare an accurate accounting from which the State and Contractor may reconcile all outstanding accounts.

### 2.219 State Transition Responsibilities

In the event that this Contract is terminated, dissolved, voided, rescinded, nullified, or otherwise rendered unenforceable, the State agrees to perform the following obligations, and any others upon which the State and the Contractor agree:

(a) Reconciling all accounts between the State and the Contractor;
(b) Completing any pending post-project reviews.

*2.220 Termination by Contractor*

### 2.221 Termination by Contractor

If the State materially breaches its obligation to pay Contractor undisputed amounts due and owing under this Contract in accordance with **Section 2.090**, or if the State breaches its other obligations under this Contract to an extent that makes it impossible or commercially impractical for Contractor to perform the Services, and if the State does not cure the breach within the time period specified in a written notice of breach provided to the State by Contractor (such time period not to be less than thirty (30) days), then Contractor may terminate this Contract, in whole or in part based on Statement of Work for cause, as of the date specified in the notice of termination; provided, however, that Contractor must discharge its obligations under **Section 2.250** before any such termination.

*2.230 Stop Work*

### 2.231 Stop Work Orders

The State may, at any time, by written stop work order to Contractor, require that Contractor stop all, or any part, of the work called for by the Contract for a period of up to ninety (90) calendar days after the stop work order is delivered to Contractor, and for any further period to which the parties may agree. The stop work order shall be specifically identified as such and shall indicate that it is issued under this **Section 2.230**. Upon receipt of the stop work order, Contractor shall immediately comply with its terms and take all reasonable steps to minimize the incurrence of costs allocable to the work covered by the stop work order during the period of work stoppage. Within the period of the stop work order, the State shall either: (a) cancel the stop work order; or (b) terminate the work covered by the stop work order as provided in **Section 2.210**.

### 2.232 Cancellation or Expiration of Stop Work Order

If a stop work order issued under this **Section 2.230** is canceled or the period of the stop work order or any extension thereof expires, Contractor shall resume work. The parties shall agree upon an equitable adjustment in the delivery schedule, the Contract price, or both, and the Contract shall be modified, in writing, accordingly, if: (a) the stop work order results in an increase in the time required for, or in Contractor's costs properly allocable to, the performance of any part of the Contract; and (b) Contractor asserts its right to an equitable adjustment within thirty (30) calendar days after the end of the period of work stoppage; provided that, if the State decides the facts justify the action, the State may receive and act upon a Contractor proposal submitted at any time before final payment under the Contract. Any adjustment will conform to the requirements of **Section 2.106.**

### 2.233 Allowance of Contractor Costs

If the stop work order is not canceled and the work covered by the stop work order is terminated for reasons other than material breach, such termination shall be deemed to be a termination for convenience under **Section 2.212**, and the State shall allow reasonable costs resulting from the stop work order in arriving at the termination settlement. For the avoidance of doubt, the State shall not be liable to Contractor for loss of profits because of a stop work order issued under this **Section 2.230**.

## *2.240 Reserved*

## *2.250 Dispute Resolution*

### 2.251 In General

Any claim, counterclaim, or dispute between the State and Contractor arising out of or relating to the Contract or any Statement of Work shall be resolved as follows. For all Contractor claims seeking an increase in the amounts payable to Contractor under the Contract, or the time for Contractor's performance, Contractor shall submit a letter executed by Contractor's Contract Administrator or his designee certifying that (a) the claim is made in good faith, (b) the amount claimed accurately reflects the adjustments in the amounts payable to Contractor or the time for Contractor's performance for which Contractor believes the State is liable and covers all costs of every type to which Contractor is entitled from the occurrence of the claimed event, and (c) the supporting data provided with such an affidavit are current and complete to Contractor's best knowledge and belief.

### 2.252 Informal Dispute Resolution

(a) All operational disputes between the parties shall be resolved under the Contract Management procedures developed pursuant to **Section 2.100**. If the parties are unable to resolve any disputes after compliance with such processes, the parties shall meet with the Director of Purchasing Operations, DMB, or designee, for the purpose of attempting to resolve such dispute without the need for formal legal proceedings, as follows:

(i) The representatives of Contractor and the State shall meet as often as the parties reasonably deem necessary in order to gather and furnish to each other all information with respect to the matter in issue which the parties believe to be appropriate and germane in connection with its resolution. The representatives shall discuss the problem and negotiate in good faith in an effort to resolve the dispute without the necessity of any formal proceeding.

(ii) During the course of negotiations, all reasonable requests made by one party to another for non-privileged information reasonably related to the Contract will be honored in order that each of the parties may be fully advised of the other's position.

(iii) The specific format for the discussions will be left to the discretion of the designated State and Contractor representatives, but may include the preparation of agreed upon statements of fact or written statements of position.

(iv) Following the completion of this process within sixty (60) calendar days, the Director of Purchasing Operations, DMB, or designee, shall issue a written opinion regarding the issue(s) in dispute within thirty (30) calendar days. The opinion regarding the dispute shall be considered the State's final action and the exhaustion of administrative remedies.

(b) This **Section 2.250** will not be construed to prevent either party from instituting, and a party is authorized to institute, formal proceedings earlier to avoid the expiration of any applicable limitations period, to preserve a superior position with respect to other creditors, or pursuant to **Section 2.253**.

(c) The State will not mediate disputes between the Contractor and any other entity, except state agencies, concerning responsibility for performance of work pursuant to the Contract.

### 2.253 Injunctive Relief

The only circumstance in which disputes between the State and Contractor will not be subject to the provisions of **Section 2.252** is where a party makes a good faith determination that a breach of the terms of the Contract by the other party is such that the damages to such party resulting from the breach will be so immediate, so large or severe and so incapable of adequate redress after the fact that a temporary restraining order or other immediate injunctive relief is the only adequate remedy.

### 2.254 Continued Performance

Each party agrees to continue performing its obligations under the Contract while a dispute is being resolved except to the extent the issue in dispute precludes performance (dispute over payment shall not be deemed to preclude performance) and without limiting either party's right to terminate the Contract as provided in **Section 2.210** and **2.220**, as the case may be.

## *2.260 Federal and State Contract Requirements*

### 2.261 Nondiscrimination

In the performance of the Contract, Contractor agrees not to discriminate against any employee or applicant for employment, with respect to his or her hire, tenure, terms, conditions or privileges of employment, or any matter directly or indirectly related to employment, because of race, color, religion, national origin, ancestry, age, sex, height, weight, marital status, physical or mental disability. Contractor further agrees that every subcontract entered into for the performance of this Contract or any purchase order resulting from this Contract will contain a provision requiring non-discrimination in employment, as specified here, binding upon each Subcontractor. This covenant is required pursuant to the Elliot Larsen Civil Rights Act, 1976 PA 453, MCL 37.2101, *et seq*., and the Persons with Disabilities Civil Rights Act, 1976 PA 220, MCL 37.1101, *et seq*., and any breach of this provision may be regarded as a material breach of the Contract.

### 2.262 Unfair Labor Practices

Pursuant to 1980 PA 278, MCL 423.231, *et seq*., the State shall not award a Contract or subcontract to an employer whose name appears in the current register of employers failing to correct an unfair labor practice compiled pursuant to section 2 of the Act. This information is compiled by the United States National Labor Relations Board. A Contractor of the State, in relation to the Contract, shall not enter into a contract with a Subcontractor, manufacturer, or supplier whose name appears in this register. Pursuant to section 4 of 1980 PA 278, MCL 423.324, the State may void any Contract if, subsequent to award of the Contract, the name of Contractor as an employer or the name of the Subcontractor, manufacturer or supplier of Contractor appears in the register.

### 2.263 Workplace Safety and Discriminatory Harassment

In performing Services for the State, the Contractor shall comply with the Department of Civil Services Rule 2-20 regarding Workplace Safety and Rule 1-8.3 regarding Discriminatory Harassment. In addition, the Contractor shall comply with Civil Service regulations and any applicable agency rules provided to the Contractor. For Civil Service Rules, see http://www.mi.gov/mdcs/0,1607,7-147-6877---,00.html.

## *2.270 Litigation*

### 2.271 Disclosure of Litigation

(a) Disclosure. Contractor must disclose any material criminal litigation, investigations or proceedings involving the Contractor (and each Subcontractor) or any of its officers or directors or any litigation, investigations or proceedings under the Sarbanes-Oxley Act. In addition, each Contractor (and each Subcontractor) must notify the State of any material civil litigation, arbitration or proceeding which arises during the term of the Contract and extensions thereto, to which Contractor (or, to the extent Contractor is aware, any Subcontractor hereunder) is a party, and which involves: (i) disputes that might reasonably be expected to

adversely affect the viability or financial stability of Contractor or any Subcontractor hereunder; or (ii) a claim or written allegation of fraud against Contractor or, to the extent Contractor is aware, any Subcontractor hereunder by a governmental or public entity arising out of their business dealings with governmental or public entities. Any such litigation, investigation, arbitration or other proceeding (collectively, "Proceeding") must be disclosed in a written statement to the Contract Administrator within thirty (30) days of its occurrence. Details of settlements which are prevented from disclosure by the terms of the settlement may be annotated as such. Information provided to the State from Contractor's publicly filed documents referencing its material litigation will be deemed to satisfy the requirements of this Section.

(b) Assurances. In the event that any such Proceeding disclosed to the State pursuant to this Section, or of which the State otherwise becomes aware, during the term of this Contract would cause a reasonable party to be concerned about:

(i) the ability of Contractor (or a Subcontractor hereunder) to continue to perform this Contract in accordance with its terms and conditions, or

(ii) whether Contractor (or a Subcontractor hereunder) in performing Services for the State is engaged in conduct which is similar in nature to conduct alleged in such Proceeding, which conduct would constitute a breach of this Contract or a violation of Michigan law, regulations or public policy, then Contractor shall be required to provide the State all reasonable assurances requested by the State to demonstrate that:

(A) Contractor and/or its Subcontractors hereunder will be able to continue to perform this Contract and any Statements of Work in accordance with its terms and conditions, and

(B) Contractor and/or its Subcontractors hereunder have not and will not engage in conduct in performing the Services which is similar in nature to the conduct alleged in such Proceeding.

(c) Contractor shall make the following notifications in writing:

(1) Within thirty (30) days of Contractor becoming aware that a change in its ownership or officers has occurred, or is certain to occur, or a change that could result in changes in the valuation of its capitalized assets in the accounting records, Contractor shall notify the Office of Purchasing Operations.

(2) Contractor shall also notify the Office of Purchasing Operations within thirty (30) days whenever changes to asset valuations or any other cost changes have occurred or are certain to occur as a result of a change in ownership or officers.

(3) Contractor shall also notify Purchasing Operations within thirty (30) days whenever changes to company affiliations occur.

### 2.272 Governing Law

The Contract shall in all respects be governed by, and construed in accordance with, the substantive laws of the State of Michigan without regard to any Michigan choice of law rules that would apply the substantive law of any other jurisdiction to the extent not inconsistent with, or pre-empted by federal law.

### 2.273 Compliance with Laws

Contractor shall comply with all applicable state, federal, and local laws and ordinances ("Applicable Laws") in providing the Services/Deliverables.

### 2.274 Jurisdiction

Any dispute arising from the Contract shall be resolved in the State of Michigan. With respect to any claim between the parties, Contractor consents to venue in Ingham County, Michigan, and irrevocably waives any objections it may have to such jurisdiction on the grounds of lack of personal jurisdiction of such court or the laying of venue of such court or on the basis of forum non conveniens or otherwise. Contractor agrees to appoint agents in the State of Michigan to receive service of process.

*2.280 Environmental Provision*

### 2.281 Environmental Provision

For the purposes of this Section, "Hazardous Materials" is a generic term used to describe asbestos, ACBMs, PCBs, petroleum products, such construction materials as paint thinners, solvents, gasoline, oil, etc., and any other material the manufacture, use, treatment, storage, transportation or disposal of which is regulated by the federal, state or local laws governing the protection of the public health, natural resources or the environment. This includes, but is not limited to, materials such as batteries and circuit packs, and other materials that are regulated as (1) "Hazardous Materials" under the Hazardous Materials Transportation Act, (2) "chemical hazards" under the Occupational Safety and Health Administration standards, (3) "chemical substances or mixtures" under the Toxic Substances Control Act, (4) "pesticides" under the Federal Insecticide Fungicide and Rodenticide Act, and (5) "hazardous wastes" as defined or listed under the Resource Conservation and Recovery Act. This Contract does not cover the handling, removal, or disposal of all Hazardous Materials.

(a) The Contractor shall use, handle, store, dispose of, process, transport and transfer any material considered a Hazardous Material in accordance with all federal, State and local laws. The State shall provide a safe and suitable environment for performance of Contractor's Work. Prior to the commencement of Work, the State shall advise Contractor of the presence at the work site of any Hazardous Material to the extent that the State is aware of such Hazardous Material. If the Contractor encounters material reasonably believed to be a Hazardous Material and which may present a substantial danger, the Contractor shall immediately stop all affected Work, give written notice to the State of the conditions encountered, and take appropriate health and safety precautions.

(b) Upon receipt of a written notice, the State will investigate the conditions. If (a) the material is a Hazardous Material that may present a substantial danger, and (b) the Hazardous Material was not brought to the site by the Contractor, or does not result in whole or in part from any violation by the Contractor of any laws covering the use, handling, storage, disposal of, processing, transport and transfer of Hazardous Materials, the State shall order a suspension of Work in writing. The State shall proceed to have the Hazardous Material removed or rendered harmless. In the alternative, the State shall terminate the affected Work for the State's convenience.

(c) Once the Hazardous Material has been removed or rendered harmless by the State, the affected Work shall be resumed as directed in writing by the State. Any determination by the Michigan Department of Community Health and/or the Michigan Department of Environmental Quality (whichever is applicable) that the Hazardous Material has either been removed or rendered harmless shall be binding upon the State and Contractor for the purposes of resuming the Work. If any such incident with Hazardous Material results in delay not reasonable anticipatable under the circumstances and which is attributable to the State, the applicable SLAs for the affected Work will not be counted in **Section 2.076** for a time as mutually agreed by the parties.

(d) If the Hazardous Material was brought to the site by the Contractor, or results in whole or in part from any violation by the Contractor of any laws covering the use, handling, storage, disposal of, processing, transport and transfer of Hazardous Material, or from any other act or omission within the control of the Contractor, the Contractor shall bear its proportionate share of the delay and costs involved in cleaning up the site and removing and rendering harmless the Hazardous Material in accordance with Applicable Laws to the condition approved by applicable regulatory agency(ies). If the Contractor fails to take appropriate action pursuant to Applicable Laws and consistent with the State requirements, then the State may take appropriate action.

*2.290 General*

### 2.291 Amendments

The Contract may not be modified, amended, extended, or augmented, except by a writing executed by the parties.

**2.292 Assignment**

(a) Neither party shall have the right to assign the Contract, or to assign or delegate any of its duties or obligations under the Contract, to any other party (whether by operation of law or otherwise), without the prior written consent of the other party; provided, however, that the State may assign the Contract to any other State agency, department, division or department without the prior consent of Contractor and Contractor may assign the Contract to an affiliate so long as such affiliate is adequately capitalized and can provide adequate assurances that such affiliate can perform the Contract. Any purported assignment in violation of this Section shall be null and void. It is the policy of the State of Michigan to withhold consent from proposed assignments, subcontracts, or novations when such transfer of responsibility would operate to decrease the State's likelihood of receiving performance on the Contract or the State's ability to recover damages.

(b) Contractor may not, without the prior written approval of the State, assign its right to receive payments due under the Contract. In the event of any such permitted assignment, Contractor shall not be relieved of its responsibility to perform any duty imposed upon it herein, and the requirement under the Contract that all payments shall be made to one entity shall continue.

**2.293 Entire Contract; Order of Precedence**

(a) The Contract, including any Statements of Work and Exhibits, to the extent not contrary to the Contract, each of which is incorporated for all purposes, constitutes the entire agreement between the parties with respect to the subject matter and supersedes all prior agreements, whether written or oral, with respect to such subject matter and as additional terms and conditions on the purchase order shall apply as limited by **Section 2.061**.

(b) In the event of any inconsistency between the terms of the Contract and a Statement of Work, the terms of the Statement of Work will take precedence (as to that Statement of Work only); provided, however, that a Statement of Work may not modify or amend the terms of **Sections 2.110 through 2.220** of the Contract, which may be modified or amended only by a formal Contract amendment.

**2.294 Headings**

Captions and headings used in the Contract are for information and organization purposes. Captions and headings, including inaccurate references, do not, in any way, define or limit the requirements or terms and conditions of the Contract.

**2.295 Relationship of the Parties (Independent Contractor Relationship)**

The relationship between the State and Contractor is that of client and independent Contractor. No agent, employee, or servant of Contractor or any of its Subcontractors shall be or shall be deemed to be an employee, agent or servant of the State for any reason. Contractor will be solely and entirely responsible for its acts and the acts of its agents, employees, servants and Subcontractors during the performance of the Contract.

**2.296 Notices**

(a) Any notice given to a party under the Contract shall be deemed effective, if addressed to such party as addressed below, upon: (i) delivery, if hand delivered; (ii) receipt of a confirmed transmission by facsimile if a copy of the notice is sent by another means specified in this Section; (iii) the third (3rd) Business Day after being sent by U.S. mail, postage pre-paid, return receipt requested; or (iv) the next Business Day after being sent by a nationally recognized overnight express courier with a reliable tracking system.

State of Michigan
Office of Purchasing Operations
Attention: Steve Motz
PO Box 30026
530 West Allegan
Lansing, Michigan 48909

with a copy to:
Michael Breen
Department of Information Technology
Constitution Hall, 1st Floor N Tower
Lansing, MI 48909
breenm@michigan.gov
(517) 241-7720

For Contract
Contractor(s):
*See Contract Cover Page*

Either party may change its address where notices are to be sent by giving notice in accordance with this Section.

(b) Binding Commitments

Representatives of Contractor identified in **Section 1.201** shall have the authority to make binding commitments on Contractor's behalf within the bounds set forth in such table. Contractor may change such representatives from time to time upon written notice.

### 2.297 Media Releases and Contract Distribution

(a) Media Releases

Neither Contractor nor the State will make any news releases, public announcements or public disclosures, nor will they have any conversations with representatives of the news media, pertaining to the Contract, the Services or the Contract without the prior written approval of the other party, and then only in accordance with explicit written instructions provided by that party. In addition, neither Contractor nor the State will use the name, trademarks or other proprietary identifying symbol of the other party or its affiliates without such party's prior written consent. Prior written consent of the Contractor must be obtained from authorized representatives.

(b) Contract Distribution

Purchasing Operations shall retain the sole right of Contract distribution to all State agencies and local units of government unless other arrangements are authorized by Purchasing Operations.

### 2.298 Reformation and Severability

Each provision of the Contract shall be deemed to be severable from all other provisions of the Contract and, if one or more of the provisions of the Contract shall be declared invalid, the remaining provisions of the Contract shall remain in full force and effect.

### 2.299 Consents and Approvals

Except as expressly provided otherwise in the Contract, if either party requires the consent or approval of the other party for the taking of any action under the Contract, such consent or approval shall be in writing and shall not be unreasonably withheld or delayed.

### 2.300 No Waiver of Default

The failure of a party to insist upon strict adherence to any term of the Contract shall not be considered a waiver or deprive the party of the right thereafter to insist upon strict adherence to that term, or any other term, of the Contract.

### 2.301 Survival

Any provisions of the Contract that impose continuing obligations on the parties including the parties' respective warranty, indemnity and confidentiality obligations, shall survive the expiration or termination of the Contract for any reason. Specific references to survival in the Contract are solely for identification purposes and not meant to limit or prevent the survival of any other section.

### 2.302 Covenant of Good Faith

Each party agrees that, in its dealings with the other party or in connection with the Contract, it shall act reasonably and in good faith. Unless stated otherwise in the Contract, the parties will not unreasonably delay, condition or withhold the giving of any consent, decision or approval that is either requested or reasonably required of them in order for the other party to perform its responsibilities under the Contract.

### 2.303 Permits

State shall obtain and pay any associated costs for all required governmental permits, licenses and approvals for the delivery, installation and performance of the Services. The State shall pay for all costs and expenses incurred in obtaining and maintaining any necessary easements or right of way.

### 2.304 Website Incorporation

State expressly states that it will not be bound by any content on the Contractor's website, even if the Contractor's documentation specifically referenced that content and attempts to incorporate it into any other communication, unless the State has actual knowledge of such content and has expressly agreed to be bound by it in a writing that has been manually signed by an authorized representation of the State.

### 2.305 Taxes

Vendors are expected to collect and pay all applicable federal, state, and local employment taxes, including the taxes defined in Section 3.022 for all persons involved in the resulting Contract.

The State may refuse to award a contract to any Vendor who has failed to pay any applicable State taxes. The State may refuse to accept Vendor's bid, if Vendor has any outstanding debt with the State. Prior to any award, the State will verify whether Vendor has any outstanding debt with the State.

### 2.306 Prevailing Wage

The rates of wages and fringe benefits to be paid each class of individuals employed by the Contractor, its subcontractors, their subcontractors, and all persons involved with the performance of this Contract in privity of contract with the Contractor shall not be less than the wage rates and fringe benefits established by the Michigan Department of Labor and Economic Development, Wage and Hour Bureau, schedule of occupational classification and wage rates and fringe benefits for the local where the work is to be performed. The term Contractor shall include all general contractors, prime contractors, project managers, trade contractors, and all of their contractors or subcontractors and persons in privity of contract with them.

The Contractor, its subcontractors, their subcontractors, and all persons involved with the performance of this contract in privity of contract with the Contractor shall keep posted on the work site, in a conspicuous place, a copy of all wage rates and fringe benefits as prescribed in the contract. You must also post, in a conspicuous place, the address and telephone number of the Michigan Department of Labor and Economic Development, the office responsible for enforcement of the wage rates and fringe benefits. You shall keep an accurate record showing the name and occupation of the actual wage and benefits paid to each individual employed in connection with this contract. This record shall be available to the State upon request for reasonable inspection.

If any trade is omitted from the list of wage rates and fringe benefits to be paid to each class of individuals by the Contractor, it is understood that the trades omitted shall also be paid not less than the wage rate and fringe benefits prevailing in the local where the work is to be performed.

### 2.307 Call Center Disclosure

Contractor and/or all subcontractors involved in the performance of this Contract providing call or contact center services to the State must disclose the location of its call or contact center services to inbound callers. Failure to disclose this information shall be a material breach of this Contract.

### 2.308 Future Bidding Preclusion

Contractor acknowledges that, to the extent this Contract involves the creation, research, investigation or generation of a future RFP, it may be precluded from bidding on the subsequent RFP. The State reserves the right to disqualify any bidder if the State determines that the bidder has used its position (whether as an incumbent Contractor, or as a Contractor hired to assist with the RFP development, or as a Vendor offering free assistance) to gain a leading edge on the competitive RFP.

*2.310 Reserved*

*2.320 Extended Purchasing*

### 2.321 MiDEAL

Public Act 431 of 1984 permits DMB to provide purchasing services to any city, village, county, township, school district, intermediate school district, non-profit hospital, institution of higher education, community, or junior college. A current listing of approved program members is available at: http://www.michigan.gov/doingbusiness/0,1607,7-146-6586-16656--,00.html. Unless otherwise stated, it is the responsibility of the Contractor to ensure that the non-state agency is an authorized purchaser before extending the Contract pricing.

The Contractor will supply Contract Services and equipment at the established State of Michigan contract prices and terms to the extent applicable and where available. Inasmuch as these are non-state agencies, all invoices will be submitted to and payment remitted by the local unit of government on a direct and individual basis.

To the extent that authorized local units of government purchase quantities of Services and/or equipment under this Contract, the quantities of Services and/or equipment purchased will be included in determining the appropriate rate wherever tiered pricing based on quantity is provided.

BIDDER MUST CHECK ONE BOX BELOW

[ X ] Commodities and/or services on this Request for Quotation will be supplied to State of Michigan departments and agencies, and authorized MIDEAL Program members in accordance with the terms and prices quoted. A complete listing of eligible participants in the MIDEAL Program will be provided if this option is selected.

[ ] Commodities and/or services on the Request for Quotation will not be supplied to State of Michigan authorized MIDEAL members. We will supply to State of Michigan departments and agencies only.

Western Tel-Com Inc.
Vendor Name

Kurt Friedriechsen
Authorized Agent Name (print or type)

Authorized Agent Signature

**2.322 RESERVED - State Employee Purchases**

*2.330 Federal Grant Requirements*

**2.331 Federal Grant Requirements**

The following links contain certifications and terms which may be required for some purchases paid via Federal funds. They are included here to be utilized as required.

Lobbying Certifications are usually for agreements over $100,000. The debarment certification is required for all agreements. The last link is where you can go and search for debarred or suspended contractors.

http://straylight.law.cornell.edu/uscode/html/uscode31/usc_sec_31_00001352----000-.html
http://www.archives.gov/federal_register/codification/executive_order/12549.html
http://www.archives.gov/federal_register/executive_orders/pdf/12869.pdf
http://www.epls.gov/epls/servlet/EPLSSearchMain/1

**Exhibit A**
Approved Subcontractors

**Not Applicable**