

**STATE OF ILLINOIS  
CONTRACT**

Illinois Department of Central Management on behalf of Illinois Department of Corrections  
Menard Correctional Center Lease 0095

**SECTION 3.**

**C.1. EXCEPTIONS TO SOLICITATION AND CONTRACT TERMS AND CONDITIONS**

Click here to enter text agrees with the terms and conditions set forth in the State of Illinois Invitation for Bid, including the standard terms and conditions, the Agency supplemental provisions, certifications, and disclosures, with the following exceptions:

	Excluding certifications required by statute to be made by the Vendor, both Parties agree that all of the duties and obligations that the Vendor owes to the Agency for the work performed shall be pursuant to the solicitation and resulting contract, and Vendor's exceptions accepted by the State thereto as set forth below.
	<b>STANDARD TERMS AND CONDITIONS</b>
<b>Section/ Subsection #</b>	State the exception such as "add," "replace," and/or "delete."
	<b>ADDITIONAL VENDOR TERMS AND CONDITIONS</b>
<b>New Provision(s), # et. seq.</b>	<b>Section/Subsection New Number, Title of New Subsection:</b> State the new additional term or condition.

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The Illinois Department of Central Management Services hereby agrees to the exceptions provided by [Click here to enter text](#) and to the Additional Terms and Conditions provided by [Click here to enter text](#).

Agreed: <a href="#">Click here to enter text</a>	Agreed: Illinois Dept. of Central Management Services
By: <a href="#">Click here to enter text</a>	By: <a href="#">Click here to enter text</a>
Signed:	Signed:
Position: <a href="#">Click here to enter text</a>	Position: <a href="#">Click here to enter text</a>
Date: <a href="#">Click here to enter a date.</a>	Date:

**C.2. REFERENCES**

**Financial Institution Reference:** Bidder must provide one reference letter from a financial institution attesting to the Bidders financial ability to perform the contract. If the bidder cannot obtain a letter prior to the bid due date and time, the bidder may provide a letter signed by the Bidder authorizing CMS to contact the financial institution to attest to the Lessee financial ability. The letter must be on official letterhead and contain the name of the institution and contact information. **The contract cannot be awarded until the requested document has been received.**

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The Parties to this contract are the State of Illinois acting through the undersigned Agency (collectively the State) and the Vendor. This contract, consisting of the signature page and numbered sections listed below and any attachments referenced in this contract, constitute the entire contract between the Parties concerning the subject matter of the contract, and in signing the contract, the Vendor affirms that the Certifications and Financial Disclosures and Conflicts of Interest attached hereto are true and accurate as of the date of the Vendor's execution of the contract. This contract supersedes all prior proposals, contracts and understandings between the Parties concerning the subject matter of the contract. This contract can be signed in multiple counterparts upon agreement of the Parties.

Contract uses Illinois Procurement Gateway Certifications and Disclosures?

Yes (IPG Certifications and Disclosures including FORMS B)

No

1. DESCRIPTION OF SUPPLIES AND SERVICES
2. PRICING
3. TERM AND TERMINATION
4. STANDARD BUSINESS TERMS AND CONDITIONS
5. STATE SUPPLEMENTAL PROVISIONS  
Attachment A – Land Map
6. LEASE SPECIFIC CERTIFICATIONS AND DISCLOSURES - "FORMS A" (IF APPLICABLE)/ "FORMS B (IF APPLICABLE)

In consideration of the mutual covenants and agreements contained in this contract, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties agree to the terms and conditions set forth herein and have caused this contract to be executed by their duly authorized representatives on the dates shown on the following CONTRACT SIGNATURES page.

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Menard Correctional Center Lease 0095

**VENDOR**

Vendor Name: <i>Michael Hasemeyer</i>	Address (City/State/Zip): <i>4676 Singer Rd Ellis Grove, IL 62741</i>
Signature: [Redacted]	Phone: <i>1-618-615-5891</i>
Printed Name: <i>Michael Hasemeyer</i>	Fax: <i>None</i>
Title: <i>Farmer / owner operator</i>	Email: <i>hasemeyrfarms@gmail.com</i>
Date: <i>1-2-21</i>	

**STATE OF ILLINOIS**

Procuring Agency: Illinois Department of Central Management Services	Phone: Click here to enter text.
Street Address: 313 S. 6 <sup>th</sup> Street	Fax: Click here to enter text.
City, State ZIP: Springfield, IL 62701	
Official Signature: [Redacted] <i>by Ansey Kalyayabolu</i>	Date: <i>4/2/2021</i>
Printed Name: Janel L. Forde	<i>Chief Operating Officer</i>
Official's Title: Director	
Legal Signature: [Redacted]	Date: <i>6/2/2021</i>
Legal Printed Name: James Cesnak	
Legal's Title: Assistant General Counsel	
Fiscal Signature: [Redacted]	Date: <i>4/2/2021</i>
Fiscal's Printed Name: [Redacted]	
Fiscal's Title: Chief Operating Officer BoPM/Chief Fiscal Officer	

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**AGENCY USE ONLY**

**NOT PART OF CONTRACTUAL PROVISIONS**

- Agency Reference #: Farm Lease 0095
- Project Title: Menard Correctional Center Farm Lease 0095
- Contract #: \_\_\_\_\_
- Procurement Method (IFB, RFP, Small Purchase, etc.): IFB
- BidBuy / Bulletin Reference #: 21-416CMS-LEAS4-B-18625
- BidBuy / Bulletin Publication Date: \_\_\_\_\_
- Award Code: \_\_\_\_\_
- Subcontractor Utilization?  Yes  No      Subcontractor Disclosure?  Yes  No
- Funding Source:
- Obligation #:
- Small Business Set-Aside?  Yes  No
- Minority Owned Business?  Yes  No
- Women Owned Business?  Yes  No
- Persons with Disabilities Owned Business?  Yes  No
- Veteran Owned Small Business?  Yes  No
- Other Preferences?

**1. DESCRIPTION OF SUPPLIES AND SERVICES**

**1.1. GOAL:** Farm Lease Contract ("Lease") between Vendor and the Illinois Department of Central Management Services (CMS) for the purpose of utilizing excess property at Dixon Correctional Center. The excess property is approximately 583.4 tillable acres in of land at Menard Correctional Center Farm 2, located at 711 Kaskaskia Street, Dwight, Illinois, USDA Farm 4666, Tract Number 10325 to be leased to vendor for agricultural purposes only. Refer to Attachment A for detailed locations and acreage information.

**1.2. SUPPLIES AND/OR SERVICES REQUIRED:** It is the Illinois Department of Central Management Services (CMS) policy is to use agricultural leases as a tool to utilize excess State-owned real estate. See Attachment A for field description.

**1.3. MILESTONES AND DELIVERABLES:**

**1.3.1.** Lessee shall guarantee lease payment by submitting one of the following each year:

**1.3.1.1** Prepaying the full amount of rent within thirty (30) days after contract execution and must be submitted prior to March 1<sup>st</sup> every year thereafter during the term of the lease. Failure to do so shall subject this Lease to immediate termination.

**1.3.1.2** Providing an irrevocable letter of credit to guarantee payment of the lease. The Irrevocable letter of credit must be submitted to the Illinois Department of Corrections Farm Lease Manager within thirty (30) days after contract execution and must be submitted prior to March 1st every year thereafter during the term of this Lease. Failure to do so shall subject this Lease to immediate termination.

**A.** If the Lessee provides an irrevocable letter of credit, the Lessee agrees to pay one half of annual lease payment on or before July 15<sup>th</sup> and the balance shall be paid in full by December 15<sup>th</sup> for each crop or lease year. Payment may be any combination of the following methods:

- 1.** Cash payment - Lessee agrees that cash payment will be made in the form of a personal check, bank cashier's check, a certified check, a bank draft or U.S. Postal Money Order made payable to "Correctional Industries, 301 Working Capital Revolving Fund. The Department may implement Electronic Fund Transfer (EFT) as an acceptable method of payment.

1.3.2 Lessee shall be responsible to pay all leasehold taxes on the leased lands that are assessed for the lease term. Failure to do so shall subject the lease to immediate termination. **Lessee shall provide a copy of the paid leasehold tax receipt for each year of the Lease by December 15th of the year in which the taxes were paid.** The obligations of this Paragraph shall survive the expiration or earlier termination of the term of this Lease. Lessee shall guarantee payment of property or leasehold taxes each year by one of the following:

1.3.2.1 Providing a cashier's check or money order made out to the county treasurer of the county where the farm is located. The cashier's check or money order will be returned to the Vendor after proof that the taxes have been paid.

1.3.2.2 Providing an irrevocable letter of credit to guarantee payment of the property taxes. **The irrevocable letter of credit must be submitted to the Illinois Department of Corrections Farm Lease Manager within thirty (30) days after contract execution and must be submitted prior to March 1st every year thereafter during the term of this Lease. Failure to do so shall subject this Lease to immediate termination.**

1.3.2. **A proof of liability insurance document shall be submitted to the Illinois Department of Corrections Farm Lease Manager within 30 days after contract execution and must be submitted on or prior to the insurance renewal date every year thereafter during the term of this Lease. See section 4.11 Insurance.** Lessee additionally covenants and agrees that if any required policies of liability insurance should lapse, Lessee shall be liable for loss, injury, damage or claims to persons or property resulting from or by virtue of Lessee's negligence.

1.3.3. Lessee shall notify the Illinois Department of Corrections prior to any fieldwork, planting, tillage, fertilizer application, etc.

#### 1.4 **VENDOR / STAFF SPECIFICATIONS:**

1.4.1 Lessee shall provide all necessary labor, machinery, tools, seed, fertilizer, equipment and insurance to do all of the work necessary for a farming operation in accordance with the requirements and within the time limits prescribed herein.

1.4.2 Lessee agrees to personally farm the lands described above and specified in the attachments. Neither subleasing nor the transfer of any Lease rights shall be

allowed without prior approval by the Illinois Department of Corrections and must be in writing, signed by both parties.

- 1.4.3 Lessee shall not subject, permit, encourage or invite other persons to use any part of the premises.
- 1.4.4 Lessee further declares that the only persons or parties interested in this Lease as principals are those named herein and that the Lease is made without collusion with any other person, firm or corporation.
- 1.4.5 Assignment, subcontracting or transfer of all or part of the interests of Lessee in the work covered by this lease is prohibited. Bailing of wheat stubble, legume or grass hay is allowed to be subcontracted.
- 1.4.6 Lessee shall pay any retail taxes on any goods or services purchased for the Site.
- 1.4.7 Lessee shall abide by all Federal, State, county, local laws as well as CMS rules, regulations and Administrative Orders.
- 1.4.8 Lessee shall not enter into any construction or remodeling projects of any kind on the premises without receiving prior written permission from the Illinois Department of Corrections.
- 1.4.9 This lease shall not be used as basis for a Lessee deer or turkey hunting permit.
- 1.4.10 Lessee shall not disturb any of the natural habitat, aquatic life or wildlife on the premises or any of the Illinois Department of Corrections areas adjacent to the premises without prior written permission from the Illinois Department of Corrections.
- 1.4.11 The Illinois Department of Corrections reserves the right to inspect and investigate Lessee's facilities, equipment and personnel.
- 1.4.12 CMS shall sign for approval for crop insurance at Lessee's request.
- 1.4.13 If CMS or the Illinois Department of Corrections causes loss or damage to Lessee's crop, the same will adjust the lease payment, based on documented evidence, as estimated by formula, by the Illinois Department of Corrections at fair market value.
- 1.4.14 The Agency and the Lessee mutually acknowledge that various standard provisions of this Lease may or may not be pertinent to the actual lease purpose, and that each such provision shall be interpreted as it reasonably pertains to this specific agreement and to the subject premises involved.

- 1.4.15 Lessee may perform spring tillage after March 1, unless prior consent is given by the Illinois Department of Corrections, in writing, to begin on an earlier date.
- 1.4.16 Lessee shall obtain approvals from CMS for submission to the Farm Service Agency (FSA) regarding crop acreage certification. Lessee will comply with the Natural Resource Conservation Service (NRCS) regarding all Soil Conservation Activity Plans. Illinois Soil Conservation Activity plans can be found by contacting your county NRCS office for guidance.
- 1.4.17 Lessee shall receive a written approval from the Illinois Department of Corrections prior to any mowing and chemical applications on grass cover areas in and around all crop fields. Lessee agrees to comply with all Federal, State and Local laws which regulate the use and application of herbicides, insecticides and pesticides.
- 1.4.18 Lessee is responsible for the property tax, or leasehold tax, assessment for each crop year. Lessee will be invoiced by the County Tax Collector.
- 1.4.19 CMS must approve and sign off on any participation in any USDA Farm Bill programs. This includes, but is not limited to: Conservation Reserve Program, Conservation Stewardship Program, disaster relief, Production Flexibility Contract (PFC), etc.
- 1.4.20 Lessee shall not store any items on state property (equipment, seed, fertilizer, harvested crops, chemicals, etc.).

#### 1.5 SUBCONTRACTING

Subcontractors are not allowed.

#### 1.6 SUCCESSOR VENDOR

- Yes  No This contract is for services subject to 30 ILCS 500/25-80. Heating and air conditioning service contracts, plumbing service contracts, and electrical service contracts are not subject to this requirement. Non-service contracts, construction contracts, qualification-based selection contracts, and professional and artistic services contracts are not subject to this requirement.

If yes is checked, then the Vendor certifies:

- (i) that it shall offer to assume the collective bargaining obligations of the prior employer, including any existing collective bargaining agreement with the bargaining representative of any existing collective bargaining unit or units

performing substantially similar work to the services covered by the contract subject to its bid or offer; and

- (ii) that it shall offer employment to all employees currently employed in any existing bargaining unit who perform substantially similar work to the work that will be performed pursuant to this contract.

**1.7 WHERE SERVICES ARE TO BE PERFORMED:** Unless otherwise disclosed in this section all services shall be performed in the United States. If the Vendor performs the services purchased hereunder in another country in violation of this provision, such action may be deemed by the State as a breach of the contract by Vendor.

Vendor shall disclose the locations where the services required shall be performed and the known or anticipated value of the services to be performed at each location. If the Vendor received additional consideration in the evaluation based on work being performed in the United States, it shall be a breach of contract if the Vendor shifts any such work outside the United States.

- Location where services will be performed:

Site: Menard Correctional Center

Site Address: 711 Kaskaskia Street, Menard, Illinois, USDA Farm 4666, Tract Numbers 10325

## 2. PRICING

### 2.1 FORMAT OF PRICING:

**2.1.1** Lessee shall submit pricing in the format shown below, based on the terms and conditions set forth in section 1 of this Contract.

**2.1.2** Pricing shall be submitted in the following format: \$ 51.00 per acre/per year based on the following acreage:

583.4 tillable acres in 2021

583.4 tillable acres in 2022

583.4 tillable acres in 2023

583.4 tillable acres in 2024

583.4 tillable acres in 2025

- 2.2 TYPE OF PRICING:** The Illinois Office of the Comptroller requires the State to indicate whether the contract value is firm or estimated at the time it is submitted for obligation. The total value of this contract is firm.
- 2.3 Taxes:** Pricing shall not include any taxes. However, pursuant to Paragraph 1.3.2, Lessee is responsible for payment of all leasehold taxes on the leased lands during the lease term.
- 2.4 Payment Terms:** Lessee agrees to pay on half of the annual Lease payment on or before July 15<sup>th</sup> and the balance shall be paid by December 15<sup>th</sup> for each crop or rent year.

### 3. TERM AND TERMINATION

3.1 **TERM OF THIS CONTRACT:** This lease will begin March 1, 2021 or upon signature of the CMS Director, whichever occurrence is the latter and shall terminate February 28, 2026.

3.1.1 In no event will the total term of the contract, including the initial term, any renewal terms and any extensions, exceed ten (10) years. 30 ILCS 500/20-60

3.1.2 Vendor shall not commence billable work in furtherance of the contract prior to final execution of the contract except when permitted pursuant to 30 ILCS 500/20-80.

3.2 **RENEWAL:** There is no renewal option.

3.3 **TERMINATION FOR CAUSE:** The State may terminate this contract, in whole or in part, immediately upon notice to the Vendor if: (a) the State determines that the actions or inactions of the Vendor, its agents, employees or subcontractors have caused, or reasonably could cause, jeopardy to health, safety, or property, or (b) the Vendor has notified the State that it is unable or unwilling to perform the contract.

If Vendor fails to perform to the State's satisfaction any material requirement of this contract, is in violation of a material provision of this contract, or the State determines that the Vendor lacks the financial resources to perform the contract, the State shall provide written notice to the Vendor to cure the problem identified within the period of time specified in the State's written notice. If not cured by that date the State may either: (a) immediately terminate the contract without additional written notice or (b) enforce the terms and conditions of the contract.

Enrolling State lands in any government program without prior written consent of the Agency shall result in termination of the Lease, forfeiture of any expenditure made by Vendor pursuant to the Lease and forfeiture of any government payments received or due.

Upon termination or at the expiration of the term of this Lease, Vendor agrees to yield possession of the premises to the Agency without further demand or notice, in as good a condition as received, and acceptable to the Agency, ordinary wear and tear excepted.

In the event this agreement is terminated for cause, the Vendor, an agricultural tenant on farm lands belonging to the CMS, does hereby voluntarily release and relinquish all or any rights, privileges, expectations of payment or any other remunerations or emoluments under the lease for the Federal Conservation Reserve Program ("CRP") or its successor, to the succeeding tenant of the CRP lease, as identified by the Agency.

Vendor agrees to execute and deliver any such additional documents as may be reasonably necessary to effectuate this provision upon termination.

For termination due to any of the causes contained in this Section, the State retains its rights to seek any available legal or equitable remedies and damages.

- 3.4 TERMINATION FOR CONVENIENCE:** Should all or a portion of the premises be needed by the State for any reason other than those prescribed by this agreement, the State may, for its convenience and with 30 days prior written notice to Vendor, terminate this lease. Vendor agrees to surrender and restore the Premises, and remove all personal property there from, prior to the expiration of said notification period. Vendor hereby agrees to waive the 4-month termination notice requirement of 735 ILCS/9-206. When appropriate, the State shall refer lease enforcement matters to the Office of the Illinois Attorney General.

#### 4. STANDARD BUSINESS TERMS AND CONDITIONS

##### 4.1 PAYMENT TERMS AND CONDITIONS:

- 4.1.1 Late Payment: Payments, including late payment charges, will be paid in accordance with the State Prompt Payment Act and rules when applicable. 30 ILCS 540; 74 Ill. Adm. Code 900. This shall be Vendor's sole remedy for late payments by the State. Payment terms contained in Vendor's invoices shall have no force or effect.
- 4.1.2 Minority Contractor Initiative: Any Vendor awarded a contract of \$1,000 or more under Section 20-10, 20-15, 20-25 or 20-30 of the Illinois Procurement Code (30 ILCS 500) is required to pay a fee of \$15. The Comptroller shall deduct the fee from the first check issued to the Vendor under the contract and deposit the fee in the Comptroller's Administrative Fund. 15 ILCS 405/23.9.
- 4.1.3 Expenses: The State will not pay for supplies provided or services rendered, including related expenses, incurred prior to the execution of this contract by the Parties even if the effective date of the contract is prior to execution.
- 4.1.4 Prevailing Wage: As a condition of receiving payment Vendor must (i) be in compliance with the contract, (ii) pay its employees prevailing wages when required by law, (iii) pay its suppliers and subcontractors according to the terms of their respective contracts, and (iv) provide lien waivers to the State upon request. Examples of prevailing wage categories include public works, printing, janitorial, window washing, building and grounds services, site technician services, natural resource services, security guard and food services. The prevailing wages are revised by the Illinois Department of Labor (DOL) and are available on DOL's official website, which shall be deemed proper notification of any rate changes under this subsection. Vendor is responsible for contacting DOL at 217-782-6206 or (<http://www.state.il.us/agency/idol/index.htm>) to ensure understanding of prevailing wage requirements.
- 4.1.5 Federal Funding: This contract may be partially or totally funded with Federal funds. If Federal funds are expected to be used, then the percentage of the good/service paid using Federal funds and the total Federal funds expected to be used will be provided to the awarded Vendor in the notice of intent to award.
- 4.1.6 Invoicing: By submitting an invoice, Vendor certifies that the supplies or services provided meet all requirements of this contract, and the amount billed and expenses incurred are as allowed in this contract. Invoices for supplies purchased, services performed, and expenses incurred through June 30 of any year must be submitted to the State no later than July 31 of that year; otherwise Vendor may have to seek payment through the Illinois Court of Claims. 30 ILCS 105/25. All invoices are subject to statutory offset. 30 ILCS 210.

4.1.6.1 Vendor shall not bill for any taxes unless accompanied by proof that the State is subject to the tax. If necessary, Vendor may request the applicable Agency's Illinois tax exemption number and Federal tax exemption information.

4.1.6.2 Vendor shall invoice at this completion of the contract unless invoicing is tied in this contract to milestones, deliverables, or other invoicing requirements agreed to in the contract.

Send payments to:

Agency:	Illinois Department of Corrections
Attn:	Wanda Burnett
Address:	Illinois Department of Corrections, Cushman Building, 1301 Concordia Court
City, State, Zip	Springfield, IL 62794-9277

For procurements conducted in BidBuy, the Agency may include in this contract the BidBuy Purchase Order as it contains the Bill To address.

4.2 **ASSIGNMENT:** This contract may not be assigned or transferred in whole or in part by Vendor without the prior written consent of the State.

4.3 **SUBCONTRACTING:** For purposes of this section, subcontractors are those specifically hired to perform all or part of the work covered by this contract. Vendor must receive prior written approval before use of any subcontractors in the performance of this contract. Vendor shall describe, in an attachment if not already provided, the names and addresses of all authorized subcontractors to be utilized by Vendor in the performance of this contract, together with a description of the work to be performed by the subcontractor and the anticipated amount of money that each subcontractor is expected to receive pursuant to this contract. If required, Vendor shall provide a copy of any subcontracts within fifteen (15) days after execution of this contract. All subcontracts must include the same certifications that Vendor must make as a condition of this contract. Vendor shall include in each subcontract the subcontractor certifications as shown on the Standard Certification form available from the State. If at any time during the term of the Contract, Vendor adds or changes any subcontractors, then Vendor must promptly notify, by written amendment to the Contract, the State Purchasing Officer or the Chief Procurement Officer of the names and addresses and the expected amount of money that each new or replaced subcontractor will receive pursuant to the Contract. 30 ILCS 500/20-120.

- 4.4 AUDIT/RETENTION OF RECORDS:** Vendor and its subcontractors shall maintain books and records relating to the performance of this contract and any subcontract necessary to support amounts charged to the State pursuant this contract or subcontract. Books and records, including information stored in databases or other computer systems, shall be maintained by the Vendor for a period of three (3) years from the later of the date of final payment under the contract or completion of the contract, and by the subcontractor for a period of three (3) years from the later of final payment under the term or completion of the subcontract. If Federal funds are used to pay contract costs, the Vendor and its subcontractors must retain their respective records for five (5) years. Books and records required to be maintained under this section shall be available for review or audit by representatives of: the procuring Agency, the Auditor General, the Executive Inspector General, the Chief Procurement Officer, State of Illinois internal auditors or other governmental entities with monitoring authority, upon reasonable notice and during normal business hours. Vendor and its subcontractors shall cooperate fully with any such audit and with any investigation conducted by any of these entities. Failure to maintain books and records required by this section shall establish a presumption in favor of the State for the recovery of any funds paid by the State under this contract or any subcontract for which adequate books and records are not available to support the purported disbursement. The Vendor or subcontractors shall not impose a charge for audit or examination of the Vendor's or subcontractor's books and records. 30 ILCS 500/20-65.
- 4.5 TIME IS OF THE ESSENCE:** Time is of the essence with respect to Vendor's performance of this contract. Vendor shall continue to perform its obligations while any dispute concerning this contract is being resolved unless otherwise directed by the State.
- 4.6 NO WAIVER OF RIGHTS:** Except as specifically waived in writing, failure by a Party to exercise or enforce a right does not waive that Party's right to exercise or enforce that or other rights in the future.
- 4.7 FORCE MAJEURE:** Failure by either Party to perform its duties and obligations will be excused by unforeseeable circumstances beyond its reasonable control and not due to its negligence, including acts of nature, acts of terrorism, riots, labor disputes, fire, flood, explosion, and governmental prohibition. The non-declaring Party may cancel this contract without penalty if performance does not resume within thirty (30) days of the declaration.
- 4.8 CONFIDENTIAL INFORMATION:** Each Party to this contract, including its agents and subcontractors, may have or gain access to confidential data or information owned or maintained by the other Party in the course of carrying out its responsibilities under this contract. Vendor shall presume all information received from the State or to which it gains access pursuant to this contract is confidential. Vendor information, unless clearly marked as confidential and exempt from disclosure under the Illinois Freedom of Information Act, shall be considered public. No confidential data collected, maintained, or used in the course of performance of this contract shall be disseminated except as

authorized by law and with the written consent of the disclosing Party, either during the period of this contract or thereafter. The receiving Party must return any and all data collected, maintained, created or used in the course of the performance of this contract, in whatever form it is maintained, promptly at the end of this contract, or earlier at the request of the disclosing Party, or notify the disclosing Party in writing of its destruction. The foregoing obligations shall not apply to confidential data or information lawfully in the receiving Party's possession prior to its acquisition from the disclosing Party; received in good faith from a third Party not subject to any confidentiality obligation to the disclosing Party; now is or later becomes publicly known through no breach of confidentiality obligation by the receiving Party; or that is independently developed by the receiving Party without the use or benefit of the disclosing Party's confidential information.

**4.9 USE AND OWNERSHIP:** All work performed or supplies created by Vendor under this contract, whether written documents or data, goods or deliverables of any kind, shall be deemed work for hire under copyright law and all intellectual property and other laws, and the State of Illinois is granted sole and exclusive ownership to all such work, unless otherwise agreed in writing. Vendor hereby assigns to the State all right, title, and interest in and to such work including any related intellectual property rights, and/or waives any and all claims that Vendor may have to such work including any so-called "moral rights" in connection with the work. Vendor acknowledges the State may use the work product for any purpose. Confidential data or information contained in such work shall be subject to the confidentiality provisions of this contract.

**4.10 INDEMNIFICATION AND LIABILITY:** The Vendor shall indemnify and hold harmless the State of Illinois, its agencies, officers, employees, agents and volunteers from any and all costs, demands, expenses, losses, claims, damages, liabilities, settlements and judgments, including in-house and contracted attorneys' fees and expenses, arising out of: (a) any breach or violation by Vendor of any of its certifications, representations, warranties, covenants or agreements; (b) any actual or alleged death or injury to any person, damage to any real or personal property, or any other damage or loss claimed to result in whole or in part from Vendor's negligent performance; (c) any act, activity or omission of Vendor or any of its employees, representatives, subcontractors or agents; or (d) any actual or alleged claim that the services or goods provided under this contract infringe, misappropriate, or otherwise violate any intellectual property (patent, copyright, trade secret, or trademark) rights of a third party. In accordance with Article VIII, Section 1(a),(b) of the Constitution of the State of Illinois, the State may not indemnify private parties absent express statutory authority permitting the indemnification. Neither Party shall be liable for incidental, special, consequential, or punitive damages.

- 4.11 INSURANCE:** Vendor shall, at all times during the term of this contract and any renewals or extensions, maintain and provide a Certificate of Insurance naming the State as an additionally insured for all required bonds and insurance. Certificates may not be modified or canceled until at least thirty (30) days' notice has been provided to the State. Vendor shall provide: (a) General Commercial Liability insurance in the amount of \$1,000,000 per occurrence (Combined Single Limit Bodily Injury and Property Damage) and \$2,000,000 Annual Aggregate; (b) Auto Liability, including Hired Auto and Non-owned Auto (Combined Single Limit Bodily Injury and Property Damage), in amount of \$1,000,000 per occurrence; and (c) Worker's Compensation Insurance in the amount required by law. Insurance shall not limit Vendor's obligation to indemnify, defend, or settle any claims.

Vendor additionally covenants and agrees that if any required policies of liability insurance should lapse, or otherwise are not applicable or effective, Vendor shall be liable for loss, injury, damage or claims to persons or property resulting from or by virtue of Vendor's negligence. A proof of liability insurance document shall be submitted to the Farm Lease Manager within 30 days after contract execution and must be submitted on or prior to the insurance renewal date every year thereafter during the term of this Lease.

- 4.12 INDEPENDENT CONTRACTOR:** Vendor shall act as an independent contractor and not an agent or employee of, or joint venturer with the State. All payments by the State shall be made on that basis.
- 4.13 SOLICITATION AND EMPLOYMENT:** Vendor shall not employ any person employed by the State during the term of this contract to perform any work under this contract. Vendor shall give notice immediately to the Agency's director if Vendor solicits or intends to solicit State employees to perform any work under this contract.
- 4.14 COMPLIANCE WITH THE LAW:** The Vendor, its employees, agents, and subcontractors shall comply with all applicable Federal, State, and local laws, rules, ordinances, regulations, orders, Federal circulars and all license and permit requirements in the performance of this contract. Vendor shall be in compliance with applicable tax requirements and shall be current in payment of such taxes. Vendor shall obtain at its own expense, all licenses and permissions necessary for the performance of this contract.
- 4.15 BACKGROUND CHECK:** Whenever the State deems it reasonably necessary for security reasons, the State may conduct, at its expense, criminal and driver history background checks of Vendor's and subcontractor's officers, employees or agents. Vendor or subcontractor shall immediately reassign any individual who, in the opinion of the State, does not pass the background check.

**4.16 APPLICABLE LAW:**

**4.16.1 PREVAILING LAW:** This contract shall be construed in accordance with and is subject to the laws and rules of the State of Illinois.

**4.16.2 EQUAL OPPORTUNITY:** The Department of Human Rights' Equal Opportunity requirements are incorporated by reference. 44 Ill. Adm. Code 750.

**4.16.3 COURT OF CLAIMS; ARBITRATION; SOVEREIGN IMMUNITY:** Any claim against the State arising out of this contract must be filed exclusively with the Illinois Court of Claims. 705 ILCS 505/1. The State shall not enter into binding arbitration to resolve any dispute arising out of this contract. The State of Illinois does not waive sovereign immunity by entering into this contract.

**4.16.4 OFFICIAL TEXT:** The official text of the statutes cited herein is incorporated by reference. An unofficial version can be viewed at [www.ilga.gov/legislation/ilcs/ilcs.asp](http://www.ilga.gov/legislation/ilcs/ilcs.asp).

**4.17 ANTI-TRUST ASSIGNMENT:** If Vendor does not pursue any claim or cause of action it has arising under Federal or State antitrust laws relating to the subject matter of this contract, then upon request of the Illinois Attorney General, Vendor shall assign to the State all of Vendor's rights, title and interest to the claim or cause of action.

**4.18 CONTRACTUAL AUTHORITY:** The Agency that signs this contract on behalf of the State of Illinois shall be the only State entity responsible for performance and payment under this contract. When the Chief Procurement Officer or authorized designee or State Purchasing Officer signs in addition to an Agency, he/she does so as approving officer and shall have no liability to Vendor. When the Chief Procurement Officer or authorized designee or State Purchasing Officer signs a master contract on behalf of State agencies, only the Agency that places an order or orders with the Vendor shall have any liability to the Vendor for that order or orders.

**4.19 EXPATRIATED ENTITIES:** Except in limited circumstances, no business or member of a unitary business group, as defined in the Illinois Income Tax Act, shall submit a bid for or enter into a contract with a State agency if that business or any member of the unitary business group is an expatriated entity.

**4.20 NOTICES:** Notices and other communications provided for herein shall be given in writing via electronic mail whenever possible. If transmission via electronic mail is not possible, then notices and other communications shall be given in writing via registered or certified mail with return receipt requested, via receipted hand delivery, via courier (UPS, Federal Express or other similar and reliable carrier), or via facsimile showing the date and time of successful receipt. Notices shall be sent to the individuals who signed this contract using the contact information following the signatures. Each such notice

shall be deemed to have been provided at the time it is actually received. By giving notice, either Party may change its contact information.

- 4.21 MODIFICATIONS AND SURVIVAL:** Amendments, modifications and waivers must be in writing and signed by authorized representatives of the Parties. Any provision of this contract officially declared void, unenforceable, or against public policy, shall be ignored and the remaining provisions shall be interpreted, as far as possible, to give effect to the Parties' intent. All provisions that by their nature would be expected to survive, shall survive termination. In the event of a conflict between the State's and the Vendor's terms, conditions and attachments, the State's terms, conditions and attachments shall prevail.
- 4.22 PERFORMANCE RECORD / SUSPENSION:** Upon request of the State, Vendor shall meet to discuss performance or provide contract performance updates to help ensure proper performance of this contract. The State may consider Vendor's performance under this contract and compliance with law and rule to determine whether to continue this contract, suspend Vendor from doing future business with the State for a specified period of time, or whether Vendor can be considered responsible on specific future contract opportunities.
- 4.23 FREEDOM OF INFORMATION ACT:** This contract and all related public records maintained by, provided to, or required to be provided to the State are subject to the Illinois Freedom of Information Act (FOIA) notwithstanding any provision to the contrary that may be found in this contract. 5 ILCS 140.
- 4.24 SCHEDULE OF WORK:** Any work performed on State premises shall be performed during the hours designated by the State and performed in a manner that does not interfere with the State and its personnel.
- 4.25 WARRANTIES FOR SUPPLIES AND SERVICE:**
- 4.25.1. Vendor warrants that the supplies furnished under this contract will: (a) conform to the standards, specifications, drawing, samples or descriptions furnished by the State or furnished by the Vendor and agreed to by the State, including but not limited to all specifications attached as exhibits hereto; (b) be merchantable, of good quality and workmanship, and free from defects for a period of twelve months or longer if so specified in writing, and fit and sufficient for the intended use; (c) comply with all federal and state laws, regulations and ordinances pertaining to the manufacturing, packing, labeling, sale and delivery of the supplies; (d) be of good title and be free and clear of all liens and encumbrances and; (e) not infringe any patent, copyright or other intellectual property rights of any third party. Vendor agrees to reimburse the State for any losses, costs, damages or expenses, including without limitations, reasonable

attorney's fees and expenses, arising from failure of the supplies to meet such warranties.

4.25.2. Vendor shall ensure that all manufacturers' warranties are transferred to the State and shall provide to the State copies of such warranties. These warranties shall be in addition to all other warranties, express, implied or statutory, and shall survive the State's payment, acceptance, inspection or failure to inspect the supplies.

4.25.3. Vendor warrants that all services will be performed to meet the requirements of this contract in an efficient and effective manner by trained and competent personnel. Vendor shall monitor performances of each individual and shall immediately reassign any individual who does not perform in accordance with this contract, who is disruptive or not respectful of others in the workplace, or who in any way violates the contract or State policies.

**4.26 REPORTING, STATUS AND MONITORING SPECIFICATIONS:** Vendor shall immediately notify the State of any event that may have a material impact on Vendor's ability to perform this contract.

**4.27 EMPLOYMENT TAX CREDIT:** Vendors who hire qualified veterans and certain ex-offenders may be eligible for tax credits. 35 ILCS 5/216, 5/217. Please contact the Illinois Department of Revenue (telephone #: 217-524-4772) for information about tax credits.

**5. STATE SUPPLEMENTAL PROVISIONS**

- Agency Definitions
- Required Federal Clauses, Certifications and Assurances
- Public Works Requirements (construction and maintenance of a public work) 820 ILCS 130/4.
- Prevailing Wage (janitorial cleaning, window cleaning, building and grounds, site technician, natural resources, food services, security services, and printing, if valued at more than \$200 per month or \$2,000 per year) 30 ILCS 500/25-60.
- Agency Specific Terms and Conditions
- Other (describe)

Attachment A – Land Map

