**NAME & ADDRESS OF VENDOR**

<table>
<thead>
<tr>
<th>Contract Administrator:</th>
<th>TELEPHONE</th>
</tr>
</thead>
</table>

**Non-Selective Vegetation Control for Guardrail -- for various Counties within Michigan Department of Transportation (MDOT) Grand Region-2016 herbicide application season includes Ionia, Montcalm and Allegan Counties**

<table>
<thead>
<tr>
<th>CONTRACT PERIOD: From: April 15, 2016 To: October 31, 2016</th>
</tr>
</thead>
</table>

<table>
<thead>
<tr>
<th>TERMS: This is a 1 year contract with (2) year renewal options.</th>
<th>SHIPMENT</th>
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<tbody>
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<table>
<thead>
<tr>
<th>F.O.B.</th>
<th>SHIPPED FROM</th>
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<tr>
<th>MINIMUM DELIVERY REQUIREMENTS</th>
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<tr>
<th>MISCELLANEOUS INFORMATION:</th>
</tr>
</thead>
</table>

### 1.010 Project Identification

### 1.011 Project Request
This is an RFP for a contract to perform Liquid Chemical Vegetation control around guardrails throughout Allegan, Montcalm and Ionia counties in the Michigan Department of Transportation’s, MDOT, Grand Region.

This is a formal request to prospective Bidders to solicit bids or price quotations. Bidders must submit written proposals according to the instructions contained within this document, discussing how they will meet the specific requirements.

**Pre-Bid Meeting**

There will be a mandatory Pre-Bid meeting on Monday, April 4th at 1 pm at the Grand Rapids Transportation Service Center.

### 1.020 Scope of Work and Deliverables

### 1.021 In Scope
The Contractor shall provide all personnel, equipment, tools, materials, supervision, and other items and services, including traffic control equipment and devices, necessary to perform the services as described in the specifications herein.

The services requested are identified herein and during the hours specified by the Contract Compliance Inspector (CCI). All work locations are provided in attachments of this contract.

The Contract Compliance Inspectors (CCI) representing MDOT will be:
- Tom Kitcey, Grand Region Office- 616 558-8084
- Ken Hildebrand, Grand Rapids TSC- 231 250-6396 (Allegan, Ionia, and Barry Counties)
- Lyn Zuiderveen, Cadillac TSC- 231 590-4533 (Mecosta, Newaygo, Osceola, Lake and Montcalm Counties)
- Dave Brinks, Muskegon TSC- 231 777-7084 (Ottawa, Muskegon, Oceana and Mason Counties)
- Kurt Fritz, Grand Rapids TSC- 616 464-1817 (Kent County)
The Contract Compliance Inspector (CCI) representing Montcalm County will be determined.

All work shall be done in accordance with all regulations governing the state agency wherein the work is to be performed and with minimum possible interference with the proper functioning of the activities of that state agency.

<table>
<thead>
<tr>
<th>Item #</th>
<th>Description</th>
<th>Quantity</th>
<th>Unit Price per LF</th>
<th>Total Price</th>
</tr>
</thead>
<tbody>
<tr>
<td>1.</td>
<td>Herbicide Application- Allegan County Vegetation Control for Guardrail. One (1) cycle per year. Contract includes I-196 from M-89 to Ottawa County Line and US-31 from 196 NB to 32nd St (Ottawa County line).</td>
<td>94,103 LF</td>
<td>$_______</td>
<td>$_________</td>
</tr>
<tr>
<td>2.</td>
<td>Herbicide Application- Montcalm County Vegetation Control for Guardrail. One (1) cycle per year.</td>
<td>52,259 LF</td>
<td>$_______</td>
<td>$_________</td>
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<tr>
<td>3.</td>
<td>Herbicide Application- Ionia County Vegetation Control for Guardrail. One (1) cycle per year.</td>
<td>73,053 LF</td>
<td>$_______</td>
<td>$_________</td>
</tr>
</tbody>
</table>

**GRAND TOTAL** $_________

- Contract to be awarded based on Grand Total

Contact person(s) for (contractor name here):

NAME: NAME:
TELEPHONE: TELEPHONE:

**ROADSIDE VEGETATION CONTROL SPECIFICATION FOR ROADSIDE HERBICIDE APPLICATIONS**

Prior to award, vendor shall provide:

1. Equipment list and any lease contracts indicating description, age, manufacturer, model and serial number of each piece. Equipment must meet or exceed all requirements defined under "Equipment and Personnel Requirements". All equipment must be in the vendor's possession, available for use and fully operational, prior to the Pre-Award Meeting. Note, this is also requested with bid submission.

The Department shall visually inspect all Vendor equipment at a location and date specified by the Department prior to the contract award, and at any time throughout the duration of this contract.

The Vendor must disclose if their company is the low bidder on more than one contract, including subcontracts with local units of government, the Vendor shall demonstrate that sufficient spray vehicles are available for each contract as described in the Equipment Requirements section. The Department reserves the right to restrict the number of contracts awarded to a single Vendor based on the progress schedule, equipment review and staffing levels.
2. Copies of all product labels and SDS sheets for all materials are to be used throughout the course of the contract.

3. Schedule of operations - personnel and hours.

4. Name(s) of supervisor, 24 hour contact telephone numbers, and best contact times.

5. Progress schedule listing locations where herbicide applications will occur including a schedule of linear feet to be sprayed each day. Equipment failure will not constitute an acceptable reason for deviating from the progress schedule. This schedule must be approved by the Department at the Pre-Award Meeting. Adjustments to this schedule including any weather-related deviations must be approved by the Contract Administrator.

6. Safety Program, including traffic control plan.

7. Proof that the Vendor is a "Licensed Commercial Applicator" in the state of Michigan. A complete listing of all certified commercial applicators is needed with corresponding MDARD certification numbers, and categories for those individuals applying herbicides as part of this contract. The Commercial Applicator Licensing requirement for this service is Category 6. Note, this is also requested with bid submission.

8. Spill control and prevention plans, including a list of equipment to be used.

9. A follow-up complaint procedure. Each damage complaint shall be investigated promptly by the Contractor and a written summary report of each incident shall be submitted to the Contract Administrator.

Any misrepresentation by the Contractor of its ability to perform the work described in this contract will be grounds for immediate termination. In such cases, the contract will be awarded to the next lowest responsible bidder who can demonstrate the ability to perform the work.

Rejecting Bids

Vendors who in the opinion of the State do not have proper and/or sufficient equipment and personnel to do the work within the time limits required, and cannot demonstrate the ability to perform the work according to these supplemental specifications, shall have their bid rejected and the contract will be awarded to the next lowest responsible bidder.

EQUIPMENT AND PERSONNEL REQUIREMENTS

General

The Contractor shall furnish, operate and maintain suitable and adequate equipment necessary to perform the spraying operations in an approved workman like manner without hindrance or damage to the roadside. The Contractor shall have enough satisfactory equipment and personnel so that the project can be completed in the time specified under normal seasonal weather conditions.
Safety

All equipment shall meet all federal, state, and local safety requirements.

Each vehicle used in the spraying operation shall be equipped with a commercial-type rotating beacon, or strobe light plainly visible from all directions. Beacon or strobe lights shall be amber in color and have a minimum of 32 candle power output and flash 50 to 60 times per minute.

A lighted arrow, Type C used in the caution mode as specified in Section 812 of the 2012 MDOT Standard Specifications for Construction, shall be mounted on the rear of each spray vehicle.

Where a shadow vehicle is utilized (see Maintaining Traffic section), the following lighted arrow and vehicle mounted sign configuration will be required on the shadow vehicle:

Mobile Operation on Multilane Road

Lighted arrow operated in the arrow mode (left or right) only, when occupying a portion of the traveled roadway. The caution bar mode shall be used when operating outside the traveled roadway (shoulder). A "Road Work Ahead" sign shall be mounted on the rear of the vehicle so as not to obscure the arrow display.

Mobile Operation on Two-Lane Road

Lighted arrow operated in the caution bar mode only, with a "Yield to Oncoming Traffic" sign mounted on the rear of the vehicle so as not to obscure the arrow display.

Personnel

All persons applying herbicides shall be certified commercial pesticide applicators in the required categories in the state of Michigan. The Contractor shall furnish, at the Pre-Award Meeting, a complete list of all employees and corresponding Michigan certification numbers, who will be applying herbicides during the duration of this contract. MDOT must be notified immediately of any new pesticide applicators, hired by the Vendor, after the Pre-Maintenance Meeting. Before any pesticide applications are made, in compliance with the contract specification, the applicator(s) must present a commercial pesticide applicators certification card and picture identification to the Contract Administrator for verification. The Contractor shall comply with all federal, state and local laws and regulations as specified in the 2012 Standard Specifications for Construction, Section 107.

MATERIALS

The Contractor shall submit the following information with their bid documents: copies of labels and SDS for all products to be used, application rate per acre and number of gallons of emulsion per acre for each specific application. The Department reserves the right to reject any product(s) it deems to pose a potential environmental or safety related problem. Chemical containers will be checked by MDOT for proper quantities and unbroken seals. The Contractor is responsible for making arrangements to obtain a clean water source. No water shall be drawn from any waterway (ie. River, Ditch, Creek, Lake etc.) that is located on any State, County or Municipal Right-Of-Way, for mixing with herbicides. Delivery or storage of Contractor's equipment or chemicals at MDOT facilities is prohibited.
Pre-Award Meeting

After the low bid has been determined, a meeting with that Vendor and the Contract Administrator will be held at a location designated by the Department. The purpose of the meeting will be for that Vendor to present the following required detailed information (specified on page 1) to the Department for review prior to the award of the contract.

HERBICIDE APPLICATIONS

Scope of Work

The proposed work covers liquid chemical vegetation control around guardrails on the various highway sections as described in these specifications. The work shall be done in accordance with all the terms of this contract, including the supplemental specifications contained within this contract and the heading therein entitled "Methods of Treatment," for each type of application.

Description of Work- Non-selective vegetation control for guardrail.

The work shall consist of the Contractor making non-selective herbicide application(s) to eliminate and control all vegetation within the target area for each growing season throughout the duration of this contract. The actual starting date will be determined by the Contract Administrator after evaluating existing vegetation conditions and time frame.

In order to reduce the weeds from becoming resistant to a formulation the Contractor shall alternate formulations every year.

The Contractor shall furnish and apply a herbicide(s) to control all vegetation as described under the "Methods of Treatment" for the guardrail section. It shall be the Contractor's responsibility to select a herbicide or combination of herbicides to use and an application rate which will eliminate and control the vegetation. Period of control will extend throughout the months of April through July, on the specified highway routes indicated on the attached listing.

NOTE: All herbicides used in any of the applications described above shall be registered for use on highway rights-of-way by the Michigan Department of Agriculture and Rural Development (MDARD) and the United States Environmental Protection Agency (EPA). No herbicide shall be used which will cause damage to the turf areas. No restricted use herbicides shall be used on this contract. A drift control agent shall be used in all spraying operations. Samples of the products or spray emulsion may be taken by MDOT throughout the duration of the contract, at the discretion of the Contract Administrator.
Methods of Treatment- Non-selective vegetation control for guardrail.

All guardrail sections on the mainline, as well as those located within interchanges (exit and on ramps, overpasses, etc.) on the designated routes shall be treated unless excluded in writing by the Contract Administrator.

The area to be sprayed will be a minimum 3 feet swath in front of the guardrail posts for all sections not parallel with the pavement edge (beginning and end flares). The length of the beginning and end flare sections is approximately 30 feet, however, they may be longer or shorter.

For guardrails parallel with the pavement edge, all vegetation between the guardrail post face and pavement edge (± 3 feet) shall be treated.

Barrier type guardrail shall be sprayed from both sides.

Protected Areas

It shall be the Contractor's responsibility to cease any and all spraying operations in "Protected Areas." Each of these locations is marked along the roadside with 12 x 12 inch black and white "Protected Area" signs. Signs indicate the beginning and ending points with directional arrows. Areas more than 1000 feet in length are marked with a double arrow sign at 1000 feet intervals in between the beginning and ending signs.

A list of other areas that are not to be sprayed will be presented to the Contractor at the Pre-Award Meeting.

Reporting Progress

Each morning, the Contractor shall, (1) call by telephone to notify the Contract Administrator as to the locations to be sprayed that day, and (2) submit a written report form listing all the areas sprayed and/or skipped the previous workday. If the locations to be sprayed during the course of the day is different than what was reported to the MDOT Contract Administrator, the Contractor shall notify the MDOT Contract Administrator of the change prior to the commencement of work. The form "Roadside Chemical Spray Control Inspection Report" (attached) shall be used for reporting purposes. All information on the form shall be completed daily for each route (beginning and ending points), control section, and the county sprayed, for each pay item.

Failure by the Contractor to contact the Contract Administrator daily from April 15 to October 31 will result in suspension of work until the problem is corrected. Coordinate time restrictions by route and/ or direction with Kara Stein (616 464-1815) or Sarah Hoffman (616 464-1800).
Maintaining Traffic

The cost of all work required for maintaining traffic will be included in the contract unit price for each bid item. All equipment and materials not in use, shall, unless otherwise approved by the Contract Administrator, be parked or stored off the highway rights-of-way.

Particular attention will be required to avoid interfering with the traveling public during the rush hours in high density traffic areas. The Contract Administrator will determine where and when rush hour precautions will be observed.

All spraying operations will be performed in the direction of traffic and off the traffic lanes of the roadway with the exception of curbed sections. If the spray vehicle cannot operate completely out of the traffic lane, the Contractor shall supply a shadow vehicle in accordance with the 2012 MDOT Standard Specifications for Construction and the Michigan Manual of Uniform Traffic Control Devices (MMUTCD). All operations must comply with these specifications, a copy of which can be obtained from the following:

Michigan Department of Transportation
Financial Services Division
Bureau of Finance
P. O. Box 30050
Lansing, Michigan 48909

Days/Hours of Operation

Weekend work is permitted with prior approval is obtained from the Contract Administrator. No work shall be done on northbound 131 on any Friday. No work shall be done on southbound 131 on any Monday. No work shall be done on I-96 during weekends. Work shall not be permitted during holiday periods in accordance with the MDOT 2012 Standard Specifications for Construction.

Damages

The Contractor shall at his/her own expense, preserve and protect from injury all property, either public or private, along and adjacent to the roadway, and he/she shall be responsible for and repair, at his/her own expense, any and all damage and injury thereto, arising out of, or in consequence of any act or omission of the Contractor or his/her employees in the performance of the work covered by the contract prior to completion and acceptance thereof.

Damage to the turf or landscape plant material caused by any action of the Contractor including, but not limited to: (1) drift, leaching or lateral movement of the herbicide application from the target area or (2) rutting, scraping or gouging from equipment, shall be repaired/replaced as specified herein.

Turf damage repairs shall be made by the Contractor in accordance with Section 816 of the MDOT 2012 Standard Specifications for Construction and as herein specified. Seeding will only be allowed during the seasonal limitation periods.
All landscape plant material damaged by the Contractor shall be replaced in kind according to Section 815 of the MDOT 2012 Standard Specifications for Construction and as herein specified. Planting may only be done in the spring and prior to May 10. All replacement plants must be maintained during the specified establishment period.

All repairs shall be made to the satisfaction of the Contract Administrator. Payment for work performed may be withheld until satisfactory repairs are made. If repairs are made by the Department, the actual replacement costs including all labor, equipment, materials, and fringe benefits shall be charged to the Contractor.

**Deletion of Work**

The Department may delete all or any portions of the contract that cannot be completed in conformity with the progress schedule or a reasonable extension. The Department may also delete portions of the contract that show no need for spraying due to growing conditions.

Areas may be deleted due to other construction activity.

If the contract is terminated, or portions thereof deleted, payment will be made for all satisfactorily completed work at the contract unit price.

**Work Approval**

During the period of spraying operations, the contractor shall consult the Contract Administrator for inspection and tentative approval of work being accomplished, so that, in the event of unsatisfactory work, sufficient time will be available to the contractor to make corrections in a satisfactory manner within the time specified.

**Public Convenience and Safety**

The Contractor shall comply with all federal, state, OSHA, MiOSHA and local laws and regulations, including those governing environmental protection and the furnishing and use of all safeguards, safety devices and protective equipment. The Contractor shall take any other actions, on either his/her own responsibility or as directed by the Contract Administrator, reasonably necessary to protect the safety and health of employees on the job and the public and to protect property during the performance of the project.

The Contract Administrator at the time of the first occurrence of noncompliance shall notify the Contractor and review the condition. If the condition poses a health or safety hazard or represents a significant deviation from the progress schedule or spraying specifications, the Contract Administrator will prepare a written Complaint Vendor Form. The Contractor will be informed in writing of the corrective action required.

Should a second non-acceptable condition occur, subsequent to a previous Complaint to Vendor Form being filed, which would warrant a formal Complaint to Vendor, a written notice of termination will be sent to the Contractor.

Noncompliance includes but is not limited to:

1. Failure of Contractor to start application work within one (1) week of the notification to start, weather permitting.
2. Failure of the Contractor to complete the number of acres or miles per day specified in the progress schedule submitted at the Pre-Maintenance Meeting and approved by the Department.

3. Failure of the Contractor to make herbicide applications in accordance with any of the specifications defined above.

The Department reserves the right to bill the Contractor for any damages due to the default of the Contractor.

**Coordination Provision**

Contracts for landscaping, mowing or other work, may be in progress during the time of this contract. Areas to be treated by weed spraying shall not be sprayed for 72 hours before mowing or 48 hours after mowing. Spraying operations may not be allowed the week of and the week prior to the Adopt-A-Highway pickups. These dates will be available at the Pre-Award Meeting. The Contractor shall coordinate his/her work activities with existing or future work performed by MDOT, through close coordination with the Contract Administrator. Application dates may be adjusted through mutual agreement between the Contractor and Contract Administrator when unusual conditions are experienced. Areas may be deleted due to construction activity.

**Subcontracting**

No subcontracting will be allowed on this project.

**METHOD OF MEASUREMENT AND BASIS FOR PAYMENT**

**Non-Selective Vegetation Control for Guardrail**

The amount of guardrail spraying will be measured in Lineal Feet of guardrail as specified in this proposal with the bid price per Lineal Feet modified according to the degree of control (kill) achieved. The percent kill achieved shall be determined by visual inspections of the sample sections in each county. There shall be a minimum of two sample sections on each route sprayed in each county. Each sample section shall have a minimum length of 1 mile of highway. However, at least 10 percent of the total miles of guardrail on each route sprayed shall be inspected. The sample sections shall be selected by the MDOT Contract Administrator and the inspections shall be done approximately 14-21 calendar days after application is completed and again after September 1.

Payment for one-half of the total bid amount for the pay item "Guardrail Spraying" will be made following each inspection period and after each value is adjusted for the percent control achieved.

A 90 percent or higher kill or control of all vegetation shall be considered as 100 percent achievement. A 75-90 percent kill or control of all vegetation shall be considered 75 percent achievement and less than 75 percent control shall be justification for non-payment for that route.

A 10% retainage shall be withheld from payment until 90 percent or higher kill or control of all vegetation is confirmed by the contract administrator.
Guardrail sections may be retreated or spot treated by the Contractor throughout the growing season (at no additional cost to MDOT or County Road Commissions) to improve the percent control.

The miles of guardrail listed within these specifications will be the accepted quantities for this contract. Quantity adjustments will only be made for miles excluded from spraying as directed by the Contract Administrator.

When it is determined that the payment for a route section is less than 100%, the Contract Administrator may offer the Contractor the option of retreating the route section to improve the achievement percentage, if in the opinion of the Contract Administrator, the re-treatment will accomplish the original goals and intent of the contract. The sections retreated will be inspected in the same manner as the initial treatment using a new set of randomly selected plots.

If re-treatment is granted by the Contract Administrator, all designated areas must be retreated within two (2) weeks of inspection. If the re-treatment is not completed within the specified period, payment will be made based on the degree of control determined during the original inspection. No re-treatment will be allowed for the fall application.

When work is completed and the achievement percentage agreed upon, after each application period, the amount of the payment will be determined by multiplying the unit price bid times the achievement percentage times the acres completed on each route section. The acres listed on the "Weed Spraying Summary" will be accepted as the quantities used unless there has been an exclusion written by the Contract Administrator.

The quantities within these specifications will be the accepted quantities for this contract and any excluded areas will be calculated by the Contract Administrator using the same methods that were used when the original quantities were calculated.

The Contract Administrator will notify the Contractor of the dates and times of all inspections and the Contractor may accompany the Contract Administrator while inspections are being made. If the Contractor does not agree with the percentage kill determined by the Contract Administrator, the Contractor can request an inspection by a mutually agreed upon disinterested third party. A joint inspection including the Contract Administrator, the Contractor, and the third party will be scheduled. All expert fees and expenses charged by the third party will be agreed to before the inspection and will be shared equally by the Contractor and the Michigan Department of Transportation.

**Detailed Progress Schedule**

All work will be performed between April 1, and October 30. Work must be performed in accordance with the progress schedule submitted at the Pre-Award Meeting and described below.

The first failure to complete work as defined in the progress schedule will result in a Complaint to Vendor and a meeting with the Contractor to insure corrective action.

The second such failure may result in termination of the contract. The progress schedule must address all work to be completed when multiple MDOT contracts are awarded to the same Vendor.
METHOD OF PAYMENT

The Contractor shall furnish an invoice for services rendered for each application.

The original invoice shall be sent to:

Montcalm County Road Commission
P.O. Box 337
Stanton, MI. 48888

The billing shall reference the appropriate purchase order number and shall contain, if applicable, adjustments for addition, deletions or changes in service. MDOT shall pay the billed amount in accordance with the bid rate, and the payment terms specified in the purchase order which are net 30 days after the later of the invoice date or the date the Contract Administrator certified the invoice indicative of satisfactory completion of each application of the entire contract area.

GUARDRAIL SUMMARY
2016 SEASON

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<th>COUNTY</th>
<th>MILES</th>
</tr>
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<tbody>
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<td>ALLEGAN</td>
<td>18</td>
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<tr>
<td>MONTCALM</td>
<td>10</td>
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<tr>
<td>IONIA</td>
<td>14</td>
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<tr>
<td><strong>Subtotal</strong></td>
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# Roadside Chemical Spray Control Inspection Report

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<table>
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<tr>
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<table>
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<tr>
<th>Ending Mileage:</th>
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<tr>
<th>Type of Application:</th>
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<tr>
<td>(circle one)</td>
</tr>
<tr>
<td>1. Guardrail</td>
</tr>
<tr>
<td>2. Weed</td>
</tr>
<tr>
<td>3. Brush</td>
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<tr>
<td>4. Shoulder</td>
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<tr>
<td>5. Other</td>
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<tr>
<th>Total Gallons of Emulsion Used:</th>
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<tr>
<td>Cloudy</td>
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<td>Clear</td>
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<tr>
<td>Rain</td>
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<table>
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<table>
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<table>
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<table>
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<th>Applicator's Name:</th>
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<table>
<thead>
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<th>Certification #:</th>
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<table>
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<th>Applicator's Signature:</th>
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<tr>
<th>Expiration Date:</th>
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GENERAL

This contract for the commodities or services specified hereunder to be furnished during the period as noted on the contract agreement form. Exact quantities to be purchased are unknown except that the contractor will be required to furnish all such materials as may be ordered during the contract period. Quantities specified if any, are estimates based on prior purchases, and the State is not obligated to purchase in these or any other quantities. Orders for delivery will be issued directly to the Contractor by various State departments on the Departmental Purchase Order/Contract Release Form and by the Purchasing Division on the Purchase Order Form. Orders may also be issued by local units of government. Bids are due at the time as noted on the Invitation to Bid Form.

SPECIFICATIONS

Definite Specifications - All commodities and services to be furnished hereunder shall conform to the specifications as noted in the "Invitation to Bid" and/or copies of specifications attached.

ASSIGNMENT

The Contractor shall not have the right to assign this contract or to assign or delegate any of its duties or obligations under this contract to any other party (whether by operation of law or otherwise), without the prior written consent of the State of Michigan and Allegan County Road Commission. Any purported assignment in violation of this Section shall be null and void. Further, the Contractor may not assign the right to receive money due under the contract without the prior written consent of the State Purchasing Director.

CONTRACT PAYMENT

The specific payment for this contract will be mutually agreed upon by the State of Michigan, Allegan County Road Commission and the Contractor. The schedule should show payment amount and should reflect actual work done by the payment dates, less any penalty cost charges accrued by those dates. As a general policy, statements should be forwarded by the 15th day of the following month.

RECORD RETENTION AND AUDIT

The Contractor agrees to keep complete and accurate books of account and to make them available to the State for audit. All such records, documents, and financial statements pertinent to this agreement shall be retained for a period of ten years unless audited before then.

INDEMNIFICATION

1. General Indemnification

The Contractor shall indemnify, defend and hold harmless the State of Michigan and Montcalm County Road Commission, their departments, divisions, agencies, sections commissions, officers, employees and agents, from and against all losses, liabilities, penalties, fines, damages and claims (including taxes), and all related costs and expenses (including reasonable attorneys’ fees and disbursements and costs of investigation, litigation, settlement, judgments, interest and penalties), arising from or in connection with any of the following:

(a) any claim, demand, action, citation or legal proceeding against the State, its employees and agents arising out of or resulting from (1) the product provided or (2) performance of the
work, duties, responsibilities, actions or omissions of the Contractor or any of its subcontractors under this contract.

(b) any claim, demand, action, citation or legal proceeding against the State of Michigan, Montcalm County Road Commission, its employees and agents arising out of or resulting from a breach by the Contractor of any representation or warranty made by the Contractor in the contract;

(c) any claim, demand, action citation, or legal proceeding against the State of Michigan, Montcalm County Road Commission, its employees and agents arising out of related to occurrences that the Contractor is required to insure against as provided for in this contract;

(d) any claim, demand, action, citation or legal proceeding against the State of Michigan, Montcalm County Road Commission, Ionia Road Commission, Allegan County Road Commission, their employees and agents arising out of or resulting from the death or bodily injury of any person, or the damage, loss or destruction of any real or tangible personal property, in connection with the performance of services by the Contractor, by anyone directly or indirectly employed by any of them, or by anyone for whose acts any of them may be liable; provided, however, that this indemnification obligation shall not apply to the extent, if any, that such death, bodily injury or property damage is caused solely by the negligence or reckless or intentional wrongful conduct of the State;

(e) any claim, demand, action or legal proceeding against the State, its employees and agents which results from an act or omission of the Contractor or any of its subcontractors in its or their capacity as an employer of a person.

2. Patent/Copyright Infringement Indemnification

The Contractor shall indemnify, defend and hold harmless the State, its departments, divisions, agencies, sections, commissions, officers, employees and agents from and against all losses, liabilities, penalties, fines, damages (including taxes), and all related costs and expenses (including reasonable attorney's fees and disbursements, costs of investigation, litigation, settlement, judgments, interest and penalties) incurred in connection with any action or proceeding threatened or brought against the State to the extent that such action or proceeding is based on a claim that any piece of equipment, software, commodity or service supplied by the Contractor or its subcontractors, or the operation of such equipment, software, commodity or service, or the use or reproduction of any documentation provided with such equipment, software, commodity or service infringes any United States or foreign patent, copyright, trade secret or other proprietary right of any person or entity, which right is enforceable under the laws of the United States. In addition, should the equipment, software, commodity, or service, or the operation thereof, become or in the Contractor's opinion be likely to become the subject of a claim of infringement, the Contractor shall at the Contractor's sole expense (i) procure for the State the right to continue using the equipment, software, commodity or service or, if such option is not reasonably available to the Contractor, (ii) replace or modify the same with equipment, software, commodity or service of equivalent function and performance so that it becomes non-infringing, or, if such option is not reasonably available to Contractor, (iii) accept its return by the State with appropriate credits to the State against the Contractor's charges and reimburse the State for any losses or costs incurred as a consequence of the State ceasing its use and returning it.

3. Indemnification Obligation Not Limited
In any and all claims against the State Of Michigan, or any of its departments, divisions, agencies, sections, commissions, officers, employees and agents, by any employee of the Contractor or any of its subcontractors, the indemnification obligation under the contract shall not be limited in any way by the amount or type of damages, compensation or benefits payable by or for the Contractor or any of its benefits acts. This indemnification clause is intended to be comprehensive, Any overlap in subclauses, or the fact that greater specificity is provided as to some categories of risk, is not intended to limit the scope of indemnification under any other subclause.

4. Continuation of Indemnification Obligation

The duty to indemnify will continue in full force and effect not withstanding the expiration or early termination of the contract with respect to any claims based on facts or conditions which occurred prior to termination.

**CONTRACTOR'S LIABILITY INSURANCE**

The Contractor shall purchase and maintain such insurance as will protect him from claims set forth below which may arise out of or result from the Contractor's operations under the contract (Purchase Order), whether such operations be by himself or by any Subcontractor or by anyone directly or indirectly employed by any of them, or by anyone for whose acts any of them may be liable:

(1) Claims under workers' compensation, disability benefit and other similar employee benefit act. A non-resident Contractor shall have insurance for benefits payable under Michigan's Workers' Compensation Law for any employee resident of and hired in Michigan; and as respects any other employee protected by workers' compensation laws of any other State the Contractor shall have insurance or participate in a mandatory State fund to cover the benefits payable to any such employee.

(2) Claims for damages because of bodily injury, occupational sickness or disease, or death of his employees.

(3) Claims for damages because of bodily injury, sickness or disease, or death of any person other than his employees, subject to limits of liability of not less than $300,000 each occurrence and, when applicable $300,000 annual aggregate, for non-automobile hazards and as required by law for automobile hazards.

(4) Claims for damages because of injury to or destruction of tangible property, including loss of use resulting therefrom, subject to a limit of liability of not less than $50,000 each occurrence for non-automobile hazards and as required by law for automobile hazards.

(5) Insurance for Subparagraphs (3) and (4) non-automobile hazards on a combined single limit of liability basis shall not be less than $300,000 each occurrence and when applicable, $300,000 annual aggregate.

The insurance shall be written for not less than any limits of liability herein specified or required by law, whichever is greater, and shall include contractual liability insurance as applicable to the Contractor's obligations under the Indemnification clause of the contract (Purchase Order).
BEFORE STARTING WORK THE CONTRACTOR MUST FURNISH TO, CERTIFICATE(S) OF INSURANCE VERIFYING LIABILITY COVERAGE. THE CONTRACT OR PURCHASE ORDER NO. MUST BE SHOWN ON THE CERTIFICATE OF INSURANCE TO ASSURE CORRECT FILING. These Certificates shall contain a provision that coverage afforded under the policies will not be cancelled until at least fifteen days prior written notice bearing the Contract No. or Purchase Order No. has been given to the Director of Purchasing.

CANCELLATION

(a) The State of Michigan and Montcalm County Road Commission may cancel the contract for default of the Contractor. Default is defined as the failure of the Contractor to fulfill the obligations of the quotation or contract. In case of default by the Contractor, the State may immediately and/or upon 30 days prior written notice to the Contractor cancel the contract without further liability to the State, its departments, divisions, agencies, sections, commissions, officers, agents and employees, and procure the services from other sources, and hold the Contractor responsible for any excess costs occasioned thereby.

(b) The State of Michigan and Montcalm County Road Commission may cancel the contract in the event the State no longer needs the services or products specified in the contract, or in the event program changes, changes in laws, rules or regulations, relocation of offices occur, or the State determines that statewide implementation of the contract is not feasible, or if prices for additional services requested by the State are not acceptable to the State. The State may cancel the contract without further liability to the State, its departments, divisions, agencies, sections, commissions, officers, agents and employees by giving the Contractor written notice of such cancellation 30 days prior to the date of cancellation.

(c) The State of Michigan and Montcalm County Road Commission may cancel the contract for lack of funding. The Contractor acknowledges that, if this contract extends for several fiscal years, continuation of this contract is subject to appropriation of funds for this project. If funds to enable the State to effect continued payment under this contract are not appropriated or otherwise made available, the State shall have the right to terminate this contract without penalty at the end of the last period for which funds have been appropriated or otherwise made available by giving written notice of termination to the Contractor. The State shall give the Contractor written notice of such non-appropriation within 30 days after it receives notice of such non-appropriation.

(d) The State of Michigan and Montcalm County Road Commission may immediately cancel the contract without further liability to the State its departments, divisions, agencies, sections, commissions, officers, agents and employees if the Contractor, an officer of the Contractor, or an owner of a 25% or greater share of the Contractor, is convicted of a criminal offense incident to the application for or performance of a State, public or private contract or subcontract; or convicted of a criminal offense including but not limited to any of the following: embezzlement, theft, forgery, bribery, falsification or destruction of records, receiving stolen property, attempting to influence a public employee to breach the ethical conduct standards for State of Michigan employees; convicted under State or federal antitrust statutes; or convicted of any other criminal offense which in the sole discretion of the State, reflects on the Contractor's business integrity.

(e) The State of Michigan and Montcalm County Road Commission may immediately cancel the contract in whole or in part by giving notice of termination to the Contractor if any final administrative or judicial decision or adjudication disapproves a previously approved request
for purchase of personal services pursuant to Constitution 1963, Article 11, Section 5, and Civil Service Rule 4-6.

(f) The State of Michigan and Montcalm County Road Commission may, with 30 days written notice to the Contractor, cancel the contract in the event prices proposed for contract modification/extension are unacceptable to the State.

MODIFICATION OF SERVICE

The State of Michigan and Montcalm County Road Commission reserve the right to modify this service during the course of this contract. Such modification may include changing the locations to be serviced, additional locations to be serviced, method or manner of performance of the work, number of days service is to be performed, addition or deletion of tasks to be performed, and/or any other modifications deemed necessary. Any changes in pricing proposed by the Contractor resulting from the proposed changes are subject to acceptance by the State. Changes may be increases or decreases.

IN THE EVENT PRICES ARE NOT ACCEPTABLE TO THE STATE, THE CONTRACT SHALL BE SUBJECT TO COMPETITIVE BIDDING BASED UPON THE NEW SPECIFICATION.

RIGHT TO KNOW ACT (ACT 80 OF 1986)

The "Right to Know Act" is intended to provide protection and information to employees who encounter hazardous substances at the workplace. To comply with this act it is necessary that you fulfill the following:

Labels

Labels on all incoming containers of hazardous chemicals must (1) clearly state the identity of the contents, (2) display appropriate hazard warning(s), (3) include first aid information, and (4) list the name and address of the chemical manufacturer, importer, or other responsible party.

Responsibility of Service Contractor

A service Contractor must comply with the requirements of Act 80 of 1986 with respect to the labeling of hazardous chemicals and the provision of Material Safety Data Sheets before such materials are introduced into the workplaces of a contracted service agency. Otherwise, such materials will not be allowed on the premises.

Safety Data Sheets

Safety Data Sheets related to hazardous chemicals must be presented to the appropriate State building supervisors prior to the introduction of such substances into buildings housing agencies of the State of Michigan. It is recommended that the format of OSHA Form 174, dated September 1985, be used as a standard for Safety Data Sheets.

UNFAIR LABOR PRACTICES

Pursuant to 1980 Public Act 278, as amended, MCL 423.231, et seq, the State shall not award a contract or subcontract to an employer whose name appears in the current register of employers failing to correct an unfair labor practice compiled pursuant to Section 2 of the Act. A Contractor of the State, in relation to the contract, shall not enter into a contract with a subcontractor, manufacturer, or supplier whose name appears in this register. Pursuant to Section 4 of 1980 Public Act 278, MCL 423.324, the State
may void any contract if, subsequent to award of the contract, the name of the Contractor as an employer, or the name of the subcontractor, manufacturer or supplier of the Contractor appears in the register.

**DELEGATION**

The Contractor shall not delegate any duties or obligations under this contract to a subcontractor other than a subcontractor named in the contract unless the State Purchasing Director has given written consent to the delegation.

**MINORITY/WOMEN/HANDICAPPER SUBCONTRACTING**

To help ensure participation in State contracts by minority, women and handicapper owned and operated businesses, the State of Michigan strongly encourages companies, when responding to Requests for Proposals and Invitations to Bid, to subcontract with certified minority, woman and handicapper owned and operated businesses. For assistance in locating potential subcontractors, contact:

Michigan Department of Civil Rights
Contractual Services Division
State of Michigan Plaza Building - 5th Floor
1200 Sixth Avenue
Detroit, Michigan 48226
1-313-256-2650

Bidders should indicate in their response the names, addresses, and type of work assigned for each proposed minority/women/handicapper owned and operated firm which will be a subcontractor. The total amount and/or percentage of dollars to be paid to such subcontractor(s) should be included with the price submission.

To assist the State in monitoring the participation of certified minority/women/handicapper owned and operated firms in State contracts, the successful bidder using such firms as subcontractors should submit a report quarterly outlining expenditures to such firms for the reporting period. Reporting forms for this purpose will be sent with the contract.

**ANNUAL SERVICE REVIEW**

The State Agency may request an audit of the services provided under the terms of this contract. The audit will be a joint activity of the Using Agency and the Office of Purchasing.

An unsatisfactory audit will result in cancellation of the contract under terms of the Cancellation Clause in this contract. Further, should this contract be cancelled for cause, the Contractor so cancelled will not be allowed to participate in request(s) for continuation of this service.

The audit will consist of an evaluation of the total service quality, including responsiveness, timeliness of required reporting, and any other specifics as required under the terms of the contract. The results of the audit along with contract recommendations will be published by the Office of Purchasing and distributed to the Using Agency and the Contractor(s).

Should the Contractor desire, a meeting will be arranged between all concerned parties within 10 calendar days of the date the Contractor received, or could have reasonably been expected to receive his/her copy of the audit. This meeting will provide an opportunity for the Contractor to present his/her reactions to audit recommendations.
DISCLOSURE

All information in a bidder's proposal and this contract is subject to the provisions of the Freedom of Information Act. 1976 Public Act No. 442, as amended, MCL 15.231, et seq.

NON-DISCRIMINATION CLAUSE

In the performance of any contract or purchase order resulting here from, the contractor agrees not to discriminate against any employee or applicant for employment, with respect to their hire, tenure, terms, conditions or privileges of employment, or any matter directly or indirectly related to employment, because of race, color, religion, national origin, ancestry, age, sex, height, weight, marital status, physical or mental disability unrelated to the individual's ability to perform the duties of the particular job or position. The contractor further agrees that every subcontract entered into for the performance of any contract or purchase order resulting here from will contain a provision requiring non-discrimination in employment, as herein specified, binding upon each subcontractor. This covenant is required pursuant to the Elliot Larsen Civil Rights Act, 1976 Public Act 453, as amended, MCL 37.2201, et seq, and the Persons with Disabilities Civil Rights Act, 1976 Public Act 220, as amended, MCL 37.1101, et seq, and any breach thereof may be regarded as a material breach of the contract or purchase order.