



**STATE OF MICHIGAN
Department of State Procurement**

**Statistical Assistance for Independent Redistricting Commission
Request for Proposal # 19000002407**
Solicitation Manager Name: Chad D. Bassett
Direct Phone: 517.241.2646
Email: bassettc@michigan.gov

**This is a Request for Proposal (RFP) for:
Statistical Assistance for Independent Redistricting Commission**

RFP Timeline

Event	Time	Date
RFP issue date	N/A	June 27, 2019
Deadline for bidders to submit questions about this RFP*	3:00 p.m. Eastern Standard Time	July 5, 2019
Pre-Proposal bidder question and answer meeting	11:00 a.m. Eastern Standard Time	July 9, 2019
Anticipated date State will post question and answers from bidder pre-proposal meeting on www.michigan.gov/SIGMAVSS	3:00 p.m. Eastern Standard Time	July 11, 2019
Proposal deadline**	3:00 p.m. Eastern	July 17, 2019
Anticipated contract begin date	N/A	August 1, 2019

*Additional questions may arise as a result of the Pre-Proposal bidder question and answer meeting

**A bidder's proposal received at 3:00:01 p.m. Eastern is late and subject to disqualification.

This RFP is subject to change. Check www.michigan.gov/SIGMAVSS for current information.

Bidder Name:

STATE OF MICHIGAN

PROPOSAL INSTRUCTIONS

- PROPOSAL PREPARATION.** The State recommends reading all RFP materials prior to preparing a proposal, particularly these Proposal Instructions and the Vendor Questions Worksheet. Bidders must follow these Proposal Instructions and provide a complete response to the items indicated in the table below. References and links to websites or external sources may not be used in lieu of providing the information requested in the RFP within the proposal. Include the bidder's company name in the header of all documents submitted with your proposal.

RFP Structure and Documentation

Document	Description	Bidder Response Instructions
Cover Page	Provides RFP title and number, important dates, and contact information for Solicitation Manager	Informational
Proposal Instructions	Provides RFP instructions to bidders	Informational
Confidential Treatment Form	Required verification on whether bidder's proposal contains confidential information	Bidder to complete and submit by proposal deadline
Vendor Questions Worksheet	Questions to bidders on background and experience	Bidder to complete and submit by proposal deadline
Schedule A – Statement of Work	Statement of work	Bidder to complete and submit by proposal deadline
Schedule B – Pricing	Pricing for goods and services sought by the State through this RFP	Bidder to complete and submit by proposal deadline
Contract Terms	Provides legal terms for a contract awarded through this RFP	Deemed accepted by bidder unless information required in Section 8, Evaluation Process is submitted by proposal deadline

- CONTACT INFORMATION FOR THE STATE.** The sole point of contact for the State concerning this RFP is listed on the Cover Page. Contacting any other State personnel, agent, consultant, or representative about this RFP may result in bidder disqualification.
- RESERVED.**
- MODIFICATIONS.** The State may modify this RFP at any time. Modifications will be posted on www.michigan.gov/SIGMAVSS. This is the only method by which the RFP may be modified.
- QUESTIONS.** Bidder questions about this RFP must be emailed to the Solicitation Manager no later than the time and date specified on the Cover Page. Submit questions using the format below; a Microsoft Excel format or similar is suggested.

Q #	Document and Section	Page #	Bidder Question

Prior to posting answers to the received bidder questions a teleconference meeting will be scheduled for the time and date specified on the Cover Page. The purpose of the teleconference meeting is to allow for both bidders and State to fully understand submitted questions that will allow for more complete bid submissions.

Please email the Solicitation Manager for teleconference dial in phone # and passcode information.

In the interest of transparency, only answers to written questions and documented follow up questions from the teleconference meeting will be posted on www.michigan.gov/SIGMAVSS.

Bidder Name:

6. DELIVERY OF PROPOSAL.

Electronic – The bidder must submit its proposal, all attachments, and any modifications or withdrawals electronically through www.michigan.gov/SIGMAVSS. The price proposal should be saved separately from all other proposal documents. The bidder should submit all documents in a modifiable (native) format (examples include, but are not limited to: Microsoft Word or Excel and Google Docs or Sheets). In addition to submitting documents in a modifiable format, the bidder may also submit copies of documents in PDF. Attachment file size is limited to 6 MB per document. Bidder's failure to submit a proposal as required may result in disqualification. The proposal and attachments must be fully uploaded and submitted prior to the proposal deadline. **Do not wait until the last minute to submit a proposal**, as the SIGMA VSS system requires the creation of an account and entry of certain information, in addition to uploading and submitting the materials. The SIGMA VSS system **will not** allow a proposal to be submitted after the proposal deadline identified in the solicitation Closing On/Closing Date fields (Summary view/Detail view), even if a portion of the proposal has been uploaded.

Questions on how to submit information or how to navigate in the SIGMA VSS system can be answered by calling **(517) 373-4111 or (888) 734-9749**. The Solicitation Manager will not provide assistance related to the submittal of the proposal and all attachments on the day of the proposal deadline. Responsibility for a complete submission lies with the bidder.

7. RESERVED.

8. EVALUATION PROCESS. The State will evaluate each proposal based on the following factors:

	Technical Evaluation Criteria	Weight
1.	Product Quality – Schedule A, Statement of Work, Sections 1-4	50
2.	Service Capabilities – Schedule A, Statement of Work, Sections 5	25
3.	Vendor Questions Worksheet	25
	Total	100

Proposals receiving or more technical evaluation points will have pricing evaluated and considered for award.

The State may utilize all bidder information, without regard to a proposal's technical score, to determine fair market value for goods or services sought. The State is not obligated to accept the lowest price proposal. If applicable, the State's evaluation will include consideration of a bidder's qualified disabled veterans/service - disabled veteran owned business(QVD/SDVOB) status under [MCL 18.1261\(8\)](http://MCL 18.1261(8)). Additional information on the SDVOB preference is available at: https://www.michigan.gov/dtmb/0,5552,7-358-82550_85746_48677-412612--,00.html.

The State strongly encourages strict adherence to the Contract Terms. The State reserves the right to deem a bid non-responsive for failure to accept the Contract Terms. Nevertheless, the bidder may submit proposed changes to the Contract Terms in track changes (i.e., visible edits) with an explanation of the bidder's need for each proposed change. Failure to include track changes with an explanation of the bidder's need for the proposed change constitutes the bidder's acceptance of the Contract Terms. General statements, such as that the bidder reserves the right to negotiate the terms and conditions, may be considered non-responsive.

The State may but is not required to conduct an on-site visit to tour and inspect the bidder's facilities; require an oral presentation of the bidder's proposal; conduct interviews, research, reference checks, and background checks; and request additional price concessions at any point during the evaluation process.

9. NOTICE OF DEFICIENCY. The State reserves the right to issue a **Notice of Deficiency** to bidders if the State determines after the proposal deadline that a portion of the RFP was deficient, unclear, or ambiguous. Failure to respond to a **Notice of Deficiency** timely may be cause for disqualification.

10. CLARIFICATION REQUEST. The State reserves the right to issue a **Clarification Request** to a bidder to clarify its proposal if the State determines the proposal is not clear. Failure to respond to a **Clarification Request** timely may be cause for disqualification.

Bidder Name:

- 11. RESERVATIONS.** The State reserves the right to:
- a. Disqualify a bidder for failure to follow these instructions.
 - b. Discontinue the RFP process at any time for any or no reason. The issuance of an RFP, your preparation and submission of a proposal, and the State's subsequent receipt and evaluation of your proposal does not commit the State to award a contract to you or anyone, even if all the requirements in the RFP are met.
 - c. Consider late proposals if: (i) no other proposals are received; (ii) no complete proposals are received; (iii) the State received complete proposals, but the proposals did not meet mandatory minimum requirements or technical criteria; or (iv) the award process fails to result in an award.
 - d. Consider an otherwise disqualified proposal, if no other proposals are received.
 - e. Disqualify a proposal based on: (i) information provided by the bidder in response to this RFP; (2) the bidder's failure to complete registration on www.michigan.gov/SIGMAVSS ; or (3) if it is determined that a bidder purposely or willfully submitted false or misleading information in response to the RFP.
 - f. Consider prior performance with the State in making its award decision.
 - g. Consider overall economic impact to the State when evaluating proposal pricing and in the final award recommendation. This includes but is not limited to: considering principal place of performance, number of Michigan citizens employed or potentially employed, dollars paid to Michigan residents, Michigan capital investments, job creation, tax revenue implications, and economically disadvantaged businesses.
 - h. Consider total-cost-of-ownership factors (e.g., transition and training costs) when evaluating proposal pricing and in the final award recommendation.
 - i. Refuse to award a contract to any bidder that has failed to pay State taxes or has outstanding debt with the State.
 - j. Enter into negotiations with one or more bidders on price, terms, technical requirements, or other deliverables.
 - k. Award multiple, optional-use contracts, or award by Contract Activity.
 - l. Evaluate the proposal outside the scope identified in **Section 8, Evaluation Process**, if the State receives only one proposal.
- 12. AWARD RECOMMENDATION.** The contract will be awarded to the responsive and responsible bidder who offers the best value to the State, as determined by the State. Best value will be determined by the bidder meeting the minimum point threshold and offering the best combination of the factors stated in **Section 8, Evaluation Process**, and price, as demonstrated by the proposal. The State will post a **Notice of Recommendation for Award** on www.michigan.gov/SIGMAVSS .
- 13. DEBRIEF MEETING AND BID PROTEST.** The State will post a **Notice of Recommendation for Award**, which will provide instructions on how to request a debrief meeting
- If you wish to initiate a protest of the award, you must submit your written protest to bassettc@michigan.gov no later than 3:00 p.m. EST, 7 calendar days after posting the Notice of Recommendation for Award, or by 3:00 p.m. EST the next business day if that date falls on a state holiday or weekend. The State reserves the right to adjust this timing and will publish any change on the SIGMA VSS system.
- Additional information about the protest process is available at www.michigan.gov/micontractconnect under the "Programs and Policies" link.
- 14. STATE ADMINISTRATIVE BOARD.** Contracts equal to \$500,000 or greater than require approval by the State Administrative Board. The State Administrative Board's decision is final; however, its approval does not constitute a contract. The award process is not complete until the awarded contractor receives a contract fully executed by all parties.
- 15. GENERAL CONDITIONS.** The State will not be liable for any costs, expenses, or damages incurred by a bidder participating in this solicitation. The bidder agrees that its proposal will be considered an offer to do business with the State in accordance with its proposal, including the Contract Terms, and that its proposal will be irrevocable and binding for a period of 180 calendar days from date of submission. If a contract is awarded to the bidder, the State may, at its option, incorporate any part of the bidder's proposal into a contract. This RFP is not an offer to enter into a contract. This RFP may not provide a complete statement of the State's environment, or contain all matters upon which agreement must be reached. Other than verified trade secrets, proposals submitted via www.michigan.gov/SIGMAVSS are the State's property.

Bidder Name:

16. CONFIDENTIAL TREATMENT FORM AND THE FREEDOM OF INFORMATION ACT. All portions of the bidder's proposal and resulting contract are subject to disclosure as required under Michigan's Freedom of Information Act (FOIA), MCL 15.231, et seq. However, some information may be exempt from disclosure. Under MCL 18.1261(13)(b), records containing "a trade secret as defined under section 2 of the uniform trade secrets act, 1998 PA 448, MCL 445.1902," are exempt from disclosure under FOIA. In addition, "financial or proprietary information" submitted with a bidder's proposal is exempt from disclosure under FOIA. A bidder's failure to comply with this Section is grounds for rejecting a bidder's proposal as non-responsive. As a part of its proposal, each bidder must follow the procedure below.

- a. **SUBMIT A COMPLETED "CONFIDENTIAL TREATMENT FORM" (CT FORM) WITH YOUR BID.** Completion and submission of the CT Form is required regardless of whether the bidder seeks confidential treatment of information. Failure to submit a completed CT Form may be cause for disqualification from the solicitation process.
 - i. Complete and sign Section 1 of the CT Form if the bidder does NOT request confidential treatment of information contained in its proposal; or
 - ii. Complete and sign Section 2 of the CT Form if the bidder requests confidential treatment of certain information. Bidder must also submit a "Public Copy" of the proposal with the trade secret, financial, and proprietary information redacted and clearly labeled as the "Public Copy."
- b. **FOIA REQUESTS.** If a FOIA request is made for a bidder's proposal, the Public Copy may be distributed to the public along with the bidder's CT Form. The CT Form is a public document and serves as an explanation for the redactions to the Public Copy. Do not put any trade secret, financial, or proprietary information in the CT Form. Do not redact the CT Form itself.
- c. **NO ADVICE.** The State will not advise a bidder as to the nature or content of documents entitled to protection from disclosure under FOIA or other laws, as to the interpretation of such laws, or as to the definition of trade secret or financial or proprietary information. Nothing contained in this provision will modify or amend requirements and obligations imposed on the State by FOIA or other applicable law.
- d. **FAILURE TO REQUEST CONFIDENTIAL TREATMENT.** Failure to request material be treated as confidential as specified herein relieves the State, its agencies, and personnel from any responsibility for maintaining material in confidence.
- e. Bids containing a request to maintain an entire proposal as confidential may be rejected as non-responsive. Bidders may not request confidential treatment with respect to resumes, pricing, and marketing materials. The State reserves the right to determine whether material designated as exempt by a bidder falls under MCL 18.1261 or other applicable FOIA exemptions. If a FOIA request is made for materials that the bidder has identified as trade secret, financial, or proprietary information, the State has the final authority to determine whether the materials are exempt from disclosure under FOIA.
- f. Bidder forever releases the State, its departments, subdivisions, officers, and employees from all claims, rights, actions, demands, damages, liabilities, expenses and fees, which arise out of or relate to the disclosure of all or a portion of bidder's proposal submitted under this RFP. Bidder must defend, indemnify and hold the State, its departments, subdivisions, officers, and employees harmless, without limitation, from and against 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 any FOIA request, including potential litigation and appeals, related to the portion of bidder's proposal submitted under this RFP that bidder has identified as a trade secret, or financial or proprietary information. The State will notify bidder in writing if indemnification

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is sought. 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, or any portion thereof, if the State deems necessary. Bidder will not, without the State's written consent (not to be unreasonably withheld), settle, compromise, or consent to the entry of any judgment in or otherwise seek to terminate any claim, action, or proceeding. If a State employee, official, or law is involved or challenged, the State may control the defense of that portion of the claim. Any litigation activity on behalf of the State, or any of its subdivisions under this Section, must be coordinated with the Department of Attorney General. An attorney designated to represent the State may not do so until approved by the Michigan Attorney General and appointed as a Special Assistant Attorney General.

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STATE OF MICHIGAN

CONFIDENTIAL TREATMENT FORM (CT FORM)

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INSTRUCTIONS. Complete either Section 1 or Section 2 of this CT Form and sign where indicated. This CT Form must be signed by the individual who signed the bidder's proposal. A completed CT Form must be submitted with your proposal, regardless of whether your proposal contains confidential information. **Failure to submit a completed CT Form with your bid is grounds for rejecting the proposal as non-responsive.** See Section Error! Reference source not found. of the Proposal Instructions for additional information.

Section 1. Confidential Treatment Is Not Requested

This section must be completed, signed, and submitted with the proposal if bidder does **not** request confidential treatment of any material contained in the proposal.

By signing below, the bidder affirms that confidential treatment of material contained in the proposal is not requested.

RFP Number

RFP Title

Signature

Date

[Printed Name]
[Title]
[Company]

Section 2. Confidential Treatment Is Requested

The section must be completed, signed, and submitted with the proposal if bidder requests confidential treatment of any material contained in the proposal. Submission of a completed CT Form is required to request confidential treatment.

Provide the information in the table below. Bidder may add rows or additional pages using the same format shown in the table. Bidder must specifically identify the information to be protected as confidential and state the reasons why protection is necessary. The CT Form will not be considered fully complete unless, for each confidentiality request, the bidder: (1) identifies whether the material is a trade secret (TS), financial information (FI), or proprietary information (PI); (2) explains the specific legal grounds that support treatment of the material as TS, FI, or PI; and (3) provides the contact information for the person at bidder's organization authorized to respond to inquiries by the State concerning the material. Bidders must not simply cite to an applicable act or case name; rather, bidders must provide a complete justification as to how the material falls within the scope of an applicable act or relevant case law.

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CONFIDENTIAL TREATMENT FORM (CT FORM)

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RFP page #, paragraph #, and section #	State whether the material is a trade secret (TS), financial information (FI), or proprietary information (PI)	Explain the specific grounds in State or other applicable law which supports treatment of the material as TS, FI, or PI. Do not simply cite to the applicable act. Provide a complete justification as to how the material falls within the scope of the applicable act or relevant case law.	Provide the bidder contact information

By signing below, the bidder affirms that confidential treatment of material contained in its proposal is requested and has attached to this form a redacted "Public Copy" of the bidder's proposal.

RFP Number

RFP Title

Signature

Date

[Printed Name]
[Title]
[Company]

Bidder Name:

STATE OF MICHIGAN

VENDOR QUESTIONS WORKSHEET

Provide a detailed response to each question. "You" and "company" refers to the bidder.

Information Sought	Bidder Response
1. Contact Information	
Bidder's sole contact person during the RFP process. Include name, title, address, email, and phone number.	
Person authorized to receive and sign a resulting contract. Include name, title, address, email, phone number and vendor customer code in SIGMA VSS.	
2. Company Background Information	
Legal business name and address. Include business entity designation, e.g., sole proprietor, Inc., LLC, or LLP.	
What state was the company formed in?	
Phone number	
Website address	
Number of years in business and number of employees	
Legal business name and address of parent company, if any	
Has there been a recent change in organizational structure (e.g., management team) or control (e.g., merger or acquisition) of your company? If the answer is yes: (a) explain why the change occurred and (b) how this change has affected your company.	
Discuss your company's history. Has growth been organic, through mergers and acquisitions, or both?	
Has bidder ever been debarred, suspended, or disqualified from bidding or contracting with any entity, including the State of Michigan? If yes, provide the date, the entity, and details about the situation.	
Has your company been a party to litigation against the State of Michigan? If the answer is yes, then state the date of initial filing, case name and court number, and jurisdiction.	
Within the last 5 years, has your company or any of its related business entities defaulted on a contract or had a contract terminated for cause? If yes, provide the date, contracting entity, type of contract, and details about the termination or default.	
State your gross annual sales for each of the last 5 years. If receiving a contract under this RFP will increase your gross revenue by more than 25% from last year's sales, explain how the company will scale-up to manage this increase.	
Describe partnerships and strategic relationships you think will bring significant value to the State.	
State the physical address of the place of business that would have primary responsibility for this account if bidder is awarded a contract under this RFP.	
3. Qualified Disabled Veteran/Service Disabled Veteran-Owned Business Program	
Under MCL 18.1261 , a "qualified disabled veteran" means a business entity that is 51% or more owned by 1	Enter YES or NO.

Bidder Name:

<p>or more veterans with a service-connected disability. A "service-connected disability" means a disability incurred or aggravated in the line of duty in the active military, naval, or air service as described in 38 USC 101(16). Are you a qualified disabled veteran?</p>	
<p>To demonstrate qualification as a qualified disabled veteran, you must provide: (a) Proof of service and conditions of discharge (DD214 or equivalent); (b) Proof of service-connected disability (DD214 if the disability was documented at discharge or Veterans Administration Rating Decision Letter or equivalent if the disability was documented after discharge); and (c) Legal documents setting forth the ownership of the business entity. In lieu of the documentation identified above, you may provide proof of certification by the National Veterans Business Development Council.</p>	<p>Enter the names of documents submitted with your proposal to demonstrate status as a qualified disabled veteran.</p>
<p>4. Participation in RFP Development or Evaluation</p>	
<p>Did your company, an employee, agent, or representative of your company, or any affiliated entity participate in developing any component of this solicitation? For purposes of this question, business concerns, organizations, or individuals are affiliates of each other if, directly or indirectly: (1) either one controls or has power to control the other or (2) a third party controls or has the power to control both. Indicia of control include, but are not limited to, interlocking management or ownership, identity of interests among family members, shared facilities or equipment, and common use of employees.</p>	<p>If you entered "YES", you are not eligible for contract award or to work as a subcontractor for the awarded vendor.</p>
<p>If you are awarded a contract under this solicitation, in order to provide the goods or services required under a resulting contract, do you intend to partner or subcontract with a person or entity that assisted in the development of this solicitation?</p>	<p>If you entered "YES," you are not eligible for contract award. An awarded vendor may not partner or subcontract with anyone to provide goods and services required under a resulting contract if that subcontractor or partner assisted in the development of this solicitation.</p>
<p>Will your company, or an employee, agent, or representative of your company, participate in the evaluation of the proposals received in response to this RFP?</p>	<p>If you entered "YES", you are not eligible for contract award or to work as a subcontractor for the awarded vendor.</p>
<p>5. State of Michigan Experience and Prior Experience</p>	
<p>Does your company have experience working with the State of Michigan? If so, please provide a list (including the contract number) of the contracts you hold or have held with the State for the last 10 years.</p>	
<p>Describe at least 3 relevant experiences from the last 5 years supporting your ability to successfully manage a contract of similar size and scope for the work described in this RFP.</p>	
<p>Experience 1</p>	
<p>Company name Contact name Contact role at time of project Contact phone Contact email</p>	
<p>City State Zip</p>	
<p>1. Project name and description of the scope of the</p>	

Bidder Name:

project 2. What role did your company play? 3. How is this project experience relevant to the subject of this RFP?	
Dollar value	
Start and end date (mm/yy – mm/yy)	
Status (completed, live, other – specify phase)	
Results obtained	
Experience 2	
Company name Contact name Contact role at time of project Contact phone Contact email	
City State Zip	
1. Project name and description of the scope of the project 2. What role did your company play? 3. How is this project experience relevant to the subject of this RFP?	
Dollar value	
Start and end date (mm/yy – mm/yy)	
Status (completed, live, other – specify phase)	
Results obtained	
Experience 3	
Company name Contact name Contact role at time of project Contact phone Contact email	
City State Zip	
1. Project name and description of the scope of the project 2. What role did your company play? 3. How is this project experience relevant to the subject of this RFP?	
Dollar value	
Start and end date (mm/yy – mm/yy)	
Status (completed, live, other – specify phase)	
Results obtained	
6. Standard Contract Terms	
Bidder must affirm agreement with the attached Contract Terms. If not in agreement, written exceptions in accordance with Section 8 Evaluation Process must be provided with Bidder's proposal.	
7. Other	
Abusive Labor Practices. The Contractor certifies that it will not furnish any Deliverable that was produced fully or partially by forced labor, forced or indentured child labor, or indentured servitude.	Enter YES or NO.
Certification of Michigan Business- Public Act 431 of 1984, Sec. 268. I certify that the company has, pursuant to the provisions of Sec 268 of Public Act 431 of 1984, filed a Michigan Business Tax Corporate Income Tax Return. I certify that the company has, pursuant to the provisions of Sec 268 of Public Act 431 of 1984, filed a	Enter YES or NO.

Bidder Name:

Michigan Income Tax return showing income generated in, or attributed to the State of Michigan. I certify that the company has, pursuant to the provisions of Sec 268 of Public Act 431 of 1984, withheld Michigan Income Tax from compensation paid to the company's owners and remitted the tax to the Michigan Department of Treasury.	
Iran Linked Business- Public Act 517 of 2012. I certify that the Company is not an Iran-Linked business as defined by Public Act 517 of 2012.	Enter YES or NO.
Clean Corporate Citizen. I certify that the Company is a Clean Corporate Citizen as defined by the Environmental Protection Act, 1994 PA 451.	Enter YES or NO.
Convict Labor. The Contractor certifies that if using convict labor, it is complying with all applicable state and federal laws and policies.	Enter YES or NO.
SOM Debt/Tax Payment. All SOM tax/debts. I certify that all applicable State of Michigan taxes are paid, and that no outstanding debt is owed to the State of Michigan.	Enter YES or NO.
Authorization to Verify Information provided by Vendor. I authorize the State to verify that all information provided in this registration, in bidding and contracting documents, and any attachments or supplement documents and processes are accurate.	Enter YES or NO.

Bidder Name:

STATE OF MICHIGAN

Request for Proposal # 190000002407
Statistical Assistance for Independent Redistricting Commission

SCHEDULE A STATEMENT OF WORK CONTRACT ACTIVITIES

This schedule identifies the anticipated requirements of any Contract resulting from this RFP. The term “Contractor” in this document refers to a bidder responding to this RFP.

The Contractor must respond to each requirement or question and explain how it will fulfill each requirement. Attach any supplemental information and appropriately reference within your response.

BACKGROUND

In November 2018 Michigan became the second state in the country to adopt a citizen-led redistricting process that will include the random selection of citizens from throughout the state. Under the Michigan model, the Secretary of State administers an application process whereby any eligible registered voter can apply to be one of thirteen citizens responsible for drawing U.S. Congressional and state legislature district lines in the state. These thirteen commissioners are randomly selected through a multi-step process prescribed in the constitution and once formed, the Independent Citizens Redistricting Commission will host town halls, gather public input throughout the mapping process, and will select the final maps in November of 2021.

The Department of State is responsible for administering the random selection process. Some of the constitutional requirements for the selection process require statistical expertise and independent assistance to complete. To that end, the Department of State is seeking outside help to develop random selection methods and transparency measures to fulfill the requirements of the Michigan constitution.

SCOPE

The Department of State is seeking expert assistance in addressing two specific constitutional requirements:

1. Randomly select at least 10,000 Michigan registered voters to whom mailed applications shall be sent until 100 are submitted and returned.
2. Use “accepted statistical weighting methods” to ensure that a pool of randomly-drawn, semi-finalist applicants “mirrors, as closely as possible, the geographic and demographic makeup of the state.”

We are looking for experienced statistical experts, who are well-respected, independent, and trusted within their field. We are seeking a contractor or firm (hereafter, “firm”) with integrity and nonpartisan reputation. The firm entrusted with this responsibility will be expected to develop and validate the statistical processes utilized to comply with both constitutional requirements outlined above. They will be expected to appear in writing and/or in person to defend methods, if challenged.

Starting in summer 2019, the selected firm will propose a work plan and statistical process map for achieving both items #1 and #2. Item #1’s mailing of applications to an initial 10,000 randomly selected registered voters must be completed prior to January 1, 2020 (with the possibility of additional applications to be sent after). Throughout 2019 and into 2020, the firm will collaborate with the Department of State to fine-tune and prepare the process for the work in item #2 creating the application pool, which will happen after June 1, 2020 and conclude before June 30, 2020.

REQUIREMENTS

1. General Requirements

1.1 Key Deliverable One

For the first constitutional requirement outlined in the scope above (the random application mailing):

- Estimation of how many total applications will need to be mailed in order to receive the required number of complete applications before June 1, 2020.

Bidder Name:

- Work plan for how to randomly draw these registered voters from the Department of State database of registered voters (QVF) and how to demonstrate to the public that those selected were truly selected at random.

Bidder Response:

1.2 Key Deliverable Two

For the second constitutional requirement outlined in the scope above (random, statistically-weighted selection of semi-finalists):

- Proposal for the statistical method utilized to do the random, statistically-weighted draw
- Work plan for how to actually administer the random draw
- Proposal for how to explain the statistical method used to the public
- Proposal for how to make the actual administration of the drawing as transparent and accessible to the public as possible
- Proposal for how to handle non-response follow-up (i.e. if methods do not yield enough applicants)

Bidder Response:

2. Services Levels

2.1. Time Frames

Time is of the essence. All Contract Activities must be undertaken with a sense of urgency and delivered within the earliest possible timeframe.

Bidder Response:

3. Acceptance

3.1. Acceptance, Inspection and Testing

The State will use the criteria indicated in Section 16 of the Standard Contract Terms to determine acceptance of the Contract Activities

Bidder Acknowledgement:

4. Staffing

4.1. Contractor Representative

The Contractor must appoint a Project Manager and other individuals as necessary, specifically assigned to State of Michigan accounts, that will respond to State inquiries regarding the Contract Activities, answering questions related to ordering and delivery, etc. (the "Contractor Representative").

The Contractor must notify the Contract Administrator at least 7 calendar days before removing or assigning a new Contractor Representative.

Bidder Response:

Bidder Name:

4.2. 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 project.

Bidder Response:

4.5. Key Personnel

The Contractor must appoint designated individuals who will be directly responsible for the operations of the Contract ("Key Personnel"). Key Personnel must be specifically assigned to the State account, and be knowledgeable on the contractual requirements.

The State has the right to recommend and approve in writing the initial assignment, as well as any proposed reassignment or replacement, of any Key Personnel. Before assigning an individual to any Key Personnel position, Contractor will notify the State of the proposed assignment, introduce the individual to the State's Project Manager, and provide the State with a resume and any other information about the individual reasonably requested by the State. The State reserves the right to interview the individual before granting written approval. In the event the State finds a proposed individual unacceptable, the State will provide a written explanation including reasonable detail outlining the reasons for the rejection. The State may require a 30-calendar day training period for replacement personnel.

Contractor will not remove any Key Personnel from their assigned roles on this Contract without the prior written consent of the State. The Contractor's removal of Key Personnel without the prior written consent of the State is an unauthorized removal ("Unauthorized Removal"). An Unauthorized Removal does not include replacing Key Personnel for reasons beyond the reasonable control of Contractor, including illness, disability, leave of absence, personal emergency circumstances, resignation, or for cause termination of the Key Personnel's employment. Any Unauthorized Removal may be considered by the State to be a material breach of this Contract, in respect of which the State may elect to terminate this Contract for cause under Termination for Cause in the Standard Terms. It is further acknowledged that an Unauthorized Removal will interfere with the timely and proper completion of this Contract, to the loss and damage of the State, and that it would be impracticable and extremely difficult to fix the actual damage sustained by the State as a result of any Unauthorized Removal. Therefore, Contractor and the State agree that in the case of any Unauthorized Removal in respect of which the State does not elect to exercise its rights under Termination for Cause, Contractor will issue to the State the corresponding credits set forth below (each, an "Unauthorized Removal Credit"):

(i) For the Unauthorized Removal of any Key Personnel designated in the applicable Statement of Work, the credit amount will be \$1,000.00 per individual if Contractor identifies a replacement approved by the State and assigns the replacement to shadow the Key Personnel who is leaving for a period of at least 30 calendar days before the Key Personnel's removal.

(ii) If Contractor fails to assign a replacement to shadow the removed Key Personnel for at least 30 calendar days, in addition to the \$5,000.00 credit specified above, Contractor will credit the State \$166.67 per calendar day for each day of the 30 calendar-day shadow period that the replacement Key Personnel does not shadow the removed Key Personnel, up to \$5,000.00 maximum per individual. The total Unauthorized Removal Credits that may be assessed per Unauthorized Removal and failure to provide 30 calendar days of shadowing will not exceed \$5,000.00 per individual.

Contractor acknowledges and agrees that each of the Unauthorized Removal Credits assessed above: (i) is a reasonable estimate of and compensation for the anticipated or actual harm to the State that may arise from the Unauthorized Removal, which would be impossible or very difficult to accurately estimate; and (ii) may, at the State's option, be credited or set off against any fees or other charges payable to Contractor under this Contract.

The Contractor must identify the Key Personnel, indicate where they will be physically located, describe the functions they will perform, and provide current chronological résumés.

Bidder Response:

Bidder Name:

4.6. Organizational Chart

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

Bidder Response:

4.7. Disclosure of Subcontractors

If the Contractor intends to utilize subcontractors, the Contractor must disclose the following:

The legal business name; address; telephone number; a description of subcontractor's organization and the services it will provide; and information concerning subcontractor's ability to provide the Contract Activities.

The relationship of the subcontractor to the Contractor.

Whether the Contractor has a previous working experience with the subcontractor. If yes, provide the details of that previous relationship.

A complete description of the Contract Activities that will be performed or provided by the subcontractor.

Bidder Response:

4.8. Security

The Contractor may be subject the following security procedures: for example, background checks signing security forms, attending security training etc.

Bidder Acknowledgement:

5. Project Management

5.1. Project Plan

Propose a project plan. Project plan should identify items such as the required contact personnel; the date the project plan must be submitted to the State; project management process; project breakdown identifying sub-projects, tasks, and resources required; expected frequency and mechanisms for updates/progress reviews; process for addressing issues/changes; and individuals responsible for receiving/reacting to the requested information.

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

Bidder Response:

5.2. Meetings

The Contractor must attend the following meetings:

Kick-off meeting within 15 calendar days of the Effective Date

The State may request other meetings, as it deems appropriate.

Bidder Response:

Bidder Name:

5.3. Reporting

The Contractor must submit, to Michael Brady and Sally, the following written reports: The Contractor must explain its reporting capabilities and any reporting that is included in its proposal.

Bidder Response:

6. Pricing

6.1. Price Term

Pricing is firm for the entire length of the Contract.

Bidder Acknowledgement:

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.

Bidder Acknowledgement:

7. Ordering

7.1. Authorizing Document

The appropriate authorizing document for the Contract will be delivery order released from the master agreement.

Bidder Acknowledgement:

8. Invoice and Payment

8.1. Invoice Requirements

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

Bidder Acknowledgement:

8.2. Payment Methods

The State will make payment for Contract Activities via EFT

Bidder Acknowledgement:

Bidder Name:

9. Liquidated Damages

Late or improper completion of the Contract Activities will cause loss and damage to the State and it would be impracticable and extremely difficult to fix the actual damage sustained by the State. Therefore, if there is late or improper completion of the Contract Activities the State is entitled to collect liquidated damages in the amount of \$5,000 and an additional \$100 per day for each day Contractor fails to remedy the late or improper completion of the Work.

Bidder Acknowledgement:

Bidder Name:

STATE OF MICHIGAN

Request for Proposal # 190000002407
Statistical Assistance for Independent Redistricting Commission

SCHEDULE B PRICING

1. The Contractor must provide a pricing schedule for the proposed Contract Activities using the Key Deliverables indicate in Sec 1 of Schedule A. The pricing schedule should be submitted in a modifiable format (e.g., Microsoft Word or Excel); however, you may also submit an additional pricing schedule in a non-modifiable format (e.g., PDF). Failure to complete the pricing schedule as requested may result in disqualification of your proposal.
2. Price proposals must include all costs, including but not limited to, any one-time or set-up charges, fees, and potential costs that Contractor may charge the State (e.g., shipping and handling, per piece pricing, and palletizing).
3. The Contractor is encouraged to offer quick payment terms. The number of days must not include processing time for payment to be received by the Contractor's financial institution.

Quick payment terms: _____ % discount off invoice if paid within _____ days after receipt of invoice.
4. By submitting its proposal, the Contractor certifies that the prices were arrived at independently, and without consultation, communication, or agreement with any other Contractor.

Deliverable:	Cost:
Key Deliverable 1: Random application mailing	
Key Deliverable 2: Random, statistically-weighted selection of semi-finalists	
Total:	

Bidder Name:



STATE OF MICHIGAN

STANDARD CONTRACT TERMS

This STANDARD CONTRACT (“Contract”) is agreed to between the State of Michigan (the “State”) and [Insert Company Name] (“Contractor”), a [Insert State & Entity Status, e.g., a Michigan corporation or a Texas limited liability company]. This Contract is effective on 08/01/2019 (“Effective Date”), and unless terminated, expires on 7/30/2020.

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

The parties agree as follows:

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

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

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

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

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

<p>If to State:</p> <p>Chad Bassett 430 W. Allegan Street Lansing, MI 48918 bassettc@michigan.gov 517.241.2646</p>	<p>If to Contractor:</p> <p>[Name] [Street Address] [City, State, Zip] [Email] [Phone]</p>
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Bidder Name:

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

State: Chad Bassett 430 W. Allegan Street Lansing, MI 48918 bassettc@michigan.gov 517.241.2646	Contractor: [Name] [Street Address] [City, State, Zip] [Email] [Phone]
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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: Sally Marsh 430 W. Allegan Street Lansing, MI 48918 marshs3@michigan.gov 517.599.5347	Contractor: [Name] [Street Address] [City, State, Zip] [Email] [Phone]
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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) if, in the opinion of the State, it will ensure performance of the Contract.
6. **Insurance Requirements.** Contractor must maintain the insurances identified below and is responsible for all deductibles. All required insurance must: (a) protect the State from claims that may arise out of, are alleged to arise out of, or result from Contractor's or a subcontractor's performance; (b) be primary and non-contributing to any comparable liability insurance (including self-insurance) carried by the State; and (c) be provided by a company with an A.M. Best rating of "A-" or better, and a financial size of VII or better.

Required Limits	Additional Requirements
Commercial General Liability Insurance	
<u>Minimum Limits:</u> \$1,000,000 Each Occurrence Limit \$1,000,000 Personal & Advertising Injury Limit \$2,000,000 General Aggregate Limit \$2,000,000 Products/Completed Operations <u>Deductible Maximum:</u> \$50,000 Each Occurrence	Contractor must have their policy endorsed to add “the State of Michigan, its departments, divisions, agencies, offices, commissions, officers, employees, and agents” as additional insureds using endorsement CG 20 10 11 85, or both CG 2010 07 04 and CG 2037 07 04.
Automobile Liability Insurance	
<u>Minimum Limits:</u> \$1,000,000 Per Accident	Contractor must have their policy: (1) endorsed to add “the State of Michigan, its departments, divisions, agencies, offices, commissions, officers, employees, and agents” as additional insureds; and (2) include Hired and Non-Owned Automobile coverage.
Workers' Compensation Insurance	
<u>Minimum Limits:</u> Coverage according to applicable laws governing work activities.	Waiver of subrogation, except where waiver is prohibited by law.
Employers Liability Insurance	
<u>Minimum Limits:</u> \$500,000 Each Accident	

Bidder Name:

\$500,000 Each Employee by Disease \$500,000 Aggregate Disease.	
Professional Liability (Errors and Omissions) Insurance	
<u>Minimum Limits:</u> \$3,000,000 Each Occurrence \$3,000,000 Annual Aggregate	
<u>Deductible Maximum:</u> \$50,000 Per Loss	

If any of the required policies provide **claims-made** coverage, the Contractor must: (a) provide coverage with a retroactive date before the effective date of the contract or the beginning of Contract Activities; (b) maintain coverage and provide evidence of coverage for at least three (3) years after completion of the Contract Activities; and (c) if coverage is cancelled or not renewed, and not replaced with another claims-made policy form with a retroactive date prior to the contract effective date, Contractor must purchase extended reporting coverage for a minimum of three (3) years after completion of work.

Contractor must: (a) provide insurance certificates to the Contract Administrator, containing the agreement or delivery order number, at Contract formation and within 20 calendar days of the expiration date of the applicable policies; (b) require that subcontractors maintain the required insurances contained in this Section; (c) notify the Contract Administrator within 5 business days if any insurance is cancelled; and (d) waive all rights against the State for damages covered by insurance. Failure to maintain the required insurance does not limit this waiver. This Section is not intended to and is not to be construed in any manner as waiving, restricting or limiting the liability of either party for any obligations under this Contract (including any provisions hereof requiring Contractor to indemnify, defend and hold harmless the State).

7. **Reserved.**
8. **Reserved.**
9. **Independent Contractor.** Contractor is an independent contractor and assumes all rights, obligations and liabilities set forth in this Contract. Contractor, its employees, and agents will not be considered employees of the State. No partnership or joint venture relationship is created by virtue of this Contract. Contractor, and not the State, is responsible for the payment of wages, benefits and taxes of Contractor's employees and any subcontractors. Prior performance does not modify Contractor's status as an independent contractor.
10. **Subcontracting.** Contractor may not delegate any of its obligations under the Contract without the prior written approval of the State. Contractor must notify the State at least 90 calendar days before the proposed delegation and provide the State any information it requests to determine whether the delegation is in its best interest. If approved, Contractor must: (a) be the sole point of contact regarding all contractual matters, including payment and charges for all Contract Activities; (b) make all payments to the subcontractor; and (c) incorporate the terms and conditions contained in this Contract in any subcontract with a subcontractor. Contractor remains responsible for the completion of the Contract Activities, compliance with the terms of this Contract, and the acts and omissions of the subcontractor. The State, in its sole discretion, may require the replacement of any subcontractor.
11. **Staffing.** The State's Contract Administrator may require Contractor to remove or reassign personnel by providing a notice to Contractor.
12. **Background Checks.** Pursuant to Michigan law, all agencies subject to IRS Pub. 1075 are required to ask the Michigan State Police to perform fingerprint background checks on all employees, including Contractor and Subcontractor employees, who may have access to any database of information maintained by the federal government that contains confidential or personal information, including, but not limited to, federal tax information. Further, pursuant to Michigan law, any agency described above is prohibited from providing Contractors or Subcontractors with the result of such background check. For more information, please see Michigan Public Act 427 of 2018. Upon request, 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.

Bidder Name:

13. **Assignment.** Contractor may not assign this Contract to any other party without the prior approval of the State. Upon notice to Contractor, the State, in its sole discretion, may assign in whole or in part, its rights or responsibilities under this Contract to any other party. If the State determines that a novation of the Contract to a third party is necessary, Contractor will agree to the novation and provide all necessary documentation and signatures.
14. **Change of Control.** Contractor will notify within 30 days of any public announcement or otherwise once legally permitted to do so, the State of a change in Contractor's organizational structure or ownership. For purposes of this Contract, a change in control means any of the following: (a) a sale of more than 50% of Contractor's stock; (b) a sale of substantially all of Contractor's assets; (c) a change in a majority of Contractor's board members; (d) consummation of a merger or consolidation of Contractor with any other entity; (e) a change in ownership through a transaction or series of transactions; (f) or the board (or the stockholders) approves a plan of complete liquidation. A change of control does not include any consolidation or merger effected exclusively to change the domicile of Contractor, or any transaction or series of transactions principally for bona fide equity financing purposes.

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

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

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

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

17. **Reserved.**
18. **Reserved.**
19. **Reserved.**
20. **Terms of Payment.** Invoices must conform to the requirements communicated from time-to-time by the State. All undisputed amounts are payable within 45 days of the State's receipt. Contractor may only charge for Contract Activities performed as specified in Schedule A. Invoices must include an itemized statement of all charges. The State is exempt from State sales tax for direct purchases and may be exempt from federal excise tax, if Services purchased under this Agreement are for the State's exclusive use. All prices are exclusive of taxes, and Contractor is responsible for all sales, use and excise taxes, and any other similar taxes, duties and charges of any kind imposed by any federal, state, or local governmental entity on any amounts payable by the State under this Contract.

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

Bidder Name:

previously filed in writing on a timely basis and still disputed.

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

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

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

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

24. **Termination for Convenience.** The State may immediately terminate this Contract in whole or in part without penalty and for any reason, including but not limited to, appropriation or budget shortfalls. The termination notice will specify whether Contractor must: (a) cease performance of the Contract Activities immediately, or (b) continue to perform the Contract Activities in accordance with Section 25, Transition Responsibilities. If the State terminates this Contract for convenience, the State will pay all reasonable costs, as determined by the State, for State approved Transition Responsibilities.
25. **Transition Responsibilities.** Upon termination or expiration of this Contract for any reason, Contractor must, for a period of time specified by the State (not to exceed 90 calendar days), provide all reasonable transition assistance requested by the State, to allow for the expired or terminated portion of the Contract Activities to continue without interruption or adverse effect, and to facilitate the orderly transfer of such Contract Activities to the State or its designees. Such transition assistance may include, but is not limited to: (a) continuing to perform the Contract Activities at the established Contract rates; (b) taking all reasonable and necessary measures to transition performance of the work, including all applicable Contract Activities, training, equipment, software, leases, reports and other documentation, to the State or the State's designee; (c) taking all necessary and appropriate steps, or such other action as the State may direct, to preserve, maintain, protect, or return to the State all materials, data, property, and confidential information provided directly or indirectly to Contractor by any entity, agent, vendor, or employee of the State; (d) transferring title in and delivering to the State, at the State's discretion, all completed or partially completed deliverables prepared under this Contract as of the Contract termination date; and (e) preparing an accurate accounting from which the State and Contractor may reconcile all outstanding accounts (collectively, "**Transition Responsibilities**"). This Contract will automatically be extended through the end of the transition period.
26. **General Indemnification.** Contractor must defend, indemnify and hold the State, its departments, divisions, agencies, offices, commissions, officers, and employees harmless, without limitation, from and against any and

Bidder Name:

all actions, claims, losses, liabilities, damages, costs, attorney fees, and expenses (including those required to establish the right to indemnification), arising out of or relating to: (a) any breach by Contractor (or any of Contractor's employees, agents, subcontractors, or by anyone else for whose acts any of them may be liable) of any of the promises, agreements, representations, warranties, or insurance requirements contained in this Contract; (b) any infringement, misappropriation, or other violation of any intellectual property right or other right of any third party; (c) any bodily injury, death, or damage to real or tangible personal property occurring wholly or in part due to action or inaction by Contractor (or any of Contractor's employees, agents, subcontractors, or by anyone else for whose acts any of them may be liable); and (d) any acts or omissions of Contractor (or any of Contractor's employees, agents, subcontractors, or by anyone else for whose acts any of them may be liable).

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

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

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

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

Bidder Name:

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

- b. Contractor Use of State Data. Contractor is provided a limited license to State Data for the sole and exclusive purpose of providing the Contract Activities, including a license to collect, process, store, generate, and display State Data only to the extent necessary in the provision of the Contract Activities. Contractor must: (a) keep and maintain State Data in strict confidence, using such degree of care as is appropriate and consistent with its obligations as further described in this Contract and applicable law to avoid unauthorized access, use, disclosure, or loss; (b) use and disclose State Data solely and exclusively for the purpose of providing the Contract Activities, such use and disclosure being in accordance with this Contract, any applicable Statement of Work, and applicable law; and (c) not use, sell, rent, transfer, distribute, or otherwise disclose or make available State Data for Contractor's own purposes or for the benefit of anyone other than the State without the State's prior written consent. This Section survives the termination of this Contract.
- c. Extraction of State Data. Contractor must, within five (5) business days of the State's request, provide the State, without charge and without any conditions or contingencies whatsoever (including but not limited to the payment of any fees due to Contractor), an extract of the State Data in the format specified by the State.
- d. Backup and Recovery of State Data. Unless otherwise specified in Schedule A, Contractor is responsible for maintaining a backup of State Data and for an orderly and timely recovery of such data. Unless otherwise described in Schedule A, Contractor must maintain a contemporaneous backup of State Data that can be recovered within two (2) hours at any point in time.
- e. Loss or Compromise of Data. In the event of any act, error or omission, negligence, misconduct, or breach on the part of Contractor that compromises or is suspected to compromise the security, confidentiality, or integrity of State Data or the physical, technical, administrative, or organizational safeguards put in place by Contractor that relate to the protection of the security, confidentiality, or integrity of State Data, Contractor must, as applicable: (a) notify the State as soon as practicable but no later than twenty-four (24) hours of becoming aware of such occurrence; (b) cooperate with the State in investigating the occurrence, including making available all relevant records, logs, files, data reporting, and other materials required to comply with applicable law or as otherwise required by the State; (c) in the case of PII or PHI, at the State's sole election, (i) with approval and assistance from the State, notify the affected individuals who comprise the PII or PHI as soon as practicable but no later than is required to comply with applicable law, or, in the absence of any legally required notification period, within five (5) calendar days of the occurrence; or (ii) reimburse the State for any costs in notifying the affected individuals; (d) in the case of PII, provide third-party credit and identity monitoring services to each of the affected individuals who comprise the PII for the period required to comply with applicable law, or, in the absence of any legally required monitoring services, for no less than twenty-four (24) months following the date of notification to such individuals; (e) perform or take any other actions required to comply with applicable law as a result of the occurrence; (f) pay for any costs associated with the occurrence, including but not limited to any costs incurred by the State in investigating and resolving the occurrence, including reasonable attorney's fees associated with such investigation and resolution; (g) without limiting Contractor's obligations of indemnification as further described in this Contract, indemnify, defend, and hold harmless the State for any and all claims, including reasonable attorneys' fees, costs, and incidental expenses, which may be suffered by, accrued against, charged to, or recoverable from the State in connection with the occurrence; (h) be responsible for recreating lost State Data in the manner and on the schedule set by the State without charge to the State; and (i) provide to the State a detailed plan within ten (10) calendar days of the occurrence describing the measures Contractor will undertake to prevent a future occurrence. Notification to affected individuals, as described above, must comply with applicable law, be written in plain language, not be tangentially used for any solicitation purposes, and contain, at a minimum: name and contact information of Contractor's representative; a description of the nature of the loss; a list of the types of data involved; the known or approximate date of the loss; how such loss may affect the affected individual; what steps Contractor has taken to protect the affected individual; what steps the affected individual can take to protect himself or herself; contact information for major credit card reporting agencies; and, information regarding the credit and identity monitoring services to be provided by Contractor. The State will have the option to review and approve any notification sent to affected individuals prior to its

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delivery. Notification to any other party, including but not limited to public media outlets, must be reviewed and approved by the State in writing prior to its dissemination. The parties agree that any damages relating to a breach of this **Section 31** are to be considered direct damages and not consequential damages. This section survives termination or expiration of this Contract.

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

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

- a. Meaning of Confidential Information. For the purposes of this Contract, the term "**Confidential Information**" means all information and documentation of a party that: (a) has been marked "confidential" or with words of similar meaning, at the time of disclosure by such party; (b) if disclosed orally or not marked "confidential" or with words of similar meaning, was subsequently summarized in writing by the disclosing party and marked "confidential" or with words of similar meaning; and, (c) should reasonably be recognized as confidential information of the disclosing party. The term "Confidential Information" does not include any information or documentation that was: (a) subject to disclosure under the Michigan Freedom of Information Act (FOIA); (b) already in the possession of the receiving party without an obligation of confidentiality; (c) developed independently by the receiving party, as demonstrated by the receiving party, without violating the disclosing party's proprietary rights; (d) obtained from a source other than the disclosing party without an obligation of confidentiality; or, (e) publicly available when received, or thereafter became publicly available (other than through any unauthorized disclosure by, through, or on behalf of, the receiving party). For purposes of this Contract, in all cases and for all matters, State Data is deemed to be Confidential Information.
- b. Obligation of Confidentiality. The parties agree to hold all Confidential Information in strict confidence and not to copy, reproduce, sell, transfer, or otherwise dispose of, give or disclose such Confidential Information to third parties other than employees, agents, or subcontractors of a party who have a need to know in connection with this Contract or to use such Confidential Information for any purposes whatsoever other than the performance of this Contract. The parties agree to advise and require their respective employees, agents, and subcontractors of their obligations to keep all Confidential Information confidential. Disclosure to a subcontractor is permissible where: (a) use of a subcontractor is authorized under this Contract; (b) the disclosure is necessary or otherwise naturally occurs in connection with work that is within the subcontractor's responsibilities; and (c) Contractor obligates the subcontractor in a written contract to maintain the State's Confidential Information in confidence. At the State's request, any employee of Contractor or any subcontractor may be required to execute a separate agreement to be bound by the provisions of this Section.
- c. Cooperation to Prevent Disclosure of Confidential Information. Each party must use its best efforts to assist the other party in identifying and preventing any unauthorized use or disclosure of any Confidential Information. Without limiting the foregoing, each party must advise the other party immediately in the event either party learns or has reason to believe that any person who has had access to Confidential Information has violated or intends to violate the terms of this Contract and each party will cooperate with the other party in seeking injunctive or other equitable relief against any such person.
- d. Remedies for Breach of Obligation of Confidentiality. Each party acknowledges that breach of its obligation of confidentiality may give rise to irreparable injury to the other party, which damage may be inadequately compensable in the form of monetary damages. Accordingly, a party may seek and obtain injunctive relief against the breach or threatened breach of the foregoing undertakings, in addition to any other legal remedies which may be available, to include, in the case of the State, at the sole election of the State, the immediate termination, without liability to the State, of this Contract or any Statement of Work corresponding to the breach or threatened breach.
- e. Surrender of Confidential Information upon Termination. Upon termination of this Contract or a Statement of Work, in whole or in part, each party must, within 5 calendar days from the date of termination, return to the other party any and all Confidential Information received from the other party, or created or received by a party on behalf of the other party, which are in such party's possession, custody, or control; provided, however, that Contractor must return State Data to the State following the timeframe and procedure described further in this Contract. Should Contractor or the State determine that the return of any

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Confidential Information is not feasible, such party must destroy the Confidential Information and must certify the same in writing within 5 calendar days from the date of termination to the other party. However, the State's legal ability to destroy Contractor data may be restricted by its retention and disposal schedule, in which case Contractor's Confidential Information will be destroyed after the retention period expires.

33. Data Privacy and Information Security.

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

34. Reserved.

35. Reserved.

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

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

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

37. Warranties and Representations. Contractor represents and warrants: (a) Contractor is the owner or licensee of any Contract Activities that it licenses, sells, or develops and Contractor has the rights necessary to convey title, ownership rights, or licensed use; (b) all Contract Activities are delivered free from any security interest, lien, or encumbrance and will continue in that respect; (c) the Contract Activities will not infringe the patent, trademark, copyright, trade secret, or other proprietary rights of any third party; (d) Contractor must assign or

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otherwise transfer to the State or its designee any manufacturer's warranty for the Contract Activities; (e) the Contract Activities are merchantable and fit for the specific purposes identified in the Contract; (f) the Contract signatory has the authority to enter into this Contract; (g) all information furnished by Contractor in connection with the Contract fairly and accurately represents Contractor's business, properties, finances, and operations as of the dates covered by the information, and Contractor will inform the State of any material adverse changes;(h) all information furnished and representations made in connection with the award of this Contract is true, accurate, and complete, and contains no false statements or omits any fact that would make the information misleading; and that (i) Contractor is neither currently engaged in nor will engage in the boycott of a person based in or doing business with a strategic partner as described in 22 USC 8601 to 8606. A breach of this Section is considered a material breach of this Contract, which entitles the State to terminate this Contract under Section 23, Termination for Cause.

38. **Conflicts and Ethics.** Contractor will uphold high ethical standards and is prohibited from: (a) holding or acquiring an interest that would conflict with this Contract; (b) doing anything that creates an appearance of impropriety with respect to the award or performance of the Contract; (c) attempting to influence or appearing to influence any State employee by the direct or indirect offer of anything of value; or (d) paying or agreeing to pay any person, other than employees and consultants working for Contractor, any consideration contingent upon the award of the Contract. Contractor must immediately notify the State of any violation or potential violation of these standards. This Section applies to Contractor, any parent, affiliate, or subsidiary organization of Contractor, and any subcontractor that performs Contract Activities in connection with this Contract.
39. **Compliance with Laws.** Contractor must comply with all federal, state and local laws, rules and regulations.
40. **Reserved.**
41. **Reserved.**
42. **Nondiscrimination.** Under the Elliott-Larsen Civil Rights Act, 1976 PA 453, MCL 37.2101, *et seq.*, the Persons with Disabilities Civil Rights Act, 1976 PA 220, MCL 37.1101, *et seq.*, and [Executive Directive 2019-09](#), Contractor and its subcontractors agree not to discriminate against an employee or applicant for employment with respect to hire, tenure, terms, conditions, or privileges of employment, or a matter directly or indirectly related to employment, because of race, color, religion, national origin, age, sex (as defined in Executive Directive 2019-09), height, weight, marital status, partisan considerations, any mental or physical disability, or genetic information that is unrelated to the person's ability to perform the duties of a particular job or position. Breach of this covenant is a material breach of this Contract.
43. **Unfair Labor Practice.** Under MCL 423.324, the State may void any Contract with a Contractor or subcontractor who appears on the Unfair Labor Practice register compiled under MCL 423.322.
44. **Governing Law.** This Contract is governed, construed, and enforced in accordance with Michigan law, excluding choice-of-law principles, and all claims relating to or arising out of this Contract are governed by Michigan law, excluding choice-of-law principles. Any dispute arising from this Contract must be resolved in Michigan Court of Claims. Contractor consents to venue in Ingham County, and waives any objections, such as lack of personal jurisdiction or *forum non conveniens*. Contractor must appoint agents in Michigan to receive service of process.
45. **Non-Exclusivity.** Nothing contained in this Contract is intended nor will be construed as creating any requirements contract with Contractor. This Contract does not restrict the State or its agencies from acquiring similar, equal, or like Contract Activities from other sources.
46. **Force Majeure.** Neither party will be in breach of this Contract because of any failure arising from any disaster or acts of god that are beyond their control and without their fault or negligence. Each party will use commercially reasonable efforts to resume performance. Contractor will not be relieved of a breach or delay caused by its subcontractors. If immediate performance is necessary to ensure public health and safety, the State may immediately contract with a third party.
47. **Dispute Resolution.** The parties will endeavor to resolve any Contract dispute in accordance with this provision. The dispute will be referred to the parties' respective Contract Administrators or Program Managers. Such referral must include a description of the issues and all supporting documentation. The parties must submit the dispute to a senior executive if unable to resolve the dispute within 15 business days. The parties will continue performing while a dispute is being resolved, unless the dispute precludes performance. A dispute involving payment does not preclude performance.

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

48. **Media Releases.** News releases (including promotional literature and commercial advertisements) pertaining to the Contract or project to which it relates must not be made without prior written State approval, and then only in accordance with the explicit written instructions of the State.
49. **Website Incorporation.** The State is not bound by any content on Contractor's website unless expressly incorporated directly into this Contract.
50. **Schedules.** All Schedules and Exhibits that are referenced herein and attached hereto are hereby incorporated by reference. The following Schedules are attached hereto and incorporated herein:

Schedule A
Schedule B

Statement of Work
Pricing

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