



# STATE OF MICHIGAN PROCUREMENT

Department of Management, Budget, and Technology –  
Central Procurement Services

525 W. Allegan St, Lansing, MI 48933  
P. O. Box 30026, Lansing, MI 48909

## NOTICE OF CONTRACT

NOTICE OF CONTRACT NO. 210000001109

between

THE STATE OF MICHIGAN

and

<b>CONTRACTOR</b>	Arab Community Center for Economic and Social Services (ACCESS)
	2651 Saulino Court
	Dearborn, MI 48120
	Hassan Jaber
	313-842-7010
	hjaber@accesscommunity.org
	VS0200750

<b>STATE</b>	Program Manager	Nicole Hudson	DHHS
		517-614-6491	
		hudsonn2@michigan.gov	
	Contract Administrator	Joy Nakfoor	DTMB
		517-249-0481	
		nakfoorj@michigan.gov	

CONTRACT SUMMARY			
<b>DESCRIPTION: COVID 19 Mobile Vaccination Services</b>			
INITIAL EFFECTIVE DATE	INITIAL EXPIRATION DATE	INITIAL AVAILABLE OPTIONS	EXPIRATION DATE BEFORE CHANGE(S) NOTED BELOW
July 1, 2021	June 30, 2023	3 – 1 year	
PAYMENT TERMS		DELIVERY TIMEFRAME	
Net 45		N/A	
ALTERNATE PAYMENT OPTIONS			EXTENDED PURCHASING
<input type="checkbox"/> P-card <input type="checkbox"/> Payment Request (PRC) <input type="checkbox"/> Other			<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
MINIMUM DELIVERY REQUIREMENTS			
N/A			
MISCELLANEOUS INFORMATION			
<b>THIS IS NOT AN ORDER:</b> This Contract Agreement is awarded on the basis of our inquiry bearing the Solicitation # 210000001690. Orders for delivery will be issued through the issuance of a Delivery Order (DO). The estimated contract value is not a guarantee of monies to be spent by the State. It is an estimate of contract activities to be utilized.			
ESTIMATED CONTRACT VALUE AT TIME OF EXECUTION			<b>\$550,000.00</b>

**FOR THE CONTRACTOR:**

\_\_\_\_\_  
**Company Name**

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

\_\_\_\_\_  
**Authorized Agent** (Print or Type)

\_\_\_\_\_  
**Date**

**FOR THE STATE:**

\_\_\_\_\_  
**Signature**

\_\_\_\_\_  
**Name & Title**

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

\_\_\_\_\_  
**Date**

# STANDARD CONTRACT TERMS

---

This STANDARD CONTRACT (“**Contract**”) is agreed to between the State of Michigan (the “**State**”) and Arab Community Center for Economic and Social Services (ACCESS) (“**Contractor**”), a Michigan non-profit corporation. This Contract is effective on July 1, 2021 (“**Effective Date**”), and unless terminated, expires on June 30, 2023.

This Contract may be renewed for up to three (3) additional one (1) year period(s). Renewal is at the sole discretion of the State and will automatically extend the Term of this Contract. The State will document its exercise of renewal options via Contract Change Notice.

The parties agree as follows:

- 1. Duties of Contractor.** Contractor must perform the services and provide the deliverables described in **Schedule A – Statement of Work** (the “**Contract Activities**”). An obligation to provide delivery of any commodity is considered a service and is a Contract Activity.

Contractor must furnish all labor, equipment, materials, and supplies necessary for the performance of the Contract Activities, and meet operational standards, unless otherwise specified in Schedule A.

Contractor must: (a) perform the Contract Activities in a timely, professional, safe, and workmanlike manner consistent with standards in the trade, profession, or industry; (b) meet or exceed the performance and operational standards, and specifications of the Contract; (c) provide all Contract Activities in good quality, with no material defects; (d) not interfere with the State’s operations; (e) obtain and maintain all necessary licenses, permits or other authorizations necessary for the performance of the Contract; (f) cooperate with the State, including the State’s quality assurance personnel, and any third party to achieve the objectives of the Contract; (g) return to the State any State-furnished equipment or other resources in the same condition as when provided when no longer required for the Contract; (h) not make any media releases without prior written authorization from the State; (i) assign to the State any claims resulting from state or federal antitrust violations to the extent that those violations concern materials or services supplied by third parties toward fulfillment of the Contract; (j) comply with all State physical and IT security policies and standards which will be made available upon request; and (k) provide the State priority in performance of the Contract except as mandated by federal disaster response requirements. Any breach under this paragraph is considered a material breach.

Contractor must also be clearly identifiable while on State property by wearing identification issued by the State, and clearly identify themselves whenever making contact with the State.

- 2. Notices.** All notices and other communications required or permitted under this Contract must be in writing and will be considered given and received: (a) when

verified by written receipt if sent by courier; (b) when actually received if sent by mail without verification of receipt; or (c) when verified by automated receipt or electronic logs if sent by facsimile or email.

If to State:	If to Contractor:
<b>Joy Nakfoor</b> <b>525 W. Allegan St. 1st Floor NE</b> <b>Lansing, MI 48933</b> <b>nakfoorj@Michigan.gov</b> <b>517-249-0481</b>	<b>Mona Makki</b> <b>6450 Maple St</b> <b>Dearborn, MI 48126</b> <b>mmakki@accesscommunity.org</b> <b>313-300-9918</b>

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

State:	Contractor:
<b>Joy Nakfoor</b> <b>525 W. Allegan St. 1st Floor NE</b> <b>Lansing, MI 48933</b> <b>nakfoorj@Michigan.gov</b> <b>517-249-0481</b>	<b>Hassan Jaber</b> <b>2651 Saulino Court</b> <b>Dearborn, MI 48120</b> <b>hjaber@accesscommunity.org</b> <b>313-842-7010</b>

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

State:	Contractor:
<b>Nicole Hudson</b> <b>333 South Grand Building, 4<sup>th</sup> Floor</b> <b>Lansing, MI 48933</b> <b>Hudsonn2@michigan.gov</b> <b>517-614-6491</b>	<b>Jessica Kowalski</b> <b>6450 Maple St</b> <b>Dearborn, MI 48126</b> <b>jkowalski@accesscommunity.org</b> <b>313-203-1790</b>

5. **Performance Guarantee.** Contractor must at all times have financial resources sufficient, in the opinion of the State, to ensure performance of the Contract and must provide proof upon request. The State may require a performance bond (as specified in Schedule A – Statement of Work) if, in the opinion of the State, it will ensure performance of the Contract.
6. **Insurance Requirements.** Contractor, at its sole expense, must maintain the insurance coverage identified below. All required insurance must: (i) protect the State from claims that arise out of, are alleged to arise out of, or otherwise result from Contractor's or subcontractor's performance; (ii) be primary and non-contributing to any comparable liability insurance (including self-insurance) carried by the State; and (iii) be provided by a company with an A.M. Best rating of "A-" or better, and a financial size of VII or better.

Required Limits	Additional Requirements
-----------------	-------------------------

<b>Commercial General Liability Insurance</b>	
<u>Minimum Limits:</u> \$1,000,000 Each Occurrence \$1,000,000 Personal & Advertising Injury \$2,000,000 General Aggregate \$2,000,000 Products/Completed Operations	Contractor must have their policy endorsed to add “the State of Michigan, its departments, divisions, agencies, offices, commissions, officers, employees, and agents” as additional insureds using endorsement CG 20 10 11 85, or both CG 2010 07 04 and CG 2037 07 04.
<b>Automobile Liability Insurance</b>	
<u>Minimum Limits:</u> \$1,000,000 Per Accident	Contractor must have their policy: (1) endorsed to add “the State of Michigan, its departments, divisions, agencies, offices, commissions, officers, employees, and agents” as additional insureds; and (2) include Hired and Non-Owned Automobile coverage.
<b>Workers' Compensation Insurance</b>	
<u>Minimum Limits:</u> Coverage according to applicable laws governing work activities	Waiver of subrogation, except where waiver is prohibited by law.
<b>Employers Liability Insurance</b>	
<u>Minimum Limits:</u> \$500,000 Each Accident \$500,000 Each Employee by Disease \$500,000 Aggregate Disease	

If any required policies provide claims-made coverage, the Contractor must: (i) provide coverage with a retroactive date before the Effective Date of the Contract or the beginning of Contract Activities; (ii) maintain coverage and provide evidence of coverage for at least three (3) years after completion of the Contract Activities; and (iii) if coverage is cancelled or not renewed, and not replaced with another claims-made policy form with a retroactive date prior to the Effective Date of this

Contract, Contractor must purchase extended reporting coverage for a minimum of three (3) years after completion of work.

Contractor must: (i) provide insurance certificates to the Contract Administrator, containing the agreement or delivery order number, at Contract formation and within twenty (20) calendar days of the expiration date of the applicable policies; (ii) require that subcontractors maintain the required insurances contained in this Section; (iii) notify the Contract Administrator within five (5) business days if any policy is cancelled; and (iv) waive all rights against the State for damages covered by insurance. Failure to maintain the required insurance does not limit this waiver.

This Section is not intended to and is not to be construed in any manner as waiving, restricting or limiting the liability of either party for any obligations under this Contract (including any provisions hereof requiring Contractor to indemnify, defend and hold harmless the State).

- 7. Administrative Fee and Reporting.** Contractor must pay an administrative fee of 1% on all payments made to Contractor under the Contract including transactions with the State (including its departments, divisions, agencies, offices, and commissions), MiDEAL members, and other states (including governmental subdivisions and authorized entities). Administrative fee payments must be made online by check or credit card at: <https://www.thepayplace.com/mi/dtmb/adminfee>

Contractor must submit an itemized purchasing activity report, which includes at a minimum, the name of the purchasing entity and the total dollar volume in sales. Reports should be mailed to [MiDeal@michigan.gov](mailto:MiDeal@michigan.gov).

The administrative fee and purchasing activity report are due within 30 calendar days from the last day of each calendar quarter.

- 8. Extended Purchasing Program.** This contract is extended to MiDEAL members. MiDEAL members include local units of government, school districts, universities, community colleges, and nonprofit hospitals. A current list of MiDEAL members is available at [www.michigan.gov/mideal](http://www.michigan.gov/mideal).

Upon written agreement between the State and Contractor, this contract may also be extended to: (a) other states (including governmental subdivisions and authorized entities) and (b) State of Michigan employees.

If extended, Contractor must supply all Contract Activities at the established Contract prices and terms. The State reserves the right to impose an administrative fee and negotiate additional discounts based on any increased volume generated by such extensions.

Contractor must submit invoices to, and receive payment from, extended purchasing program members on a direct and individual basis.

- 9. Independent Contractor.** Contractor is an independent contractor and assumes all rights, obligations and liabilities set forth in this Contract. Contractor, its employees, and agents will not be considered employees of the

State. No partnership or joint venture relationship is created by virtue of this Contract. Contractor, and not the State, is responsible for the payment of wages, benefits and taxes of Contractor's employees and any subcontractors. Prior performance does not modify Contractor's status as an independent contractor.

- 10. Subcontracting.** Contractor may not delegate any of its obligations under the Contract without the prior written approval of the State. Contractor must notify the State at least 90 calendar days before the proposed delegation and provide the State any information it requests to determine whether the delegation is in its best interest. If approved, Contractor must: (a) be the sole point of contact regarding all contractual matters, including payment and charges for all Contract Activities; (b) make all payments to the subcontractor; and (c) incorporate the terms and conditions contained in this Contract in any subcontract with a subcontractor. Contractor remains responsible for the completion of the Contract Activities, compliance with the terms of this Contract, and the acts and omissions of the subcontractor. The State, in its sole discretion, may require the replacement of any subcontractor.
- 11. Staffing.** The State's Contract Administrator may require Contractor to remove or reassign personnel by providing a notice to Contractor.
- 12. Background Checks.** Pursuant to Michigan law, all agencies subject to IRS Pub. 1075 are required to ask the Michigan State Police to perform fingerprint background checks on all employees, including Contractor and Subcontractor employees, who may have access to any database of information maintained by the federal government that contains confidential or personal information, including, but not limited to, federal tax information. Further, pursuant to Michigan law, any agency described above is prohibited from providing Contractors or Subcontractors with the result of such background check. For more information, please see Michigan Public Act 427 of 2018. Upon request, or as may be specified in Schedule A, Contractor must perform background checks on all employees and subcontractors and its employees prior to their assignment. The scope is at the discretion of the State and documentation must be provided as requested. Contractor is responsible for all costs associated with the requested background checks. The State, in its sole discretion, may also perform background checks.
- 13. Assignment.** Contractor may not assign this Contract to any other party without the prior approval of the State. Upon notice to Contractor, the State, in its sole discretion, may assign in whole or in part, its rights or responsibilities under this Contract to any other party. If the State determines that a novation of the Contract to a third party is necessary, Contractor will agree to the novation and provide all necessary documentation and signatures.
- 14. Change of Control.** Contractor will notify within 30 days of any public announcement or otherwise once legally permitted to do so, the State of a change in Contractor's organizational structure or ownership. For purposes of this Contract, a change in control means any of the following: (a) a sale of more than 50% of Contractor's stock; (b) a sale of substantially all of Contractor's

assets; (c) a change in a majority of Contractor's board members; (d) consummation of a merger or consolidation of Contractor with any other entity; (e) a change in ownership through a transaction or series of transactions; (f) or the board (or the stockholders) approves a plan of complete liquidation. A change of control does not include any consolidation or merger effected exclusively to change the domicile of Contractor, or any transaction or series of transactions principally for bona fide equity financing purposes.

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

- 15. Ordering.** Contractor is not authorized to begin performance until receipt of authorization as identified in Schedule A.
- 16. Acceptance.** Contract Activities are subject to inspection and testing by the State within 30 calendar days of the State's receipt of them ("**State Review Period**"), unless otherwise provided in Schedule A. If the Contract Activities are not fully accepted by the State, the State will notify Contractor by the end of the State Review Period that either: (a) the Contract Activities are accepted but noted deficiencies must be corrected; or (b) the Contract Activities are rejected. If the State finds material deficiencies, it may: (i) reject the Contract Activities without performing any further inspections; (ii) demand performance at no additional cost; or (iii) terminate this Contract in accordance with Section 23, Termination for Cause.

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

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

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



performed as specified in Schedule A. Invoices must include an itemized statement of all charges. The State is exempt from State sales tax for direct purchases and may be exempt from federal excise tax, if Services purchased under this Agreement are for the State's exclusive use. All prices are exclusive of taxes, and Contractor is responsible for all sales, use and excise taxes, and any other similar taxes, duties and charges of any kind imposed by any federal, state, or local governmental entity on any amounts payable by the State under this Contract.

The State has the right to withhold payment of any disputed amounts until the parties agree as to the validity of the disputed amount. The State will notify Contractor of any dispute within a reasonable time. Payment by the State will not constitute a waiver of any rights as to Contractor's continuing obligations, including claims for deficiencies or substandard Contract Activities. Contractor's acceptance of final payment by the State constitutes a waiver of all claims by Contractor against the State for payment under this Contract, other than those claims previously filed in writing on a timely basis and still disputed.

The State will only disburse payments under this Contract through Electronic Funds Transfer (EFT). Contractor must register with the State at <http://www.michigan.gov/SIGMAVSS> to receive electronic fund transfer payments. If Contractor does not register, the State is not liable for failure to provide payment. Without prejudice to any other right or remedy it may have, the State reserves the right to set off at any time any amount then due and owing to it by Contractor against any amount payable by the State to Contractor under this Contract.

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

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

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

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

**25. Transition Responsibilities.** Upon termination or expiration of this Contract for any reason, Contractor must, for a period of time specified by the State (not to exceed **90** calendar days), provide all reasonable transition assistance requested by the State, to allow for the expired or terminated portion of the Contract Activities to continue without interruption or adverse effect, and to facilitate the orderly transfer of such Contract Activities to the State or its designees. Such transition assistance may include, but is not limited to: (a) continuing to perform the Contract Activities at the established Contract rates; (b) taking all reasonable and necessary measures to transition performance of the work, including all applicable Contract Activities, training, equipment, software, leases, reports and other documentation, to the State or the State's designee; (c) taking all necessary and appropriate steps, or such other action as the State may direct, to preserve, maintain, protect, or return to the State all materials, data, property, and confidential information provided directly or indirectly to Contractor by any entity, agent, vendor, or employee of the State; (d) transferring title in and delivering to the State, at the State's discretion, all completed or partially completed deliverables prepared under this Contract as of the Contract termination date; and (e) preparing an accurate accounting from which the State and Contractor may reconcile all outstanding accounts (collectively, "**Transition Responsibilities**"). This Contract will automatically be extended through the end of the transition period.

**26. General Indemnification.** Contractor must defend, indemnify and hold the State, its departments, divisions, agencies, offices, commissions, officers, and

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

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

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

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

- 27. Infringement Remedies.** If, in either party's opinion, any piece of equipment, software, commodity, or service supplied by Contractor or its subcontractors, or its operation, use or reproduction, is likely to become the subject of a copyright, patent, trademark, or trade secret infringement claim, Contractor must, at its expense: (a) procure for the State the right to continue using the equipment, software, commodity, or service, or if this option is not reasonably available to Contractor, (b) replace or modify the same so that it becomes non-infringing; or (c) accept its return by the State with appropriate credits to the State against Contractor's charges and reimburse the State for any losses or costs incurred as a consequence of the State ceasing its use and returning it.
- 28. Limitation of Liability and Disclaimer of Damages. IN NO EVENT WILL THE STATE'S AGGREGATE LIABILITY TO CONTRACTOR UNDER THIS CONTRACT, REGARDLESS OF THE FORM OF ACTION, WHETHER IN**

**CONTRACT, TORT, NEGLIGENCE, STRICT LIABILITY OR BY STATUTE OR OTHERWISE, FOR ANY CLAIM RELATED TO OR ARISING UNDER THIS CONTRACT, EXCEED THE MAXIMUM AMOUNT OF FEES PAYABLE UNDER THIS CONTRACT.** The State is not liable for consequential, incidental, indirect, or special damages, regardless of the nature of the action.

**29. Disclosure of Litigation, or Other Proceeding.** Contractor must notify the State within 14 calendar days of receiving notice of any litigation, investigation, arbitration, or other proceeding (collectively, "**Proceeding**") involving Contractor, a subcontractor, or an officer or director of Contractor or subcontractor, that arises during the term of the Contract, including: (a) a criminal Proceeding; (b) a parole or probation Proceeding; (c) a Proceeding under the Sarbanes-Oxley Act; (d) a civil Proceeding involving: (1) a claim that might reasonably be expected to adversely affect Contractor's viability or financial stability; or (2) a governmental or public entity's claim or written allegation of fraud; or (e) a Proceeding involving any license that Contractor is required to possess in order to perform under this Contract.

**30. Reserved.**

**31. State Data.**

**a. Ownership.** The State's data ("**State Data**," which will be treated by Contractor as Confidential Information) includes: (a) the State's data collected, used, processed, stored, or generated as the result of the Contract Activities; (b) personally identifiable information ("**PII**") collected, used, processed, stored, or generated as the result of the Contract Activities, including, without limitation, any information that identifies an individual, such as an individual's social security number or other government-issued identification number, date of birth, address, telephone number, biometric data, mother's maiden name, email address, credit card information, or an individual's name in combination with any other of the elements here listed; and, (c) personal health information ("**PHI**") collected, used, processed, stored, or generated as the result of the Contract Activities, which is defined under the Health Insurance Portability and Accountability Act (HIPAA) and its related rules and regulations. State Data is and will remain the sole and exclusive property of the State and all right, title, and interest in the same is reserved by the State. This Section survives the termination of this Contract.

**b. Contractor Use of State Data.** Contractor is provided a limited license to State Data for the sole and exclusive purpose of providing the Contract Activities, including a license to collect, process, store, generate, and display State Data only to the extent necessary in the provision of the Contract Activities. Contractor must: (a) keep and maintain State Data in strict confidence, using such degree of care as is appropriate and consistent with its obligations as further described in this Contract and applicable law to avoid unauthorized access, use, disclosure, or loss; (b) use and disclose State Data solely and exclusively for the purpose of providing the Contract Activities, such use and disclosure being in accordance with this Contract,

any applicable Statement of Work, and applicable law; and (c) not use, sell, rent, transfer, distribute, or otherwise disclose or make available State Data for Contractor's own purposes or for the benefit of anyone other than the State without the State's prior written consent. This Section survives the termination of this Contract.

- c. Extraction of State Data.** Contractor must, within five (5) business days of the State's request, provide the State, without charge and without any conditions or contingencies whatsoever (including but not limited to the payment of any fees due to Contractor), an extract of the State Data in the format specified by the State.
- d. Backup and Recovery of State Data.** Unless otherwise specified in Schedule A, Contractor is responsible for maintaining a backup of State Data and for an orderly and timely recovery of such data. Unless otherwise described in Schedule A, Contractor must maintain a contemporaneous backup of State Data that can be recovered within two (2) hours at any point in time.
- e. Loss or Compromise of Data.** In the event of any act, error or omission, negligence, misconduct, or breach on the part of Contractor that compromises or is suspected to compromise the security, confidentiality, or integrity of State Data or the physical, technical, administrative, or organizational safeguards put in place by Contractor that relate to the protection of the security, confidentiality, or integrity of State Data, Contractor must, as applicable: (a) notify the State as soon as practicable but no later than twenty-four (24) hours of becoming aware of such occurrence; (b) cooperate with the State in investigating the occurrence, including making available all relevant records, logs, files, data reporting, and other materials required to comply with applicable law or as otherwise required by the State; (c) in the case of PII or PHI, at the State's sole election, (i) with approval and assistance from the State, notify the affected individuals who comprise the PII or PHI as soon as practicable but no later than is required to comply with applicable law, or, in the absence of any legally required notification period, within five (5) calendar days of the occurrence; or (ii) reimburse the State for any costs in notifying the affected individuals; (d) in the case of PII, provide third-party credit and identity monitoring services to each of the affected individuals who comprise the PII for the period required to comply with applicable law, or, in the absence of any legally required monitoring services, for no less than twenty-four (24) months following the date of notification to such individuals; (e) perform or take any other actions required to comply with applicable law as a result of the occurrence; (f) pay for any costs associated with the occurrence, including but not limited to any costs incurred by the State in investigating and resolving the occurrence, including reasonable attorney's fees associated with such investigation and resolution; (g) without limiting Contractor's obligations of indemnification as further described in this Contract, indemnify, defend, and hold harmless the State for any and all claims,

including reasonable attorneys' fees, costs, and incidental expenses, which may be suffered by, accrued against, charged to, or recoverable from the State in connection with the occurrence; (h) be responsible for recreating lost State Data in the manner and on the schedule set by the State without charge to the State; and (i) provide to the State a detailed plan within ten (10) calendar days of the occurrence describing the measures Contractor will undertake to prevent a future occurrence. Notification to affected individuals, as described above, must comply with applicable law, be written in plain language, not be tangentially used for any solicitation purposes, and contain, at a minimum: name and contact information of Contractor's representative; a description of the nature of the loss; a list of the types of data involved; the known or approximate date of the loss; how such loss may affect the affected individual; what steps Contractor has taken to protect the affected individual; what steps the affected individual can take to protect himself or herself; contact information for major credit card reporting agencies; and, information regarding the credit and identity monitoring services to be provided by Contractor. The State will have the option to review and approve any notification sent to affected individuals prior to its delivery. Notification to any other party, including but not limited to public media outlets, must be reviewed and approved by the State in writing prior to its dissemination. The parties agree that any damages relating to a breach of this **Section 31** are to be considered direct damages and not consequential damages. This section survives termination or expiration of this Contract.

- f. **State's Governance, Risk and Compliance (GRC) platform.** Contractor is required to assist the State with its security accreditation process through the development, completion and ongoing updating of a system security plan using the State's automated GRC platform and implement any required safeguards or remediate any security vulnerabilities as identified by the results of the security accreditation process.

**32. Non-Disclosure of Confidential Information.** The parties acknowledge that each party may be exposed to or acquire communication or data of the other party that is confidential, privileged communication not intended to be disclosed to third parties. The provisions of this Section survive the termination of this Contract.

- a. **Meaning of Confidential Information.** For the purposes of this Contract, the term "**Confidential Information**" means all information and documentation of a party that: (a) has been marked "confidential" or with words of similar meaning, at the time of disclosure by such party; (b) if disclosed orally or not marked "confidential" or with words of similar meaning, was subsequently summarized in writing by the disclosing party and marked "confidential" or with words of similar meaning; and, (c) should reasonably be recognized as confidential information of the disclosing party. The term "Confidential Information" does not include any information or documentation that was: (a) subject to disclosure under the Michigan

Freedom of Information Act (FOIA); (b) already in the possession of the receiving party without an obligation of confidentiality; (c) developed independently by the receiving party, as demonstrated by the receiving party, without violating the disclosing party's proprietary rights; (d) obtained from a source other than the disclosing party without an obligation of confidentiality; or, (e) publicly available when received, or thereafter became publicly available (other than through any unauthorized disclosure by, through, or on behalf of, the receiving party). For purposes of this Contract, in all cases and for all matters, State Data is deemed to be Confidential Information.

- b. Obligation of Confidentiality.** The parties agree to hold all Confidential Information in strict confidence and not to copy, reproduce, sell, transfer, or otherwise dispose of, give or disclose such Confidential Information to third parties other than employees, agents, or subcontractors of a party who have a need to know in connection with this Contract or to use such Confidential Information for any purposes whatsoever other than the performance of this Contract. The parties agree to advise and require their respective employees, agents, and subcontractors of their obligations to keep all Confidential Information confidential. Disclosure to a subcontractor is permissible where: (a) use of a subcontractor is authorized under this Contract; (b) the disclosure is necessary or otherwise naturally occurs in connection with work that is within the subcontractor's responsibilities; and (c) Contractor obligates the subcontractor in a written contract to maintain the State's Confidential Information in confidence. At the State's request, any employee of Contractor or any subcontractor may be required to execute a separate agreement to be bound by the provisions of this Section.
- c. Cooperation to Prevent Disclosure of Confidential Information.** Each party must use its best efforts to assist the other party in identifying and preventing any unauthorized use or disclosure of any Confidential Information. Without limiting the foregoing, each party must advise the other party immediately in the event either party learns or has reason to believe that any person who has had access to Confidential Information has violated or intends to violate the terms of this Contract and each party will cooperate with the other party in seeking injunctive or other equitable relief against any such person.
- d. Remedies for Breach of Obligation of Confidentiality.** Each party acknowledges that breach of its obligation of confidentiality may give rise to irreparable injury to the other party, which damage may be inadequately compensable in the form of monetary damages. Accordingly, a party may seek and obtain injunctive relief against the breach or threatened breach of the foregoing undertakings, in addition to any other legal remedies which may be available, to include, in the case of the State, at the sole election of the State, the immediate termination, without liability to the State, of this Contract or any Statement of Work corresponding to the breach or threatened breach.

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

### **33. Data Privacy and Information Security.**

- a. Undertaking by Contractor.** Without limiting Contractor's obligation of confidentiality as further described, Contractor is responsible for establishing and maintaining a data privacy and information security program, including physical, technical, administrative, and organizational safeguards, that is designed to: (a) ensure the security and confidentiality of the State Data; (b) protect against any anticipated threats or hazards to the security or integrity of the State Data; (c) protect against unauthorized disclosure, access to, or use of the State Data; (d) ensure the proper disposal of State Data; and (e) ensure that all employees, agents, and subcontractors of Contractor, if any, comply with all of the foregoing. In no case will the safeguards of Contractor's data privacy and information security program be less stringent than the safeguards used by the State, and Contractor must at all times comply with all applicable State IT policies and standards, which are available to Contractor upon request.
- b. Audit by Contractor.** No less than annually, Contractor must conduct a comprehensive independent third-party audit of its data privacy and information security program and provide such audit findings to the State.
- c. Right of Audit by the State.** Without limiting any other audit rights of the State, the State has the right to review Contractor's data privacy and information security program prior to the commencement of Contract Activities and from time to time during the term of this Contract. During the providing of the Contract Activities, on an ongoing basis from time to time and without notice, the State, at its own expense, is entitled to perform, or to have performed, an on-site audit of Contractor's data privacy and information security program. In lieu of an on-site audit, upon request by the State, Contractor agrees to complete, within 45 calendar days of receipt, an audit questionnaire provided by the State regarding Contractor's data privacy and information security program.



- d. **Audit Findings.** Contractor must implement any required safeguards as identified by the State or by any audit of Contractor's data privacy and information security program.
- e. **State's Right to Termination for Deficiencies.** The State reserves the right, at its sole election, to immediately terminate this Contract or a Statement of Work without limitation and without liability if the State determines that Contractor fails or has failed to meet its obligations under this Section.

**34. Reserved.**

**35. Reserved.**

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

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

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

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

Contractor's business, properties, finances, and operations as of the dates covered by the information, and Contractor will inform the State of any material adverse changes; (h) all information furnished and representations made in connection with the award of this Contract is true, accurate, and complete, and contains no false statements or omits any fact that would make the information misleading; and that (i) Contractor is neither currently engaged in nor will engage in the boycott of a person based in or doing business with a strategic partner as described in 22 USC 8601 to 8606. A breach of this Section is considered a material breach of this Contract, which entitles the State to terminate this Contract under Section 23, Termination for Cause.

- 38. Conflicts and Ethics.** Contractor will uphold high ethical standards and is prohibited from: (a) holding or acquiring an interest that would conflict with this Contract; (b) doing anything that creates an appearance of impropriety with respect to the award or performance of the Contract; (c) attempting to influence or appearing to influence any State employee by the direct or indirect offer of anything of value; or (d) paying or agreeing to pay any person, other than employees and consultants working for Contractor, any consideration contingent upon the award of the Contract. Contractor must immediately notify the State of any violation or potential violation of these standards. This Section applies to Contractor, any parent, affiliate, or subsidiary organization of Contractor, and any subcontractor that performs Contract Activities in connection with this Contract.
- 39. Compliance with Laws.** Contractor must comply with all federal, state and local laws, rules and regulations.
- 40. Reserved.**
- 41. Reserved.**
- 42. Nondiscrimination.** Under the Elliott-Larsen Civil Rights Act, 1976 PA 453, MCL 37.2101, *et seq.*, the Persons with Disabilities Civil Rights Act, 1976 PA 220, MCL 37.1101, *et seq.*, and Executive Directive 2019-09. Contractor and its subcontractors agree not to discriminate against an employee or applicant for employment with respect to hire, tenure, terms, conditions, or privileges of employment, or a matter directly or indirectly related to employment, because of race, color, religion, national origin, age, sex (as defined in Executive Directive 2019-09), height, weight, marital status, partisan considerations, any mental or physical disability, or genetic information that is unrelated to the person's ability to perform the duties of a particular job or position. Breach of this covenant is a material breach of this Contract.
- 43. Unfair Labor Practice.** Under MCL 423.324, the State may void any Contract with a Contractor or subcontractor who appears on the Unfair Labor Practice register compiled under MCL 423.322.
- 44. Governing Law.** This Contract is governed, construed, and enforced in accordance with Michigan law, excluding choice-of-law principles, and all claims relating to or arising out of this Contract are governed by Michigan law,

excluding choice-of-law principles. Any dispute arising from this Contract must be resolved in Michigan Court of Claims. Contractor consents to venue in Ingham County, and waives any objections, such as lack of personal jurisdiction or *forum non conveniens*. Contractor must appoint agents in Michigan to receive service of process.

**45. Non-Exclusivity.** Nothing contained in this Contract is intended nor will be construed as creating any requirements contract with Contractor. This Contract does not restrict the State or its agencies from acquiring similar, equal, or like Contract Activities from other sources.

**46. Force Majeure.** Neither party will be in breach of this Contract because of any failure arising from any disaster or acts of god that are beyond their control and without their fault or negligence. Each party will use commercially reasonable efforts to resume performance. Contractor will not be relieved of a breach or delay caused by its subcontractors. If immediate performance is necessary to ensure public health and safety, the State may immediately contract with a third party.

**47. Dispute Resolution.** The parties will endeavor to resolve any Contract dispute in accordance with this provision. The dispute will be referred to the parties' respective Contract Administrators or Program Managers. Such referral must include a description of the issues and all supporting documentation. The parties must submit the dispute to a senior executive if unable to resolve the dispute within 15 business days. The parties will continue performing while a dispute is being resolved, unless the dispute precludes performance. A dispute involving payment does not preclude performance.

Litigation to resolve the dispute will not be instituted until after the dispute has been elevated to the parties' senior executive and either concludes that resolution is unlikely or fails to respond within 15 business days. The parties are not prohibited from instituting formal proceedings: (a) to avoid the expiration of statute of limitations period; (b) to preserve a superior position with respect to creditors; or (c) where a party makes a determination that a temporary restraining order or other injunctive relief is the only adequate remedy. This Section does not limit the State's right to terminate the Contract.

**48. Media Releases.** News releases (including promotional literature and commercial advertisements) pertaining to the Contract or project to which it relates must not be made without prior written State approval, and then only in accordance with the explicit written instructions of the State.

**49. Website Incorporation.** The State is not bound by any content on Contractor's website unless expressly incorporated directly into this Contract.

**50. Schedules.** All Schedules and Exhibits that are referenced herein and attached hereto are hereby incorporated by reference. The following Schedules are attached hereto and incorporated herein:

Item	Description
<b>Schedule A</b>	Statement of Work
<b>Schedule B</b>	Price Page
<b>Schedule C</b>	Michigan Prosperity Region Map

- 51. Entire Agreement and Order of Precedence.** This Contract, which includes Schedule A – Statement of Work, and schedules and exhibits which are hereby expressly incorporated, is the entire agreement of the parties related to the Contract Activities. This Contract supersedes and replaces all previous understandings and agreements between the parties for the Contract Activities. If there is a conflict between documents, the order of precedence is: (a) first, this Contract, excluding its schedules, exhibits, and Schedule A – Statement of Work; (b) second, Schedule A – Statement of Work as of the Effective Date; and (c) third, schedules expressly incorporated into this Contract as of the Effective Date. NO TERMS ON CONTRACTOR’S INVOICES, ORDERING DOCUMENTS, WEBSITE, BROWSE-WRAP, SHRINK-WRAP, CLICK-WRAP, CLICK-THROUGH OR OTHER NON-NEGOTIATED TERMS AND CONDITIONS PROVIDED WITH ANY OF THE CONTRACT ACTIVITIES WILL CONSTITUTE A PART OR AMENDMENT OF THIS CONTRACT OR IS BINDING ON THE STATE FOR ANY PURPOSE. ALL SUCH OTHER TERMS AND CONDITIONS HAVE NO FORCE AND EFFECT AND ARE DEEMED REJECTED BY THE STATE, EVEN IF ACCESS TO OR USE OF THE CONTRACT ACTIVITIES REQUIRES AFFIRMATIVE ACCEPTANCE OF SUCH TERMS AND CONDITIONS.
- 52. Severability.** If any part of this Contract is held invalid or unenforceable, by any court of competent jurisdiction, that part will be deemed deleted from this Contract and the severed part will be replaced by agreed upon language that achieves the same or similar objectives. The remaining Contract will continue in full force and effect.
- 53. Waiver.** Failure to enforce any provision of this Contract will not constitute a waiver.
- 54. Survival.** The provisions of this Contract that impose continuing obligations, including warranties and representations, termination, transition, insurance coverage, indemnification, and confidentiality, will survive the expiration or termination of this Contract.
- 55. Contract Modification.** This Contract may not be amended except by signed agreement between the parties (a “**Contract Change Notice**”). Notwithstanding the foregoing, no subsequent Statement of Work or Contract Change Notice executed after the Effective Date will be construed to amend this Contract unless it specifically states its intent to do so and cites the section or sections amended.

# SCHEDULE A – STATEMENT OF WORK

## CONTRACT ACTIVITIES

### BACKGROUND

Michigan seeks to expand COVID-19 vaccination access for high-risk populations and settings statewide in a sustainable manner by partnering with a Contractor or Contractors to conduct mobile vaccination services.

Settings where numerous people live or work in close proximity to one another present a high risk for spread of COVID-19 and require more flexible vaccination services. The six (6) site setting-types (“site types”) that span 10 regions across the State (specified in Schedule C – State of Michigan Prosperity Regions) (“Regions”) include:

1. Homebound Vaccinations
2. Community-Based Mobile Clinics
3. Neighborhood Testing Sites
4. Seasonal Agricultural Workers
5. Shelters, Transient Communities, Other Vulnerable Populations
6. Medium to Large Vaccination Sites (*optional, to be utilized based upon State need*)

While some of these locations may have medical staff capable of conducting vaccination services for COVID-19, many do not. Due to the nature of the work and multiple contract awards being made, no single contract is guaranteed a specific amount of work. All work will be assigned and coordinated with the Michigan Department of Health and Human Services (MDHHS).

Contractor is responsible for rapid response to provide vaccinations (and potentially testing) at sites when outbreaks occur. Contractor will work closely with State and local governments to accommodate these emergent needs. Vaccinations are expected to serve on average 250 individuals per day statewide, across as few as one (1) or as many as 15+ locations, depending on the site type and/or region.

The Regions and Site Types awarded to this Contractor are identified with an “X” in the below table.

State of Michigan Prosperity Region (See Schedule C for Counties in each region)	Site Type 1: Homebound Vaccinations	Site Type 2: Community-Based Mobile Clinics	Site Type 3: Neighborhood Testing Sites	Site Type 4: Seasonal Agricultural Workers	Site Type 5: Shelters, Transient Communities, Other Vulnerable Populations	Site Type 6: Medium to Large Vaccination Sites (optional based upon State need)
Region 1 (Upper Peninsula)						

Region 2 (Northwest)						
Region 3 (Northeast)						
Region 4 (West Michigan)						
Region 5 (East Central)						
Region 6 (East Michigan)						
Region 7 (South Central)						
Region 8 (Southwest)						
Region 9 (Southeast Michigan)						
Region 10 (Detroit Metro)	X	X			X	

### **SCOPE:**

Provide all personnel, equipment, supplies (vaccinations doses will be provided by local health departments or the State of Michigan), etc. to fulfill the requirements of the contract.

### **REQUIREMENTS:**

#### **1) General Requirements:**

- a) The following are required for **all** site types:
  - i) Contractor must provide its own personal protective equipment (gloves, masks, face shields, goggles, etc.), medical supplies (Epi pens, pulse ox monitors, BP cuffs, stethoscopes, needles, syringes, adhesive bandages, etc.), and any administrative supplies (pens, paper, clipboards, markers, etc.).
  - ii) Contractor must always maintain proper storage and handling (including proper mixing) of the vaccine, including maintaining required data readings of cooler temperatures. All CDC, FDA, EUA, HIPAA, State, and Federal regulations related to storage, handling, transport, and administration of the vaccine must be followed.
  - iii) Contractor must be prepared to, as requested by MDHHS, local health department, or community partners, provide COVID-19 testing at a vaccination clinic. Proper storage, handling, delivery, and administration requirements, etc. also applies to test services.

- iv) Contractor must be responsible for providing their own storage and tracking equipment for the vaccines, including but not limited to coolers, refrigerators, freezers, and data loggers. In some cases, Contractor may be able to receive direct vaccine allocations and would therefore need to have proper freezer storage. MDHHS or local partners will advise Contractor regarding which vaccine Contractor will need to transport and store.
- v) Contractor must be responsible for providing its own transportation necessary to meet the specific goals of each Part of the SOW. For example, in Site Type 1, Contractor must have vehicles that can be utilized for carrying the vaccine from residence to residence. Travel expenses **will not** be reimbursed.
- vi) Contractor must properly maintain and dispose of medical waste, including providing own sharps containers, according to relevant State and Federal Standards.
- vii) Contractor is responsible for timely and properly recording all vaccine doses administered into the Michigan Care Improvement Registry (MCIR). Doses **must** be recorded in MCIR on the day they are given. Contractor is responsible for ensuring their staff are fully trained on MCIR data entry and must supply their own technology to complete this task.
- viii) Contractor must provide oral and written translation services. In the event a Contractor cannot provide their own oral and written translation services, State translation contracts are available for use.
- ix) Contractor must work with MDHHS, local health departments, and community partners to determine when a site would require security. If local police are unable to provide security when it is needed, Contractor will need to obtain security themselves.
- x) While it is anticipated that insurance information will not be collected or billed for any of the site types, Contractor should have the capability to bill patient's insurance for vaccinations services if it has been explicitly requested by the State. This may be accomplished through a sub-contractor.
- xi) Logistics:
  - (1) Must possess logistical capabilities and experience which will provide successful deployment of vaccinations, staff and associated materials, and reporting capabilities to awarded locations throughout the entire State on a daily basis.
  - (2) Must be able to accommodate dynamic schedules where types and locations each week would vary.
  - (3) Must be able to deploy and provide fully operational services within 2-calendar days of notice for scheduled services and must be able to

provide services within 24-hours of notice for emergent outbreak-related services.

- (4) Logistic footprint must be scalable to serve site types statewide, or by region, whichever is awarded, based on the trends of the epidemic and the resulting vaccinations needs.

b) **Site Type 1:** Homebound Vaccinations:

- i) Contractor is responsible for vaccinating population of homebound individuals, that could be up to 90,000 individuals, including those who reside in the Upper Peninsula and remote locations.
- ii) Contractor must work closely with local health departments and MDHHS to determine required number of staff per team and how many doses each team can provide. This is likely to change given the location in the State.
- iii) Contractor must closely coordinate homebound vaccinations with local health departments and MDHHS on any changes to homebound vaccination work.
- iv) Contractor must schedule homebound vaccination appointments, manage routing, and other logistics to ensure the integrity of the vaccine through transport. Contractor must create routes that ensure vaccine is equitably distributed to individuals requiring in-home vaccinations.
  - (1) Contractor must provide detailed information on their approach for planning, mapping, creating homebound vaccination routes.
  - (2) Contractor must abide when local health departments and MDHHS specify high priority populations or areas that must be vaccinated first.
- v) Contractor must demonstrate experience, understanding and proficiency in working with vulnerable populations in a homebound environment.

c) **Site Type 2:** Community-Based Mobile Clinics:

- i) Contractor must provide staffing necessary to support mobile clinics in community settings (churches, community centers, recreation centers, etc.), which could include clinics in both indoor and outdoor settings.
- ii) Contractor must be prepared to administer up to 250 doses per day at mobile clinic sites.
  - (1) Contractor must be prepared for clinics to run up to seven (7) days a week. Contractor must be prepared to run clinics during off hours (off hours are outside of 9:00 am to 5:00 pm).
  - (2) Contractor must be prepared for clinics to run concurrently, possibly up to 25 per day.
- iii) Contractor must closely coordinate with the local health departments, MDHHS, and community-based sites, including assisting with planning, scheduling, outreaching, and other tasks.
- iv) This site type strategy may also include providing clinics with indigenous communities.



- d) **Site Type 3:** Neighborhood Testing Sites:
  - i) Contractor is responsible for vaccination clinics at up to 22 Neighborhood Testing sites, administering up to 250 doses per day, per site.
  - ii) Contractor must collaborate with local health departments for routing and logistics.
  - iii) Contractor must partner with Neighborhood Test Site partners and Michigan Association of Community Health Workers for a community engagement strategy.
  - iv) Contractor must attend to specific needs for administering care for vulnerable populations in neighborhood settings.
  - v) Contractor must demonstrate experience, understanding and proficiency in working with vulnerable populations in neighborhood settings.
- e) **Site Type 4:** Seasonal Agricultural Workers:
  - i) Contractor is responsible for vaccinations at selected sites for seasonal agricultural workers.
    - (1) Clinics may range in size from 25 to 250 doses per day.
    - (2) Clinic locations will vary depending on the season and where workers are located.
  - ii) Contractor must collaborate with local health departments, federally qualified health care centers, and other community partners for routing and logistics.
  - iii) Contractor must partner with the Michigan Department of Agriculture and Rural Development (MDARD) and other appropriate organizations for a seasonal agricultural worker community engagement strategy.
  - iv) Contractor must attend to specific needs for administering care for vulnerable seasonal agricultural worker populations.
  - v) Contractor must demonstrate experience, understanding and proficiency in working with vulnerable populations seasonal agricultural worker.
- f) **Site Type 5:** Shelters, Transient Communities, Other Vulnerable Populations:
  - i) Contractor is responsible for providing vaccinations at selected shelters and within transient communities. Contractor must provide routine vaccination clinics at set shelters. Clinics will range in size from 25 up to 250 doses per day.
  - ii) Contractor must also provide vaccinations for those in permanent supportive housing, homeless encampments, other locations that provide services to transient individuals, and other clinics or locations that provide services to other vulnerable communities. Clinics will range in size from 25 up to 250 doses per day.
  - iii) Contractor must collaborate with local health departments, shelters, and other community partners for routing and logistics.

- iv) Contractor must partner with site partners and appropriate community-based organizations for a community engagement strategy.
- v) Contractor must attend to specific needs for administering care for those in shelters, transient communities, and other vulnerable populations.
- vi) Contractor must demonstrate experience, understanding and proficiency in working with those in shelters, transient communities, and other vulnerable populations.
- g) **Site Type 6:** Medium to Large Vaccination Sites (optional basis upon determination by the State):
  - i) Contractor must provide staffing support for medium to large vaccination sites currently being run by local health departments, cities, and other jurisdictions. In some clinics, staff will backfill positions previously held by Michigan National Guard and other state and federal partners.
  - ii) Contractor must coordinate closely with local health departments or partner to determine exact staffing needs for each clinic. Clinics may range from 500 up to 3000 doses per day. Clinics may run up to seven (7) days a week and contractor will need to provide staffing for up to at least 20 concurrent clinics.
  - iii) Contractor must closely coordinate with the local health departments and community-based site, including assisting with planning, scheduling, outreaching, and other tasks.

## 2) **Staffing:**

- a) Staffing rates (and therefore, also the Staffing model) for each of the six (6) site types should be modeled based on the Community Vaccination Centers Playbook published by the Federal Emergency Management Administration, which can be found here:  
<https://www.fema.gov/disasters/coronavirus/governments/community-vaccination-centers-playbook>.
  - i) The FEMA Playbook provides extensive details on the staffing needs for clinics based on the number of doses administered by site type.
  - ii) Contractor(s) should model their own staffing based on these recommendations from FEMA.
  - iii) Staffing models must always ensure the safety of the patient and safe administration of the vaccine.
  - iv) MDHHS understands that some clinics and setting types will deviate from the FEMA guidance, and MDHHS expects Contractor to be able to recognize and articulate where and when those needs diverge. MDHHS will need to approve any divergence that exceeds FEMA staffing standards.
- b) Must provide an overall administrative and management support structure over vaccinations teams.

- c) **Contractor Representative:** The Contractor must appoint one (1) individual, specifically assigned to State of Michigan accounts, that will respond to State inquiries regarding the Contract Activities, answering questions related to ordering and delivery, etc. (the “Contractor Representative”). The Contractor must notify the Contract Administrator at least 30 calendar days before removing or assigning a new Contractor Representative.
- d) **Work Hours:** The Contractor must provide Contract Activities during on an as-instructed basis, and must be prepared to provide services up to 7 days per week.
- e) **Key Personnel:** The Contractor must appoint at least one (1) individual who will be directly responsible for the day-to-day operations of the Contract (“Key Personnel”) if it is someone other than the Contractor Representative.
  - i) Key Personnel must be specifically assigned to the State account, be knowledgeable on the contractual requirements, and respond to State inquiries within 24 hours.
  - ii) The State has the right to recommend and approve in writing the initial assignment, as well as any proposed reassignment or replacement, of any Key Personnel. Before assigning an individual to any Key Personnel position, Contractor will notify the State of the proposed assignment, introduce the individual to the State’s Project Manager, and provide the State with a résumé and any other information about the individual reasonably requested by the State. The State reserves the right to interview the individual before granting written approval. In the event the State finds a proposed individual unacceptable, the State will provide a written explanation including reasonable detail outlining the reasons for the rejection. The State may require a 30-calendar day training period for replacement personnel.
  - iii) Contractor will not remove any Key Personnel from their assigned roles on this Contract without the prior written consent of the State. The Contractor’s removal of Key Personnel without the prior written consent of the State is an unauthorized removal (“Unauthorized Removal”). An Unauthorized Removal does not include replacing Key Personnel for reasons beyond the reasonable control of Contractor, including illness, disability, leave of absence, personal emergency circumstances, resignation, or for cause termination of the Key Personnel’s employment. Any Unauthorized Removal may be considered by the State to be a material breach of this Contract, in respect of which the State may elect to terminate this Contract for cause under Termination for Cause in the Standard Terms. It is further acknowledged that an Unauthorized Removal will interfere with the timely and proper completion of this Contract, to the loss and damage of the State, and that it would be impracticable and extremely difficult to fix the actual damage sustained by the State as a result of any Unauthorized Removal. Therefore, Contractor and the State agree that in the case of any Unauthorized

Removal in respect of which the State does not elect to exercise its rights under Termination for Cause, Contractor will issue to the State the corresponding credits set forth in 3. Service Levels below.

- iv) The Contractor must identify the Key Personnel, indicate where they will be physically located, describe the functions they will perform, and provide current chronological résumés.
- f) **Organizational Chart:** The Contractor must provide an overall organizational chart that details staff members, by name and title, and subcontractors.
- g) **Disclosure of Subcontractors:** If the Contractor intends to utilize subcontractors, the Contractor must disclose the following:
  - i) The legal business name; address; telephone number; a description of subcontractor's organization and the services it will provide; and information concerning subcontractor's ability to provide the Contract Activities.
  - ii) The relationship of the subcontractor to the Contractor.
  - iii) Whether the Contractor has a previous working experience with the subcontractor. If yes, provide the details of that previous relationship.
  - iv) A complete description of the Contract Activities that will be performed or provided by the subcontractor.
- 3) **Services Levels:** The Contractor must adhere to all aspects outlined in the Scope of Work, as agreed-upon in the final version of the resulting contract.

**Service Level Agreements for this Contract will be as follows:**

SLA Metric 1. Preservation of Vaccines to Ensure Usability	
<b>Definition and Purpose</b>	Vaccines (and COVID test samples) must be transported, stored and handled per CDC, FDA, EUA, HIPAA, State and Federal regulations to ensure vaccines (and tests) are in usable form.
<b>Acceptable Standard</b>	<p>Per Schedule A, Item 1.a.ii:</p> <p>Contractor must always maintain proper storage and handling (including proper mixing) of the vaccine, including maintaining required data readings of cooler temperatures. Follow all CDC, FDA, EUA, HIPAA, State, and Federal regulations as it relates to storage, handling, transport, and administration of the vaccine.</p> <p>The acceptable standard is 100% compliance.</p>
<b>Credit Due for Failing to Meet the</b>	1. The cost of all vaccines lost due to improper transport, storage or handling may be assessed and be credited

SLA Metric 1. Preservation of Vaccines to Ensure Usability	
<b>Service Level Agreements</b>	<p>back to the State by the Contractor, for each occurrence in a given calendar year.</p> <p>Extenuating circumstances will be reviewed by the Program Manager before any Service Credits are assessed.</p> <p>At the discretion of the State, these credits may be applied toward any payable due to the Contractor or be payable directly to the State. Payments made directly to the State will be completed within 10 days of notice of assessment.</p>

SLA Metric 2. Proper Disposal of Medical Waste	
<b>Definition and Purpose</b>	<p>This metric is designed to ensure Contractor properly maintains and disposes of medical waste, including sharps containers; at all times during the contract period to ensure a safe environment.</p>
<b>Acceptable Standard</b>	<p>Per Schedule A, Item 1.a.vi: Contractor must properly maintain and dispose of medical waste, including providing own sharps containers, according to relevant State and Federal Standards.</p> <p>The acceptable standard is 100% compliance.</p>
<b>Credit Due for Failing to Meet the Service Level Agreements</b>	<ol style="list-style-type: none"> <li>1. \$1,000.00 may be assessed for each of the first five occurrences of non-compliance in a given calendar year.</li> <li>2. \$5,000.00 may be assessed beginning with the sixth occurrence of non-compliance and on each occurrence thereafter in a given calendar year.</li> </ol> <p>Extenuating circumstances will be reviewed by the Program Manager before any Service Credits are assessed.</p> <p>At the discretion of the State, these credits may be applied toward any payable due to the Contractor or be payable directly to the State. Payments made directly to the State will be completed within 10 days of notice of assessment.</p>

SLA Metric 3. Timely, Proper Recording of Data in to MCIR	
<b>Definition and Purpose</b>	<p>This metric is designed to ensure data is entered and Contractor's staff are trained and given the tools to provide entries; all on a timely basis. The purpose of timely, correct</p>

SLA Metric 3. Timely, Proper Recording of Data in to MCIR	
	entries into MCIR is to ensure the State has the most up-to-date data on vaccinations.
<b>Acceptable Standard</b>	<p>Per Schedule A, Item 1.a.vii: Contractor must be responsible for timely and properly recording all vaccine doses given in the Michigan Care Improvement Registry. Doses must be recorded into MICR on the day they are given. Contractor must be responsible for ensuring their staff are fully trained on MCIR data entry. Contractor must supply their own technology to complete this task.</p> <p>The acceptable standard is 100% compliance.</p>
<b>Credit Due for Failing to Meet the Service Level Agreements</b>	<ol style="list-style-type: none"> <li>1. \$1,000.00 may be assessed for each of the first five occurrences of non-compliance in a given calendar year.</li> <li>2. \$5,000.00 may be assessed beginning with the sixth occurrence of non-compliance and on each occurrence thereafter in a given calendar year.</li> </ol> <p>Extenuating circumstances will be reviewed by the Program Manager before any Service Credits are assessed.</p> <p>At the discretion of the State, these credits may be applied toward any payable due to the Contractor or be payable directly to the State. Payments made directly to the State will be completed within 10 days of notice of assessment.</p>

SLA Metric 4: Deployment of Services Timeliness	
<b>Definition and Purpose</b>	This metric is designed to ensure services are deployed and operational.
<b>Acceptable Standard</b>	<p>Per Schedule A, Item 1.a.xi.3: Must be able to deploy and provide fully operational services within 2-calendar days of notice for scheduled services and must be able to provide services within 24-hours of notice for emergent outbreak-related services.</p> <p>The acceptable standard is 100% compliance.</p>
<b>Credit Due for Failing to Meet the Service Level Agreements</b>	<ol style="list-style-type: none"> <li>1. \$1,000.00 may be assessed for each of the first five occurrences of non-compliance in a given calendar year.</li> <li>2. \$5,000.00 may be assessed beginning with the sixth occurrence of non-compliance and on each occurrence thereafter in a given calendar year.</li> </ol>

SLA Metric 4: Deployment of Services Timeliness	
	<p>Extenuating circumstances will be reviewed by the Program Manager before any Service Credits are assessed.</p> <p>At the discretion of the State, these credits may be applied toward any payable due to the Contractor or be payable directly to the State. Payments made directly to the State will be completed within 10 days of notice of assessment.</p>

SLA Metric 5. Proper Staffing Requirements	
<b>Definition and Purpose</b>	This metric is designed to ensure that staff assigned to any site type mission is fully staffed by qualified individuals as specified by the State for specific assignments.
<b>Acceptable Standard</b>	<p>Per Schedule A, Item 2.a: Staffing rates (and therefore, also the Staffing Model) for each of the six site types should be modeled based on the Community Vaccination Centers Playbook published by the Federal Emergency Management Administration. Vendors are permitted to staff below the FEMA Playbook as long as they have appropriate numbers of staff to ensure the health and safety of vaccination events.</p> <p>The acceptable standard is 100% compliance.</p>
<b>Credit Due for Failing to Meet the Service Level Agreements</b>	<ol style="list-style-type: none"> <li>1. \$1,000.00 may be assessed for each of the first five occurrences of non-compliance in a given calendar year.</li> <li>2. \$5,000.00 may be assessed beginning with the sixth occurrence of non-compliance and on each occurrence thereafter in a given calendar year.</li> </ol> <p>Extenuating circumstances will be reviewed by the Program Manager before any Service Credits are assessed.</p> <p>At the discretion of the State, these credits may be applied toward any payable due to the Contractor or be payable directly to the State. Payments made directly to the State will be completed within 10 days of notice of assessment.</p>

#### **4) Criminal Background Check:**

- a) As a condition of this Contract, the Contractor certifies that the Contractor shall, prior to any individual performing work under this Contract, conduct or cause to be conducted an Internet Criminal History Access Tool (ICHAT) check and a national and state sex offender registry check for each new employee, employee, subcontractor, subcontractor employee, or volunteer

who, under this Contract, works directly with clients or has access to client information.

- b) Information about ICHAT can be found at <http://apps.michigan.gov/ichat>.
- c) The Michigan Public Sex Offender Registry website address is <http://www.mipsor.state.mi.us>.
- d) The National Sex Offender Public website address is <http://www.nsopw.gov>.
- e) As a condition of this Contract, the Contractor certifies that the Contractor shall, prior to any individual performing work under this Contract, conduct or cause to be conducted a Central Registry (CR) check for each new employee, employee, subcontractor, subcontractor employee, or volunteer who, under this Contract, works directly with children.
- f) Information about CR can be found at [http://www.mi.gov/dhs/0,1607,7-124-5452\\_7119\\_48330-180331--,00.html](http://www.mi.gov/dhs/0,1607,7-124-5452_7119_48330-180331--,00.html).
- g) The Contractor shall require each new employee, employee, subcontractor, subcontractor employee, or volunteer who, under this Contract, works directly with clients or who has access to client information to notify the Contractor in writing of criminal convictions (felony or misdemeanor), pending felony charges, or placement on the Central Registry as a perpetrator, at hire or within 10 days of the event after hiring.
- h) The Contractor further certifies that the Contractor shall not submit claims for or assign duties under this Contract to any new employee, employee, subcontractor, subcontractor employee, or volunteer based on a determination by the Contractor that the results of a positive ICHAT and/or a CR response or reported criminal felony conviction or perpetrator identification make the individual ineligible to provide the services.
- i) The Contractor must have a written policy describing the criteria on which its determinations shall be made and must document the basis for each determination. The Contractor may consider the recency and type of crime when making a determination. Failure to comply with this provision may be cause for immediate cancellation of this Contract. In addition, the Contractor must further have a clearly defined written policy regarding acceptable screening practices of new staff members and volunteers who have direct access to clients and/or client's personal information. These screening practices serve to protect the organization and its clients. The Contractor must also assure that any subcontractors have both of these written policies.
- j) If MDHHS determines that an individual provided services under this Contract for any period prior to completion of the required checks as described above, MDHHS may require repayment of any and/or all billed services for the period that the required checks had not been completed.

## **5) Project Management:**

- a) Project Plan: Contractor to propose a project plan. Project plan should identify items such as the required contact personnel; the date the project



plan must be submitted to the State; project management process; project breakdown identifying sub-projects, tasks, and resources required; expected frequency and mechanisms for updates/progress reviews; process for addressing issues/changes; and individuals responsible for receiving/responding to the requested information.

- b) The Contractor will carry out this project under the direction and control of the Program Manager. Within 10 calendar days of the Effective Date, the Contractor must submit a project plan to the Program Manager for final approval. The plan must include: (a) the Contractor's organizational chart with names and titles of personnel assigned to the project, which must align with the staffing Stated in accepted proposals; and (b) the project breakdown showing sub-projects, tasks, and resources required.

**6) Meetings:** The Contractor must attend the following meetings as required by the State:

- a) Kick-off meeting within 10 calendar days of the Effective Date.
- b) Weekly status calls.
- c) Monthly operations meetings
- d) The State may request other meetings, as it deems appropriate.

**7) Reporting:** The Contractor must submit to the Program Manager written reports per the metrics that are identified/agreed upon jointly by DHHS Program Manager and the Contractor.

- a) Contractor must input all data in a timely manner (day of clinic) into MCIR. Contractor must supply their own technology (e.g. laptops, internet access, computing peripherals, etc.) to complete this task. The State will provide access to MCIR via an online portal.
- b) Contract must provide daily reports to the local health department and MDHHS on specific vaccine administration, exactly information in the report will be determine at the time of award.
- c) Contract must provide data security, including of patient information covered by HIPPA and per the terms and conditions of this contract.
- d) Contract must provide input as to types of performance measures to capture the effectiveness of the services.

**8) Pricing:**

- a) **Price Term:** Pricing is firm for the entire length of the Contract. The first pricing period begins on the Effective Date. Adjustments may be requested, in writing, by either party and will take effect no earlier than the next Pricing Period upon approval.
- b) **Price Changes:** Adjustments will be based on changes in actual Contractor costs. Any request must be supported by written evidence documenting the change in costs. The State may consider sources, such as the Consumer

Price Index; Producer Price Index; other pricing indices as needed; economic and industry data; manufacturer or supplier letters noting the increase in pricing; and any other data the State deems relevant.

- i) Following the presentation of supporting documentation, both parties will have 30 days to review the information and prepare a written response. If the review reveals no need for modifications, pricing will remain unchanged unless mutually agreed to by the parties. If the review reveals that changes are needed, both parties will negotiate such changes, for no longer than 30 days, unless extended by mutual agreement.
- ii) The Contractor remains responsible for Contract Activities at the current price for all orders received before the mutual execution of a Change Notice indicating the start date of the new Pricing Period.

**9) Ordering Authorizing Document:** The appropriate authorizing document for the Contract will be a Delivery Order (DO).

**10) Invoice and Payment:**

- a) **Invoice Requirements:** All invoices should be submitted to the State on a monthly basis by the 15<sup>th</sup> calendar day of the month following the month when services were rendered and must include:
  - i) Dates of beginning and end of invoice period.
  - ii) Delivery Order (DO) number.
  - iii) Description of the contract activities by individual(s) performing activities (including all call center staff, supervisors/managers, Contract Representative, and other miscellaneous personnel or leadership), with each specific individual being provided by name (or with a person-specific ID number), with their monthly hours worked, hourly rate, activity performed.
  - iv) Pricing for contract activities.
  - v) Total monthly invoice cost.
  - vi) Overtime, holiday pay, and travel expenses will not be paid.
- b) **Payment Methods:** The State will make payment for Contract Activities by Electronic Funds Transfer (EFT).

## SCHEDULE B - PRICING

---

1. Price proposals must include all costs, including but not limited to, any one-time or set-up charges, fees, and potential costs that Contractor may charge the State (e.g., shipping and handling, per piece pricing, and palletizing).
2. The Contractor is encouraged to offer quick payment terms. The number of days must not include processing time for payment to be received by the Contractor's financial institution.

Quick payment terms: N/A % discount off invoice if paid within N/A days after receipt of invoice.

3. The Contractor certifies that the prices were arrived at independently, and without consultation, communication, or agreement with any other Contractor.

## Staffing - Site Type 1

### Clinical & Non-Clinical Staff

Staff Number	Staff Type	Title/Description	Rate (excluding Region 1)	Hours Per Day	Per Diem/Hourly Rate	Region 1 Hourly + Per Diem Rate	Daily Rate
Staff 1	Clinical	Nurse Practitioner	94.95	7.00			665
Staff 2	Clinical	Medical Assistant/Admin	34.20	7.00			239
Staff 3	Non-Clinical	Driver/Security	30.60	7.00			214
							<b>1,118</b>

### # of Teams

Enter the number teams you could staff simultaneously for this Site Type (this will dictate the suggested maximums for Command & Control support)	1.00	<b>1,118</b>
---	------	--------------

### Command & Control (Project Management)

		Suggested Maximum Staff (based on the # of Teams)	Rate	Hours Per Day	Per Diem/Hourly Rate	
.2 Per Team	Manager	0.2	49.32	7	0	69
.1 Per Team	Scheduler Area	0.1	34.20	7	0	24
.067 Per Team	Manager	0.1	77.40	7	0	36
						<b>93</b>

Total Site Staffing Costs	<b>1,211</b>
---------------------------	--------------

## Staffing - Site Type 2

### Clinical & Non Clinical Staff

Staff Number	Staff Type	Title/Description	Rate (excluding Region 1)	Hours Per Day	Per Diem/Hourly Rate	Region 1 Hourly + Per Diem Rate	Daily Rate
Staff 1	Clinical	Nurse Practitioner	94.95	7.00			665
Staff 2	Clinical	Medical Assistant	34.20	7.00			239
Staff 3	Non-Clinical	Admin	27.00	7.00			189
Staff 4	Non-Clinical	Driver/Security	30.60	7.00			214
							<b>1,307</b>

### # of Teams

Enter the number teams you could staff simultaneously for this Site Type (this will dictate the suggested maximums for Command & Control support)

1.00

**1,307**

### Command & Control (Project Management)

		Suggested Maximum Staff (based on the # of Teams)	Rate	Hours Per Day	Per Diem/Hourly Rate	
.2 Per Team	Manager	0.2	49.32	7	0	69
.1 Per Team	Scheduler	0.1	34.20	7	0	24
.067 Per Team	Area Manager	0.07	77.40	7	0	36
						<b>93</b>

Total Site Staffing Costs

**1,400**

## Staffing - Site Type 5

### Clinical & Non-Clinical Staff

Staff Number	Staff Type	Title/Description	Rate (excluding Region 1)	Hours Per Day	Per Diem/Hourly Rate	Region 1 Hourly + Per Diem Rate	Daily Rate
Staff 1	Clinical	Nurse Practitioner	94.95	7.00			665
Staff 2	Clinical	Medical Assistant	34.20	7.00			239
Staff 3	Non-Clinical	Admin	27.00	7.00			189
Staff 4	Non-Clinical	Driver/Security	30.60	7.00			214
							<b>1,307</b>

### # of Teams

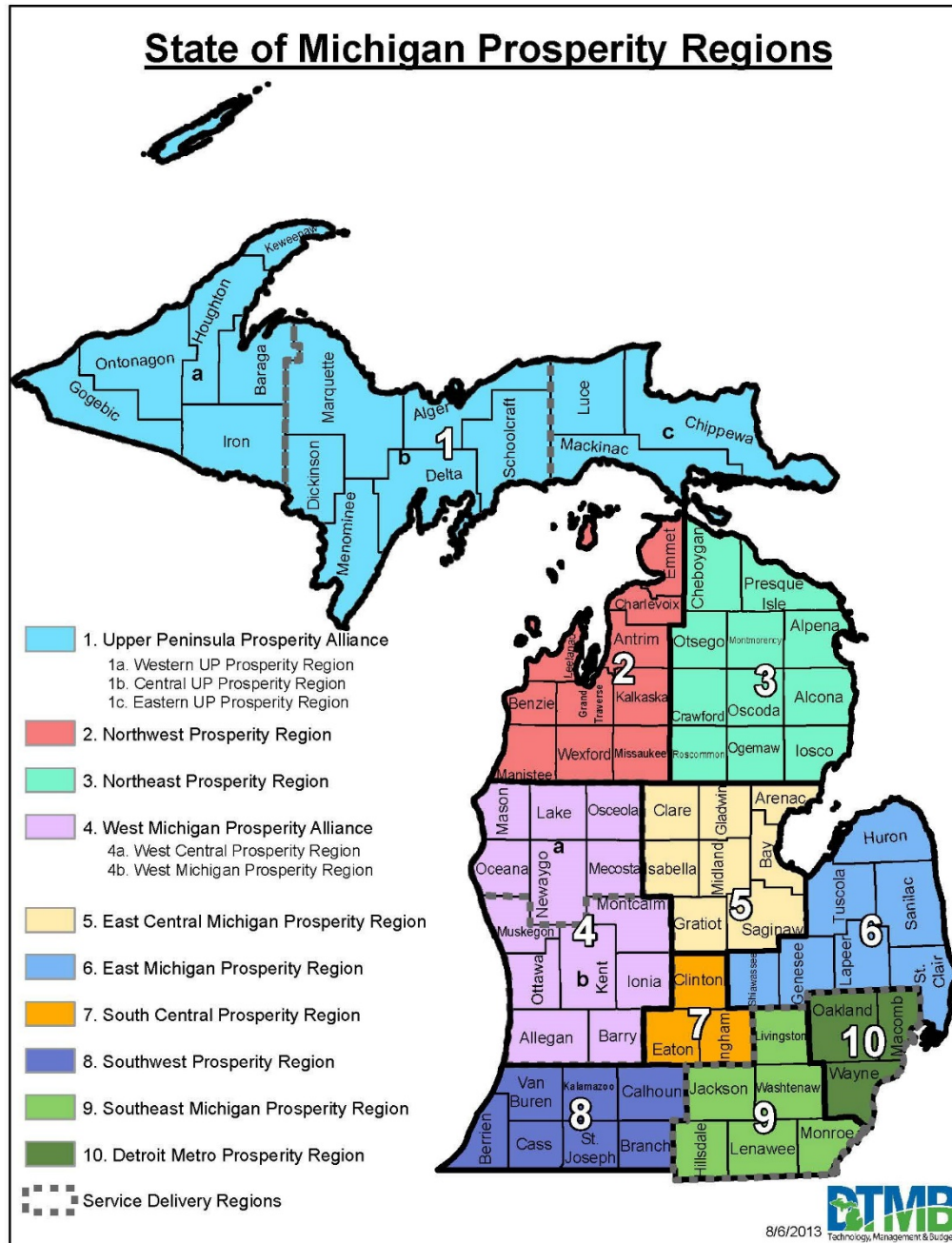
Enter the number teams you could staff simultaneously for this Site Type (this will dictate the suggested maximums for Command & Control support)	1.00	<b>1,307</b>
---	------	--------------

### Command & Control (Project Management)

		Suggested Maximum Staff (based on the # of Teams)	Rate	Hours Per Day	Per Diem/Hourly Rate	
.2 Per Team	Manager	0.2	49.32	7	0	69
.1 Per Team	Scheduler Area	0.1	34.20	7	0	24
.067 Per Team	Manager	0.07	77.40	7	0	36
						<b>93</b>

Total Site Staffing Costs	<b>1,400</b>
---------------------------	--------------

# SCHEDULE C – STATE OF MICHIGAN PROSPERITY REGIONS



## FEDERAL PROVISIONS ADDENDUM

---

This addendum applies to purchases that will be paid for in whole or in part with funds obtained from the federal government. The provisions below are required, and the language is not negotiable. If any provision below conflicts with the State's terms and conditions, including any attachments, schedules, or exhibits to the State's Contract, the provisions below take priority to the extent a provision is required by federal law; otherwise, the order of precedence set forth in the Contract applies. Hyperlinks are provided for convenience only; broken hyperlinks will not relieve Contractor from compliance with the law.

### 1. **Equal Employment Opportunity.**

If this Contract is a "**federally assisted construction contract**" as defined in 41 CFR Part 60-1.3, and except as otherwise may be provided under 41 CFR Part 60, then during performance of this Contract, the Contractor agrees as follows:

- 1) The Contractor will not discriminate against any employee or applicant for employment because of race, color, religion, sex, sexual orientation, gender identity, or national origin. The Contractor will take affirmative action to ensure that applicants are employed, and that employees are treated during employment without regard to their race, color, religion, sex, sexual orientation, gender identity, or national origin. Such action shall include, but not be limited to the following:

Employment, upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. The Contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided setting forth the provisions of this nondiscrimination clause.

- 2) The Contractor will, in all solicitations or advertisements for employees placed by or on behalf of the Contractor, state that all qualified applicants will receive consideration for employment without regard to race, color, religion, sex, sexual orientation, gender identity, or national origin.
- 3) The Contractor will not discharge or in any other manner discriminate against any employee or applicant for employment because such employee or applicant has inquired about, discussed, or disclosed the compensation of the employee or applicant or another employee or applicant. This provision shall not apply to instances in which an employee who has access to the compensation information of other employees or applicants as a part of such employee's essential job functions discloses the compensation of such other employees or applicants to individuals who do not otherwise have access to such information, unless such disclosure is in response to a formal complaint or charge, in furtherance of an investigation, proceeding, hearing, or action, including an investigation conducted by the employer, or is consistent with the Contractor's legal duty to furnish information.
- 4) The Contractor will send to each labor union or representative of workers with which he has a collective bargaining agreement or other contract or understanding, a notice to be provided advising the said labor union or workers' representatives of



the Contractor's commitments under this section, and shall post copies of the notice in conspicuous places available to employees and applicants for employment.

- 5) The Contractor will comply with all provisions of Executive Order 11246 of September 24, 1965, and of the rules, regulations, and relevant orders of the Secretary of Labor.
- 6) The Contractor will furnish all information and reports required by Executive Order 11246 of September 24, 1965, and by rules, regulations, and orders of the Secretary of Labor, or pursuant thereto, and will permit access to his books, records, and accounts by the administering agency and the Secretary of Labor for purposes of investigation to ascertain compliance with such rules, regulations, and orders.
- 7) In the event of the Contractor's noncompliance with the nondiscrimination clauses of this contract or with any of the said rules, regulations, or orders, this Contract may be canceled, terminated, or suspended in whole or in part and the Contractor may be declared ineligible for further Government contracts or federally assisted construction contracts in accordance with procedures authorized in Executive Order 11246 of September 24, 1965, and such other sanctions may be imposed and remedies invoked as provided in Executive Order 11246 of September 24, 1965, or by rule, regulation, or order of the Secretary of Labor, or as otherwise provided by law.
- 8) The Contractor will include the portion of the sentence immediately preceding paragraph (1) and the provisions of paragraphs (1) through (8) in every subcontract or purchase order unless exempted by rules, regulations, or orders of the Secretary of Labor issued pursuant to section 204 of Executive Order 11246 of September 24, 1965, so that such provisions will be binding upon each subcontractor or vendor. The Contractor will take such action with respect to any subcontract or purchase order as the administering agency may direct as a means of enforcing such provisions, including sanctions for noncompliance:

Provided, however, that in the event a Contractor becomes involved in, or is threatened with, litigation with a subcontractor or vendor as a result of such direction by the administering agency, the Contractor may request the United States to enter into such litigation to protect the interests of the United States.

The applicant further agrees that it will be bound by the above equal opportunity clause with respect to its own employment practices when it participates in federally assisted construction work: *Provided*, that if the applicant so participating is a State or local government, the above equal opportunity clause is not applicable to any agency, instrumentality or subdivision of such government which does not participate in work on or under the contract.

The applicant agrees that it will assist and cooperate actively with the administering agency and the Secretary of Labor in obtaining the compliance of contractors and subcontractors with the equal opportunity clause and the rules, regulations, and relevant orders of the Secretary of Labor, that it will furnish the administering agency and the Secretary of Labor such information as they may require for the supervision of such compliance, and that it will otherwise assist the administering

agency in the discharge of the agency's primary responsibility for securing compliance.

The applicant further agrees that it will refrain from entering into any contract or contract modification subject to Executive Order 11246 of September 24, 1965, with a contractor debarred from, or who has not demonstrated eligibility for, Government contracts and federally assisted construction contracts pursuant to the Executive Order and will carry out such sanctions and penalties for violation of the equal opportunity clause as may be imposed upon contractors and subcontractors by the administering agency or the Secretary of Labor pursuant to Part II, Subpart D of the Executive Order. In addition, the applicant agrees that if it fails or refuses to comply with these undertakings, the administering agency may take any or all of the following actions: Cancel, terminate, or suspend in whole or in part this grant (contract, loan, insurance, guarantee); refrain from extending any further assistance to the applicant under the program with respect to which the failure or refund occurred until satisfactory assurance of future compliance has been received from such applicant; and refer the case to the Department of Justice for appropriate legal proceedings.

## 2. **Davis-Bacon Act (Prevailing Wage).**

If this Contract is a **prime construction contract** in excess of \$2,000, the Contractor (and its Subcontractors) must comply with the Davis-Bacon Act (40 USC 3141-3148) as supplemented by Department of Labor regulations (29 CFR Part 5, "Labor Standards Provisions Applicable to Contracts Covering Federally Financed and Assisted Construction"), and during performance of this Contract the Contractor agrees as follows:

- 1) All transactions regarding this contract shall be done in compliance with the Davis-Bacon Act (40 U.S.C. 3141- 3144, and 3146-3148) and the requirements of 29 C.F.R. pt. 5 as may be applicable. The contractor shall comply with 40 U.S.C. 3141-3144, and 3146-3148 and the requirements of 29 C.F.R. pt. 5 as applicable.
- 2) Contractors are required to pay wages to laborers and mechanics at a rate not less than the prevailing wages specified in a wage determination made by the Secretary of Labor.
- 3) Additionally, contractors are required to pay wages not less than once a week.

## 3. **Copeland "Anti-Kickback" Act.**

If this Contract is a contract for construction or repair work in excess of \$2,000 where the Davis-Bacon Act applies, the Contractor must comply with the Copeland "Anti-Kickback" Act (40 USC 3145), as supplemented by Department of Labor regulations (29 CFR Part 3, "Contractors and Subcontractors on Public Building or Public Work Financed in Whole or in Part by Loans or Grants from the United States"), which prohibits the Contractor and subrecipients from inducing, by any means, any person employed in the construction, completion, or repair of public work, to give up any part of the compensation to which he or she is otherwise entitled, and during performance of this Contract the Contractor agrees as follows:

- 1) **Contractor.** The Contractor shall comply with 18 U.S.C. §874, 40 U.S.C. § 3145,

and the requirements of 29 C.F.R. pt. 3 as may be applicable, which are incorporated by reference into this contract.

- 2) **Subcontracts.** The Contractor or Subcontractor shall insert in any subcontracts the clause above and such other clauses as FEMA or the applicable federal awarding agency may by appropriate instructions require, and also a clause requiring the Subcontractors to include these clauses in any lower tier subcontracts. The prime contractor shall be responsible for the compliance by any subcontractor or lower tier subcontractor with all of these contract clauses.
- 3) **Breach.** A breach of the contract clauses above may be grounds for termination of the contract, and for debarment as a Contractor and Subcontractor as provided in 29 C.F.R. § 5.12.

#### 4. **Contract Work Hours and Safety Standards Act.**

If the Contract is **in excess of \$100,000** and **involves the employment of mechanics or laborers**, the Contractor must comply with 40 USC 3702 and 3704, as supplemented by Department of Labor regulations (29 CFR Part 5), as applicable, and during performance of this Contract the Contractor agrees as follows:

- 1) **Overtime requirements.** No Contractor or Subcontractor contracting for any part of the contract work which may require or involve the employment of laborers or mechanics shall require or permit any such laborer or mechanic in any workweek in which he or she is employed on such work to work in excess of forty hours in such workweek unless such laborer or mechanic receives compensation at a rate not less than one and one-half times the basic rate of pay for all hours worked in excess of forty hours in such workweek.
- 2) **Violation; liability for unpaid wages; liquidated damages.** In the event of any violation of the clause set forth in paragraph (1) of this section the Contractor and any Subcontractor responsible therefor shall be liable for the unpaid wages. In addition, such Contractor and Subcontractor shall be liable to the United States (in the case of work done under contract for the District of Columbia or a territory, to such District or to such territory), for liquidated damages. Such liquidated damages shall be computed with respect to each individual laborer or mechanic, including watchmen and guards, employed in violation of the clause set forth in paragraph (1) of this section, in the sum of \$27 for each calendar day on which such individual was required or permitted to work in excess of the standard workweek of forty hours without payment of the overtime wages required by the clause set forth in paragraph (1) of this section.
- 3) **Withholding for unpaid wages and liquidated damages.** The State shall upon its own action or upon written request of an authorized representative of the Department of Labor withhold or cause to be withheld, from any moneys payable on account of work performed by the Contractor or Subcontractor under any such contract or any other Federal contract with the same prime contractor, or any other federally-assisted contract subject to the Contract Work Hours and Safety Standards Act, which is held by the same prime contractor, such sums as may be determined to be necessary to satisfy any liabilities of such contractor or subcontractor for unpaid wages and liquidated damages as provided in the clause

set forth in paragraph (2) of this section.

- 4) Subcontracts.** The Contractor or Subcontractor shall insert in any subcontracts the clauses set forth in paragraph (1) through (4) of this section and also a clause requiring the Subcontractors to include these clauses in any lower tier subcontracts. The prime contractor shall be responsible for compliance by any subcontractor or lower tier subcontractor with the clauses set forth in paragraphs (1) through (4) of this section.

**5. Rights to Inventions Made Under a Contract or Agreement.**

If the Contract is funded by a federal “funding agreement” as defined under 37 CFR §401.2 (a) and the recipient or subrecipient wishes to enter into a contract with a small business firm or nonprofit organization regarding the substitution of parties, assignment or performance of experimental, developmental, or research work under that “funding agreement,” the recipient or subrecipient must comply with 37 CFR Part 401, “Rights to Inventions Made by Nonprofit Organizations and Small Business Firms Under Government Grants, Contracts and Cooperative Agreements,” and any implementing regulations issued by the awarding agency.

**6. Clean Air Act and the Federal Water Pollution Control Act.**

If this Contract is **in excess of \$150,000**, the Contractor must comply with all applicable standards, orders, and regulations issued under the Clean Air Act (42 USC 7401-7671g) and the Federal Water Pollution Control Act (33 USC 1251-1387), and during performance of this Contract the Contractor agrees as follows:

**Clean Air Act**

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

**Federal Water Pollution Control Act.**

1. The Contractor agrees to comply with all applicable standards, orders, or regulations issued pursuant to the Federal Water Pollution Control Act, as amended, 33 U.S.C. 1251 et seq.
2. The Contractor agrees to report each violation to the State and understands and agrees that the State will, in turn, report each violation as required to assure notification to the Federal Emergency Management Agency or the applicable federal awarding agency, and the appropriate Environmental Protection Agency Regional Office.
3. The Contractor agrees to include these requirements in each subcontract

exceeding \$150,000 financed in whole or in part with Federal assistance provided by FEMA or the applicable federal awarding agency.

**7. Debarment and Suspension** .A “contract award” (see 2 CFR 180.220) must not be made to parties listed on the government-wide exclusions in the System for Award Management (SAM), in accordance with the OMB guidelines at 2 CFR 180 that implement Executive Orders 12549 (51 FR 6370; February 21, 1986) and 12689 (54 FR 34131; August 18, 1989), “Debarment and Suspension.” SAM Exclusions contains the names of parties debarred, suspended, or otherwise excluded by agencies, as well as parties declared ineligible under statutory or regulatory authority other than Executive Order 12549.

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

**8. Byrd Anti-Lobbying Amendment.**

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

**9. Procurement of Recovered Materials.**

Under 2 CFR 200.322, Contractors must comply with section 6002 of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act.

- 1) In the performance of this contract, the Contractor shall make maximum use of



products containing recovered materials that are EPA-designated items unless the product cannot be acquired:

- a. Competitively within a timeframe providing for compliance with the contract performance schedule;
  - b. Meeting contract performance requirements; or
  - c. At a reasonable price.
- 2) Information about this requirement, along with the list of EPA- designated items, is available at EPA's Comprehensive Procurement Guidelines web site, <https://www.epa.gov/smm/comprehensive-procurement-guideline-cpg-program>.
- 3) The Contractor also agrees to comply with all other applicable requirements of Section 6002 of the Solid Waste Disposal Act.

#### **10. Additional FEMA Contract Provisions.**

The following provisions apply to purchases that will be paid for in whole or in part with funds obtained from the Federal Emergency Management Agency (FEMA):

- 1) **Access to Records.** The following access to records requirements apply to this contract:
  - a. The Contractor agrees to provide the State, the FEMA Administrator, the Comptroller General of the United States, or any of their authorized representatives access to any books, documents, papers, and records of the Contractor which are directly pertinent to this contract for the purposes of making audits, examinations, excerpts, and transcriptions
  - b. The Contractor agrees to permit any of the foregoing parties to reproduce by any means whatsoever or to copy excerpts and transcriptions as reasonably needed
  - c. The Contractor agrees to provide the FEMA Administrator or his authorized representatives access to construction or other work sites pertaining to the work being completed under the contract
  - d. In compliance with the Disaster Recovery Act of 2018, the State and the Contractor acknowledge and agree that no language in this contract is intended to prohibit audits or internal reviews by the FEMA Administrator or the Comptroller General of the United States
- 2) **Changes.**  
 See the provisions regarding modifications or change notice in the Contract Terms.
- 3) **DHS Seal Logo and Flags.**  
 The Contractor shall not use the DHS seal(s), logos, crests, or reproductions of flags or likenesses of DHS agency officials without specific FEMA pre-approval.
- 4) **Compliance with Federal Law, Regulations, and Executive Orders.**  
 This is an acknowledgement that FEMA financial assistance will be used to fund all or a portion of the contract. The Contractor will comply with all applicable Federal law, regulations, executive orders, FEMA policies, procedures, and directives.
- 5) **No Obligation by Federal Government.**

The Federal Government is not a party to this contract and is not subject to any obligations or liabilities to the State, Contractor, or any other party pertaining to any matter resulting from the Contract.”

**6) Program Fraud and False or Fraudulent Statements or Related Acts**

The Contractor acknowledges that 31 U.S.C. Chap. 38 (Administrative Remedies for False Claims and Statements) applies to the Contractor's actions pertaining to this contract.