

Professional and Technical Services Contract Amendment 2 State of Minnesota

SWIFT Contract Number: 52403

SWIFT Purchase Order Number: 3000014187

Contract Start Date:	<u>10/01/2012</u>	Total Contract Amount:	<u>\$255,000.00</u>
Original Contract Expiration Date:	<u>09/30/2014</u>	Original Contract:	<u>\$ 90,000.00</u>
Current Contract Expiration Date:	<u>09/30/2016</u>	Previous Amendment(s) Total:	<u>\$ 90,000.00</u>
Requested Contract Expiration Date:	<u>09/30/2017</u>	This Amendment:	<u>\$ 75,000.00</u>

This Amendment is by and between the State of Minnesota, acting through its Commissioner of Public Safety on behalf of the Homeland Security and Emergency Management division ("State" or "HSEM") and the City of Duluth, acting on behalf of its Fire Department, 602 West Second Street, Duluth, MN 55802 ("Contractor").

Recitals

1. The State has a contract with the Contractor identified as SWIFT Contract Number 52403 ("Original Contract") to provide Hazardous Materials Emergency Chemical Assessment Teams ("CAT Teams") to assist local authorities in protecting the public's safety from the effects of a hazardous materials release.
2. The State wishes to exercise its option to extend the Original Contract with Contractor for an additional year.
3. The State and the Contractor are willing to amend the Original Contract as stated below.

Contract Amendment

In this Amendment, changes to pre-existing Contract language will use ~~strike-through~~ for deletions and underlining for insertions.

REVISION 1. Clause 1, **Term of Contract**, is amended as follows:

- 1.1 **Effective Date.** ~~October 1, 2012~~ or the date the State obtains all required signatures under Minnesota Statutes § 16C.05, subdivision 2, whichever is later. The Contractor must not begin work under this Contract until this Contract is fully executed and the Contractor has been notified by the State's Authorized Representative to begin the work.
- 1.2 **Expiration Date.** ~~September 30, 2016~~ September 30, 2017 or until all obligations have been satisfactorily fulfilled, whichever occurs first.
- 1.3 **Survival of Terms.** The following clauses survive the expiration or cancellation of this Contract: 8. Indemnification; 9. State Audits; 10. Government Data Practices and Intellectual Property; 13. Publicity and Endorsement; 14. Governing Law, Jurisdiction, and Venue; and 15. Data Disclosure.

REVISION 2. Clause 4, **Consideration and Payment**, is amended as follows:

- 4.1 **Consideration.** The State will pay for all services performed by the Contractor under this Contract as follows:
 - (A) **Compensation.** The Contractor will be paid by the State for the following costs ~~in each year~~ of the contract associated to:
For the period commencing October 1, 2012 and ending September 30, 2015
 - (1) Capital equipment – cost of capital equipment including vehicles not to exceed \$3,000.00.
 - (2) Training – Annual cost of training team personnel (excluding exercise training) not to exceed \$25,000.00.

- (3) Medical Examinations – Cost of annual medical examinations for team personnel not to exceed \$9,000.00.
- (4) Consumable Supplies – Initial cost of consumable supplies not to exceed \$2,000.00.
- (5) Administration – Program administration costs not to exceed \$3,000.00.
- (6) Maintenance – Equipment maintenance costs not to exceed \$3,000.00.

For the period commencing October 1, 2015 and ending September 30, 2016

- (1) Capital equipment – cost of capital equipment including vehicles not to exceed \$5,000.00.
- (2) Training – Annual cost of training team personnel (excluding exercise training) not to exceed \$35,000.00.
- (3) Medical Examinations – Cost of annual medical examinations for team personnel not to exceed \$10,000.00.
- (4) Consumable Supplies – Initial cost of consumable supplies not to exceed \$2,000.00.
- (5) Administration – Program administration costs not to exceed \$5,000.00.
- (6) Maintenance – Equipment maintenance costs not to exceed \$3,000.00.

For the period commencing October 1, 2016 and ending September 30, 2017

- (1) Capital equipment – cost of capital equipment including vehicles not to exceed \$5,000.00.
- (2) Training – Annual cost of training team personnel (excluding exercise training) not to exceed \$35,000.00.
- (3) Medical Examinations – Cost of annual medical examinations for team personnel not to exceed \$10,000.00.
- (4) Consumable Supplies – Initial cost of consumable supplies not to exceed \$2,000.00.
- (5) Administration – Program administration costs not to exceed \$5,000.00.
- (6) Maintenance – Equipment maintenance costs not to exceed \$3,000.00.

- (B) Contractor may deviate from proposed budget stated in Clause 4, Section 4.1, Item (A) of this contract increasing and decreasing amounts between approved categories listed as needed and justified with the exception of category (5). Category (5) pertains to administration costs and may not be increased more than 20% without prior written approval from the State's Authorized Representative of this contract. The total amount for Clause 4, Section 4.1, Item (A) ~~may not exceed \$45,000 per year (October through September) of this contract, and may not exceed \$180,000 for all years of the contract. Funds not expended by the Contractor during the first, second and third year of the contract will be cancelled~~ may not exceed: \$45,000 for the period commencing October 1, 2012 and ending September 30, 2013; \$45,000 for the period commencing October 1, 2013 and ending September 30, 2014; \$45,000 for the period commencing October 1, 2014 and ending September 30, 2015; \$60,000 for the period commencing October 1, 2015 and ending September 30, 2016; and \$60,000 for the period commencing October 1, 2016 and ending September 30, 2017. The total obligation of the State to the Contractor for clause 4, Section 4.1, Item (A) under this contract may not exceed \$255,000.00 for all years of the contract. Funds not expended by the Contractor at the end of each year, i.e. September 30 of each year, will be cancelled.

- (C) **Emergency Response Compensation.** Contractor will be reimbursed by the State for the reasonable and necessary costs associated with an actual response as follows:

- (1) Team Personnel Costs:
 Year 1: \$64.00 per hour, including wages and fringe benefits, per person, 2 hour minimum.
 Team personnel costs are valid through December 31, 2014. Team personnel costs beginning January 1, 2015 will remain the same, or match any existing negotiated wage and benefit increases established between the City of Duluth and the International Association of Firefighters Local #101.

Effective October 1, 2015 through December 31, 2016, and for all personnel with the exception of a Technical Services Coordinator (TSC), team personnel costs of \$74.56

per hour, including wages and fringe benefits, per person, and four (4) hour minimum. Effective January 1, 2017 through September 30, 2017, and for all personnel with the exception of a TSC, team personnel costs will increase 2.25% to match negotiated wage and benefit increases established between the City of Duluth and the International Association of Firefighters Local #101.

Effective October 1, 2015 through December 31, 2016, the personnel cost of a Technical Services Coordinator (TSC) will be \$119.90 per hour, including wages and fringe benefits, per person, and four (4) hour minimum. Effective January 1, 2017 through September 30, 2017, the personnel cost of a TSC will increase 2.25% to match negotiated wage and benefit increases established between the City of Duluth and the International Association of Firefighters Local #101.

- (2) **Additional Wage Costs for Local Callback Personnel:**
Year 1: \$18.00 per hour, including wages and fringe benefits, per person, 2 hour minimum.
Team personnel costs are valid through December 31, 2014. Team personnel costs beginning January 1, 2015 will remain the same, or match any existing negotiated wage and benefit increases established between the City of Duluth and the International Association of Firefighters Local #101.

Effective October 1, 2015 through December 31, 2016, team personnel costs of \$23.50 per hour, including wages and fringe benefits, per person, and four (4) hour minimum. Effective January 1, 2017 through September 30, 2017, team personnel costs will increase 2.25% to match negotiated wage and benefit increases established between the City of Duluth and the International Association of Firefighters Local #101.
- (3) **Vehicle Operating Costs:**
Years 1, 2, 3, 4 and 5: \$60.00 per hour for support vehicles, and \$75.00 per hour for hazardous materials response vehicles.
- (4) **Cost of Consumable Supplies Used:**
Years 1, 2, 3, 4 and 5: Contractor will submit an itemized invoice for actual costs. Costs for this item will not exceed the actual costs incurred.
- (5) **Costs of Repair or Replacement of Damaged or Destroyed Equipment:**
Years 1, 2, 3, 4 and 5: Contractor will submit an itemized invoice for actual costs incurred. If costs exceed \$500.00, the State may request competitive bids or quotes prior to the repair or replacement of equipment. Contractors, who are municipalities, must comply with municipal bidding laws.
- (6) **Communications Costs:**
Years 1, 2, 3, 4 and 5: Contractors will submit an itemized invoice for actual costs incurred. Eligible costs are defined as cellular and land line telephone costs for voice, data, or facsimile transmissions.
- (7) **Administrative Costs Directly Resulting from the Emergency Response:**
Year 1: \$64.00 per hour, including wages and fringe benefits, per person, 2 hour minimum. Team personnel costs are valid through December 31, 2014. Team personnel costs beginning January 1, 2015 will remain the same, or match any existing negotiated wage and benefit increases established between the City of Duluth and the International Association of Firefighters Local #101. Contractor may request additional administrative cost compensation, based on an itemized invoice for actual costs incurred, when extraordinary circumstances resulting from a specific State authorized emergency response are documented.

Effective October 1, 2015 through December 31, 2016, personnel costs of \$74.56 per hour, including wages and fringe benefits, per person, and two (2) minimum. Effective January 1, 2017 through September 30, 2017, team personnel costs will increase 2.25% to match negotiated wage and benefit increases established between the City of Duluth and the International Association of Firefighters Local #101. Contractor may request additional administrative cost compensation, based on an itemized invoice for actual costs incurred, when extraordinary circumstances resulting from a specific State authorized emergency response are documented.

- (8) Costs incurred in the use of Special Equipment as provided in Minnesota Rules, Chapter 7514.1200.
Years 1, 2, 3, 4 and 5: Contractor will submit an itemized invoice for actual costs. Costs for this item will not exceed the actual costs incurred.
 - (9) Costs associated with providing Support to Cleanup Operations when requested in accordance with Minnesota Rules, Chapter 7514.0900, Subpart 5.
Years 1, 2, 3, 4 and 5: Contractor will submit an itemized invoice for actual costs. Costs for this item will not exceed the actual costs incurred.
 - (10) Costs associated with providing Standby Technical Assistance when requested in accordance with Minnesota Rules, Chapter 7514.1600, Subpart 4.
Years 1, 2, 3, 4 and 5: Contractor will submit an itemized invoice for actual costs. Costs for this item will not exceed the actual costs incurred.
 - (11) Other Direct Costs incurred by the Contractor as a result of the Emergency Response.
Years 1, 2, 3, 4 and 5: Contractor will submit an itemized invoice for actual costs. Costs for this item will not exceed the actual costs incurred.
- (D) Costs incurred under Clause 4, Section 4.1, Item (C) of this Contract for any single response by the Contractor may not exceed \$5,000.00, unless authorized by the State.

All necessary and reasonable costs associated with a State authorized emergency response to a hazardous materials incident, incurred by the Contractor and authorized by the State, will be billed by the State to the responsible person, and managed by the State through a separate revolving account for such incidents. Contractor agrees that the State subrogates to the rights of the Contractor against the responsible person as decided in Minnesota Statutes 299A.52.

- (E) The total Obligation of the State for all compensation to Contractor incurred under Clause 4, Section 4.1, item (A), of this Contract shall not exceed \$480,000.00 **Two Hundred Fifty Five Thousand and 00/100 Dollars (\$255,000.00).**

4.2 Payment.

- (A) **Invoices.** The State will promptly pay the Contractor after the Contractor presents an itemized invoice for the services actually performed and the State's Authorized Representative accepts the invoiced services. Invoices must be submitted timely and according to the following schedule:
- (1) **Contractor Compensation:** Contractor will submit a completed Compensation Reimbursement Packet at least annually but not more frequently than monthly for reimbursement of costs identified in Clause 4, Section 4.1, Items (A) and (B) of this contract. Final invoice for reimbursement for State Fiscal Year 2015 must be received by the State no later than July 31, 2015. ~~Final Invoice for reimbursement for State Fiscal Year 2016 must be received by the State no later than July 31, 2016. Final invoice for reimbursement under this contract must be received by the State no later than October 30, 2016.~~ All invoices for the period commencing July 1, 2015 through June 30, 2016 must be submitted to the State no later than July 31, 2016. All invoices

for the period commencing July 1, 2016 through June 30, 2017 must be submitted to the State no later than July 31, 2017. All invoices for the period commencing July 1, 2017 through September 30, 2017 must be submitted to the State no later than October 31, 2017.

The State will process completed Reimbursement Packets for compensation within thirty (30) days of receipt. The total amount of reimbursement pertaining to Clause 4, Section 4.1, Items (A) and (B) of this contract will not exceed the limits of this contract.

- (2) **Emergency Response Compensation:** Contractor is responsible for submitting a claim for reimbursement for the reasonable and necessary costs associated with a State authorized emergency response to a hazardous materials incident within 45 days of the termination of the response. The claim for reimbursement must be made on State provided forms and must detail the reasonable and necessary costs of the response as provided in Clause 4, Section 4.1, Item (C). The State will process completed forms for reimbursement within thirty (30) days of receipt.

- (B) **Retainage.** Under Minnesota Statutes § 16C.08, subd. 5(b) 2(10), no more than 90 percent of the amount due under this contract may be paid until the final product of this contract has been reviewed by the State's agency head. The balance due will be paid when the State's agency head determines that the Contractor has satisfactorily fulfilled all the terms of this contract.

- ~~(C) **Federal funds.** (Where applicable, if blank this section does not apply.) Payments under this contract will be made from federal funds obtained by the State through Title _____ CFDA number _____ of the _____ Act of _____. The Contractor is responsible for compliance with all federal requirements imposed on these funds and accepts full financial responsibility for any requirements imposed by the Contractor's failure to comply with federal requirements.~~

Except as amended herein, the terms and conditions of the Original Contract and all previous amendments remain in full force and effect.

1. STATE ENCUMBRANCE VERIFICATION

Individual certifies that funds have been encumbered as required by Minnesota Statute §§ 16A.15 and 16C.05.

Signed: _____

Date: _____

SWIFT PO ID# _____

3. STATE AGENCY

By: _____
(with delegated authority)

Title: _____

Date: _____

2. CONTRACTOR

The Contractor certifies that the appropriate person(s) have executed the contract on behalf of the Contractor as required by applicable articles, bylaws, resolutions, or ordinances.

By: _____

Title: _____

Date: _____

By: _____

Title: _____

Date: _____

4. COMMISSIONER OF ADMINISTRATION

As delegated to Materials Management Division

By: _____

Title: _____

Date: _____