

Exhibit A



Professional and Technical Services Contract State of Minnesota

SWIFT Contract Number: 131757
Purchase Order Number: 3000050284

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

Recitals

1. Under Minnesota Statutes §§ 15.061 and 299A.50, subdivision 2, and Minnesota Reorganization Order 191, the State is empowered to enter into contracts with other state departments and agencies, local units of government, other states, Indian tribes, the federal government, or other nonpublic persons to implement provisions of Minnesota Rules Chapter 7514.
2. The State is in need of professional/technical services from regionally located Hazardous Materials Emergency Chemical Assessment Teams ("CAT Teams") to assist local authorities in protecting the public's safety from effects of a hazardous materials release.
3. The Contractor represents that it is duly qualified and agrees to perform all services described in this Contract to the satisfaction of the State.

Contract

1. **Term of Contract**
 - 1.1 **Effective Date.** **October 1, 2017**, 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, 2022**, 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.
2. **Contractor's Duties**

The Contractor, who is not a State employee except as defined by Minnesota Statutes § 299A.51, subdivisions 1 and 2, will be responsible for all terms, tasks and conditions identified in Minnesota Statutes §§ 299A.48 to 299A.52 and Minnesota Rules Chapter 7514, including but not limited to the following:

 - a) Respond to hazardous materials incidents occurring in the Contractor's primary and secondary response areas when requested.
 - b) Respond to any response area in the State when directed to do so by the Commissioner of Public Safety (*Minnesota Rules Chapter 7514.0900, subpart 1*).
 - c) Coordinate on-scene emergency response operations with local, state and federal agencies, Indian tribes, and private response organizations through the Minnesota Incident Management System (*Minnesota Rules Chapter 7514.1800, subpart 1*).
 - d) Ensure team members are in compliance with the initial, continuing education and team training requirements (*Minnesota Rules Chapter 7514.0600, subparts 1 to 4*); and annually certify such compliance to the Commissioner (*Minnesota Rules Chapter 7514.0600, subpart 6*).
 - e) Ensure team members are in compliance with medical requirements (*Minnesota Rules Chapter 7514.0600, subpart 7*); and annually certify such compliance to the Commissioner (*Minnesota Rules Chapter 7514.0600, subpart 7*).

- f) Deploy team personnel and equipment to hazardous materials incident(s) within an average of fifteen (15) minutes from the time a decision is made to dispatch the team. For purposes of this clause, the decision to dispatch the team will be considered made at the time the Contractor's point of contact as identified in Appendix E, which is attached and incorporated into this Contract, is notified by the State.
- g) Ensure compliance with all other employer requirements (*Minnesota Rules Chapter 7514.0600*).
- h) Conduct a formal evaluation of the CAT Team's response to an incident within thirty (30) days after termination of the team's response (*Minnesota Rules Chapter 7514.1300*).
- i) Submit a detailed report of the team's response to an incident (*Minnesota Rules Chapter 7514.0900, subpart 7*); and use appropriate measures to identify to the State the responsible person of each incident, including social security number or federal tax identification number.
- j) Designate one (1) primary and one (1) alternate representative to the State's Hazardous Materials Regional Response Team Program Advisory Committee (*Appendix G*); require one or both representatives to attend all meetings convened by the Committee; and empower each representative to make recommendations to the Committee on behalf of the Contractor.
- k) Designate one (1) primary and one (1) alternate representative (*Appendix G*) and require each representative to train in applying operating guidelines and other administrative procedures established and identified by the State's Hazardous Materials Regional Response Team (*Minnesota Rules Chapter 7514.0700, subpart 2*); and require one or both representatives to instruct other CAT Team members.
- l) Maintain and store emergency response vehicle(s) and equipment in proper working order and in response-ready status at all times. This duty applies to all vehicles and equipment regardless of ownership including vehicles and equipment loaned to the Contractor. One exception to this duty is when routine or required maintenance, repairs or replacement of a vehicle or equipment is required. The Contractor shall immediately notify the State at any time Contractor is not available for an emergency response.
- m) Submit claims to the Commissioner for recoverable costs (*Minnesota Rules Chapter 7514.1700, subparts 1 and 3*); and use appropriate measures to identify to the State the responsible person of each incident, including social security number or federal tax identification number.
- n) Maintain the required composition of a Chemical Assessment Team (*Minnesota Rules Chapter 7514.0800*) including the availability for immediate response of three (3) members minimum certified to the levels of hazardous materials training. The State recommends maintaining a level of five (5) members for immediate response; and the Contractor agrees to obtain approval from the State's Authorized Representative or his designee prior to deploying more than five (5) team members to an incident.
- o) Respond to incidents and assist local authorities at the scene of a hazardous materials incidents by providing simple mitigation; and recommend to the local incident manager the best means of controlling the hazard after consideration of life safety concerns, environmental effects, exposure hazards, quantity and type of hazardous material, availability of resources, or other relevant factors (*Minnesota Statutes § 299A.49, subdivision 2, and Minnesota Rules Chapter 7514.0900*).
- p) Respond to incidents in conjunction with an Emergency Response Team to assess an incident, develop and recommend mitigation strategies, and assist with response operations (*Minnesota Rules Chapter 7514.0900, subpart 4*).

The Contractor shall not subcontract any work, duties or tasks pursuant to this Contract.

3. Time

The Contractor must comply with all the time requirements described in this Contract. In the performance of this Contract, time is of the essence.

4. Consideration and Payment

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, not to exceed **Sixty Thousand and 00/100 Dollars (\$60,000.00)** during each twelve-month period, i.e. October 1 through September 30, of the contract:
 - 1) Capital equipment – Cost of capital equipment including vehicles.
 - 2) Training – Cost of training team personnel (excluding exercise training).
 - 3) Medical examinations – Cost of annual medical examinations for team personnel.
 - 4) Consumable supplies – Cost of consumable supplies.
 - 5) Administration – Cost of program administration.
 - 6) Maintenance – Cost of equipment maintenance.
- (b) Contractor may deviate from its budget corresponding to the six categories identified in Clause 4, Section 4.1(a), of this contract, increasing and decreasing amounts between categories as needed and justified with the exception of Category 5, Administration. Administration costs shall not be increased more than 20% without prior written approval from the State's Authorized Representative. The total amount payable corresponding to Clause 4, Section 4.1(a), shall not exceed **Sixty**

Thousand and 00/100 Dollars (\$60,000.00) during each twelve-month period commencing October 1 and ending September 30 of the following year.

- (c) **Total Obligation.** The total obligation of the State for all compensation to the Contractor corresponding to Clause 4, Section 4.1(a) of this Contract shall not exceed **Sixty Thousand and 00/100 Dollars (\$60,000.00)** for each twelve month period commencing October 1 and ending September 30, a total of **Three Hundred Thousand and 00/100 Dollars (\$300,000.00)** during the Term of Contract.
- (d) **Emergency Response Reimbursement.** In addition to the Compensation identified in Clause 4, Section 4.1(a) above, the State will reimburse Contractor for reasonable and necessary expenses corresponding to and directly associated with the following costs incurred during an actual emergency response. Reimbursement costs corresponding to this section shall not exceed **Five Thousand and 00/100 Dollars (\$5,000.00)** for any single response unless pre-authorized in writing by the State's Authorized Representative.
- 1) **CAT Team Personnel Costs**
An hourly rate per person, including wages and fringe benefits, for four (4) hours minimum per person, up to five (5) persons [Note: See Clause 2(n) above]. Hourly rates will be determined by and in accordance with the Contractor's collective bargaining agreement(s) corresponding to personnel.
 - 2) **Additional Wage Costs for Local Callback Personnel**
An hourly rate per person, including wages and fringe benefits, for four (4) hours minimum per person, up to five (5) persons. Hourly rates will be determined by and in accordance with the Contractor's collective bargaining agreement(s) corresponding to personnel.
 - 3) **Vehicle Operating Costs**
Up to \$150.00 per hour for hazardous materials response vehicle; up to \$100.00 per hour for support vehicles; and up to \$100.00 per hour for regional mobile air trailer.
 - 4) **Cost of Consumable Supplies Used**
Cost for consumable supplies used shall not exceed the actual costs incurred; and Contractor must submit an itemized invoice for actual costs to be reimbursed.
 - 5) **Costs of Repair or Replacement of Damaged or Destroyed Equipment**
Contractor must submit an itemized invoice for actual costs incurred. If cost is estimated to exceed \$500.00, Contractor shall consult with the State's Authorized Representative to determine if the State will require competitive bids or quotes prior to the repair or replacement of equipment. If the State requires a competitive solicitation, Contractor must comply with the applicable municipal bidding laws.
 - 6) **Communication Costs, including Long Distance and Cellular Telephone Charges**
Eligible costs are defined as cellular/mobile and land line telephone costs for voice, data, and facsimile transmissions. Contractor must submit an itemized invoice for actual costs incurred.
 - 7) **Administrative Costs Directly Resulting from the Emergency Response**
Up to \$500.00 per incident based on actual costs incurred. Contractor may request additional administrative cost reimbursement 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 (*Minnesota Rules Chapter 7514.1200*)**
Costs for this item shall not exceed the actual costs incurred; and Contractor must submit an itemized invoice for actual costs to be reimbursed.
 - 9) **Costs Associated with Providing Support to Cleanup Operations (*Minnesota Rules Chapter 7514.0900, subpart 5*)**
Costs for this item shall not exceed the actual costs incurred; and Contractor must submit an itemized invoice for actual costs to be reimbursed.
 - 10) **Costs Associated with Providing Standby Technical Assistance (*Minnesota Rules Chapter 7514.1600, subpart 4*)**
Costs for this item shall not exceed the actual costs incurred; and Contractor must submit an itemized invoice for actual costs to be reimbursed.
 - 11) **Other Direct Costs Incurred by the Contractor as a Result of the Emergency Response**
Costs for this item shall not exceed the actual costs incurred; and Contractor must submit an itemized invoice for actual costs to be reimbursed.

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 [Clause 4, Sections 4.1(a) and (b)].** Contractor shall submit a completed Contractor's Compensation Packet at least once every three months but not more

frequently than once per month for reimbursement of costs identified in Clause 4, Section 4.1(a) and Section 4.1(b) of this contract. Contractor shall submit a final invoice for each twelve-month period of this contract no later than October 30 of each year. The State will process properly completed Reimbursement Packets for compensation within thirty (30) days of receipt.

- 2) Emergency Response Reimbursement [Clause 4, Section 4.1(d)].** Contractor shall submit a reimbursement claim form identifying reasonable and necessary expenses incurred during an actual emergency response, such claim form to be submitted to State no later than forty-five (45) days after the end of the response. The claim for reimbursement must be made on forms provided by the State and must provide sufficient detail corresponding to each category identified in Clause 4, Section 4.1(d) above. The State will process properly completed claim forms for reimbursement within thirty (30) days of receipt.

- (b) Retainage.** Under Minnesota Statutes § 16C.08, subdivision 2(10), no more than ninety percent (90%) 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.

5. Conditions of Payment

All services provided by the Contractor under this Contract must be performed to the State's satisfaction, as determined at the sole discretion of the State's Authorized Representative and in accordance with all applicable federal, state, and local laws, ordinances, rules, and regulations including business registration requirements of the Office of the Secretary of State. The Contractor will not receive payment for work found by the State to be unsatisfactory or performed in violation of federal, state, or local law.

6. Authorized Representatives

The State's Authorized Representative is the person below, or his successor. The State's Authorized Representative, including his designees identified in Appendix F, has the responsibility to monitor the Contractor's performance and the authority to accept the services provided under this Contract. If the services are satisfactory, the State's Authorized Representative or his designee will certify acceptance on each invoice submitted for payment.

Name: Joe Kelly, Director, Homeland Security and Emergency Management
Address: Department of Public Safety
445 Minnesota Street, Suite 223
Saint Paul, MN 55101
Telephone: 651.201.7404
Email Address: joseph.kelly@state.mn.us

The Contractor's Authorized Representative is the person below, or his/her successor. If the Contractor's Authorized Representative changes at any time during this Contract, the Contractor must immediately notify the State in writing/email.

Name: Dennis Edwards, Fire Chief
Address: Duluth Fire Department
602 West Second Street
Duluth, MN 55802
Telephone: 218.730.4390
Email Address: dedwards@DuluthMN.gov

7. Assignment, Amendments, Waiver, and Contract Complete

- 7.1 Assignment.** The Contractor may neither assign nor transfer any rights or obligations under this Contract without the prior consent of the State and a fully executed assignment agreement, executed and approved by the same parties who executed and approved this Contract, or their successors in office.
- 7.2 Amendments.** Any amendment to this Contract must be in writing and will not be effective until it has been executed and approved by the same parties who executed and approved the original Contract, or their successors in office.
- 7.3 Waiver.** If the State fails to enforce any provision of this Contract, that failure does not waive the provision or its right to enforce it.
- 7.4 Contract Complete.** This Contract contains all negotiations and agreements between the State and the Contractor. No other understanding regarding this Contract, whether written or oral, may be used to bind either party.

8. Indemnification

In the performance of this Contract by Contractor, or Contractor's agents or employees, the Contractor must indemnify, save, and hold harmless the State, its agents, and employees, from any claims or causes of action, including attorney's fees incurred by the State, to the extent caused by Contractor's:

- a) Intentional, willful, or negligent acts or omissions; or
- b) Actions that give rise to strict liability; or
- c) Breach of contract or warranty.

The indemnification obligations of this section do not apply in the event the claim or cause of action is the result of the State's sole negligence. This clause will not be construed to bar any legal remedies the Contractor may have for the State's failure to fulfill its obligation under this Contract. Minnesota Statutes § 299A.51 and Minnesota Rules Chapter 7514.2000 govern the Contractor's liability.

9. State Audits

Under Minnesota Statutes § 16C.05, subdivision 5, the Contractor's books, records, documents, and accounting procedures and practices relevant to this Contract are subject to examination by the State and/or the State Auditor or Legislative Auditor, as appropriate, for a minimum of six (6) years from the end of this Contract.

10. Government Data Practices and Intellectual Property

10.1 Government Data Practices. The Contractor and State must comply with the Minnesota Government Data Practices Act, Minnesota Statutes Chapter 13, as it applies to all data provided by the State under this Contract, and as it applies to all data created, collected, received, stored, used, maintained, or disseminated by the Contractor under this Contract. The civil remedies of Minnesota Statutes § 13.08 apply to the release of the data governed by the Minnesota Government Practices Act, Minnesota Statutes Chapter 13, by either the Contractor or the State.

If the Contractor receives a request to release the data referred to in this clause, the Contractor must immediately notify and consult with the State's Authorized Representative as to how the Contractor should respond to the request. The Contractor's response to the request shall comply with applicable law.

11. Workers' Compensation and Other Insurance

Contractor certifies that it is in compliance with all insurance requirements specified in the solicitation document relevant to this Contract. Contractor shall not commence work under the Contract until they have obtained all the insurance specified in the solicitation document. Contractor shall maintain such insurance in force and effect throughout the term of the Contract.

Further, the Contractor certifies that it is in compliance with Minnesota Statutes § 176.181, subdivision 2, pertaining to workers' compensation insurance coverage. The Contractor's employees and agents will not be considered State employees. Any claims that may arise under the Minnesota Workers' Compensation Act on behalf of these employees or agents and any claims made by any third party as a consequence of any act or omission on the part of these employees or agents are in no way the State's obligation or responsibility.

12. Debarment by State, its Departments, Commissions, Agencies, or Political Subdivisions

Contractor certifies that neither it nor its principals is presently debarred or suspended by the State, or any of its departments, commissions, agencies, or political subdivisions. Contractor's certification is a material representation upon which the Contract award was based. Contractor shall provide immediate written notice to the State's Authorized Representative if at any time it learns that this certification was erroneous when submitted or becomes erroneous by reason of changed circumstances.

13. Publicity and Endorsement

13.1 Publicity. Any publicity regarding the subject matter of this Contract must identify the State as the sponsoring agency and must not be released without prior written approval from the State's Authorized Representative. For purposes of this provision, publicity includes notices, informational pamphlets, press releases, research, reports, signs, and similar public notices prepared by or for the Contractor individually or jointly with others, or any subcontractors, with respect to the program, publications, or services provided resulting from this Contract.

13.2 Endorsement. The Contractor must not claim that the State endorses its products or services.

14. Governing Law, Jurisdiction, and Venue

Minnesota law, without regard to its choice-of-law provisions, governs this Contract. Venue for all legal proceedings out of this Contract, or its breach, must be in the appropriate state or federal court with competent jurisdiction in Ramsey County, Minnesota.

15. Data Disclosure

Under Minnesota Statutes § 270C.65, subdivision 3 and other applicable law, the Contractor consents to disclosure of its social security number, federal employer tax identification number, and/or Minnesota tax identification number, already provided to the State, to federal and state agencies, and state personnel involved in the payment of state obligations. These identification numbers may be used in the enforcement of federal and state laws which could result in action requiring the Contractor to file state tax returns, pay delinquent state tax liabilities, if any, or pay other state liabilities.

16. Termination

16.1 Termination by the State. The State or Commissioner of Administration may cancel this Contract at any time, with or without cause, upon thirty (30) calendar days written notice to the Contractor. Upon termination, the Contractor will be entitled to payment, determined on a pro rata basis, for services satisfactorily performed.

16.2 Termination for Insufficient Funding. The State may immediately terminate this Contract if it does not obtain funding from the Minnesota Legislature, or other funding source; or if funding cannot be continued at a level sufficient to allow for the payment of the services covered here. Termination must be by written or fax notice to the Contractor. The State is not obligated to pay for any services that are provided after notice and effective date of termination. However, the Contractor will be entitled to payment, determined on a pro rata basis, for services satisfactorily performed to the extent that funds are available. The State will not be assessed any penalty if the Contract is terminated because of the decision of the Minnesota Legislature, or other funding source, not to appropriate funds. The State must provide the Contractor notice of the lack of funding within a reasonable time of the State's receiving that notice.

17. Non-discrimination (In accordance with Minnesota Statutes § 181.59)

The Contractor will comply with the provisions of Minnesota Statutes § 181.59 which requires:

"Every contract for or on behalf of the state of Minnesota, or any county, city, town, township, school, school district, or any other district in the state, for materials, supplies, or construction shall contain provisions by which the contractor agrees:

- (1) that, in the hiring of common or skilled labor for the performance of any work under any contract, or any subcontract, no contractor, material supplier, or vendor, shall, by reason of race, creed, or color, discriminate against the person or persons who are citizens of the United States or resident aliens who are qualified and available to perform the work to which the employment relates;*
- (2) that no contractor, material supplier, or vendor, shall, in any manner, discriminate against, or intimidate, or prevent the employment of any person or persons identified in clause (1) of this section, or on being hired, prevent, or conspire to prevent, the person or persons from the performance of work under any contract on account of race, creed, or color;*
- (3) that a violation of this section is a misdemeanor; and*
- (4) that this contract may be canceled or terminated by the state, county, city, town, school board, or any other person authorized to grant the contracts for employment, and all money due, or to become due under the contract, may be forfeited for a second or any subsequent violation of the terms or conditions of this contract."*

18. Affirmative Action Requirements for Contracts in Excess of \$100,000 and if the Contractor has More than 40 Full-time Employees in Minnesota or its Principal Place of Business

The State intends to carry out its responsibility for requiring affirmative action by its contractors.

18.1 Covered Contracts and Contractors. If the Contract exceeds \$100,000 and the Contractor employed more than 40 full-time employees on a single working day during the previous 12 months in Minnesota or in the state where it has its principle place of business, then the Contractor must comply with the requirements of Minnesota Statutes § 363A.36 and Minnesota Rules 5000.3400-5000.3600. A contractor covered by Minnesota Statutes § 363A.36 because it employed more than 40 full-time employees in another state and does not have a certificate of compliance, must certify that it is in compliance with federal affirmative action requirements.

18.2 Minnesota Statutes § 363A.36. Minnesota Statutes § 363A.36 requires the Contractor to have an affirmative action plan for the employment of minority persons, women, and qualified disabled individuals approved by the Minnesota Commissioner of Human Rights ("Commissioner") as indicated by a certificate of compliance. The law addresses suspension or revocation of a certificate of compliance and contract consequences in that event. A contract awarded without a certificate of compliance may be voided.

18.3 Minnesota Rules 5000.3400-5000.3600.

18.3.1 General. Minnesota Rules 5000.3400-5000.3600 implements Minnesota Statutes § 363A.36. These rules include, but are not limited to, criteria for contents, approval, and implementation of

affirmative action plans; procedures for issuing certificates of compliance and criteria for determining a contractor's compliance status; procedures for addressing deficiencies, sanctions, and notice and hearing; annual compliance reports; procedures for compliance review; and contract consequences for non-compliance. The specific criteria for approval or rejection of an affirmative action plan are contained in various provisions of Minnesota Rules 5000.3400-5000.3600 including, but not limited to, Minnesota Rules 5000.3420-5000.3500 and 5000.3552-5000.3559.

18.3.2 Disabled Workers. The Contractor must comply with the following affirmative action requirements for disabled workers.

18.3.2.1 The Contractor must not discriminate against any employee or applicant for employment because of physical or mental disability in regard to any position for which the employee or applicant for employment is qualified. The Contractor agrees to take affirmative action to employ, advance in employment, and otherwise treat qualified disabled persons without discrimination based upon their physical or mental disability in all employment practices such as the following: employment, upgrading, demotion or transfer, recruitment, advertising, layoff or termination, rates of pay or other forms of compensation, and selection for training, including apprenticeship.

18.3.2.2 The Contractor agrees to comply with the rules and relevant orders of the Minnesota Department of Human Rights issued pursuant to the Minnesota Human Rights Act.

18.3.2.3 In the event of the Contractor's noncompliance with the requirements of this clause, actions for noncompliance may be taken in accordance with Minnesota Statutes § 363A.36, and the rules and relevant orders of the Minnesota Department of Human Rights issued pursuant to the Minnesota Human Rights Act.

18.3.2.4 The Contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices in a form to be prescribed by the Commissioner. Such notices must state the Contractor's obligation under the law to take affirmative action to employ and advance in employment qualified disabled employees and applicants for employment, and the rights of applicants and employees.

18.3.2.5 The Contractor must notify each labor union or representative of workers with which it has a collective bargaining agreement or other contract understanding, that the Contractor is bound by the terms of Minnesota Statutes § 363A.36, of the Minnesota Human Rights Act and is committed to take affirmative action to employ and advance in employment physically and mentally disabled persons.

18.3.3 Consequences. The consequences for the Contractor's failure to implement its affirmative action plan or make a good faith effort to do so include, but are not limited to, suspension or revocation of a certificate of compliance by the Commissioner, refusal by the Commissioner to approve subsequent plans, and termination of all or part of this Contract by the Commissioner or the State.

18.3.4 Certification. The Contractor hereby certifies that it is in compliance with the requirements of Minnesota Statutes § 363A.36 and Minnesota Rules 5000.3400-5000.3600 and is aware of the consequences for noncompliance.

19. E-Verify Certification (In accordance with Minnesota Statutes § 16C.075)

For services valued in excess of \$50,000, Contractor certifies that as of the date of services performed on behalf of the State, Contractor and all its subcontractors will have implemented or be in the process of implementing the federal E-Verify Program for all newly hired employees in the United States who will perform work on behalf of the State. Contractor is responsible for collecting all subcontractor certifications and may do so utilizing the *E-Verify Subcontractor Certification Form* available at <http://www.mmd.admin.state.mn.us/doc/EVerifySubCertForm.doc>. All subcontractor certifications must be kept on file with Contractor and made available to the State upon request.

20. Certification of Nondiscrimination (In accordance with Minnesota Statutes § 16C.053)

The following term applies to any contract for which the value, including all extensions, is \$50,000 or more: Contractor certifies it does not engage in and has no present plans to engage in discrimination against Israel, or against persons or entities doing business in Israel, when making decisions related to the operation of the vendor's business. For purposes of this section, "discrimination" includes but is not limited to engaging in refusals to deal, terminating business activities, or other actions that are intended to limit commercial relations with Israel, or persons or entities doing business in Israel, when such actions are taken in a manner that in any way discriminates on the basis of nationality or national origin and is not based on a valid business reason.

21. Other Provisions

Appendices A through G referenced below are attached and incorporated into this contract:

- 21.1 Primary Response Area.** For purposes of Clause 2, Contractor's primary response area is described in Appendix A.
- 21.2 Secondary Response Area.** For purposes of Clause 2, Contractor's secondary response area is described in Appendix B.
- 21.3 Contractor's Geographic Jurisdiction.** For purposes of Clause 2, Contractor's normal geographic jurisdiction is described in Appendix C.
- 21.4 State Owned and Provided Equipment.** State agrees to loan or provide Contractor the equipment identified in Appendix D, in accordance with the following terms and conditions:
- 21.4.1** Contractor may use and maintain possession of the equipment identified in Appendix D.
 - 21.4.2** The State will retain title and legal ownership of all loaned, capitalized equipment identified in Appendix D, and provide for their replacement.
 - 21.4.3** The State will, upon request of Contractor, train at least one person designated by Contractor in the proper handling, use and maintenance of the equipment identified in Appendix D. The State shall provide the training to Contractor's personnel without cost, other than travel and related expenses.
 - 21.4.4** The State will maintain all necessary inventory control records on the equipment identified in Appendix D.
 - 21.4.5** The State will administer any manufacturer's warranty claims that may result during Contractor's use of the equipment identified in Appendix D.
 - 21.4.6** The State will provide Contractor with technical assistance as needed regarding the proper handling, use and maintenance of the equipment identified in Appendix D.
 - 21.4.7** Contractor will keep and maintain the equipment in proper operating condition.
 - 21.4.8** Contractor will re-supply all disposable, expired and consumable components originally provided by the State, and will supply and other needed disposable and consumable components not provided by State, at Contractor's expense.
 - 21.4.9** Contractor will be responsible for the cost of repairing or replacing equipment that has been lost, or as determined by the State, damaged due to abuse, misuse or other cause outside normal wear and tear, incurred in the routine proper use. The State will determine whether the equipment will be repaired or replaced.
 - 21.4.10** Contractor will be responsible for the cost of routine maintenance and repair according to the manufacturer's recommendations.
 - 21.4.11** Contractor will return capitalized equipment identified in Appendix D to the State upon termination, expiration, or cancellation of the contract. All such items to be delivered or shipped to the State.
 - 21.4.12** Contractor will not permit the equipment to be tampered with or operated by individuals who are not trained in its proper handling and operation.
 - 21.4.13** Contractor agrees to designate one or more person(s) to be trained by the State in the proper handling, use and maintenance of the equipment. The Contractor will bear the cost of any travel and related expenses incurred by any person attending training.
 - 21.4.14** The person(s) trained by the State in the proper use, handling and maintenance of the equipment will provide training to Contractor's team members and other appropriate personnel.
 - 21.4.15** Contractor will make the equipment available to personnel authorized by the State when required for inventory or inspection purposes.
 - 21.4.16** Contractor agrees to provide secure heated storage for equipment identified in Appendix D.
 - 21.4.17** Insurance: Contractor agrees to provide the State a certificate(s) of insurance, or a statement of self-insurance, naming the State as an additional insured under the policy(s) within sixty (60) days after execution of this contract.
 - State Owned Equipment Loaned to Contractor: Contractor agrees to provide "All Risk" property floater insurance, or equivalent self-insurance, which provides replacement cost coverage on all State owned property loaned to Contractor by the State.
 - Contractor may recover the cost of such insurance from the State in accordance with Clause 4, Section 4.1, Item a(5) of this contract.
 - Contractor agrees to provide the State thirty (30) days advanced written notice of cancellation, non-renewal, or reductions in limits or coverage's or other changes to the policy(s).
- 21.5 Point of Contact for Team Dispatching.** Contractor agrees to maintain a single point-of-contact who will be used by the State to dispatch Contractor. Contractor's single point-of-contact is identified in Appendix E.
- 21.6 Designees of the State's Authorized Representative.** Appendix F identifies designees of the State's Authorized Representative and their delegated authority to act on his behalf.
- 21.7 Contractor's Primary and Alternate Representatives.** For purposes of Clause 2, the Contractor's primary and alternate representatives are identified in Appendix G.
- 21.8** The parties mutually agree that 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 defined in Minnesota Statutes § 299.A.52.

21.9 The parties mutually agree that all capital equipment purchased with State funds remains the sole property of the State of Minnesota.

1. State Encumbrance Verification

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

Print Name: _____

Signature: _____

Date: _____

SWIFT Purchase Order Number: **3000050284**

2. Contractor: City of Duluth

The Contractor certifies that the appropriate persons have executed the Contract on behalf of the Contractor as required by applicable articles, bylaws, resolutions, or ordinances.

Print Name: _____

Signature: _____

Title: _____

Date: _____

Print Name: _____

Signature: _____

Title: _____

Date: _____

3. Department of Public Safety;

**Homeland Security and Emergency Management Division
With Delegated Authority**

Print Name: _____

Signature: _____

Title: _____

Date: _____

4. Commissioner of Administration

As delegated to the Office of State Procurement

Signature: _____

Date: _____

APPENDIX A

PRIMARY RESPONSE AREA

The Contractor's primary response area is described as follows:

The entire Minnesota counties of: Carlton; Cook; Lake; and Pine. In Saint Louis County: all areas east of State Highway 73 (exclusive) from Floodwood to the intersection of State Highways 73 and 53.

APPENDIX B

SECONDARY RESPONSE AREA

The Contractor's secondary response area is described as follows:

The entire State of Minnesota.

APPENDIX C

NORMAL GEOGRAPHIC JURISDICTION

The Contractor's normal geographic jurisdiction is described as follows:

The corporate limits of the City of Duluth, Minnesota.

APPENDIX D

STATE OWNED AND PROVIDED EQUIPMENT LIST

Duluth

Item Description Item, size/capacity, color, brand	Qty
12 V charger, Motorola	1
5 gal pail, Spill X-C	1
5 gal pail, SpillXA	1
800Mhz Radio antenna Max Rad 1/4 wave whipne 800 Mh	1
Air tent inflators. Metro Magic	2
Aloha Software	1
Asset trax printer for labels	1
Association of American Railroads EAG	1
Book, CHRIS Hazardous Chemical Data Manual, A-C	1
Book, CHRIS Hazardous Chemical Data Manual, D-M	1
Book, CHRIS Hazardous Chemical Data Manual, N-Z	1
Book, Crop Protection Chemical Reference, 1996	1
Book, Emergency Handling of H.M. in Surface Trans.	1
Boom, Containment, 75', Orange	1
Boots, size 7, Tingley Hazproof Workbrute	4
Boots, size 8, Tingley Hazproof Workbrute	1
Brush, soft-bristle, red, 12"	3
Cameo Windowa and supporting maps	1
CAT Trailer, 2004 Pace American	1
CAT Vehicle, 2005 Freightliner, Business Class M2	1
Charger, 6 Bank for 800 mhz radios	1
Charger, Single Radio, Motorola EX 560-XLS	1
Chemical classifier, Spilfyter	1
Chemical resistant, fully coated gloves, polyvinyl	1
Chlorine "B" Kit	1
Chlorine "C" Kit	1
Chlorine A kit	1
Chlorine Cylinder recovery vessel	1
Chlorine salvage cylinder	1
Citric acid, 5 gal	1
Class D powder Met L X	1
Coastal Environmental Systems Weatherpak MTR Tripod	1
Coastal environmental weatherpak	1
Cold Hand Chisel Chi-01 5/8" 6 1/4"	1
Cold Hand Chisel Chi-093/4" 7 7/8"	1
Colorimetric Detection Tubes, Drager CDS Kit	1
Comprehensive Guide to Hazardous Properties of C.S.	1
Cooling vests	2
Cords, Electrical, 50', Standard 15 and 30 amps, black,	1
Coverall, Tyvek, white	1
Coveralls, disposable	1cs

Item Description Item, size/capacity, color, brand	Qty
Cow Bar Bar 083/4" 19 5/8"	1
DC Power inverter	1
Decon drum 35 gallon salvage drum	2
Decon shower leg connectors, Structural Plastics Corp	1
Decon shower pallet	12
Decon shower portable pool	1
Decon, car wash brushes	2
Dosimeter, Radiation Alert	6
Draeger CDS Kit for WMD	1
Drum upender	1
DryZorb-Dry All	1
Dsmobile Pentax scanner	1
Eductor with fittings	1
Electrical glove	2
Electrical glove liner	5
EMC waste fluid collection bag	1
Evidence collection kit	1
External antenna, Magellan	1
FF Hazardous Materials reference book	1
Fit test adapter, Quick Check II	1
Flashlight, Streamlight Litebox, w/Charging Base	1
Foam eductor Akron #3095	1
Foam nozzle, Angus Hi-combat	1
Folding chairs	6
Garden hose, 50", 5/8"	1
Garmin GPS,	1
General American Tank Car Company, Tank Car Manual	1
Gloves, Chem Resistant, Nitrile, Size 9, Pair	1
Gloves, Chem Resistant, Silver Shield 4H, Size 10, Pair	1
Gloves, Chem Resistant, Sol-Vex, Size 11, Pair	1
Gloves, Chem Resistant, Viton, Size 11, Pair	12pr.
Gloves, green Ansul	1
Gloves, Kevlar, Grip, Pair	12pr.
Gloves, poly-vinyl chloride, length 14"	2bx
Gloves, size 10, length 16 in, thickness 2.7mils, Silver nitrate	1
Ground rod driver	1
Grounding and bonding kit	1
Hammer, Claw Ham-20 75 lbs 4 1 1/2"	1
Hammer, Engineers Double Face Ham-15 2.25 lbs 4 3/8"	1
Hammer, Engineers Double Face Ham-70 5lbs 6 1/4"	1
Hand truck	1
Handbook of Compressed Gases	1
Hard hat helmets	6
Hazardous Chemicals Desk Reference	1
Hazmat suits, CPFII, XL grey	12pr
Hazproof Boot-- Tingley Orange boot-Pair SBM, size-11	1

Item Description Item, size/capacity, color, brand	Qty
HDP-6000 folding decon pools	1
Headphones, Sigtronics	5
Hi-Combat yellow foam nozzle	1
HME: Emergency Response and Patient Care	1
Hoses, water heater appliances	1
Hot box, diesel water heater	1
ICS Vest System	1
Isobutylene and 4 gas calibration gas- blue case	1
Jane's Chem-Bio HANDBOOK, 2ND EDITION	1
Kapler Computerized Chem Suit Guide	1
Kit, Leak control, external pipe	1
Knife, Common Kni-5 10"	1
Knife, Putty Kni-20 2" 8"	1
Knife, Putty Kni-21 1 5/8" 8"	1
Knife, Putty Kni-30 3 1/2" 8"	1
Kwik-Raze 500 Watt quartz light with pole	1
Ladder, 4'	1
Leak Detection Solution	1
Level A Suit Tykem TK XL	1
Lid tight--dome clamps	1
Lock out/tag out kit	2
Lockout/tagout electrical tool kit.	1
Lockout/tagout valve tool kit	1
Long handled brush	2
Mobile radio, Motorola 800m	1
Multi Rae Pro	2
NFPA 325 Guide	1
NIOSH Pocket Guide to Chemical Hazards	1
Non-sparking Tool kit	1
North SSG/10 Silvershield gloves, 16" length	12pr
One cellular phone 3 watt booster with vehicle mount antenna	1
Overpack Drum (Steel), 8 gal	1
Overpack drum, poly, 65 GA	1
Overpack drum, poly, 95 GA	1
Overpack, 1gal	1
Pace American Shadow duel axle trailer	1
Patay Pump (water pump and hose)	1
Peac Software	1
Pipe leak, internal plugs, red box	1
Pipe leak, kit external, red box	1
Pipe patch kit, Vetter	1
Pipe plugging kit "ECC-1"	1
Pliers, Combinatio Pli-31 8"	1
Pliers, Combination Pli-30 6"	1
Pliers, combination, 6 Inch	1
Pliers, cutting, 8 Inch	1

Item Description Item, size/capacity, color, brand	Qty
Pliers, Groove Joint Pli-39 10"	1
Pliers, Lineman's side cutting Pli-40 8 1/2"	1
Pliers, Long Nose, Side Cutting Pli-41 ^'	1
Plug and Dike	1
Polar vent tube, roll	1
Polypropylene drum thief, 100mL, 43"L, case of 25	1
Pressure test adaptor kit, OneSuit	1
Pump, water	1
Radeye Gamma Neutron	4
Radeye,	1
Radiation alert- charger	1
Radio Motorola 800m Radio Batteries	1
Radio, Portable 800 XTS-2500	5
Radio, Portable, 800 MHz, Motorola XTS 2500, w/Battery & Mic	1
Radios, Portable, 800 mhz Motorola XTS 2500	1
Regional Response Team Program Manual	1
Safety goggles	4
Safety Zorb (Magic Sorb)	1
Salvage drum, 55 gal	1
Salvage drum, steel, 15 GAL	1
Salvage drum, steel, 30 GAL	1
Salvage drum, steel, 55 GAL	1
Satellite phone	1
Scoop shovels	1
Scraper, Deck Scr-10 2" 13 3/4"	1
Screwdriver, Phillips Type Scd-60 #1 3"	1
Screwdriver, Phillips Type Scd-62 #2 4"	1
Screwdriver, Phillips Type Scd-64 #3 6"	1
Screwdriver, Phillips Type Scd-66 #4 8"	1
Screwdriver, Standard Scd-50 1/4" 4"	1
Screwdriver, Standard Scd-48 3/16" 3"	1
Screwdriver, Standard Scd-54 5/16" 8"	1
Sections of 3" PVC	1
Shovel, scoop, plastic	1
Siren controller, Whelen	1
Socket set, 1/2"	1
Soda ash, 50#	3
Spill x acid	1
SpillX-S	1
Spray can, 2 gallons	1
Step ladder, 4'	1
Stools	2
Suit, level A One suit L	1
Suit, level B encapsulated, Kappler Responder, Size 2XL	4
Suit, level B non-encap., Kappler CPF 2, Grey, Size XXXXL	20
Suit, level B non-encap., Kappler CPF 3, brown, Size XXXL	24

Item Description Item, size/capacity, color, brand	Qty
Sulfur dioxide part #SA	1
Sulfur dioxide part #sc	1
Symbol Seekers	1
Table, 4', folding	4
Table, folding 72"x30"	1
Tarp, 5"x8"	1
The Pesticide Book	1
Tongs, 9", stainless steel	1
VAC U Chamber	1
Vac U Chamber, vapor sampling, SKC	1
VHF Broadband Unity Gain Antenna Part #W652	1
Water manifold, 6 outlet, yellow	1
Wedge, 135 x 50 x 18 mm	1
Wedge, 150 x 50 x 18 mm	1
Wheel chocks ,Quick chock, Ziamatic	1
Wrecking Bar Bar-01 5/8" 153/4"	1
Wrench, Adjustable Wra-08 8" 15/16"	1
Wrench, Adjustable Wra-10 10"1 1/8"	1
Wrench, Adjustable Wra-12 12" 1 3/8"	1
Wrench, bung all purpose	1
Wrench, Bung Double Head Wru-03 15"	1
Wrench, combination box and openend set 9 piece 3/8" thru 1"	1
Wrench, combo box and oe 8mm thru 32mm	1
Wrench, Pipe Bronze Wrp-14 14" 1 1/2"	1
Wrench, Pipe BronzeWrp-08 8" 3/4"	1

APPENDIX E

POINT-OF-CONTACT FOR TEAM DISPATCHING

The Contractor's single point-of-contact for purposes of CAT Team dispatching is described as follows:

Saint Louis County Communications Department
Duluth Center
2030 North Arlington Avenue
Duluth, MN 55811-1551

Jason Lukovsky, Supervisor Deputy [Telephone Number: 218.336.4344 (mobile)]

24-hour emergency telephone number: 218.625.3588

APPENDIX F

DESIGNEES OF STATE'S AUTHORIZED REPRESENTATIVE

State's Authorized Representative:

Joe Kelly, Director

Designees of State's Authorized Representative:

Rick Luth, State Emergency Response Teams Coordinator

Joe Neuberger, Operations Branch Director

Kevin Reed, Deputy Director

Authority of Designees:

Clause 4, Section 4.1(b)	Authorization to approve increase of Contractor's budgeted administration costs more than 20%
Clause 4, Section 4.1(d)	Authorization to approve "Emergency Response Reimbursement" claims in excess of \$5,000.00
Clause 6	Authorization to certify (approve) acceptance on each invoice submitted by Contractor corresponding Clause 4, Section 4.1(a), Compensation
Clause 6	Authorization to certify (approve) acceptance on each claims form submitted by Contractor corresponding to Clause 4, Section 4.1(d), Emergency Response Reimbursement
Clause 10, Section 10.1	Authorization to give instructions to the Contractor concerning release of data to a requesting third party prior to the data being released
Clause 13	Authorization to approve publicity or publications prepared by or for the Contractor

The undersigned hereby delegates the authorities listed above to those persons identified as Designees of State's Authorized Representative. These authorities are delegated until revoked in writing.

By: _____
Joseph Kelly, Director
Homeland Security and Emergency Management

Date

APPENDIX G

PRIMARY AND ALTERNATE REPRESENTATIVES TO THE HAZARDOUS MATERIALS REGIONAL RESPONSE TEAM

The Contractor's primary and alternate representatives to the Hazardous Materials Regional Response Team are as follows:

Primary Representative:

Robert Morehouse

Telephone Numbers: 218.730.4395 (work); 218.310.3966 (mobile)

Email Address: rmorehouse@duluthmn.gov

Alternate Representative:

Shawn Krizaj

Telephone Numbers: 218.730.4393 (work); 218.310.1854 (mobile)

Email Address: skrizaj@duluthmn.gov