



STATE OF WISCONSIN
DEPARTMENT OF MILITARY AFFAIRS
DIVISION OF EMERGENCY MANAGEMENT

Brian M. Satula
Administrator

Scott Walker
Governor

December 20, 2018

VIA ELECTRONIC

To All WI-TF1 Partners and Sponsoring Municipalities:

With your written agreement and concurrence, the existing Contract for Statewide Structural Collapse Team Members will be duly extended until June 30, 2019. This will allow an opportunity to revise and modify contractual language and address reimbursement concerns.

All terms and conditions of the current contract will continue in full force and effect until June 30, 2019.

Thank you for your support and dedication in providing hazardous materials response services to the citizens and state of Wisconsin.

Sincerely,

Brian M. Satula
Administrator

Cc: Maj Gen Donald P. Dunbar, The Adjutant General

AGREEMENT AND CONCURRENCE:

I, the undersigned, give my agreement and concurrence to extend the Contract for Statewide Structural Collapse Team Members with my municipality until June 30, 2019.

Name

Municipality

Title

Date



**EXTENDED CONTRACT FOR
STATEWIDE STRUCTURAL COLLAPSE
TEAM MEMBERS**

JANUARY 1, 2017 THROUGH DECEMBER 31, 2018

Between

**STATE OF WISCONSIN
DEPARTMENT OF MILITARY AFFAIRS
DIVISION OF EMERGENCY MANAGEMENT**

And

CITY OF _____, WISCONSIN

DATE: December 31, 2016

**EXTENDED CONTRACT FOR STATEWIDE STRUCTURAL COLLAPSE
TEAM MEMBERS**

1.0 General Contract Information

1.1 **Parties:** This extended contract is between the State of Wisconsin, Department of Military Affairs, Division of Emergency Management (hereinafter "Division") and the _____ Fire Department, City of _____, Wisconsin (hereinafter "Contractor") for the provision of Statewide Structural Collapse Team members as described herein and authorized under 2009 Wisconsin Act 43, as codified in §323.72 of the Wisconsin Statutes and as further amended.

1.2 **Recitals:** WHEREAS, in order to protect life and property against the dangers of emergencies involving a catastrophic incident, the Division may assign and make available for use in any county, city, or district, a Statewide Structural Collapse Team.

WHEREAS, the Division desires to enter into this Agreement with Contractor for the provision of team members to serve on one of three statewide platoons comprising the Statewide Structural Collapse Team, and Contractor desires to enter into this Agreement.

HOWEVER, the parties expressly recognize and attest by this Agreement that neither party intends to create or to assume fiduciary responsibilities to provide for the containment, cleanup, repair, restoration and investigation of the environment (air, land and water) in a structural collapse incident involving a hazardous substance, which is the responsibility and shall remain the sole obligation of the Wisconsin Department of Natural Resources under §§292.11 and 323.60(4), Wis. Stats.

1.3 **Contract Term:** This Agreement shall continue for 2 years commencing January 1, 2017 through December 31, 2018.

2.0 Definitions

2.1 **Definitions:** The following definitions are used throughout this Agreement:

Agreement means this Contract, together with the Exhibits. Exhibits include the following:

- Exhibit A Standard Terms and Conditions
- Exhibit B Certificate of Protection in Lieu of an Insurance Policy (as Applicable to Contractor)

State means the State of Wisconsin.

Department means the State of Wisconsin, Department of Military Affairs.

Division means the Division of Emergency Management.

Contractor means the City of _____ Fire Department, City of _____, Wisconsin by which Statewide Structural Collapse Team members will be provided under

this Agreement. Under §323.72(1), Stats., the Division may only contract with local agencies as defined in §323.70(1)(b), Stats.

Local Agency has the meaning under §323.70(1)(b), Stats.

Responsible Party means the person(s), as defined in §323.72(3)(a) and (b), Stats., who possessed or controlled a structure that was involved in the structural collapse or the person who caused the structural collapse which caused the emergency to which Contractor has responded.

Regional Emergency All-Climate Training Center (REACT) is a training facility owned by the State of Wisconsin, Department of Military Affairs and operated by the Division of Emergency Management.

Structural collapse means an incident involving all types of construction with emergency response activities that include expertise in 1) evaluating existing and potential conditions at structural collapse incidents; 2) recognizing unique collapse or failure hazards; 3) conducting search operations intended to locate victims trapped inside and beneath collapse debris; 4) accessing victims trapped inside and beneath collapse debris; 5) performing extrication operations involving packaging, treating, and removing victims trapped within and beneath collapse debris; and 6) stabilizing the structure. Structural collapse may include urban search and rescue.

Structural Collapse Team Member means an individual provided by Contractor serving as a team member on one of three platoons comprising the Statewide Structural Collapse Team to provide statewide structural collapse emergency response that meets the standards under the National Fire Protection Association standards NFPA 1001 and 1670, as further amended.

Statewide Structural Collapse Team Platoon means a component of the Statewide Structural Collapse Team made up of team members provided by the Contractor and/or designated employees of the Contractor who are expected to respond to, control, and/or stabilize the actual or potential incident.

Urban Search and Rescue (US&R) involves the location, rescue (extrication), and initial medical stabilization of victims trapped in confined spaces. Structural collapse is most often the cause of victims being trapped, but victims may also be trapped in transportation accidents, mines and collapsed trenches. Urban Search and Rescue is considered a "multi-hazard" discipline, as it may be needed for a variety of emergencies or disasters, including earthquakes, hurricanes, typhoons, storms and tornadoes, floods, dam failures, technological accidents, terrorist activities, and hazardous materials releases.

Urban Search and Rescue Task Force (US&R Task Force) is a team of individuals comprised of firefighters, engineers, medical professionals, canine/handler teams and incident managers with highly specialized training in urban search and rescue.

WI Task Force 1 Urban Search & Rescue (WI-TF1) means the name of the Statewide Structural Collapse Team.

3.0 Statement of Work

3.1 Services to be provided by Contractor: During the term of this Agreement, the Contractor agrees to provide statewide structural collapse team members for the three statewide platoons comprising the Statewide Structural Collapse Team (also known as WI-TF1).

Contractor's response activities under this Agreement shall be limited to emergency operations, reporting and documentation of activities arising from catastrophic incidents which threaten life, property and/or the environment. Contractor shall not provide under this Agreement any services with respect to the sampling, testing, analysis, treatment, removal, remediation, recovery, packaging, monitoring, transportation, movement of hazardous materials, cleanup, storage and disposal of hazardous materials except as these may be reasonably necessary and incidental to preventing a release or threat of release of a hazardous material or in stabilizing the emergency response incident, as determined by the Contractor.

WI-TF1 shall establish safety perimeters at or near sites and vessels. WI-TF1 shall not be required to locate underground utilities, insure appropriate traffic control services, conduct hydrological investigations and analysis, or provide testing, removal and disposal of underground storage tanks at or near the emergency response incident to which the Contractor is dispatched.

The Division and Contractor make no representations to third parties with regard to the ultimate outcome of the urban search and rescue services to be provided, but Contractor and Division shall respond to the best of its abilities, subject to the terms of this Agreement.

- 3.2 **Performance Conditions:** Contractor acknowledges that it shall demonstrate to the Division that its employees designated as structural collapse teams members, urban search and rescue equipment, and associated vehicles meet or exceed applicable NFPA training standards and any regulatory requirements.
- 3.3 **Personnel:** Contractor shall provide qualified and competent personnel as identified by Contractor and designated by the Division as is reasonably necessary to operate within the safety levels of a statewide structural collapse team. Contractor understands and agrees that identified team members will meet applicable training standards and certifications at the time they are identified by Contractor to serve as members of WI-TF1.
- 3.4 **Vehicles and Equipment:** If the Division requests vehicles and equipment from the Contractor, it shall limit its activities to that which can be safely accomplished within the technical limitations of the available vehicles and equipment. Contractor may retain urban search and rescue equipment and vehicles provided by grant funding through the Division for Contractor's local use, however, Contractor agrees that in the event of multiple responses, said equipment which is already not committed to a prior response shall be used on a priority basis to respond to an incident.
- 3.5 **Vehicle and Equipment Use Limitations:** This Agreement in no way limits the Contractor from responding with urban search and rescue vehicles, equipment and supplies under local authority, mutual aid agreements, or other contracts under local authority.
- 3.6 **Response Procedures and Limitations:** Contractor recognizes that its obligations under this Agreement are paramount to the State of Wisconsin. Contractor agrees that if local

fire response obligations in Contractor's own jurisdiction create limits or unavailable resources, Contractor will seek aid from local jurisdictions to assist in local fire response obligations in Contractor's own jurisdiction.

Contractor and Division agree that WI-TF1 or components of the task force may be utilized for any incident for which its members are trained and qualified, including wide area search incidents. It is recognized that the Statewide Structural Collapse team created under § 323.72 Wis. Stats. is organized as an Urban Search and Rescue Task Force and its capabilities are not limited to structural collapse.

Contractor's obligation to provide services hereunder shall arise, with respect to specific response actions, upon receipt of an emergency response request pursuant to Standard Operating Guidelines provided in Subsection 3.8 herein.

- 3.7 **Right of Refusal:** If, on occasion, a response under this Agreement would temporarily place a verifiable undue burden on the Contractor because Contractor's resources are otherwise inadequate or unavailable and mutual aid is unavailable, then if notice has been provided to the Division, the Contractor may decline a request for a Statewide Structural Collapse Team emergency response.
- 3.8 **Standard Operating Guidelines:** Contractor and Division agree that WI-TF1 operations will be conducted in accordance with Standard Operating Guidelines and "Call-Out Procedure" that will be mutually approved by the parties to this Agreement. Contractor agrees and understands that it shall not self deploy structural collapse teams members to a catastrophic incident. The Division shall notify Contractor of the need for structural collapse team member deployment and the need for mustering a platoon of WI-TF1 at the REACT.

4.0 Training Costs and Reimbursement for Emergency Response

There are two types of Contractor costs under this Agreement: (1) Required Training Costs, and (2) Team Response Costs. Each of these costs are discussed more fully below.

- 4.1 **Required Training Costs:** Under §323.72(1), Stats., team personnel shall be trained and certified to the standards under the National Fire Protection Association standards NFPA 1001 and 1670, as further amended. As a condition of this Agreement, Contractor agrees that all team personnel shall attend urban search and rescue training and refresher training at the Regional Emergency All-Climate Training Center (REACT), which is owned and operated by the Division or at a location pre-approved in writing by the Division. The urban search and rescue and refresher training shall be a minimum of eighteen (18) hours per team member per annum. Additional specialty training is available at REACT. All team personnel attending training at REACT shall be in a non-duty status with Contractor. To facilitate planning for required training, the REACT training schedule shall be posted at minimum of twelve months in advance. This does not include specialized training which may be made available to team personnel with less advance notice. Required urban search and rescue training will be in accordance with the WI-TF1 Attendance Policy. Any

team personnel who have not attended or completed the required training will not be allowed to respond under the scope of this Agreement. Team personnel shall also keep current any state required certifications. The Division shall maintain all urban search and rescue and refresher training records on each team member for training received at REACT.

- 4.2 **Team Response Costs and Reimbursement:** Under §323.72(2), Stats., the Division shall reimburse the Statewide Structural Collapse Team for costs incurred by the team in responding to an emergency involving a structural collapse incident if the team determines that a structural collapse emergency requiring a response existed. Reimbursement is limited to amounts collected from the responsible person(s) as defined in §323.72(3) (a) and (b), Stats. Reimbursement under this subsection is available only if the Statewide Structural Collapse Team has identified the person who is required to reimburse the Division and provided that information to the Division. Further, Contractor shall comply with all Division-approved reimbursement procedures and/or duly enacted Administrative Rule(s).

A person shall reimburse the Division for costs incurred by the Statewide Structural Collapse Team in responding to an emergency if the team determines that an emergency requiring the team's response existed and that one of the following conditions applies:

- (1) The person possessed or controlled a structure that was involved in the structural collapse.
- (2) The person caused the structural collapse.

In the event a responsible person has been identified, Contractor shall be reimbursed for reasonable and necessary Team member response costs incurred in responding to a catastrophic incident under this Agreement. Such Team response costs may include, but are not limited to:

- (1) Reimbursement for use of Vehicle(s) and Apparatus: Contractor shall be reimbursed for the approved use of its vehicles and equipment at FEMA-established rates.
- (2) Personnel Expenses: Contractor's team response personnel expenses which are approved and authorized under this Agreement are reimbursable at \$45.00 per hour per deployed team member. During an emergency deployment, this shall be calculated as portal to portal.
- (3) Backfill expenses: Contractor's personnel backfill expenses to cover deployed team members are reimbursable at the Contractor's actual cost.
- (4) Emergency Expenses: Contractor's necessary and reasonable emergency expenses related to services rendered under this Agreement are reimbursable. All such expenses must be based on actual expenditures and fully documented by the

Contractor. The Division reserves the right to deny any reimbursement of unjustifiable Contractor expenditures.

- 4.3 **Minimum Contract Payment for Training Costs:** This Agreement shall have a minimum contract payment for training costs based upon \$45 per hour for the minimum of eighteen (18) hours per team member per annum in accordance with the WI-TF1 Attendance Policy. Payment for training costs will be made to Contractor on a quarterly basis. The payment will be determined by the actual hours of Division-approved training received by Contractor's team members during that quarter multiplied by \$45 per hour. In addition to the minimum contract payment, the Division will pay for enhanced training for specialty job assignments for team members as well as logistical and administrative support as determined and approved in advance by the Division. The minimum contract payment for training does not, however, include Contractor's team response costs as specified in Subsection 4.2 of this Agreement. Contractor's personnel backfill expenses to cover team members in training status are not reimbursable.

No additional Contractor payment or reimbursement shall be paid or any additional demands placed on Contractor under this Agreement unless otherwise specifically agreed to by the Division and the Contractor, and upon written amendment to this Agreement. The Division's reimbursement(s) shall be full payment for services rendered and for all labor, materials, supplies, equipment, and incidentals necessary to complete the services authorized under this Agreement. Acceptance of payment by the Contractor shall operate as a release of the Division of all claims by Contractor for reimbursement of team response costs except where partial payment has been made due to limitations as set forth above.

- 4.4 **Billing System for Division Reimbursement of Team Response Costs:** Contractor will provide an invoice for its team member response costs to the Division within ten (10) working days of the response. The Division will not bill responsible person(s) unless it receives an invoice from the Contractor. Contractor's claim for reimbursement shall contain such documentation as is necessary to support the Division's cost-recovery operations and financial audits. The Division agrees to bill responsible person(s) for the WI-TF1 response costs. Team response costs include such items as vehicle and equipment use, expendables and personnel costs. In addition, Division administrative costs may be billed as part of the emergency costs. Further, Contractor shall comply with all Division-approved procedures and/or duly enacted Administrative Rule(s).

The Division shall bill identified responsible person(s) within sixty (60) days of receipt of Contractor's invoice. Contractor's team response costs shall be collected by the Division from the responsible person(s) before any payment is made to the Contractor. Contractor agrees to cooperate with the Division as is reasonable and necessary in order to allow the Division to bill third parties and pursue cost recovery actions.

- 4.5 **Approval:** The Division shall notify Contractor of the need for structural collapse team member deployment and the need for mustering a platoon of WI-TF1 at the REACT. Contractor agrees and understands that it shall not self deploy structural collapse teams members to a catastrophic incident. Contractor may deploy structural collapse team

members directly to an ongoing catastrophic incident at the request of the Division. Contractor agrees to make reasonable and good faith efforts to minimize Responsible Party and/or Division expenses.

- 4.6 **Retirement System Status and Tax Payments:** Contractor and its employees are not entitled under this Agreement to Division contribution for any Public Employees Retirement Withholding System benefit(s). Contractor shall be responsible for payment/withholding of any applicable federal, Social Security and State taxes.
- 4.7 **Worker's Compensation:** A member of the Statewide Structural Collapse Team who is acting under the scope of this Agreement is an employee of the State for purposes of Worker's Compensation under §323.72(4) of the Wisconsin Statutes.
- 4.8 **Payment of Contractor's Obligations:** Contractor agrees to make payment promptly, as just, due, and payable to all persons furnishing services, equipment or supplies to Contractor. If Contractor fails, neglects or refuses to pay any such claims as they become due and for which the Division may be held liable, the proper officer(s) representing the Division, after ascertaining that the claims are just, due, and payable, may, but shall not be required to, pay the claim and charge the amount of the payment against funds due Contractor under this Agreement. The payment of claims in this manner shall not relieve Contractor of any duty with respect to any unpaid claims.
- 4.9 **Dual Payment:** Contractor shall not be compensated for work performed under this Agreement by any state agency or person(s) responsible for causing a catastrophic incident emergency except as approved and authorized under this Agreement.

5.0 Liability and Indemnity

- 5.1 **Scope:** During operations authorized by this Agreement, Contractor and members of the Statewide Structural Collapse Team shall be agents of the State of Wisconsin for purposes of §895.46(1), Stats. For the purposes of this Article, operations means activities, including travel, directly related to a particular emergency response involving a catastrophic incident by the Statewide Structural Collapse Team. Operations also include advanced training activities provided under this Agreement to members of WI-TF1, but does not include travel to and from the training.
- 5.2 **Civil liability exemption; regional emergency response teams and their sponsoring agencies:** Under §895.483(4), Wis. Stats., a regional structural collapse team, a member of such a team, and a local agency, as defined in s. §323.70 (1) (b), that contracts with the division of emergency management in the department of military affairs for the provision of a regional structural collapse team, are immune from civil liability for acts or omissions related to carrying out responsibilities under a contract under §323.72 (1), Stats.
- 5.3 **Contractor Indemnification of State:** When acting as other than an agent of the Division under this Agreement, and when using the State's or Division's vehicles or equipment, the Contractor shall indemnify, defend and hold harmless the State, Division,

its officers, Divisions, agents, employees, and members from all claims, suits or actions of any nature arising out of the activities or omissions of Contractor, its officers, subcontractors, agents or employees.

6.0 Insurance Provisions

- 6.1 **Public Liability and Property Damage Insurance:** Contractor shall maintain, at its own expense, and keep in effect during the term of this Agreement, commercial liability, bodily injury and property damage insurance against any claim(s) which might occur in carrying out this Agreement. Minimum coverage is one million dollars (\$1,000,000) liability for bodily injury and property damage including products liability and completed operations.

If Contractor is self-insured or uninsured, a Certificate of Protection in Lieu of an Insurance Policy shall be submitted to the Division certifying that Contractor is protected by a Self-Funded Liability and Property Program or alternative funding source(s), attached hereto as "Exhibit B". The Certificate is required to be presented prior to commencement of this Agreement.

- 6.2 **Automobile Liability:** Contractor and team members shall obtain and keep in effect motor vehicle insurance for all owned, non-owned and hired vehicles that are used in carrying out this Agreement. This coverage may be written in combination with the commercial liability, bodily injury and property damage insurance mentioned in Subsection 6.1. Minimum coverage limits shall be one million (\$1,000,000) per occurrence combined single limit for automobile liability and property damage.

If Contractor is self-insured or uninsured, a Certificate of Protection in Lieu of an Insurance Policy shall be submitted to the Division certifying that Contractor is protected by a Self-Funded Liability and Property Program, or alternative funding source(s) attached hereto as "Exhibit B". The Certificate is required to be presented prior to commencement of this Agreement.

- 6.3 **Notice of Cancellation or Change:** Contractor agrees that there shall be no cancellation, material change, exhaustion of aggregate limits or intent not to renew insurance coverage without 30 days written notice to the Division.

- 6.4 **Certificate(s) of Insurance:** As evidence of the insurance coverage required by this Agreement, Contractor shall provide an insurance certificate indicating this coverage, countersigned by an insurer licensed to do business in Wisconsin, covering the period of the Agreement. The insurance certificate is required to be presented prior to commencement of this Agreement.

7.0 Standard Contract Terms, Conditions and Requirements

- 7.1 **Disclosure of Independence and Relationship:** Contractor certifies that no relationship exists between the Statewide Structural Collapse Team, the State or the Division that interferes with fair competition or is a conflict of interest, and no relationship exists between the team and another person or organization that constitutes a conflict of interest

with respect to a state contract. The Department of Administration may waive this provision, in writing, if those activities of the Contractor will not be adverse to the interest of the State.

Contractor agrees as part of this contract for services that during performance of this contract, they will neither provide contractual services nor enter into any agreement to provide services to a person or organization that is regulated or funded by the contracting agency or has interests that are adverse to the contracting agency. The Department of Administration may waive this provision, in writing, if those activities of the Contractor will not be adverse to the interests of the State.

- 7.2 **Dual Employment:** §16.417 of the Wisconsin Statutes, prohibits an individual who is a state employee or who is retained as a consultant full-time by a state agency from being retained as a consultant by the same or another agency where the individual receives more than \$5,000 as compensation. This prohibition applies only to individuals and does not include corporations or partnerships.
- 7.3 **Employment:** Contractor will not engage the service of any person or persons now employed by the State, including any department, commission, or board thereof, to provide services relating to this Agreement without the written consent of the employer of such person or persons and the Department of Military Affairs and the Division.
- 7.4 **Conflict of interest:** Private and non-profit corporations are bound by §180.0831 and §181.225 Wis. Stats., regarding conflicts of interest by directors in the conduct of state contracts.
- 7.5 **Recordkeeping and Record Retention:** The Contractor shall establish and maintain adequate records of all expenditures incurred under the Agreement. All records must be kept in accordance with generally accepted accounting principles, and be consistent with federal and state laws and local ordinances. The Division, the federal government, and their duly authorized representatives shall have the right to audit, review, examine, copy and transcribe any pertinent records or documents relating to any contract resulting from this Agreement held by Contractor. The Contractor shall retain all documents applicable to the Agreement for a period of not less than three (3) years after the final payment is made or longer where required by law.
- 7.6 **Hold Harmless:** The Division of Emergency Management, the Department of Military Affairs, and the State of Wisconsin shall be held harmless in any disputes the team and/or fire department may have with their employees. This shall include, but not be limited to, charges of discrimination, harassment, and discharge without just cause.
- 7.7 **Termination of Agreement:** The Division and/or Contractor may terminate this Agreement at any time **for cause** by delivering one hundred twenty (120) days written notice to the other Party. Upon termination, the Division's liability will be limited to the pro rata cost of the training costs provided under Subsection 4.1 as of the date of termination plus expenses incurred with the prior written approval of the Division. Upon termination, Contractor will refund to the Division within one hundred twenty (120) days of said

termination pro rata training payments made hereunder by the Division to the Contractor.

Contractor may terminate this Agreement **at will** by delivering one hundred twenty (120) days written notice to the Division. In the event the Contractor terminates this Agreement for any reason whatsoever, it will refund to the Division within one hundred twenty (120) days of said termination all payments made hereunder by the Division for training costs, under Subsection 4.1, provided to the Contractor for the contract year in which the termination occurs based in proportion to the number of days remaining in the contract year.

The Division may terminate this Agreement **at will** effective upon delivery of written notice to the Contractor, under any of the following conditions:

(1) If funding from federal, state, or other sources is not obtained and/or continued at levels sufficient to allow for training, the Agreement may be modified to accommodate a reduction or increase in funds.

(2) If federal or state laws, rules, regulations, or guidelines are modified, changed, or interpreted in such a way that the services are no longer allowable or appropriate for purchase under this Agreement or are no longer eligible for the funding proposed for payments by this Agreement.

(3) If any license or certification required by law or regulation to be held by the Contractor to provide the services required by this Agreement is for any reason denied, revoked, or not renewed.

Any termination of the Agreement shall be without prejudice to any obligations or liabilities of either party already accrued prior to such termination. Upon termination, the Division's liability under Section 5.0 will be limited to events occurring during the term of this Agreement.

7.8 **Cancellation:** The State of Wisconsin reserves that right to cancel any contract in whole or in part without penalty due to non-appropriation of funds or for failure of the Contractor to comply with the terms, conditions, and specifications of this Agreement.

7.9 **Prime Contractor and Minority Business Subcontractors:** In the event Contractor subcontracts for supplies and/or services, any subcontractor must abide by all terms and conditions of the Agreement. The Contractor shall be responsible for contract performance whether or not subcontractors are used.

Contractor is encouraged to purchase services and supplies when/if applicable from minority businesses certified by the Wisconsin Department of Development, Bureau of Minority Business Development.

Contractor shall file with the Department of Military Affairs quarterly reports of purchases of such supplies and services necessary for the implementation of this Agreement.

- 7.10 **Executed Contract to Constitute Entire Agreement:** The contents of the Agreement including Exhibits and additional terms agreed to, in writing, by the Division and the Contractor shall become a part of the Agreement herein. The written Agreement with referenced parts and attachments shall constitute the entire Agreement and no other terms and conditions in any document, acceptance, or acknowledgment shall be effective or binding unless expressly agreed to, in writing, by the contracting authority.
- 7.11 **News Releases:** News releases pertaining to the negotiation of this Agreement shall not be made without the prior approval of the Division.
- 7.12 **Applicable Law:** This Agreement shall be governed under the laws of the State of Wisconsin. The Contractor and State shall at all times comply with and observe all federal and state laws, local laws, ordinances and regulations which are in effect during the period of this Agreement and which may in any manner affect the work or its conduct.
- 7.13 **Assignment:** No right or duty, in whole or in part, of the Contractor under this Agreement may be assigned or delegated without the prior written consent of the State of Wisconsin.
- 7.14 **Successors in Interest:** The provisions of the Agreement shall be binding upon and shall inure to the benefit of the parties to the Agreement and their respective successors and assigns.
- 7.15 **Force Majeure:** Neither party to this Agreement shall be held responsible for delay or default caused by fire, riots, acts of God and/or war which is beyond that party's reasonable control.
- 7.17 **Notifications:** Contractor shall immediately report by telephone and in writing any demand, request, or occurrence that reasonably may give rise to a claim against the State, its officers, Divisions, agents, employees and members. Such reports shall be directed to:

ATTN: Administrator
Division of Emergency Management
DMA Wisconsin
PO Box 7865
Madison, WI 53707-7865
Telephone #: (608) 242-3232
FAX #: (608) 242-3247

Copies of such written reports shall also be sent to:

ATTN: Office of Legal Counsel, WING-LGL
WI Dept. of Military Affairs
PO Box 8111
Madison, WI 53708-8111

- 7.17 **Severability:** If any provision of this Agreement is declared by a court to be illegal or in conflict with any law, the validity of the remaining terms and provisions shall not be affected. The rights and obligations of the parties shall be construed and enforced as if the Agreement did not contain the particular provision held to be invalid.
- 7.18 **Amendments:** The terms of this Agreement shall not be waived, altered, modified, supplemented or amended in any manner whatsoever without prior written approval of Division and Contractor.
- 7.19 **Approval Authority:** Contractor's representative(s) certify by their signature herein that he or she, as the case may be, has the necessary and lawful authority to enter into contracts and agreements on behalf of the local government entity.
- 7.20 **Insufficient Funds:** The obligation of the Contractor under this Agreement is contingent upon the availability and allotment of funds by the Division to Contractor and Contractor may, upon one hundred twenty (120) days prior written notice, terminate this contract if funds are not available.
- 7.21 **No Waiver:** No failure to exercise, and no delay in exercising, any right, power or remedy, including payment, hereunder, on the part of the Division, State, or Contractor shall operate as a waiver hereof, nor shall any single or partial exercise of any right, power or remedy preclude any other or further exercise thereof or the exercise of any other right, power or remedy. No express waiver shall effect any event or default other than the event or default specified in such waiver, and any such waiver, to be effective, must be in writing and shall be operative only for the time and to the extent expressly provided by the Division, State or Contractor therein. A waiver of any covenant, term or condition contained herein shall not be construed as a waiver of any subsequent breach of the same covenant, term or condition.
- 7.22 **Construction of Agreement:** This Agreement is intended to be solely between the parties hereto. No part of the Agreement shall be construed to add, supplement, amend, abridge, or repeal existing rights, benefits or privileges of any third party or parties, including but not limited to employees of either of the parties.
- 7.23 **Disparity:** In the event of a discrepancy, difference or disparity in the terms, conditions or language contained any previous correspondence from the Division, it is agreed between the parties that the language in this Agreement shall prevail.

Approving Signatures:

ON BEHALF OF THE DIVISION OF EMERGENCY MANAGEMENT (DIVISION)

Dated this ____ day of _____, 2016

Brian M. Satula, Division Administrator