

**Contract between  
State of Wisconsin, Department of Military Affairs,  
Division of Emergency Management,  
State of Wisconsin, Department of Health Services,  
and the City of La Crosse, Wisconsin  
for Radiological Field Team Services**

**THIS CONTRACT** (hereinafter "Contract") is between the State of Wisconsin, Department of Military Affairs, Division of Emergency Management (hereinafter "Division"), the State of Wisconsin, Department of Health Services (hereinafter "DHS"), and the City of La Crosse, Wisconsin (hereinafter "Contractor") for the provision of radiological field team services as described herein.

**WHEREAS**, the State of Wisconsin, Department of Military Affairs, through its Division of Emergency Management has statutory authority under Chapter 323 of the Wisconsin Statutes to provide emergency response planning and specifically under Section 323.70, Stats. to contract with regional emergency response teams to assist in emergency response to level A releases.

**WHEREAS**, the Wisconsin Department of Health Services has statutory authority under Section 254.34 of the Wisconsin Statutes to develop comprehensive policies and programs for the evaluation and determination of hazards associated with the use of radiation, and for their amelioration, as well as to conduct studies, investigations, training, research, and demonstrations relating to the control of radiation hazards.

**WHEREAS**, the City of La Crosse Fire Department is currently under contract with the Division as a regional emergency response team authorized under Section 323.70, Stats.

**WHEREAS**, in order to protect life and property against the dangers of emergencies involving the release of radiation, the Division may assign and make available a regional emergency response team under contract as a designated radiological field team to the State Radiological Coordinator with DHS to survey and monitor the amount of radiation deposited following a release of radiation in a nuclear incident from any nuclear facility in or within 50 miles of Wisconsin.

**WHEREAS**, the Division and DHS desire to enter into this Contract to establish the Contractor as a Radiological Field Team and Contractor desires to be so designated and to enter into this Contract.

**HOWEVER**, the parties expressly recognize and attest by this Contract 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 radiological or nuclear incident.

**NOW THEREFORE**, in consideration of the premises and of their mutual and dependent agreement, the parties hereto agree as follows:

## **ARTICLE 1. CONTRACT TERM**

This Contract shall continue for three (3) years commencing July 1, 2016 through June 30, 2019.

## **ARTICLE 2. DEFINITIONS**

The following definitions are used throughout this Contract:

**Contractor** means the City of La Crosse Fire Department, La Crosse, Wisconsin by which service or services will be performed under this Contract.

**DHS** means the State of Wisconsin, Department of Health Services.

**Disaster** means a severe or prolonged, natural or human-caused, occurrence that threatens or negatively impacts life, health, property, infrastructure, the environment, the security of this State or a portion of this State, or critical systems, including computer, telecommunications, or agricultural systems.

**Division** means the State of Wisconsin, Department of Military Affairs, Division of Emergency Management.

**Nuclear incident** means any potential, sudden or nonsudden release of radioactive material, as defined under s. 254.31 (9m), Wis. Stats. being stored or used in a nuclear facility, as defined under s. 254.31 (4), Wis. Stats., or transported. "Nuclear incident" does not include any release of radiation from radioactive material being transported under routine operations.

**Primary Response Area** means the geographical region located in the State within a 50 mile radius of any nuclear facility in or within 50 miles of Wisconsin where the Contractor is principally responsible for providing radiological field team services.

**Radiological agent** means radiation or radioactive material at a level that is dangerous to humans, animals, plants, or other living organisms.

**Radiological Field Team** means the Contractor and/or designated employees of the Contractor who are expected to conduct a radiation and contamination survey, monitor, sample, and evaluate the actual or potential emergency release(s) of a radiological agent as well as participate in federally evaluated, nuclear power plant exercises.

**Responsible Party** means any person under Section 895.065(1)(i) of the Wisconsin Statutes.

**State** means the State of Wisconsin.

**State Radiological Coordinator** means the individual responsible for initiating any state level radiological response to a radiological incident/emergency, monitoring and evaluating the health impact of any radiological emergency including a nuclear power plant incident, and

recommending appropriate protective actions to protect the public and mitigate the impact on public health and safety.

### **ARTICLE 3. STATEMENT OF WORK**

**Services to be provided by Contractor:** During the term of this Contract, Contractor agrees to provide radiological field team services within the boundaries of Contractor's assigned Primary Response Area and as requested by the Division and DHS. It is understood and agreed that the DHS is responsible to provide direction to and control of the radiological field team during radiological emergency preparedness drills and exercises, as well as real events.

Contractor's response activities under this Contract shall be limited to performing primary radiation contamination surveys, monitoring, sampling, and evaluating an actual or potential emergency release(s) of a radiological agent under the direction of the State Radiological Coordinator and participating in annual federally-evaluated nuclear power plant emergency preparedness exercises. Contractor shall not provide under this Contract any services with respect to the treatment, removal, remediation, recovery, packaging, transportation, movement; cleanup, storage and disposal of radioactive material except as these services may be reasonably necessary and incidental to preventing a release or threat of release of radioactive material or in stabilizing a nuclear incident, as determined by the DHS.

The Division, DHS, and Contractor make no representations to third parties with regard to the ultimate outcome of the services provided by the radiological field team, but Contractor shall perform to the best of its abilities, subject to the terms of this Contract.

**Performance Conditions:** Contractor acknowledges that prior to undertaking any radiological field team services under this Contract, Contractor shall receive written approval from the Division and DHS to proceed with field team activities. Division and DHS approval shall be conditioned upon Contractor demonstrating to the Division and DHS that its employees meet or exceed applicable regulatory requirements and certification.

**Personnel:** Contractor shall provide an adequate number of trained, competent, and supervised personnel as established by DHS and as is reasonably necessary to operate within the safety levels of a radiological field team.

It is understood and agreed that response to a nuclear incident or training exercise will require 2 two-person teams for a twelve hour period. Response will be needed for 24-hour coverage for the length of the incident or training and will require 4 two-person teams. Contractor agrees to have a sufficient number of radiological field team personnel trained to ensure 24/7 availability for a radiological response.

**Equipment:** All necessary radiological equipment needed for radiological field team services will be provided by the Wisconsin Department of Health Services, Radiation Protection Section. The Radiation Protection Section shall be responsible for the maintenance and calibration of the equipment. The equipment will be located with the radiological field team. Contractor may use the

radiological equipment under local authority or mutual aid agreements; however, Contractor agrees that in the event of nuclear incident response or training exercise, use of the equipment to respond to a nuclear incident shall have priority.

**Use of State Vehicles:** Radiological field team members providing services under this Contract shall be granted permission to drive State-owned vehicles during training, drills, exercises or real events. This use is subject to the Fleet Policies and Procedures of Central Fleet with the Division of Enterprise Operations with the Wisconsin Department of Administration.

**Procedures and Limitations:** Contractor recognizes that its obligations under this Contract 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 within the Primary Response Area, Contractor will seek aid from local jurisdictions to assist in local fire response obligations in Contractor's own jurisdiction.

#### **ARTICLE 4. TRAINING AND CERTIFICATION**

The DHS is responsible for providing periodic training to the radiological field teams. Specifically, the DHS Radiation Protection Section will provide periodic training opportunities to ensure that all field team personnel receive necessary training and certification. Contractor agrees and understands that all radiological field team personnel shall attend necessary field team training and refresher training to ensure certification for radiological field team response. Any field team personnel who have not attended or completed the required training will not be allowed to participate in a scheduled exercise. Radiological personnel shall also keep current any state required certifications.

#### **ARTICLE 5. PAYMENT FOR SERVICES**

Contractor will be paid the sum of twenty four thousand nine hundred ninety-nine dollars (\$24,999.00) for the above described activities. Said payment will be made within three weeks following the execution of this Contract by all the parties. The Division certifies that sufficient funds are available and authorized within the Division's current appropriation or limitation.

**Retirement System Status and Tax Payments:** Contractor and its employees are not entitled under this Contract to Division or DHS 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.

#### **ARTICLE 6. LIABILITY AND INDEMNITY**

**Scope:** During radiological field team operations and associated training authorized by this Contract, Contractor and members of a radiological field team are agents of the State of Wisconsin, Department of Health Services for purposes of §895.46(1), Stats. For purposes of this Article, operations means activities, including travel, that are directly related to performing primary radiation contamination surveys, monitoring, sampling, and evaluating actual or potential emergency release(s) of a radiological agent under the direction of the State Radiological

Coordinator and participating in annual federally-evaluated, nuclear power plant emergency preparedness exercises. Operations also include advanced training activities provided under this contract to the members of the radiological field team, but it does not include travel to and from the training.

**Contractor Indemnification of State:** When acting as other than an agent of DHS under this Contract and using the State's, Division's or DHS' equipment or vehicles, the Contractor shall indemnify, defend and hold harmless the State, Division, DHS, its officers, 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.

#### **ARTICLE 7. RECORDKEEPING AND RECORD RETENTION**

The Contractor shall establish and maintain adequate records of all expenditures incurred under the Contract. 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, DHS, 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 Contract held by Contractor. The Contractor shall retain all documents applicable to the Contract for a period of not less than three (3) years after the final payment is made or longer where required by law.

#### **ARTICLE 8. TERMINATION OF CONTRACT**

The Division, DHS, and/or Contractor may terminate this Contract at any time **for cause** by delivering thirty (30) days written notice to the other parties. Upon termination, the Division's and DHS' liability will be limited to the pro rata cost of the services performed 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 sixty (60) days of said termination all payments made hereunder by the Division to the Contractor for work not completed or not accepted by the Division.

Contractor may terminate this Contract **at will** by delivering ninety (90) days written notice to the Division and DHS. In the event the Contractor terminates this Contract for any reason whatsoever, it will refund to the Division within sixty (60) days of said termination all payments made 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 or DHS may terminate this Contract **at will** effective upon delivery of written notice to the Contractor, under any of the following conditions:

- (1) If Division funding from federal, state, or other sources is not obtained and/or continued at levels sufficient to allow for purchases of the indicated quantity of services; provided, however, that the Contract 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 Contract or are no longer eligible for the funding proposed for payments by this Contract.

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

**Insufficient Funds:** The obligation of the Contractor under this Contract is contingent upon the availability and allotment of funds by the Division to Contractor. Contractor may, upon thirty (30) days prior written notice, terminate this contract if funds are not available.

Any termination of the Contract shall be without prejudice to any obligations or liabilities of either party already accrued prior to such termination.

**ARTICLE 9. APPLICABLE LAW**

This Contract 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 Contract and which may in any manner affect the work or its conduct.

**ARTICLE 10. ASSIGNMENT**

No right or duty, in whole or in part, of the Contractor under this Contract may be assigned or delegated without the prior written consent of the State of Wisconsin.

**ARTICLE 11. SUCCESSORS IN INTEREST**

The provisions of the Contract shall be binding upon and shall inure to the benefit of the parties to the Contract and their respective successors and assigns.

**ARTICLE 12. 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. All notices to be given under the terms of this contract shall be in writing and signed by the person serving the notice and shall be sent registered or certified mail, return receipt requested, postage prepaid or hand delivered to the addresses of the parties. Such notices or reports shall be directed to:

**For the Division of Emergency Management:**

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

**For the Department of Health Services:**

ATTN: Administrator  
Division of Public Health  
Department of Health Services  
PO Box 2659  
Madison, WI 53701-2659  
Telephone #: (608) 266-1251  
FAX #: (608) 267-2832

**For the City of La Crosse:**

Fire Chief  
City of La Crosse  
400 La Crosse Street  
La Crosse, WI 54601  
Telephone #: (608) 789-7260  
FAX #: (608) 789-7276

Copy to: City Clerk  
City of La Crosse  
400 La Crosse Street  
La Crosse, WI 54601  
Telephone # (608) 789-7510  
FAX #: (608) 789-7552

**ARTICLE 13. SEVERABILITY**

If any provision of this Contract 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 Contract did not contain the particular provision held to be invalid.

**ARTICLE 14. AMENDMENTS**

The terms of this Contract shall not be waived, altered, modified, supplemented or amended in any manner whatsoever without prior written approval of Division, DHS, and Contractor.

**ARTICLE 15. 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.

**ARTICLE 16. 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, DHS, 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, DHS, 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.

**ARTICLE 17. CONSTRUCTION OF CONTRACT**

This Contract is intended to be solely between the parties hereto. No part of the Contract 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.



Approving Signatures:

ON BEHALF OF THE DIVISION OF EMERGENCY MANAGEMENT (DIVISION)

Dated this 6<sup>th</sup> day of June, 2016

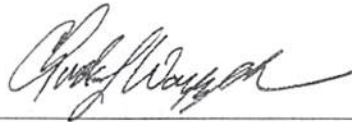


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Brian M. Satula, Division Administrator

ON BEHALF OF THE DEPARTMENT OF HEALTH SERVICES

Dated this 1<sup>st</sup> day of Sept., 2016



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Division of Public Health

On Behalf of the City of La Crosse  
A Municipal Corporation

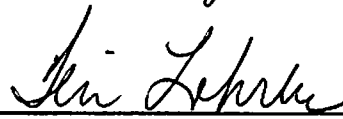
Dated this 23<sup>rd</sup> day of August, 2016

Signature:   
Printed Name: Tim Kabat  
Title: Mayor

Address: City Hall, 400 La Crosse Street  
City/State: La Crosse, WI Zip: 54601-3374

On Behalf of the City of La Crosse

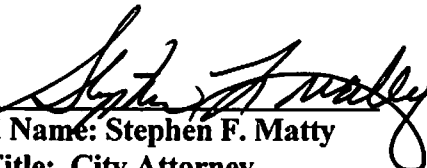
Dated this 23<sup>rd</sup> day of August, 2016

Signature:   
Printed Name: Teri Lehrke  
Title: City Clerk

Address: City Hall, 400 La Crosse Street  
City/State: La Crosse, WI Zip: 54601-3374

Approved as to form:

Dated this 23 day of Aug, 2016

Signature:   
Printed Name: Stephen F. Matty  
Title: City Attorney

Address: City Hall, 400 La Crosse Street  
City/State: La Crosse, WI Zip: 54601-3374