

STATE OF MICHIGAN **ENTERPRISE PROCUREMENT**

Department of Technology, Management, and Budget 320 S. Walnut Street 2nd Floor Lansing, MI 48933 P.O. BOX 30026 LANSING, MICHIGAN 48909

CONTRACT CHANGE NOTICE

Change Notice Number 2 Contract Number MA23000000166

	PUBLIC CONSULTING GROUP LLC
CC	148 State Street 10th FL
ONTRAC	Boston MA 02109
RAC	Mitchell Dobbins
CTOR	(916) 565-8090
	services@pcgus.com
	CV0000862

	3 7	Adam Helm	DTMB
	Program Manager	517-243-3974	
STATI	7 3	helma3@Michigan.gov	
\TE	Contract Administrator	Adam Ashley	DTMB
		517-855-1376	
	et ator	ashleya2@michigan.gov	

CV0000862						
			CONTRACT	SUMMARY		
Operational Cor	sulting Servi	ces – Prequalific	ation Program			
INITIAL EFFECTIVE DATE INITIAL EXPIRATION			ATION DATE	INITIAL AVAILABLE OPTIONS EXP		EXPIRATION DATE BEFORE
February 28	3, 2023	February 2	27, 2025	3 - 12	Months	February 27, 2028
	PAYMEN	IT TERMS			DELIVERY TIME	FRAME
Net 45				N/A		
	ALTER	NATE PAYMENT	OPTIONS		EXTENDE	ED PURCHASING
☐ P-Ca	ard 🔲	Direct Voucher	(PRC)	☐ Other	⊠ Ye	s 🔲 No
MINIMUM DELIVER	RY REQUIREME	NTS				
N/A						
		DES	CRIPTION OF	CHANGE NOTICE		
OPTION	LENGTH (OF OPTION	EXTENSION	LENGTH O	F EXTENSION	REVISED EXP. DATE
CURRENT	VALUE	VALUE OF CHA	NGE NOTICE	ESTIMATI	ED AGGREGATE (CONTRACT VALUE
\$320,68	0.00	\$0.0	00		\$320,680.0)0
DESCRIPTION						
Effective 9/10/24, the attached Schedule B - Pricing is hereby removed and replaced with the attached "CN 2 Revised Schedule B-Pricing".						
All other terms, conditions, specifications, and pricing remain the same. Per contractor and agency agreement, and DTMB Central Procurement approval.						

CN 2: REVISED SCHEDULE B - PRICING

Operational Consulting Services Tier-two: MDHHS TANF Emergency Assistance and Non-Prior Law Claim Project

Original Contract requirements apply for this Section in addition to the following:

Project Name	Project Cost	
MDHHS TANF Emergency Assistance and Non-Prior Law Claim Project		
Federal Fiscal Year 2024	\$80,170	
Federal Fiscal Year 2025	\$80,170	
Federal Fiscal Year 2026	\$80,170	
Federal Fiscal Year 2027	\$80,170	
Deadline for Submission of Invoice	November 30 of each Year; 2024-2027	

Project Name	Total Project Cost
MDHHS TANF Emergency Assistance and Non-Prior Law Claim Project	\$320,680.00



STATE OF MICHIGAN ENTERPRISE PROCUREMENT

Department of Technology, Management, and Budget

525 W. ALLEGAN ST., LANSING, MICHIGAN 48913 P.O. BOX 30026 LANSING, MICHIGAN 48909

CONTRACT CHANGE NOTICE

Change Notice Number 1

Contract Number MA23000000166

	PUBLIC CONSULTING GROUP LLC
CC	148 State Street 10th FL
ONTRACTO	Boston MA 02109
RAC:	Bret Mohninger
TOR	916-565-8090
	services@pcgus.com
	CV0000862

STAT	Program Manager	Adam Helm	DTMB	
		517-243-3974		
	יי	helma3@Michigan.gov	ma3@Michigan.gov	
	Contract Administrator	Adam Ashley	DTMB	
		(517) 855-1376		
	± ator	ashleya2@michigan.gov		

C V 0000802						
CONTRACT SUMMARY						
Operational Cor	nsulting Servi	ces – Prequalif	ication Program			
INITIAL EFFEC	TIVE DATE	INITIAL EXPI	RATION DATE	INITIAL AVAILABLE OPTIONS		EXPIRATION DATE BEFORE
February 28	8, 2023	February	, 27, 2025	3 - 12	Months	February 27, 2025
	PAYMEN	NT TERMS			DELIVERY TIME	FRAME
Net 45				N/A		
	ALTERNATE PAYMENT OPTIONS EXTENDED PURCHASING					
☐ P-Card ☐ Direct Voucher (PRC)			☐ Other	⊠ Ye	es 🗌 No	
MINIMUM DELIVERY REQUIREMENTS						
N/A						
DESCRIPTION OF CHANGE NOTICE						
OPTION LENGTH OF OPTION EXTENSION LENGTH OF EXTENSION REVISED EXP. DAT					REVISED EXP. DATE	
⊠ 36 Months □						February 27, 2028
CURRENT	VALUE	VALUE OF CH	IANGE NOTICE	ESTIMATI	ED AGGREGATE	CONTRACT VALUE
\$0.00 \$320.680.00					\$320,680.	00

DESCRIPTION

Effective July 2, 2024, the following changes are hereby incorporated into this contract:

- 1. The attached Schedule A Statement of Work and \$320,680.00 are hereby added to the contract for MDHHS.
- 2. This Contract is exercising 3 option years, and the revised expiration date is 02/27/2028
- 3. The Contract Administrator has been changed to Adam Ashley ashleya2@michigan.gov (517) 855-1376

All other terms, conditions, specifications, and pricing remain the same. Per contractor and agency agreement, DTMB Central Procurement approval, and State Administrative Board approval on 6/25/24.



SCHEDULE A - OPERATIONAL CONSULTING SERVICES – TIER-TWO STATEMENT OF WORK

Operational Consulting Services Tier-two: MDHHS TANF Emergency Assistance and Non-Prior Law Claim Project

BACKGROUND

Original Contract requirements apply for this Section, in addition to the following:

The Michigan Department of Health and Human Services (MDHHS), Bureau of Budget, requires consultation and claim services to assist in Temporary Assistance for Needy Families (TANF) Block Grant claim calculations for non-Title IV-E eligible out-of-home care expenses for children separated from their parents. This includes both assistance to children in emergent situations where continued presence in the home is not in the best interest of the child as approved under the department's former Title IV-A Emergency Assistance State Plan, as well as assistance provided under the department's current TANF State Plan.

Michigan's TANF State Plan language reads:

Provides emergency foster family care or residential group care for children separated from their parents if such care cannot be provided under Title IV-E. The assistance is limited to the duration of the emergency condition, not to exceed 364 days, and must be authorized within a single 30-day period no less than 12 months after the beginning of the family's last Emergency Assistance authorization period. Under section 404(a)(2) of the Act, States may use segregated Federal TANF funds only for the specific activities that had been previously authorized based on the State's approved title IV-A or IV-F plan in effect as of either 9/30/95 or 8/21/96 (per the State option). The States Emergency Assistance funds allows for non-relatives to maintain the foster care of a child with the primary objection of reunification. In tandem under the State's temporary absence policy there must be a clear expectation that the child will return home within the foreseeable future. Remaining true today, reunification is the primary goal associated with this act and was authorized solely under prior law per 404(a)(2).

and

Support for Children in Foster Care – Multiple programs which provide a variety of supports on behalf of children in family foster care and residential group care settings. Types of support include food in extreme situations and home repairs. Assistance for children not placed with a relative is limited to the period a child may be temporarily absent from the home, as outlined in Section 5 - Group Composition. Assistance for children placed with a licensed or unlicensed relative foster family has no time limit because a child living with a relative meets TANF Purpose 1.



SCOPE

Original Contract requirements apply for this Section in addition to the following:

The Contractor must analyze MDHHS's current Emergency Assistance and Non-Prior Law TANF claiming methodology for non-Title IV-E eligible out-of-home care expenses and refine the process to maximize federal revenues. The Contractor must assist MDHHS in processing both the Emergency Assistance and Non-Prior Law TANF claims, calculate the claim, and document the revised claim calculation process and perform quality assurance checks to ensure data calculations are accurate. The Contractor must also assist in any audit responses, as needed.

1. REQUIREMENTS

A. General Requirements

The Contractor is responsible for complying with all the Original Contract Requirements and for providing all Deliverables, Services and Staff to perform the work as indicated below

1. Purpose and Expected Outcomes

The Contractor must work with MDHHS to analyze the department's current Emergency Assistance and Non-Prior Law TANF claiming methodology, review and analyze proposed revisions to the methodology, make recommendations for continuing the claim in a manner that maximizes federal revenues, calculate the claim, properly document the methodology used to calculate the claim, and perform quality assurance on final TANF claims for fiscal years 2024-2027.

2. Requirements

The Contractor must complete the following activities related to the Emergency Assistance and Non-Prior Law TANF claim each State Fiscal Year:

- a. Overview of Required Work
 - i. For FFY 2024 to FFY 2027, the Contractor must process both the Emergency Assistance and Non-Prior Law TANF claims.
 - ii. Both claims are comprised of expenditures from three fund sources: the Child Care Fund (CCF), State Ward Board and Care (SWBC) and General Fund (GF).
- b. Phase 1: Claim Preparation, the Contractor must meet with MDHHS staff to facilitate project kickoff. The Contractor must:
 - i. Hold a formal claim kick-off meeting in August of each Contract year. This meeting must include:
 - a) A review of the claims and what types of expenditures to include in each claim. The Contractor must use the existing claim justification as well as the Standard Operating Procedures (SOP), as needed.



- b) A debrief of the previous year to identify what went well and what should change to further streamline the claim process.
- c) Identification and discussion of any program, operational, funding, or data changes that would impact the claims. If changes are needed, the Contractor must discuss what specifically should be completed and how to make those changes across the various claim documents.
- ii. Submit Preliminary Information/Materials Request
- iii. Hold formal project check-in meetings beginning in August of the applicable Federal Fiscal Year (FFY). These will be held at a cadence agreed upon with MDHHS staff. These meetings can be held virtually using Microsoft Teams or the Contractor can travel to Michigan once per year, at MDHHS' request.
- c. Phase 2: Claim Processing. The Contractor must:
 - i. Process the claims after the Title IV-E claim has been finalized, which is typically the first week of November. This will be completed through Claim Estimates and Official Claim Processing:
 - a) Claim Estimates the Contractor must:
 - 1) Request the child-specific data necessary to complete the claims on October 1 of each Federal Fiscal Year (FFY) (or the first business day following October 1 if it falls on a weekend).
 - 2) Process the claim within five business days and provide estimates to MDHHS via email. The Contractor is not required to update any claim justifications or other claim documentation with the estimates.
 - 3) The Contractor can provide estimates in September, at MDHHS' request and if data is made available.
 - b) Official Claim Processing the Contractor must:
 - Work with MDHHS to find an agreed upon date by which the child-specific data can be submitted by MDHHS. The data must be requested no later than the first week of November, after confirming the Title IV E claim has been finalized.
 - 2) Process the claim by November 10 (or the business day closest to November 10 if it falls on the weekend).
 - 3) Update all claim documentation (claim justifications and SOPs) with the final calculations for Fiscal Years 2024-2027. The Contractor must:



- a) Update the SOPs for the two claims as it calculates the claims.
- b) At the end of the claim calculation, update the claim justifications for each claim to include the current year's expenditure amounts by funding source.
- Update the claims justifications if there are any changes to the programs included, funding sources used, or rules that were applied.
- d. Calculate the Claims: The Contractor must:
 - Request the child-specific data from MDHHS on October 1 each fiscal year for the claim estimates and no later than the first week of November for official claim processing.
 - ii. Provide the Secure File Transfer Protocol (SFTP) website, username, and password so that MDHHS can securely transfer the child-specific data to Contractor.
 - iii. Perform Quality Assurance (QA) of the child-specific data to verify the accuracy of the file.
- iv. Upload the child-specific data into the Contractor maintained claims database.
- v. Apply multiple sets of rules to calculate the portion of the expenditures that were spent on eligible children.
- vi. Complete the claim documentation within the Excel workbook.
 - This includes summary calculations by funding source and a copy of all records and how their eligibility was determined.
 - b) There is a separate Excel workbook for each of the two claims.
- vii. Share all the files and the database with MDHHS and maintain resulting data used for TANF claim for audit purposes.
 - a) Any files that contain PII will be uploaded to the SFTP site.
 - b) Contractor must maintain a copy of all claim documentation in its own records, which are stored in SharePoint for the time required for MDHHS audits and contractual requirements related to document retention.
- e. Process Claims: By November 10 for years 2024-2027, the Contractor must:
 - Hold a claim close out meeting with MDHHS staff. Agenda topics must include:
 - a) Review of calculations and the totals.



- b) What updates, if any, that need to be made to the SOPs.
- c) Project debrief to discuss what went well and what improvements can be made for the future year.
- d) Compile a list of any items anticipated to be changed in the future year or any follow up needed to be conducted for the next year.

3. Deliverables:

- Contractor must provide the TANF claim documents, SOPs, and claim justifications to the MDHHS Program Manager by the requested due date.
- b. Contractor must provide documents which contain PII via MDHHS' unique SFTP site.

B. Transition

- 1. At the end of the contract, the Contractor must:
 - a. Continue to maintain consistent communication with the State throughout the transition period to ensure services are unknot interrupted and complete.
 - b. Provide training to MDHHS and the new vendor, if applicable, that will calculate the claim.
 - The training must cover the database used to calculate the claim and the claim justifications, which describe the regulations that support the claims as well as claim methodology.
 - ii. It must also cover the various claim documents, such as the SOPs, which show how the steps are included with the database and the claim workbooks.
 - iii. The training must thoroughly cover all rules and queries so that the transition to the next party is seamless.
 - c. Provide all requested reports and other records as requested by the Contract Administrator and/or the Agency Program Manager(s).
 - d. Provide all claim documentation, reports, and the Microsoft Access database to either MDHHS and the new vendor, if applicable.

2. Service Requirements

A. Timeframes

All Contract Activities must be delivered by November 10, for years 2024-2027. The receipt of order date is pursuant to the **Notices** section of the *Standard Contract Terms*.



3. Acceptance

There are no additional Acceptance criteria for this tier-two solicitation.

4. Staffing

A. Contractor Representative

Please note: All other Original Contract Requirements Apply. For this Schedule, the Contractor Representative is:

Deborah Joffe

Phone: 619-270-4060 Email: djoffe@pcgus.com

Years of Experience with Contractor: 18

B. State Agency Program Manager

The State agency Program Manager for each party will monitor and coordinate the day-to-day activities of each individual State agency SOW (each a "**State Agency Program Manager**"):

State:	Contractor:
Erik Eklund	Deborah Joffe
235 S. Grand Avenue	148 State St 10 th Floor
Lansing, MI 48933	Boston, MA 02109
Eklunde@michigan.gov	Djoffepcgus.com
517-328-8883	619-670-4060

C. Customer Service Phone Number

A Customer Service Phone Number is not required for this tier-two solicitation.

D. Work Hours

There are no additional Work Hours required for this tier-two solicitation.

E. Key Personnel

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

F. Contractor Personnel

Please note: All other Original Contract Requirements Apply.

Position	Name	Years of Experience
1. Managing Director	Deborah Joffe	18 years
2. Project Manager	Megan Rymski	5 years



Position	Name	Years of Experience
3. Consultant	Eric Rees	4

G. Organizational Chart

Please note: All other Original Contract Requirements Apply.

H. Disclosure of Subcontractors

Please note: All other Original Contract Requirements Apply

Contractor does not intend to use any subcontractors to complete this scope of work.

Access to Tax Information

The Contractor must comply with the requirements of IRS Publication 1075 (including Exhibit 7 Safeguarding Contract Language) and Michigan Department of Treasury Safeguard Requirements of Confidential Tax Data.

5. Project Management

Original Contract requirements apply for this Section in addition to the following:

A. Project Plan

The Contractor will carry out this project under the direction and control of the Program Manager. Within **14 business days** of the Effective Date, the Contractor must submit a final project plan to the Program Manager for approval. The plan must include: (a) the Contractor's organizational chart with names and title of personnel assigned to the project, which must align with the staffing stated in accepted proposals; and (b) the project breakdown showing sub-projects, tasks, timeline, and resources required.

- 1. Contractor must submit its project plan within 14 business days of the Effective Date of the Contract Amendment.
- 2. The project plan must contain:
 - a. Contractor's organizational chart with names and titles of personnel assigned to the project. Contractor must use the same staff who are listed in Section 4 of Schedule A.
 - b. A project breakdown that shows the sub-projects, tasks, timelines, and resources required by year.

B. Meetings

Meetings will be held online through Microsoft Teams. The Contractor can conduct one in-person meeting, if requested by MDHHS.

- The Contractor must conduct bi-weekly status meetings between August and November of each project year. This cadence may be adjusted at MDHHS' request.
- 2. The State may request other meetings, as it deems appropriate.



C. Agency Reporting

The Contractor must submit to the Agency Program Manager, by email at Eklunde@michigan.gov, the following written reports:

- 1. Before Claim Report.
 - a. This report is due in August of each fiscal year for years 2024-2027. This report must include the following:
 - 1) A focus on what happened in the previous FFY (e.g. in August 2025, the Before Claim report will cover FFY 2024).
 - 2) A copy of all the documents that were used in the prior year's claim calculations.
 - 3) Audit findings that were issued for the TANF claim in the previous year, how they were resolved, and any changes that need to be made as a result for the claim in the upcoming year.
 - 4) Lessons learned from the project debrief at the end of the previous year and Contractor's plan on how to address those.
 - 5) List of the items that need to be discussed and resolved prior to the claim calculation for the current FFY. These will be included in the project debrief in the previous year or as items that were noted in other venues.

2. After Claim Report

- a. This report must focus on what happened in the FFY that just closed (e.g. in November 2024, the report will cover FFY 2024).
- b. This report must include:
 - 1) A copy of all the claim documents that were used in the current year's claim calculations.
 - 2) Items identified that need to be adjusted, changed, or deleted in the next FFY.
 - 3) Summary of the project debrief meeting.

3. Both reports must:

- a. Include the SOPs, deliverables, justifications, and any workbooks or other data to support the claims as email attachments.
- b. Be uploaded to MDHHS' unique SFTP site, if PII is included. Contractor must provide the link to the site as well as the username and password to the MDHHS Program Manager.

6. Invoice and Payment

Original Contract requirements apply for this Section in addition to the following:

A. Procedure

As a general policy, invoices must be submitted by email to the MDHHS Bureau of Finance and Accounting at MDHHS-CPU@michigan.gov and Agency Program Manager, by email at Eklunde@michigan.gov by the 30th day of the following month.



7. Service-Level Agreements (SLA)

Original Contract requirements apply for this Section in addition to the following:

- **A.** The Contractor will be held accountable to meet the requirements and the service level requirements established in this SOW.
- **B.** The State reserves the right to reconsider or amend SLA amounts.

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

SLA Metric 1.	Adherence to the Statement of Work
Definition and Purpose	The Contractor must complete all Contract activities to prepare the Fiscal Year 2024-2027 Emergency Assistance and Non-Prior Law TANF claim by November 10 of each Fiscal Year 2024-2027. The Contractor must provide the TANF claim documents, SOPs, and Claim Justifications.
Methodology	The MDHHS Program Manager will review performance per language in this contract and will denote any instances where the successful contractor fails to fulfill aspects of the contract.
Credit Due for Failing to Meet the Service Level Agreements	A credit of 1% of the monthly invoice value from the month when each failure occurred will be assessed for each failure to fulfill contract obligations and will continue to be assessed at a rate of 1% of each subsequent monthly invoice value in the event that the failure hasn't been corrected for a respective month.
	Extenuating circumstances will be reviewed by the Program Manager before any Service Credits are assessed.
	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.
SLA Metric 2.	Timely Reporting
Definition and Purpose	The Contractor must complete the Emergency Assistance and Non-Prior Law TANF Fund Claim project by November 10 of each Fiscal Year 2024-2027. The deliverable must be accurate and free of errors. As identified in Section 5.A. Reporting, unless prior written approval has been received from the Program Manager or designee.
Acceptable Standard	 All deliverables will be received by the specified date. All deliverables will be accurate and free of errors. Incomplete or inaccurate reports will be returned to the Contractor. The acceptable standard is 100% compliance.



SLA Metric 1.	Adherence to the Statement of Work	
Credit Due for Failing to Meet the Service Level	\$100.00 may be assessed for each inaccurate or late report submitted according to Section 5.A. Reporting . Extenuating circumstances will be reviewed by the Program Manager before any Service Credits are assessed.	
Agreements		
	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.	



SCHEDULE B – PRICING

Operational Consulting Services Tier-two: MDHHS TANF Emergency Assistance and Non-Prior Law Claim Project

Original Contract requirements apply for this Section in addition to the following:

Project Name	Project Cost
MDHHS TANF Emergency Assistance and Non-Prior Law Claim Project	\$320,680.00

Staff/Role	Unit	Unit Rate
1. Managing Director	One Hour	\$350.00
2. Project Manager	One Hour	\$295.00
3. Consultant	One Hour	\$250.00



STATE OF MICHIGAN PROCUREMENT

Department of Technology, Management, and Budget 320 S. Walnut St., Lansing, MI 48933 PO Box 30026, Lansing, MI 48909

NOTICE OF CONTRACT

NOTICE OF CONTRACT NO. 23000000166

and

between
THE STATE OF MICHIGAN

	Public Consulting Group LLC
	148 State Street, 10 th Floor
)TOR	Boston, MA 02109
SONTRACTOR	Laurie Thornton
CON	510-301-4645
	Ithornton@pcgus.com
	CV0000862

Program	- L	Adam Helm	DTMB
	Program Manager	517-243-3974	
ΛTΕ	H N	HelmA3@michigan.gov	
STA	t itor	Jordana Sager	DTMB
	Contract Administrator	517-249-0481	
	Adr	SagerJ2@michigan.gov	

CONTRACT SUMMARY				
DESCRIPTION: Operational Consulting Services – Prequalification Program				
INITIAL EFFECTIVE DATE	INITIAL EXPIRATION DATE	INITIAL AVAILABLE OPTIONS	EXPIRATION DATE I CHANGE(S) NOTED	
February 28, 2023	February 27, 2025	Three, one-year	February 27, 2	:025
PAYMENT	TERMS	DELIVERY TIMEFRAME		
Net 45				
ALTERNATE PAYMENT OPTIONS			EXTENDED PURCHASING	
\square P-card \square Payment Request (PRC) \square Other \boxtimes Yes			⊠ Yes	□ No
MINIMUM DELIVERY REQUIREMENTS				
MISCELLANEOUS INFORMATION	MISCELLANEOUS INFORMATION			
THIS IS NOT AN ORDER: The Contract is awarded based on the State's inquiry bearing Request for				
Proposal number 220000002701. Orders for delivery will be issued directly by the Department through a				
Delivery Order (DO).				
ESTIMATED CONTRACT VALUE AT TIME OF EXECUTION				\$0.00



STANDARD CONTRACT TERMS

This STANDARD CONTRACT ("**Contract**") is agreed to between the State of Michigan (the "**State**") and Public Consulting Group LLC ("**Contractor**"), a Delaware Limited Liability Company. This Contract is effective on February 28, 2023 ("**Effective Date**"), and unless terminated, expires on February 27, 2025.

This Contract may be renewed for up to three additional one-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:

 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 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) assign to the State any claims resulting from state or federal antitrust violations to the extent that those violations concern materials or services supplied by third parties toward fulfillment of the Contract; (i) comply with all State physical and IT security policies and standards which will be made available upon request; and (j) provide the State priority in performance of the Contract except as mandated by federal disaster response requirements. Any breach under this paragraph is considered a material breach.

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

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

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If to State:	If to Contractor:
See Contract Administrator information	Laurie Thornton
shown below.	6261 Hazel Ave., #1330
	Orangevale, CA 95662
	<u>lthornton@pcgus.com</u>
	510-301-4645

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

State:	Contractor:
Jordana Sager	Laurie Thornton
320 S. Walnut St.	6261 Hazel Ave., #1330
Lansing, MI, 48933	Orangevale, CA 95662
SagerJ2@michigan.gov	Ithornton@pcgus.com
517-249-0481	510-301-4645

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:
Adam Helm	Joe Frasca
320 S Walnut St.	6261 Hazel Ave., #1330
Lansing, MI 48933	Orangevale, CA 95662
HelmA3@michigan.gov	jfrasca@pcqus.com
517-243-3974	916-716-0394

- **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.

See Schedule C.

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.

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

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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.

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. Relationship of the Parties. The relationship between the parties is that of independent contractors. Contractor, its employees, and agents will not be considered employees of the State. No partnership or joint venture relationship is created by virtue of this Contract. Contractor, and not the State, is responsible for the payment of wages, benefits and taxes of Contractor's employees and any subcontractors. Prior performance does not modify Contractor's status as an independent contractor. Neither party has authority to contract for nor bind the other party in any manner whatsoever.
- 10. Intellectual Property Rights. If Schedule A, Statement of Work, requires Contractor to create any intellectual property, Contractor hereby acknowledges that the State is and will be the sole and exclusive owner of all right, title, and interest in the Contract Activities and all associated intellectual property rights, if any. Such Contract Activities are works made for hire as defined in Section 101 of the Copyright Act of 1976. To the extent any Contract Activities and related intellectual property do not qualify as works made for hire under the Copyright Act, Contractor will, and hereby does, immediately on its creation, assign, transfer and otherwise convey to the State, irrevocably and in perpetuity, throughout the universe, all right, title and interest in and to the Contract Activities, including all intellectual property rights therein.
- **11. Contract Activities including Software.** If Contractor is providing Contract Activities that require the use of Contractor Software, the following terms apply:
 - a. License Grant by Contractor: Contractor hereby grants to the State, exercisable by and through its Authorized Users, a nonexclusive, royalty-free, irrevocable right and license during the Term and such additional periods, if any, as Contractor is required to provide Contract Activities under this Contract or any Statement of Work, to: (a) access and use the Software, including in operation with other software, hardware, systems, networks and services, for the State's business purposes, including for processing State Data; (b) generate, print, copy, upload, download, store and otherwise process all GUI, audio, visual, digital and other output, displays and other content as may result from any access to or use of the Software; (c) prepare, reproduce, print, download and use a reasonable number of copies of the Documentation for any use of the

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Software under this Contract; and (d) access and use the Software for all such non-production uses and applications as may be necessary or useful for the effective use of the Contract Activities hereunder, including for purposes of analysis, development, configuration, integration, testing, training, maintenance, support and repair, which access and use will be without charge and not included for any purpose in any calculation of the State's or its Authorized Users' use of the Software, including for purposes of assessing any Fees or other consideration payable to Contractor or determining any excess use of the Software as described below.

- b. License Restrictions on the State. The State will not: (a) rent, lease, lend, sell, sublicense, assign, distribute, publish, transfer or otherwise make the Software available to any third party, except as expressly permitted by this Contract or in any Statement of Work; or (b) use or authorize the use of the Software or Documentation in any manner or for any purpose that is unlawful under applicable law.
- **c. Use by the State**. The State will pay Contractor the corresponding Fees set forth in a Statement of Work or Pricing Schedule for all Authorized Users access and use of the Software. Such Fees will be Contractor's sole and exclusive remedy for use of the Software, including any excess use.
- d. Certification by the State to the Contractor, if applicable. To the extent that a License granted to the State is not unlimited, Contractor may request written certification from the State regarding use of the Software for the sole purpose of verifying compliance with the Contract. Such written certification may occur no more than once in any 24 month period during the Term of the Contract. The State will to respond to any such request within 45 calendar days of receipt. If the State's use is greater than contracted, Contractor may invoice the State for any unlicensed use (and related support) pursuant to the terms of this Contract at the rates set forth in Schedule B, and the unpaid license and support fees shall be payable in accordance with the terms of the Contract. Payment under this provision shall be Contractor's sole and exclusive remedy to cure these issues.

e. Definitions.

- (1) "**Software**" means Contractor's software as set forth in a Statement of Work, provided to the State that is necessary for use of the Contract Activities.
- (2) "Documentation" means all user manuals, operating manuals, technical manuals and any other instructions, specifications, documents or materials, in any form or media, that describe the functionality, installation, testing, operation, use, maintenance, support, technical or other components, features or requirements of the Software or Contract Activities.
- (3) "Authorized Users" means all persons authorized by the State to access and use the Software or Contract Activities under this Contract.
- **12. 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

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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.

- **13. Staffing.** The State's Contract Administrator may require Contractor to remove or reassign personnel by providing a notice to Contractor.
- 14. 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.
- 15. 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.
- 16. Change of Control. Contractor will notify the State, within 30 days of any public announcement or otherwise once legally permitted to do so, of a change in Contractor's organizational structure or ownership. For purposes of this Contract, a change in control means any of the following: (a) a sale of more than 50% of Contractor's stock; (b) a sale of substantially all of Contractor's assets; (c) a change in a majority of Contractor's board members; (d) consummation of a merger or consolidation of Contractor with any other entity; (e) a change in ownership through a transaction or series of transactions; (f) or the board (or the stockholders) approves a plan of complete liquidation. A change of control does not include any consolidation or merger effected exclusively to change the domicile of Contractor, or any transaction or series of transactions principally for bona fide equity financing purposes.

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

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- **17. Ordering.** Contractor is not authorized to begin performance until receipt of authorization as identified in Schedule A.
- 18. 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 25, 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.

To the extent that Contract Activities includes the provision of a Services through the use of an online portal, as set forth the Schedule A, Statement of Work, Contractor must comply with the Service Level Agreement set forth in Schedule D of this Contract.

- 19. Reserved.
- 20. Reserved.
- 21. Reserved.
- 22. Invoices and Payment. Invoices must conform to the requirements communicated from time-to-time by the State. All undisputed amounts are payable within 45 days of the State's receipt. Contractor may only charge for Contract Activities provided as specified in 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. Notwithstanding the foregoing, all fees are exclusive of taxes, and Contractor is responsible for all sales, use and excise taxes, and any other similar taxes, duties and charges of any kind imposed by any federal, state, or local governmental entity on any amounts payable by the State under this Contract.

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

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

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

- 23. Liquidated Damages. Liquidated damages, if applicable, will be assessed as described in Schedule A. The parties understand and agree that any liquidated damages (which includes but is not limited to applicable credits) set forth in this Contract are reasonable estimates of the State's damages in accordance with applicable law. The parties acknowledge and agree that Contractor could incur liquidated damages for more than 1 event. The assessment of liquidated damages will not constitute a waiver or release of any other remedy the State may have under this Contract for Contractor's breach of this Contract, including without limitation, the State's right to terminate this Contract for cause under Section 25 and the State will be entitled in its discretion to recover actual damages caused by Contractor's failure to perform its obligations under this Contract. However, the State will reduce such actual damages by the amounts of liquidated damages received for the same events causing the actual damages. Amounts due the State as liquidated damages may be set off against any fees payable to Contractor under this Contract, or the State may bill Contractor as a separate item and Contractor will promptly make payments on such bills.
- **24. 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

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- 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.
- 25. 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 26, 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.

- 26. 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 27, 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.
- 27. 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 180 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

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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.

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

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

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

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

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

29. Infringement Remedies. If, in either party's opinion, any piece of equipment, software, commodity, or service supplied by Contractor or its subcontractors, or its operation, use or reproduction, is likely to become the subject of a copyright, patent, trademark, or trade secret infringement claim, Contractor must, at its expense: (a)

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procure for the State the right to continue using the equipment, software, commodity, or service, or if this option is not reasonably available to Contractor, (b) replace or modify the same so that it becomes non-infringing; or (c) accept its return by the State with appropriate credits to the State against Contractor's charges and reimburse the State for any losses or costs incurred as a consequence of the State ceasing its use and returning it.

- 30. Limitation of Liability and Disclaimer of Damages. IN NO EVENT WILL THE STATE'S AGGREGATE LIABILITY TO CONTRACTOR UNDER THIS CONTRACT, REGARDLESS OF THE FORM OF ACTION, WHETHER IN CONTRACT, TORT, NEGLIGENCE, STRICT LIABILITY OR BY STATUTE OR OTHERWISE, FOR ANY CLAIM RELATED TO OR ARISING UNDER THIS CONTRACT, EXCEED THE MAXIMUM AMOUNT OF FEES PAYABLE UNDER THIS CONTRACT. The State is not liable for consequential, incidental, indirect, or special damages, regardless of the nature of the action.
- 31. Disclosure of Litigation, or Other Proceeding. Contractor must notify the State within 14 calendar days of receiving notice of any litigation, investigation, arbitration, or other proceeding (collectively, "Proceeding") involving Contractor, a subcontractor, or an officer or director of Contractor or subcontractor, that arises during the term of the Contract, including: (a) a criminal Proceeding; (b) a parole or probation Proceeding; (c) a Proceeding under the Sarbanes-Oxley Act; (d) a civil Proceeding involving: (1) a claim that might reasonably be expected to adversely affect Contractor's viability or financial stability; or (2) a governmental or public entity's claim or written allegation of fraud; or (3) any complaint filed in a legal or administrative proceeding alleging the Contractor or its subcontractors discriminated against its employees, subcontractors, vendors, or suppliers during the term of this Contract; or (e) a Proceeding involving any license that Contractor is required to possess in order to perform under this Contract.

32. Reserved.

33. 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, user data, and any other 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) protected 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.

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- 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; (c) keep and maintain State Data in the continental United States and (d) not use, sell, rent, transfer, distribute, commercially exploit, 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. Contractor's misuse of State Data may violate state or federal laws, including but not limited to MCL 752.795.
- c. Extraction of State Data. Contractor must, within 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 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 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 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 24 months following the date of notification to such individuals; (e) perform or take any other actions required to comply with

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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 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 33 are to be considered direct damages and not consequential damages.

- **34. Non-Disclosure of Confidential Information.** The parties acknowledge that each party may be exposed to or acquire communication or data of the other party that is confidential, privileged communication not intended to be disclosed to third parties.
 - a. Meaning of Confidential Information. For the purposes of this Contract, the term "Confidential Information" means all information and documentation of a party that: (a) has been marked "confidential" or with words of similar meaning, at the time of disclosure by such party; (b) if disclosed orally or not marked "confidential" or with words of similar meaning, was subsequently summarized in writing by the disclosing party and marked "confidential" or with words of similar meaning; or, (c) should reasonably be recognized as confidential information of the disclosing party. The term "Confidential Information" does not include any information or documentation that was or is: (a) subject to disclosure under the Michigan Freedom of Information Act (FOIA); (b) already in the possession of the receiving party without an obligation of confidentiality; (c) developed independently by the receiving party, as demonstrated by the receiving party, without violating the disclosing party's proprietary rights; (d) obtained from a source other than the disclosing party without an obligation of confidentiality; or, (e) publicly available when received, or thereafter became publicly available (other than through any unauthorized disclosure by, through, or on behalf of, the

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- 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

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restricted by its retention and disposal schedule, in which case Contractor's Confidential Information will be destroyed after the retention period expires.

35. 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.
- 36. Reserved.
- 37. Reserved.
- **38. Records Maintenance, Inspection, Examination, and Audit.** Pursuant to MCL 18.1470, the State or its designee may audit Contractor to verify compliance with this Contract. Contractor must retain and provide to the State or its designee and the auditor general upon request, all records related to the Contract through the term of the Contract and for 4 years after the latter of termination, expiration, or final

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payment under this Contract or any extension ("**Audit Period**"). If an audit, litigation, or other action involving the records is initiated before the end of the Audit Period, Contractor must retain the records until all issues are resolved.

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

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

- **39. Representations and Warranties.** Contractor represents and warrants: (a) Contractor is the owner or licensee of any Contract Activities that it licenses, sells, or develops and Contractor has the rights necessary to convey title, ownership rights, or licensed use; (b) all Contract Activities are delivered free from any security interest, lien, or encumbrance and will continue in that respect; (c) the Contract Activities will not infringe the patent, trademark, copyright, trade secret, or other proprietary rights of any third party; (d) Contractor must assign or otherwise transfer to the State or its designee any manufacturer's warranty for the Contract Activities; (e) the Contract Activities are merchantable and fit for the specific purposes identified in the Contract; (f) the Contract signatory has the authority to enter into this Contract; (g) all information furnished by Contractor in connection with the Contract fairly and accurately represents Contractor's business, properties, finances, and operations as of the dates covered by the information, and Contractor will inform the State of any material adverse changes;(h) all information furnished and representations made in connection with the award of this Contract is true. accurate, and complete, and contains no false statements or omits any fact that would make the information misleading; and that (i) Contractor is neither currently engaged in nor will engage in the boycott of a person based in or doing business with a strategic partner as described in 22 USC 8601 to 8606. A breach of this Section is considered a material breach of this Contract, which entitles the State to terminate this Contract under Section 25, Termination for Cause.
- 40. Conflicts and Ethics. Contractor will uphold high ethical standards and is prohibited from: (a) holding or acquiring an interest that would conflict with this Contract; (b) doing anything that creates an appearance of impropriety with respect to the award or performance of the Contract; (c) attempting to influence or appearing to influence any State employee by the direct or indirect offer of anything of value; or (d) paying or agreeing to pay any person, other than employees and consultants working for Contractor, any consideration contingent upon the award of the Contract. Contractor must immediately notify the State of any violation or potential violation of these standards. This Section applies to Contractor, any parent, affiliate, or subsidiary organization of Contractor, and any subcontractor that performs Contract Activities in connection with this Contract.

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- **41. Compliance with Laws.** Contractor must comply with all federal, state and local laws, rules and regulations.
- **42. Prevailing Wage.** Contractor must comply with prevailing wage requirements, to the extent applicable to this Contract.
- **43. State Printing.** All printing in Michigan must be performed by a business that meets *one* of the following: (a) have authorized use of the Allied Printing Trades Council union label in the locality in which the printing services will be performed; (b) have on file with the Michigan Secretary of State, a sworn statement indicating that employees producing the printing are receiving prevailing wages and are working under conditions prevalent in the locality in which the printing services will be performed; or (c) have a collective bargaining agreement in effect and the employees are represented by an operations that is not influenced or controlled by management.
- 44. Nondiscrimination. Under the Elliott-Larsen Civil Rights Act, 1976 PA 453, MCL 37.2101, et seq., the Persons with Disabilities Civil Rights Act, 1976 PA 220, MCL 37.1101, et seq., and Executive Directive 2019-09. Contractor and its subcontractors agree not to discriminate against an employee or applicant for employment with respect to hire, tenure, terms, conditions, or privileges of employment, or a matter directly or indirectly related to employment, because of race, color, religion, national origin, age, sex (as defined in Executive Directive 2019-09), height, weight, marital status, partisan considerations, any mental or physical disability, or genetic information that is unrelated to the person's ability to perform the duties of a particular job or position. Breach of this covenant is a material breach of this Contract.
- **45. Unfair Labor Practice.** Under MCL 423.324, the State may void any Contract with a Contractor or subcontractor who appears on the Unfair Labor Practice register compiled under MCL 423.322.
- 46. Governing Law. This Contract is governed, construed, and enforced in accordance with Michigan law, excluding choice-of-law principles, and all claims relating to or arising out of this Contract are governed by Michigan law, excluding choice-of-law principles. Any dispute arising from this Contract must be resolved in the Michigan Court of Claims. Complaints against the State must be initiated in Ingham County, Michigan. Contractor waives any objections, such as lack of personal jurisdiction or forum non conveniens. Contractor must appoint an agent in Michigan to receive service of process.
- 47. Non-Exclusivity. Nothing contained in this Contract is intended nor is to be construed as creating any requirements contract with Contractor, nor does it provide Contractor with a right of first refusal for any future work. This Contract does not restrict the State or its agencies from acquiring similar, equal, or like Contract Activities from other sources.
- **48. Force Majeure.** Neither party will be in breach of this Contract because of any failure arising from any disaster or acts of god that are beyond their control and without their fault or negligence. Each party will use commercially reasonable efforts to resume performance. Contractor will not be relieved of a breach or delay caused

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- by its subcontractors. If immediate performance is necessary to ensure public health and safety, the State may immediately contract with a third party.
- 49. Dispute Resolution. The parties will endeavor to resolve any Contract dispute in accordance with this provision. The dispute will be referred to the parties' respective Contract Administrators or Program Managers. Such referral must include a description of the issues and all supporting documentation. The parties must submit the dispute to a senior executive if unable to resolve the dispute within 15 business days. The parties will continue performing while a dispute is being resolved, unless the dispute precludes performance. A dispute involving payment does not preclude performance.

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

- **50. Media Releases.** News releases (including promotional literature and commercial advertisements) pertaining to the Contract or project to which it relates must not be made without the prior written approval of the State, and then only in accordance with the explicit written instructions of the State.
- **51. Schedules.** All Schedules and Exhibits that are referenced herein and attached hereto are hereby incorporated by reference. The following Schedules are attached hereto and incorporated herein:

Document	Description
Schedule A	Statement of Work
Schedule B	Pricing
Schedule C	Insurance Requirements
Standard Contract Terms	Contract Terms
Federal Provisions Addendum	Federal Provisions Addendum
Exhibit 1	Byrd Anti-Lobbying Certificate

52. Entire Agreement and Order of Precedence. This Contract, which includes Schedule A – Statement of Work, and schedules and exhibits, is the entire agreement of the parties related to the Contract Activities. This Contract supersedes and replaces all previous understandings and agreements between the parties for the Contract Activities. If there is a conflict between documents, the order of precedence is: (a) first, this Contract, excluding its schedules, exhibits, and 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.

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ORDERING DOCUMENTS, WEBSITE, BROWSE-WRAP, SHRINK-WRAP, CLICK-WRAP, CLICK-THROUGH OR OTHER NON-NEGOTIATED TERMS AND CONDITIONS PROVIDED WITH ANY OF THE CONTRACT ACTIVITIES, OR DOCUMENTATION HEREUNDER, EVEN IF ATTACHED TO THE STATE'S DELIVERY OR PURCHASE ORDER, WILL CONSTITUTE A PART OR AMENDMENT OF THIS CONTRACT OR IS BINDING ON THE STATE OR ANY AUTHORIZED USER FOR ANY PURPOSE. ALL SUCH OTHER TERMS AND CONDITIONS HAVE NO FORCE AND EFFECT AND ARE DEEMED REJECTED BY THE STATE AND THE AUTHORIZED USER, EVEN IF ACCESS TO OR USE OF THE CONTRACT ACTIVITIES REQUIRES AFFIRMATIVE ACCEPTANCE OF SUCH TERMS AND CONDITIONS.

- **53. Severability.** If any part of this Contract is held invalid or unenforceable, by any court of competent jurisdiction, that part will be deemed deleted from this Contract and the severed part will be replaced by agreed upon language that achieves the same or similar objectives. The remaining Contract will continue in full force and effect.
- **54. Waiver.** Failure to enforce any provision of this Contract will not constitute a waiver.
- **55. Survival.** Any right, obligation or condition that, by its express terms or nature and context is intended to survive, will survive the termination or expiration of this Contract; such rights, obligations, or conditions include, but are not limited to, those related to transition responsibilities; indemnification; disclaimer of damages and limitations of liability; State Data; non-disclosure of Confidential Information; representations and warranties; insurance and bankruptcy.
- **56. Contract Modification.** This Contract may not be amended except by signed agreement between the parties (a "Contract Change Notice"). Notwithstanding the foregoing, no subsequent Statement of Work or Contract Change Notice executed after the Effective Date will be construed to amend this Contract unless it specifically states its intent to do so and cites the section or sections amended.

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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 <u>41</u> <u>CFR Part 60-1.3</u>, and except as otherwise may be provided under <u>41 CFR Part 60</u>, 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

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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 <u>Executive Order 11246</u> 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 <u>Executive Order 11246</u> 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

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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.

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.

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

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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.

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 <u>40 USC 3702</u> and <u>3704</u>, as supplemented by Department of Labor regulations (<u>29 CFR Part 5</u>), as applicable, and during performance of this Contract the Contractor agrees as follows:

- 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 40 hours in such workweek unless such laborer or mechanic receives compensation at a rate not less than 1 ½ times the basic rate of pay for all hours worked in excess of 40 hours in such workweek.
- Violation; liability for unpaid wages; liquidated damages. In the event of any violation of the clause set forth in paragraph (1) of this section the Contractor and any Subcontractor responsible therefor shall be liable for the unpaid wages. In addition, such Contractor and Subcontractor shall be liable to the United States (in the case of work done under contract for the District of Columbia or a territory, to such District or to such territory), for liquidated damages. Such liquidated damages shall be computed with respect to each individual laborer or mechanic, including watchmen and guards, employed in violation of the clause set forth in paragraph (1) of this section, in the sum of \$27 for each calendar day on which such individual was required or permitted to work in excess of the standard work week of 40 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

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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.

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.

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 (<u>42 USC 7401-7671q</u>) and the Federal Water Pollution Control Act (<u>33 USC 1251-1387</u>), 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.
- 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

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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.

Debarment and Suspension

A "contract award" (see <u>2 CFR 180.220</u>) must not be made to parties listed on the government-wide exclusions in the <u>System for Award Management</u> (SAM), in accordance with the OMB guidelines at <u>2 CFR 180</u> that implement <u>Executive Orders 12549</u> (<u>51 FR 6370</u>; <u>February 21</u>, <u>1986</u>) and 12689 (<u>54 FR 34131</u>; <u>August 18</u>, <u>1989</u>), "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 <u>Executive Order 12549</u>.

- 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.

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

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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.

Procurement of Recovered Materials

Under <u>2 CFR 200.322</u>, 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.

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.
 - 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.

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.

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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.

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SCHEDULE A - STATEMENT OF WORK CONTRACT ACTIVITIES

Contract No. 230000000166

Operational Consulting Services

BACKGROUND

When opportunities and needs arise, the State takes initiative to improve operations, which may include conducting assessments, setting new strategies, and improving business processes.

Occasionally, the State's internal resources may not be available to address such opportunities. In these situations, State agencies may require the assistance of external service providers with experience and skills in improving governmental operations and related processes. The purpose of this Contract is to establish a list of prequalified service providers and a consistent process for State agencies to engage with prequalified service providers.

The State's objectives for a list of prequalified operational consulting services vendors include the following:

- 1. Consistent contract terms
- 2. Consistent selection criteria and screening processes
- 3. Single point of contact for prequalified vendors
- 4. Consistent billing practices

SCOPE

This Contract is for a prequalification program to provide State agencies and MiDEAL members the ability to contract for operational consulting services on a fast-track, as-needed basis.

It is the State's intent to award multiple contracts to service providers who can provide services specified in this Contract.

Awarded Contractors will be eligible to bid on tier two Statements of Work (SOWs) issued by individual State agencies or MiDeal members which identify a specific scope of work to apply operational consulting services. Those Contractor(s) selected by State agencies or MiDeal members will be issued delivery orders for which the terms will be governed by this Contract and their identified SOW.

An RFP may be reissued to allow for new Contractors to enter the prequalification program. Prequalified Contractors will not be required to respond to the solicitation to retain current contracts.

1. Requirements

1.1. General Requirements

Contractor must provide Deliverables/Services and staff, and otherwise do all things necessary for or incidental to the performance of work, as set forth below:

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- A. Provide services as required by the tier two SOW issued by any State agency or MiDEAL member. While each SOW will contain unique service levels and requirements, general deliverables may include but are not limited to:
 - 1) Developing a scope or charter to document desired outcomes.
 - 2) Developing project plans to specify timelines and milestones for initiatives.
 - 3) Identifying, capturing, and analyzing relevant data.
 - 4) Facilitating meetings with internal and external stakeholders.
 - 5) Evaluating existing processes and organizational structures.
 - 6) Leveraging best practices to recommend opportunities for improvement.
 - 7) Providing recommendations for achieving desired results.
 - 8) Developing and documenting improved processes and procedures.
 - 9) Developing implementation plans that are appropriate to existing policies and statutory requirements.
 - 10) Developing cost benefit analyses to provide a calculated Return On Investment (ROI).
 - 11) Providing administrative support resources for projects.
 - 12) Supporting the agency during implementation of changes.
 - 13) Transferring knowledge necessary to sustain long term success.
- B. State agency or MiDEAL members will issue each tier two SOW to all prequalified Contractors on SIGMA Vendor Self-Service. The tier two SOW will identify the deliverables, period of performance, specific response information required, work evaluation and payment criteria, and any additional terms and conditions that apply to that SOW. State agency or MiDEAL members issuing the SOW and contracts responding to the SOW must follow this process:
 - 1) State agency or MiDEAL member will issue a SOW to all prequalified Contractors within that service region (and to all statewide Contractors) with a timeline including due dates for questions, responses, and performance period.
 - 2) The Contractor must provide the criteria required in each SOW in their bid response and pricing must not exceed rates provided in **Schedule B Pricing**.
 - 3) State or MiDEAL member selection will be based on a best value evaluation using the criteria identified in the SOW.
- C. Contractors confirms proficiency in virtual facilitation of services to be delivered if required by the individual SOW, and the platform must be approved by the State of Michigan.

The Contractor:

- 1) Is proficient in utilizing various platforms for virtual facilitation of meetings and trainings (i.e. Microsoft Teams, Zoom).
- 2) Has the ability to leverage breakout room functionality for training and client meetings.
- 3) Has experience conduct hybrid meetings (combination of client facing and virtual attendees).
- 4) Can conduct process mapping and utilize additional interactive tools to facilitate process improvements or business analysis/redesign.

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1.2. Specific Standards

When an IT component is identified in the tier two SOW, the following may apply depending on the scope. Depending on the IT components present in the tier two SOW, additional requirements may apply.

1.2.1 IT Policies, Standards and Procedures (PSP)

Contractors are advised that the State has methods, policies, standards and procedures that have been developed over the years. All services and products provided by the Contractor for this Contract must comply with all applicable State IT policies and standards.

Public IT Policies, Standards and Procedures (PSP):

https://www.michigan.gov/dtmb/0,5552,7-358-82547 56579 56755---,00.html

1.2.2 Acceptable Use Policy

To the extent that Contractor has access to the State's computer system, Contractor must comply with the State's Acceptable Use Policy, see http://michigan.gov/dtmb/0,4568,7-150-56355_56579_56755---,00.html. All Contractor Personnel will be required, in writing, to agree to the State's Acceptable Use Policy before accessing the State's system. The State reserves the right to terminate Contractor's access to the State's system if a violation occurs.

1.2.3 ADA Compliance

The State is required to comply with the Americans with Disabilities Act of 1990 (ADA) and has adopted a formal policy regarding accessibility requirements for websites and software applications. The State is requiring that Contractor's proposed Solution, where relevant, to level AA of the World Wide Web Consortium (W3C) Web Content Accessibility Guidelines (WCAG) 2.0. Contractor may consider, where relevant, the W3C's Guidance on Applying WCAG 2.0 to Non-Web Information and Communications Technologies (WCAG2ICT) for non-web software and content. The State may require that Contractor participate in a standards review process, and complete a Voluntary Product Accessibility Template for WCAG 2.0 (WCAG 2.0 VPAT) or other comparable document for the proposed Solution.

http://www.michigan.gov/documents/dmb/1650.00 209567 7.pdf?20151026134621

2. Service Requirements

2.1. Timeframes

All Contract Activities must be delivered within the timeframes specified in State agency or MiDEAL member specific SOW awarded through the tier two process.

3. Acceptance

3.1. Acceptance, Inspection, and Testing

The appropriate criteria to determine acceptance will be identified in each individual SOW issued by the State agency or MiDEAL member if different from the Standard Contract Terms, Section 18. Acceptance.

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4. Staffing

4.1. Contractor Representative

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

The Contractor must notify the Contract Administrator at least 30 calendar days before removing or assigning a new Contractor Representative.

4.2. 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:
Jordana Sager	Laurie Thornton
320 S. Walnut St.	6261 Hazel Ave. #1330
Lansing, MI, 48933	Orangevale, CA 95662
SagerJ2@michigan.gov	<u>Ithornton@pcgus.com</u>
517-249-0481	510-301-4645

4.3. Program Manager

The Program Manager will monitor and coordinate the activities of the Contract, but not the individual State agency or MiDeal member projects (each a "**Program Manager**"):

State:	Contractor:
Adam Helm	Joe Frasca
320 S Walnut St.	6261 Hazel Ave. #1330
Lansing, MI 48933	Orangevale, CA 95662
HelmA3@michigan.gov	jfrasca@pcgus.com
517-243-3974	(916) 716-0394

4.4. State Agency or MiDeal Member Program Manager

The State agency or MiDeal member Program Manager for each party will monitor and coordinate the day-to-day activities of each individual State agency or MiDeal member SOW (each a "State Agency or MiDeal Member Program Manager"):

State:	Contractor:
Varies by SOW	Varies by SOW

4.5. Customer Service Toll-Free Number

The Contractor must specify its toll-free number for the State to contact the Contractor Representative. The Contractor Representative must be available for calls during the hours identified in the State agency or MiDeal member SOW.

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Contractor toll-free number: 800-210-6113

4.6. Work Hours

The Contractor must provide Contract Activities during the State's normal working hours Monday – Friday, 7:00 a.m. to 6:00 p.m. EST and possible night and weekend hours depending on the requirements of the State agency or MiDeal member SOW requirements.

4.7. Key Personnel

The Contractor must appoint the number of Key Personal identified in the State agency or MiDeal Member SOW, if requested, who will be directly responsible for the day-to-day operations of the Contract ("Key Personnel"). Key Personnel must be specifically assigned to the State account, be knowledgeable on the contractual requirements, and respond to State inquiries within hours identified within the State agency or MiDeal member SOW.

The Contractor may be asked to identify the Key Personnel, indicate where they will be physically located, describe the functions they will perform, and provide current chronological résumés according to the requirements of the State agency or MiDeal member SOW.

4.8. Contractor Personnel

The Contractor must identify the roles and responsibilities of all Contractor Personnel that will be performing services under this Contract in the table below:

Name	Years of Experience in Current Classification	Role(s) / Responsibilities	Direct / Subcontract/ Contract	Number of Years Working with Contractor
Laurie Thornton	20	Managing Director	Direct	14
Joe Frasca	20	Senior Manager	Direct	1
Ryan Tan	2	Project Manager	Direct	8
Michael Gray	25	Consultant	Direct	5
Jonathan Amador	10	Analyst	Direct	1
Shan Mohtasim	5	Analyst	Direct	3
Gwyn Jackson	22	Project Manager	Direct	8
Jolene Strand	35	Project Manager	Direct	6
Patti Irgens	21	Project Manager	Direct	1
Al Pangelinan	25	Consultant	Direct	1
Brenna Kiniry	5	Project Manager	Direct	5
Donna Kurtz	7	Project Manager	Direct	7
Tracey Laride	6	Project Manager	Direct	1

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Name	Years of Experience in Current Classification	Role(s) / Responsibilities	Direct / Subcontract/ Contract	Number of Years Working with Contractor
Brad Molina	20	Project Manager	Direct	3
Jamila Crocket	9	Project Manager	Direct	5
Brian Reid	20	Consultant	Direct	6
Kelly Pinion	18	Project Manager	Direct	1
David Shickman	30	Consultant	Direct	18
Kristie Marshall	20	Consultant	Direct	13
Robby Singh	15	Consultant	Direct	5
Kristina Bon	7	Consultant	Direct	7
Patricia Berger	21	Consultant	Direct	11
Chizoma Ugoji	6	Consultant	Direct	2

More detailed resumes of proposed personnel to be assigned to a tier two project will be asked as part of the tier two solicitation process.

4.9. Organizational Chart

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

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4.10. Disclosure of Subcontractors

The Contractor does not intend to utilize subcontractors to fulfill the Contract requirements.

4.11. Security

The Contractor will be subject the following security procedures:

The Contractor's staff may be required to make deliveries to or enter State facilities. The Contractor must: (a) ensure the security of State facilities, (b) State may require Contractor personnel to wear State issued ID badges, (c) identify the company that will perform background checks, and (d) identify the scope of the background checks. Upon request by the State, the Contractor must provide the results of all security background checks. The State may decide to also perform a security background check. If so, the Contractor will be required to provide to the State a list of all delivery people that will service State of Michigan facilities, including name and date of birth (social security number or driver license number would also be helpful).

Additional security factors may be required based on the specific State agency or MiDeal member SOW. Any security procedures will be identified in the specific SOW.

4.12. Access to Tax Information

If the tier two SOW requires the Contractor have access to tax information the Contractor must comply with the requirements of *IRS Publication 1075* (including *Exhibit 7 Safeguarding Contract Language*) and *Michigan Department of Treasury Safeguard Requirements of Confidential Tax Data*.

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5. Project Management

5.1. Reporting

- A. The Contractor must provide a report annually which identifies projects completed and any active projects with State agencies and MiDeal members to the Program Manager by September 30 of each contract year. The report must include:
 - 1) Name of the project
 - 2) Delivery Order Number
 - 3) Brief description of the project
 - State of Michigan Agency Program Manager for the project and other stakeholders involved
 - 5) Identify the project as complete or active
- B. The Contractor must submit a final report and any interim reports that are described in each individual project's SOW to the State agency or MiDeal member Program Manager. The format and content of the reports, the deadline for submittal, and the person to whom they should be submitted will be specified in each SOW.

6. Pricing

6.1. Price Term

Pricing is firm for the entire length of the Contract.

6.2. Price Changes

Adjustments will be based on changes in actual Contractor costs. Any request must be supported by written evidence documenting the change in costs. The State may consider sources, such as the Consumer Price Index; Producer Price Index; other pricing indices as needed; economic and industry data; manufacturer or supplier letters noting the increase in pricing; and any other data the State deems relevant.

Following the presentation of supporting documentation, both parties will have 30 days to review the information and prepare a written response. If the review reveals no need for modifications, pricing will remain unchanged unless mutually agreed to by the parties. If the review reveals that changes are needed, both parties will negotiate such changes, for no longer than 30 days, unless extended by mutual agreement.

The Contractor remains responsible for Contract Activities at the current price for all orders received before the mutual execution of a Change Notice indicating the start date of the new Pricing Period.

7. Ordering

7.1. Authorizing Document

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

The State will issue a written delivery order which must be approved by the Contract Administrator or the Contract Administrator's designee, to order any services under this prequalification program. All orders are subject to the terms and conditions of the prequalification program and the Contract.

8. Invoice and Payment

8.1. Invoice Requirements

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All invoices submitted to the State must include: (a) date; (b) delivery order number; (c) quantity; (d) description of the Contract Activities; (e) unit price; (f) shipping cost (if any); (g) vendor-generated invoice number and (h) total price. Overtime, holiday pay, and travel expenses will not be paid.

8.2. Payment Methods

The State will make payment for Contract Activities via EFT or in accordance with the details specified within a specific SOW.

9. Service-Level Agreement (SLA)

A. The Contractor will be held accountable to meet the requirements and the service level requirements established in this Contract and any individual State agency or MiDeal member SOW. The Contractor will be asked to agree to any additional SLAs in each individual SOW, if applicable.

Service Level Agreements for this Contract will be as follows:

SLA Metric 1.	Reporting	
Definition and Purpose	The Contractor must provide a completed and active project report. The report must be submitted by September 30th of each year. As identified in Section 5.1.A. Reporting , unless prior written approval has been received from the Program Manager or designee.	
Acceptable Standard	 All reports will be received by the specified date. All reports will be accurate and free of errors. Incomplete or inaccurate reports will be returned to the Contractor. The acceptable standard is 100% compliance. 	
Credit Due for Failing to Meet the Service Level Agreements	\$100.00 may be assessed for each inaccurate or late report submitted according to Section 5.1.A. Reporting . Extenuating circumstances will be reviewed by the Program Manager before any Service Credits are assessed. 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.	

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SCHEDULE B PRICING

Contract No. 23000000166

Operational Consulting Services

- **1.** The Contractor must provide a pricing schedule for the proposed Contract Activities using table 1: Staffing Rates.
- 2. Price 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).
- **3.** Contractor certifies that the prices were arrived at independently, and without consultation, communication, or agreement with any other Contractor.

Contractor not-to-exceed hourly rates must be included in the table below. Pricing will be finalized in accordance with the tier two competitive selection process as a lump sum fixed price based on the hourly rates entered below.

Table 1: Staffing Rates

Staff/Role	Hourly Rate
Managing Director	\$350.00
Senior Manager	\$330.00
Project Manager	\$295.00
Consultant	\$250.00
Analyst	\$195.00

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SCHEDULE C – INSURANCE REQUIREMENTS

Contract No. 23000000166

Operational Consulting Services

- 1. General Requirements. Contractor, at its sole expense, must maintain the insurance coverage as specified herein for the duration of the Term. Minimum limits may be satisfied by any combination of primary liability, umbrella or excess liability, and self-insurance coverage. To the extent damages are covered by any required insurance, Contractor waives all rights against the State for such damages. Failure to maintain required insurance does not limit this waiver.
- **2. Qualification of Insurers.** Except for self-insured coverage, all policies must be written by an insurer with an A.M. Best rating of A- VII or higher unless otherwise approved by DTMB Enterprise Risk Management.
- **3. Primary and Non-Contributory Coverage.** All policies for which the State of Michigan is required to be named as an additional insured must be on a primary and non-contributory basis.
- **4. Claims-Made Coverage.** If any required policies provide claims-made coverage, Contractor must:
 - **a.** Maintain coverage and provide evidence of coverage for at least 3 years after the later of the expiration or termination of the Contract or the completion of all its duties under the Contract;
 - b. Purchase extended reporting coverage for a minimum of 3 years after completion of work if coverage is cancelled or not renewed, and not replaced with another claims-made policy form with a retroactive date prior to the Effective Date of this Contract.

5. Proof of Insurance.

- **a.** Insurance certificates showing evidence of coverage as required herein must be submitted to DTMB-RiskManagement@michigan.gov within 10 days of the contract execution date.
- **b.** Renewal insurance certificates must be provided on annual basis or as otherwise commensurate with the effective dates of coverage for any insurance required herein.
- **c.** Insurance certificates must be in the form of a standard ACORD Insurance Certificate unless otherwise approved by DTMB Enterprise Risk Management.
- **d.** All insurance certificates must clearly identify the Contract Number (e.g., notated under the Description of Operations on an ACORD form).
- **e.** The State may require additional proofs of insurance or solvency, including but not limited to policy declarations, policy endorsements, policy schedules, self-insured certification/authorization, and balance sheets.

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- **f.** In the event any required coverage is cancelled or not renewed, Contractor must provide written notice to DTMB Enterprise Risk Management no later than 5 business days following such cancellation or nonrenewal.
- **6. Subcontractors.** Contractor is responsible for ensuring its subcontractors carry and maintain insurance coverage.
- 7. Limits of Coverage & Specific Endorsements.

Required Limits	Additional Requirements		
Commercial General Liability Insurance			
Minimum Limits: \$1,000,000 Each Occurrence \$1,000,000 Personal & Advertising Injury \$2,000,000 Products/Completed Operations \$2,000,000 General Aggregate	Contractor must have their policy endorsed to add "the State of Michigan, its departments, divisions, agencies, offices, commissions, officers, employees, and agents" as additional insureds using endorsement CG 20 10 11 85, or both CG 20 10 12 19 and CG 20 37 12 19.		
Automobile Liability Insurance			
Minimum Limits: \$1,000,000 Per Accident	Contractor must have their policy: (1) endorsed to add "the State of Michigan, its departments, divisions, agencies, offices, commissions, officers, employees, and agents" as additional insureds; and (2) include Hired and Non-Owned Automobile coverage.		
Workers' Compensation Insurance			
Minimum Limits: Coverage according to applicable laws governing work activities.	Waiver of subrogation, except where waiver is prohibited by law.		
Employers Liability Insurance			
Minimum Limits:			
\$500,000 Each Accident \$500,000 Each Employee by Disease \$500,000 Aggregate Disease			

8. Non-Waiver. This Schedule C 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.

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