

# EXHIBIT 1

## **INTERGOVERNMENTAL AGREEMENT FOR REGIONAL HAZARDOUS MATERIALS EMERGENCY RESPONSE TEAM SERVICES**

**Between**

**THE STATE OF OREGON, ACTING BY AND THROUGH ITS  
DEPARTMENT OF STATE FIRE MARSHAL**

**And**

**City of Portland**

## TABLE OF CONTENTS

Agreement Type .....		4
Recitals .....		4
1.0 Agreement Term .....		4
2.0 Definitions .....		4
3.0 Statement of Work .....		6
3.1 Services to be Provided by Contractor		
3.2 Compliance with Regulatory Requirements		
3.3 Personnel		
3.4 Vehicles and Equipment		
3.5 RHMERT Coordination Obligations		
3.6 Right of Refusal		
3.7 Standard Operating Guidelines		
3.8 Administrative Rules		
4.0 Contractor Compensation .....		9
4.1 RHMERT Stand-By Costs		
4.1.1 Specialized Training Costs		
4.1.2 Medical Surveillance		
4.1.3 Vehicle(s) and Equipment Loans		
4.1.4 Contractor Stand-by Costs		
4.2 RHMERT Response Costs		
4.3 Billing System		
4.4 Interest		
4.5 State Funding Available		
4.6 Prior Approval		
4.7 Response Procedures and Limitations; Automatic Response		
4.8 State Spill Response Revolving Fund		
5.0 Where No Responsible Person Can Be Identified .....		14
6.0 Independent Contractor Status .....		15
7.0 Retirement System Status; Social Security; Workers Compensation .....		15
8.0 Assignments; Subcontracts .....		15
9.0 Successors in Interest .....		15
10.0 Compliance with Government Regulations .....		15
11.0 Force Majeure .....		15
12.0 Indemnification; Contribution; Scope of Liability .....		16
12.1 Activities Authorized Under ORS 453.374 – 453.390		
12.2 Activities Not Authorized Under ORS 453.374 – 453.390		
12.3 Third Party Claims		
12.4 Limitations		
12.5 Notifications		
13.0 Severability .....		17
14.0 Access to Records .....		17
14.1 Confidentiality		

15.0 Amendments ..... 18

16.0 Payment of Contractor Obligations ..... 18

17.0 Non-Discrimination ..... 18

18.0 Dual Payment..... 18

19.0 Payment for Medical Care ..... 18

20.0 Insurance Coverage ..... 19

21.0 Governing Law; Venue; Consent to Jurisdiction..... 20

22.0 Termination..... 20

23.0 Approval Authority..... 21

24.0 Reserved ..... 21

25.0 Written Notifications ..... 21

26.0 Merger; Waiver..... 21

27.0 Remedies..... 21

28.0 Non-Appropriation .....22

29.0 Alternative Dispute Resolution.....22

30.0 Travel Reimbursement Costs.....22

31.0 Counterparts.....22

32.0 Authorized Representatives .....22

Approving Signatures ..... 23

Agreement Exhibits

- Exhibit A Regional Team Primary Response Area Boundary Description
- Exhibit B Inventory of OSFM Provided Equipment for RHMERT
- Exhibit C Funding Available for The Purchase And Maintenance of OSFM Provided Equipment for RHMERT
- Exhibit D Specialized Training for RHMERT
- Exhibit E Medical Surveillance for RHMERT
- Exhibit F Extraordinary Response Cost Fee Schedule – Part I
- Exhibit G Extraordinary Response Cost Fee Schedule – Part II  
 Compensation for Contractor’s Response Personnel  
 Non-Officer  
 Officer (Eligible for Overtime)  
 Officer/Salaried (Not Eligible for Overtime)
- Exhibit H Funding for Program Outreach for RHMERT
- Exhibit I Funding for Sub-Committee and Special Projects Participation for RHMERT
- Exhibit J Summary: 2023-2025 Biennium Funding Available for Stand-By Costs
- Exhibit K State Spill Response Revolving Fund

## INTERGOVERNMENTAL AGREEMENT FOR REGIONAL HAZARDOUS MATERIALS EMERGENCY RESPONSE TEAM SERVICES

### General Agreement Information

**Agreement Type:** This Agreement is between the State of Oregon, acting by and through its Department of State Fire Marshal (hereinafter “OSFM”), and the **City of Portland** (hereinafter “Contractor”), each a “Party” and collectively “Parties,” for the provision of regional hazardous materials emergency response team services as described herein and authorized under ORS 453.374 to 453.390.

### RECITALS

- A. In order to protect life and property against the dangers of emergencies involving hazardous materials, the State Fire Marshal may assign and make available for use in any county, city or district, any part of a Regional Hazardous Materials Emergency Response Team.
- B. The OSFM desires to enter into this Agreement to designate Contractor as part of a Regional Hazardous Materials Emergency Response Team for "HM07" as described in Exhibit A, and Contractor desires to be so designated and to enter into this Agreement.

### STANDARD AGREEMENT TERMS AND CONDITIONS

#### 1.0 AGREEMENT TERM.

1.1 This Agreement shall be effective as of July 1, 2023 to June 30, 2025, unless terminated prior in accordance with other provisions of this Agreement.

1.2 Subject to Legislative approval, future Agreements, if any, will be awarded on a biennial basis.

#### 2.0 DEFINITIONS.

“**Agreement**” means this Intergovernmental Agreement, all attachments and exhibits hereto, and any future amendments.

“**Automatic Response**” means the authority to respond to any incident beyond the capabilities of local responders without approval prior to team response by the OSFM Duty Officer. Incident must involve a hazardous spill, leak, explosion, or injury, or potential thereof, with immediate threat to life, environment, or property.

“**Clean-up**” means the measures taken after Emergency Response to permanently remove the hazard from the incident site.

“**Contractor approved**” means any non-RHMERT activities that are undertaken by Contractor or Contractor’s employees that are in conformity with Contractor’s established policies and procedures for daily operations.

“**Contractor’s RHMERT Members**” means the employees, agents or members of the Contractor designated by the Contractor to serve on the RHMERT for "HM07" as described in Exhibit A.

“**Emergency Response**” has the meaning as defined in OAR 837-120-0010(5), and includes those actions and services set out in OAR 837-120-0020(3).

“**Emergency Response Costs**” means the total Emergency Response expense, including team response costs, arising from a hazardous materials emergency. Such costs generally include, but are not limited to, all OSFM and Contractor expenses that result from the assessment and emergency phases of the response activity. Emergency response costs do not include clean up or disposal costs of hazardous materials, except, as may be reasonably necessary and incidental to preventing a Release or threat of Release or in stabilizing the Emergency Response incident.

**“Extraordinary Response Costs”** means and is equivalent to “team response costs”. See also OAR 837-120-0090(4).

**“Hazardous Materials”** means "hazardous substance" as that term is defined in ORS 453.307(5).

**“Incident”** means any actual or imminent threat of a Release, or any rupture, fire or accident that results in, or has the potential to result in, the loss or escape of a hazardous material into the environment.

**“Intergovernmental Agreement”** means an agreement between an agency or agencies of the State of Oregon and one or more Oregon units of local government.

**“Local Government Body”** means a city, county, special district or subdivision thereof.

**“Oregon-OSHA”** means the Oregon Occupational Safety and Health Act as administered by the Occupational Safety and Health Division of the Department of Insurance and Finance.

**“ORS”** means Oregon Revised Statutes.

**“OSFM-Provided Equipment”** means all vehicles, equipment, and supplies loaned, delivered, or otherwise provided to the RHMERT by OSFM to perform the services required under this Agreement including, but not limited to, the items listed in Exhibit B.

**“PPE”** means Personal Protective Equipment.

**“Primary Response Area”** means that geographical region where the Contractor is principally responsible for providing regional Hazardous Materials Emergency Response services pursuant to this Agreement.

**“Regional Hazardous Materials Emergency Response Team” (RHMERT)** means the group of individuals, including the employees or agents of the Contractor, designated or tasked to respond to, control, or stabilize actual or potential emergency releases of hazardous substances in "HM07" as described in Exhibit A. A RHMERT operates within the limits discussed in Oregon-OSHA's OAR 437, Division 2, which is incorporated herein by this reference.

**“Release”** shall have the same meaning as that in ORS 465.200(22).

**“Responsible Person”** means the individuals, corporations, associations, firms, partnerships, limited liability companies, joint stock companies, public and municipal corporations, political subdivisions, the state and any agency thereof, and the federal government and any agency thereof responsible for causing the emergency to which the RHMERT responded. (See, e.g. ORS 453.382).

**“RHMERT Operations”** means Emergency Response operations conducted by the Contractor in "HM07".

**“RHMERT Operations Rehabilitation Costs”** means the cost of providing rehydration and food for RHMERT team members during RHMERT Operations.

**“Stand-By Activities”** means Contractor’s activities associated with specialized training, medical surveillance, and routine maintenance for vehicles and equipment.

**“Stand-By Costs”** means Contractor’s costs associated with specialized training costs, medical surveillance costs, and vehicles and equipment loans, as provided in Section 4.1 of this Agreement.

**“State”** means the State of Oregon acting by and through the Department of State Fire Marshal.

**“State Spill Response Revolving Fund”** means the revolving fund established under ORS 453.390.

**“Teams Advisory Group”** means a group consisting of one appointed member from each RHMERT, who provide technical advice to the State Fire Marshal on equipment, vehicles, operating guidelines and similar operational issues.

**“Team Response Costs”** means those Contractor expenses which are directly related to RHMERT Operations, are expressly allowed under this Agreement, and are approved by the OSFM. “Team response costs” are equivalent to “extraordinary response costs”. See also OAR 837-120-0090(4).

### **3.0 STATEMENT OF WORK.**

#### **3.1 SERVICES TO BE PROVIDED BY CONTRACTOR.**

- 3.1.1 During the term of this Agreement the Contractor agrees to provide RHMERT emergency response services within the boundaries of Contractor's assigned Primary Response Area as generally depicted and described in "Exhibit A", Regional Team Primary Response Area Boundary Description, and by this reference incorporated herein. Contractor shall perform RHMERT Operations in "HM07" as described in Exhibit A.
- 3.1.2 Contractor RHMERT Operations under this Agreement shall be limited to emergency operations, reporting and documentation activities arising from a Hazardous Materials Emergency Response as authorized by this Agreement, ORS 453.374 to 453.390, and OAR Chapter 837 Division 120.
- 3.1.3 Contractor's RHMERT Members shall not provide the following services as part of this Agreement, except where they may be reasonably necessary to prevent a Release or threat of Release, or as required to stabilize an Incident:
- removal,
  - remediation,
  - recovery,
  - packaging,
  - monitoring,
  - transportation,
  - movement of hazardous materials,
  - cleanup,
  - storage, or
  - disposal of hazardous materials.
- 3.1.4 Contractor's RHMERT Members shall not provide the following services at or near the emergency response Incident to which the Contractor is dispatched:
- maintain general security or safety perimeters at or near sites and vessels,
  - locate underground utilities,
  - ensure appropriate traffic control services,
  - conduct hydrological investigations or analysis, or
  - provide testing, removal and disposal of underground storage tanks
- 3.1.5 Contractor shall make no representation(s) or warranty(s) to third parties with regard to the ultimate outcome of the hazardous materials services to be provided, but shall respond to the best of its abilities, subject to the terms of this Agreement.
- 3.1.6 Contractor personnel shall perform only those actions and duties for which they are trained and equipped.
- 3.1.7 Contractor shall coordinate its response activities with all other contractors that respond to, control, or stabilize actual or potential emergency releases of hazardous substances in HM07 under an Intergovernmental Agreement with OSFM; provided, however, that nothing in this section shall limit a Contractor's ability to coordinate with other entities in responding to an Incident.

**3.2 COMPLIANCE WITH REGULATORY REQUIREMENTS.** Contractor certifies that its employees, equipment, and vehicles meet or exceed applicable regulatory requirements. Contractor further agrees that all OSFM-Owned Equipment in Exhibit B shall be maintained by the Contractor to meet or exceed all applicable regulatory requirements.

#### **3.3 PERSONNEL.** Contractor shall:

- 3.3.1 Provide the number of trained, medically monitored, competent, and supervised RHMERT personnel as specified in Exhibits D and E of this Agreement, as is necessary to operate within the

safety levels of a RHMERT as specified in the RHMERT Standard Operating Guidelines. Contractor shall limit its team activities to that within the safety and training levels specified by Oregon-OSHA for a Hazardous Materials response team.

3.3.2 Document training and experience and ensure that its team members complete the tasks in the Hazardous Material Technician Task Book within the period required by OSFM.

3.3.3 Submit annually the Task Book reporting form to the OSFM no later than 10<sup>th</sup> of July of each year.

### **3.4 VEHICLES AND EQUIPMENT.**

3.4.1 Use of OSFM-Provided Equipment. Contractor shall:

- i. Operate a RHMERT using the OSFM-Provided Equipment specified in Exhibit "B" of this Agreement;
- ii. Limit its activities to that which can be safely accomplished within the technical limitations of the OSFM-Provided Equipment;
- iii. At all times use OSFM-Provided Equipment with reasonable and diligent care (taking into consideration the type of equipment and its intended use); and
- iv. At all times use the equipment in accordance with all OSFM Standard Operating Guidelines, available on the OSFM website.
- v. Store OSFM-Provided Equipment in an enclosed, indoor facility unless otherwise authorized by OSFM by prior written approval.

3.4.2 Routine Maintenance/Physical Damage/Repairs.

- i. Routine Maintenance: Contractor shall be responsible for all routine maintenance of OSFM-Provided Equipment. For purposes of this Agreement, routine maintenance means:
  - a. Daily, weekly, and monthly checks of vehicles and equipment.
  - b. Semiannual or mileage-related lubrication, oil and filter changes for vehicles and equipment.
  - c. Annual tune-up of vehicles and equipment as required for preventive maintenance.
  - d. Equipment checks and testing as outlined in the Oregon-OSHA standards and manufacturer's recommendations.
  - e. Personal Protective Equipment (PPE) to be tested as per Oregon-OSHA standards and manufacturer's recommendations.
  - f. Communications equipment checked regularly.
- ii. Physical Damage and Repairs: Contractor and OSFM shall each bear responsibility for loss and repair of physical damage to OSFM-Provided Equipment as follows:
  - a. Excluding ordinary wear and tear, when Contractor uses OSFM-Provided Equipment for purposes not authorized under this Agreement and ORS 453.374 to 453.390, including Contractor-approved non-Emergency Response activities or assistance to local government entities at events not meeting OSFM-authorized response criteria, Contractor shall be responsible for any and all physical damage to or loss of such OSFM-Provided Equipment, regardless of fault.
  - b. When Contractor uses OSFM-Provided Equipment for purposes authorized under this Agreement and ORS 453.374 to 453.390, including performance of routine maintenance, the OSFM shall be responsible for physical damage to or loss of OSFM-Provided Equipment, except that if such damage or loss is caused by the negligence or willful misconduct of Contractor, Contractor shall be liable for the damage or loss. OSFM's responsibility for physical damage or loss of OSFM-Provided Equipment is subject to the limitations and conditions of the Oregon Risk Management Division Policy 125-7-

101 (Property Self-Insurance Policy Manual), Article XI, Section 7 of the Oregon Constitution, ORS 30.260 to 30.300 (Oregon Tort Claims Act), and the terms of this agreement.

- c. Contractor shall be liable for all damage or loss caused by abuse or neglect of OSFM-Provided Equipment, including when used for purposes authorized under this Agreement and ORS 453.374 to 453.390.

3.4.3 The Contractor may use the OSFM-Provided Equipment provided in this Agreement in conjunction with Contractor-approved non-Emergency Response activities, however the OSFM-Provided Equipment shall at all times be immediately available for Emergency Response having highest priority. Use of OSFM-Provided Equipment for Contractor-approved non-Emergency Response activities is not a reimbursable expense by OSFM. In addition, use of OSFM-Provided Equipment for Contractor-approved non-Emergency Response activities shall follow Contractor's established guidelines and policies for daily operations. OSFM-Provided Equipment shall not be used by anyone other than Contractor's RHMERT Members, except as approved by OSFM.

3.4.4 Contractor shall submit a vehicle usage and maintenance log to the OSFM upon request. OSFM

3.4.5 Contractor shall not agree in writing or otherwise with other entities to provide the OSFM-Provided Equipment to assist those entities at events not meeting Emergency Response criteria unless OSFM is also a party to that agreement.

3.4.6 Liability for any negligent or willful acts of Contractor's employees undertaken outside the terms of this Agreement will be the sole responsibility of the respective employee and Contractor involved. Contractor warrants that each of Contractor's RHMERT Members shall abide by all Oregon statutes, rules and specific agency policies and procedures regarding the use of OSFM-Provided Equipment during the course and scope of the employee's employment with Contractor.

**3.5 RHMERT COORDINATION OBLIGATIONS.** Contractor shall provide team administration for the RHMERT ("Team Administration").

3.5.1 In providing Team Administration, Contractor shall provide qualified personnel ("Team Personnel") to perform the following duties:

- i. Complete invoicing for RHMERT;
- ii. Complete phone and mileage logs for RHMERT;
- iii. Submit purchase requests;
- iv. Handle incident reporting;
- v. Oversee allocation of funds from OSFM for RHMERT;
- vi. Monitor inventory of OSFM-Provided Equipment; and
- vii. Approve all outreach and training requests for RHMERT.
- viii. Manage outreach and training requests for the RHMERT; and
- ix. Serve as the point of contact for RHMERT training opportunities.

3.5.2 Contractor shall coordinate and submit to OSFM all requests for reimbursement from the RHMERT for **HM07**, including requests for reimbursement from any other contractors who serve on the RHMERT for **HM07**.

3.5.3 In performing the duties described in this Section 3.5, Contractor may choose one or more of Contractor's employees to serve as Team Personnel. Contractor shall provide OSFM with the name and contact information of all Team Personnel. Team Personnel will be the RHMERT's primary point of contact for OSFM and shall attend the quarterly meetings of the Team Advisory Group (TAG) and participate actively in those meetings.

**3.6 RIGHT OF REFUSAL.** The OSFM recognizes that the obligations of the Contractor in its own



jurisdiction are paramount. If, on occasion, an Emergency Response under this Agreement would temporarily place an undue burden on the Contractor because Contractor resources are limited or unavailable within the Contractor Primary Response Area, and if prior or immediate notice has been provided to the OSFM Duty Officer, the Contractor may decline a request for an Emergency Response. However, if the Contractor declines a request for an Emergency Response, the Contractor shall ensure the OSFM-Provided Equipment remains available for OSFM's use for that particular Emergency Response.

**3.7 STANDARD OPERATING GUIDELINES.** Contractor and OSFM agree that RHMERT operations shall be conducted in accordance with the OSFM's Standard Operating Guidelines as reviewed and recommended by the Teams Advisory Group and as mutually approved by the parties to this Agreement.

**3.8 ADMINISTRATIVE RULES.** The parties acknowledge that the OSFM has adopted OAR Chapter 837, Division 120, and Contractor agrees to comply with those administrative rules and ORS 453.374 to 453.390. If those rules relevant to this agreement are amended, such amendments shall be incorporated into this Agreement by written amendment and may require modification of the procedures, terms and conditions of this Agreement.

#### **4.0 CONTRACTOR COMPENSATION.**

There are two types of compensation under this Agreement: (1) RHMERT Stand-By Costs, and (2) RHMERT Team Response Costs. Each of these is discussed more fully in sections 4.1 and 4.2 of this Agreement. Compensation provided under this Agreement is apportioned for the entire RHMERT. The total compensation identified in Exhibit J is the not-to-exceed amount for the RHMERT. In the event that the RHMERT consists of more than one contractor, the multiple contractors that make up the RHMERT administration shall share the total compensation identified in Exhibit J. The Team Personnel shall allocate budgeted funds among the contractors in the RHMERT up to, but not in excess of, the maximum compensation identified in Exhibit J.

**4.1 RHMERT STAND-BY COSTS.** In accordance with budget allocations by the Team Personnel as provided in Section 4.0 of this Agreement, Contractor shall be compensated by the OSFM under this Agreement for its OSFM-approved stand-by costs as provided herein. Such Stand-By Costs include:

**4.1.1 Specialized Training Costs.** The OSFM will provide funding for advanced training and education to Contractor RHMERT employees as specified in Exhibit "D" if approved by the OSFM in advance. All such training and selection of training or training providers must comply with all federal, state and local rules and regulations. If training is approved, the OSFM agrees to pay the cost of tuition, per diem, personnel costs, and travel expenses (at the approved rates specified in Section 30 of this Agreement), utilizing funds in Exhibit "D" to pay for all above mentioned expenses. With prior approval by the OSFM, one hundred percent of the funding specified in Exhibit "D" may be used to reimburse personnel costs incurred by employees attending specialized training for travel and attendance days only in accordance with Section 30.1 of this Contract and protocols covered in OSFM Hazardous Materials Emergency Response Team Standard Operating Guidelines. For purposes of this subsection, "personnel costs" means the dollar figure provided to OSFM by Contractor as the cost of each Contractor's employee to attend OSFM advanced training and education.

In addition to the specialized training costs in Exhibit D of this agreement, and to help alleviate department costs of technician training for the RHMERT Program, OSFM agrees to pay the cost of registration, per diem, personnel costs, and travel expenses to send one student per RHMERT through Technician Training during the biennium. The maximum amount that OSFM will expend for all students for an RHMERT is \$8,000.00; provided, however, that OSFM may approve funding for additional students on a case-by-case basis. If a student attends the Hybrid Technician Academy with not fully expending the one-time funding of \$8,000, OSFM agrees to pay the costs to send a second student during the same biennium with the remaining funds available within the \$8,000 allocated funds.

- 4.1.2 **Medical Surveillance.** The OSFM will provide funding for baseline, maintenance, and exit physicals for Contractor RHMERT employees as specified in Exhibit "E" of this Agreement. Costs for these Medical Surveillance physicals will be based on competitive bid for the protocols covered in the OSFM Hazardous Materials Emergency Response Team Standard Operating Guideline T-015. Selection of health care provider must comply with all federal, state and local rules and regulations. OSFM will not cover costs for other medical procedures, including but not limited to tests for infectious diseases or substance abuse. Follow-up exams and testing are the responsibility of the Contractor or the individual Contractor RHMERT employees.
- 4.1.3 **Vehicle(s) and Equipment Loans.** The OSFM agrees to loan the Contractor the OSFM-Provided Equipment specified in Exhibit "B" of this Agreement. The parties agree that items of OSFM-Provided equipment may be added to or removed from the list in Exhibit B without requiring amendment of this agreement, but only if each change is mutually agreed to in writing by all parties. Funding available for the OSFM to purchase and maintain OSFM-Provided Equipment is specified in Exhibit "C" of this Agreement. Replacement of OSFM-Provided capital equipment, expendable items, PPE, and other equipment will be provided as necessary by prior approval of OSFM, pursuant to Section 3.4 and OSFM's approved purchasing process.
- a. Contractor shall be exclusively responsible for its selection of such replacement PPE suits, suit types or models to meet its own specific needs. The OSFM encourages contractor to follow the recommendation of the HazMat Equipment Committee for the selection of PPE suits, however the OSFM shall have no responsibility or liability whatsoever arising out of Contractor's choice of PPE suits, their safety, reliability, testing of the PPE suits, or their maintenance.
  - b. OSFM-Provided PPE suits shall be procured according to the procedure established in Standard Operating Guideline T021, all applicable provisions of ORS chapters 279A and 279B, and Contractor's own procurement ordinances, codes, rules and regulations.
- 4.1.4 Contractor Stand-by Costs are not chargeable to a Responsible Person but are reimbursed to the Contractor by the OSFM as provided in this Agreement, with the exception of the vehicle and equipment loans described in paragraph 4.1.3, for which Contractor is not reimbursed.

## **4.2 RHMERT RESPONSE COSTS.**

- 4.2.1 In accordance with budget allocations by the Team Administrator as provided in Section 4.0, Contractor shall be compensated by the OSFM under this Agreement for certain OSFM-approved team response costs. Team response costs are the equivalent of "extraordinary response costs". The total funding available for team response costs as specified in Exhibit "K" of this Agreement is in addition to Contractor Stand-By Costs specified in section 4.1. Compensation of such team response costs shall be limited by the funds available in the State Spill Response Revolving Fund established under ORS 453.390 for the 2023-2025 biennium. Such Team response costs may include, but are not limited to:
- i. Compensation for use of Contractor-Provided Materials, Vehicle(s) and Apparatus:
    - a. OSFM shall compensate contractor for OSFM-approved replacement of Contractor-Provided materials and supplies expended or destroyed during a hazardous materials emergency response undertaken pursuant to this Agreement at the rates set forth in Section 1 of Exhibit "F" of this agreement.
    - b. Where the OSFM has approved the use of Contractor-Provided vehicles and equipment, OSFM shall compensate Contractor at the rates described in Section 1 of Exhibit "F" of this Agreement.
    - c. Personal Protective Equipment (PPE). If Contractor-Provided PPE, to include radios, is severely damaged or destroyed during an authorized hazardous materials emergency

response undertaken pursuant to this Agreement, OSFM shall reimburse Contractor for replacement of such PPE at the rates described in Section 1 of Exhibit "F" of this Agreement, provided, however, that the OSFM will only pay reimbursement for replacement PPE that meet or exceed all applicable regulatory requirements and National Fire Protection Association guidelines.

1. Contractor shall be exclusively responsible for its selection of such replacement PPE suits, suit types or models to meet its own specific needs. The OSFM shall have no involvement in, and no responsibility or liability whatsoever arising out of Contractor's choice of PPE suits, their safety, reliability, testing of the PPE suits, or their maintenance.
  2. Contractor shall comply with all applicable public procurement laws, including the applicable provisions of ORS chapters 279A and 279B and Contractor's own procurement ordinances, codes, rules and regulations, in the solicitation of and contracting for the acquisition of the PPE suits.
- ii. Compensation for Contractor Personnel Response Costs: Contractor RHMERT personnel response costs that are approved and authorized under this Agreement are compensable at the rates described in Exhibit "G". Hourly personnel rates for the 2023-2025 biennium shall be calculated as follows:
- A. Base Hourly Rate/Non-officer
    1. Base Hourly Rate/Non-Officer/Straight Time is calculated at the base hourly rate for the highest paid, technician trained team member at this rank who is not an officer.
    2. Base Hourly Rate/Non-Officer/Overtime shall be calculated at the hourly overtime rate, plus benefits, for the highest paid, technician trained team member who is not an officer.
  - B. Base Hourly Rate/Officer (eligible for overtime)
    1. Base Hourly Rate/Officer/Straight Time is calculated at the base hourly rate for the highest paid, technician trained team member at this rank who is an officer.
    2. Base Hourly Rate/Officer/Overtime shall be calculated at the overtime rate, plus benefits for the highest paid, technician trained officer on the team.
  - C. Base Hourly Rate/Salaried Officer (not eligible for overtime) - shall be calculated at the salary rate, plus benefits, of the highest paid, technician trained officer on the team.
  - D. OSFM and Contractor understand that the base hourly rate of non-officers, officers, and salaried officers referred to in this section is subject to change pursuant to any collective bargaining agreement entered into between Contractor and Contractor's employees. It is the intent of OSFM and Contractor that if, during the term of this Agreement, the base hourly rate of Contractor's employees for non-officers, officers, or salaried officers changes due to a change in a collective bargaining agreement between Contractor and Contractor's employees, that on the date those changes become effective under a collective bargaining agreement, those changes will be incorporated in this Agreement by formally amending this Agreement in writing, and shall be used for purposes of calculating compensation for Contractor's Personnel Response Costs only after the effective date of the Amendment. Notwithstanding any retroactive payment provision contained in a collective bargaining agreement, the Contractor's Personnel Response Costs shall be calculated and reimbursed at the hourly rate set forth in the version of this Agreement which was in effect at the time the Contractor commenced the hazardous materials emergency response.

E. A Response Availability Rate of \$15.5788 shall be added to each base hourly rate to determine the total hourly personnel response rate for each category. Contractor shall be required to document total hourly personnel response rates for each category utilizing the form provided by OSFM. That documentation is entered into this Agreement as Exhibit G. Contractor RHMERT personnel response costs shall be billed to the nearest one-fourth (1/4) hour period worked.

iii. Emergency Expenses: Contractor's other necessary and reasonable Emergency Response costs related to services rendered under this Agreement are reimbursable at the rates described in Exhibit "F" of this agreement. All such costs must be based on actual expenditures and documented by the Contractor. Original receipts must be submitted with the response billing. Emergency Response purchases of up to \$100 per Emergency Response Incident may be made at the Contractor's discretion without prior approval by the OSFM. The Team Leader or authorized Contractor representative shall attempt to contact the OSFM Duty Officer for prior approval of Contractor emergency expenses exceeding \$100. Contractor claims for reimbursement must clearly document the nature of the purchases and extent of the OSFM prior verbal approval of Contractor emergency expenditures. The OSFM reserves the right to deny any payment of unjustifiable Contractor expenditures.

A. Exposure exams resulting from a RHMERT Operations response will be included in the Contractor's team response costs to be billed to the Responsible Person and reimbursed by the OSFM. Where no Responsible Person is identified, reimbursement to the Contractor will be provided out of the State Spill Response Revolving Fund.

4.2.2 In addition to the compensable team response costs set forth in 4.2.1, Contractor's emergency response may also incur certain team response costs for which Contractor shall not be compensated by OSFM, set forth in Section 2 of Exhibit F. Contractor shall not be reimbursed for Contractor's use of OSFM-Provided vehicles, equipment, and supplies, or for expenditures made by OSFM.

4.2.3 Team response costs may be charged to a Responsible Person.

### **4.3 BILLING SYSTEM.**

4.3.1 Contractor must notify the OSFM's Emergency Response Unit within 24 hours of an Emergency Response. The OSFM will assign an Incident number to the response at that time. Contractor shall leave a voice-mail message if Contractor notification is made after business hours. OSFM will return a call to the Contractor the next business day. Contractor shall provide an estimate of Team Response Costs to the OSFM within 10 calendar days of the date on which Contractor concludes an Emergency Response under this Agreement. Contractor shall submit an Emergency Response report and invoice to the OSFM within 30 calendar days of the date on which Contractor concludes an Emergency Response under this Agreement. If a Contractor is unresponsive and has not submitted a completed Emergency Response report and invoice to OSFM within 90 calendar days of the Emergency Response, the Emergency Response may be deemed uncollectable and the Contractor may be liable, at OSFM's sole discretion, for replacement costs of State-Provided damaged equipment and materials used on the Emergency Response. Contractor shall submit its claim for reimbursement on OSFM approved forms and the claim must contain such documentation as is necessary to support OSFM cost-recovery operations and financial audits.

4.3.2 The OSFM may bill the Responsible Person within 30 days of receipt of Contractor invoice. The OSFM may bill Responsible Person(s) for the Emergency Response Costs, including Team Response Costs. Normally Contractor team response costs are collected by the OSFM from the Responsible Person prior to making payment to the Contractor. When payment has not been received by the OSFM within 30 days after the second billing to the Responsible Person, the Contractor's OSFM approved compensable Team Response Costs will be paid to the Contractor from the State Spill Response Revolving Fund. In no case shall the OSFM payment to the

Contractor occur more than 90 days after receipt of an OSFM-approved Contractor invoice by OSFM; i.e., one that meets the requirements of Section 4.3.

- 4.3.3 Billing for OSFM-Provided Equipment. OSFM shall bill the Responsible Person(s) for Contractor's use of OSFM-Provided equipment during RHMERT Operations, including responses to incidents within the Contractor's local jurisdiction, at the rates set forth in Exhibit F. The OSFM will prepare a statement for OSFM-Provided Equipment used and the OSFM will forward the statement to the identified Responsible Person any time OSFM-Provided Equipment is used for an Emergency Response.
- 4.3.4 Option for Waiver. The Contractor shall have the option of requesting a waiver of OSFM-Provided Equipment charges for response to any public agency within the jurisdictional boundaries of the Contractor. In addition, the Contractor may request a waiver of charges when there are extenuating circumstances, which would preclude a billing to the Responsible Person. Requests for waiver are subject to review and approval by the OSFM.
- 4.3.5 Priority of Reimbursements. If the OSFM successfully recovers payment from the Responsible Person, the monies shall first be used to pay the Contractor Team Response Costs, if these costs have not been paid in their entirety; then the monies will be used to reimburse the State Spill Response Revolving Fund for the amount previously paid to the Contractor and the OSFM. Any remaining funds will be used to pay Emergency Response Costs as billed. Contractor agrees to cooperate with the OSFM as is reasonable and necessary in order to bill each Responsible Person and pursue cost recovery actions.
- 4.3.6 If a disputed billing is resolved in favor of the Responsible Person then the Contractor shall not be required to reimburse the OSFM for payments previously made.
- 4.4 **INTEREST.** If the OSFM fails to make timely payments to Contractor as described in 4.3.2, interest shall be paid to Contractor by the OSFM on amounts past due at the rate of interest specified in ORS 293.462(3). Interest payments will be made only if Emergency Response Costs are invoiced in accordance with Sections 4.3.1 and 4.3.2 of this Agreement by the Contractor on OSFM-approved forms and Responsible Person information supplied by the Contractor is correct to the best of the Contractor's knowledge or belief.

#### **4.5 STATE FUNDING AVAILABLE.**

- 4.5.1 The OSFM has sufficient funds currently available and authorized for expenditure to finance the costs of the Agreement within the OSFM's 2023-2025 biennial appropriation or limitation. Contractor understands and agrees that the OSFM's payment of amounts under this Agreement attributable to work performed after the last day of the current biennium is contingent upon the OSFM receiving from the Oregon Legislative Assembly appropriations, limitations, or other expenditure authority sufficient to allow the OSFM, in the exercise of its reasonable administrative discretion, to continue to make payments under this Agreement.
- 4.5.2 State funding for Stand-By Costs available under this Agreement for the 2023-2025 biennium shall be the sum of the amounts specified in exhibits C, D, E, H and I to this Agreement and are summarized in Exhibit J of this Agreement.
- 4.5.3 The funding available as specified in Exhibits C, D, E, H and I to this Agreement does not include Contractor team response costs as specified in Section 4.2. Such team response costs are available in addition to Contractor Stand-By Costs and shall be limited by the funds available in the State's Spill Response Revolving Fund established under ORS 453.390 for the 2023-2025 biennium, by the limitations described in ORS 453.382 and 453.390 and as identified in Exhibit K, State Spill Response Revolving Fund, to this Agreement.
- 4.5.4 Additional Contractor compensation shall be paid under this Agreement only with the prior written approval of OSFM and as otherwise authorized by law.

4.5.5 OSFM payments under the terms of this Agreement shall be considered full compensation for work performed or services rendered and for all labor, materials, supplies, equipment, and incidentals necessary to complete the work authorized under this Agreement.

4.5.6 Acceptance of payment by the Contractor shall relieve the OSFM from all claims by Contractor for reimbursement of Team Response Costs and Stand-by Costs except where partial payment has been made due to limitations of the State's Spill Response Revolving Fund and subject to further payment as set forth above.

**4.6 PRIOR APPROVAL.** Unless Contractor has automatic response authority as described in Section 4.7.1 and is operating in accordance with such authority, Contractor may not respond under this Agreement without prior written or verbal approval by OSFM as set forth in Section 4.7.2. Granting of response approval by the OSFM Duty Officer constitutes the OSFM agreement to pay Contractor its compensable Team Response Costs incurred in accordance with this agreement from the State Spill Response Revolving Fund if recovery from a Responsible Person is not obtained in a timely manner. Contractor agrees to make reasonable and good faith efforts to minimize Responsible Person and OSFM expenses.

**4.7 RESPONSE PROCEDURES AND LIMITATIONS; AUTOMATIC RESPONSE.**

4.7.1 If the Contractor has authority for automatic response under OSFM's Standard Operating Guidelines, Contractor may, upon receipt of an Emergency Response request, provide Emergency Response services as specified under the terms of this Agreement and in accordance with the OSFM's Standard Operating Guidelines, which is incorporated herein by this reference, and may be found on the OSFM's website. Contractor shall immediately thereafter notify the OSFM Duty Officer.

4.7.2 If the Contractor has *not* received state authority for automatic response or if the Emergency Response request does not meet the Standard Operating Guideline criteria, the Contractor shall refer the response request to the OSFM Duty Officer who will evaluate the situation and either authorize the Contractor response or decline the response request.

**4.8 STATE SPILL RESPONSE REVOLVING FUND.**

4.8.1 If the State Spill Response Revolving Fund becomes depleted or fiscally unsound, the OSFM shall immediately notify Contractor, who may upon receipt of such notice suspend response actions under this Agreement.

4.8.2 For purposes of this section, "fiscally unsound" means the balance in the State Spill Response Revolving Fund is less than \$20,000, and "immediately" means within twelve (12) hours of a Contractor receiving the emergency response request, which reduces the fund below the \$20,000 threshold.

4.8.3 If Contractor commences an emergency response action subsequent to notification of fiscally unsound State Spill Response Revolving Fund balance, Contractor assumes the risk of non-payment if the OSFM is unable to obtain additional funding for the State Spill Response Revolving Fund, recover the Contractor team emergency response costs from a Responsible Person, or if there is no identifiable Responsible Person. Contractor shall immediately notify the OSFM Duty Officer of all emergency response activities undertaken pursuant to this Agreement.

4.8.4 If, after becoming depleted or fiscally unsound, additional funds become available in the State Spill Response Revolving Fund and Contractor has billed the OSFM as set forth in Section 4.3, the OSFM shall reimburse the Contractor for unpaid Team Response Costs to the extent funds are available and authorized under this agreement.

**5.0 WHERE NO RESPONSIBLE PERSON CAN BE IDENTIFIED.**

As provided in Section 4 and ORS 453.382, OSFM agrees to bill the person responsible for causing the

hazardous materials emergency for total emergency response costs. Where there is no identifiable Responsible Person, or if the Responsible Person or other responsible party is unable to pay, the OSFM agrees to pay Contractor its compensable team response costs from the State Spill Response Revolving Fund provided funds are available and Contractor has complied with Section 4 herein.

## **6.0 INDEPENDENT CONTRACTOR STATUS.**

- 6.1** Contractor shall perform all required Services as an independent contractor. Although Agency reserves the right (i) to determine (and modify) the delivery schedule for the Services to be performed and (ii) to evaluate the quality of the completed performance, Agency cannot and will not control the means or manner of Contractor's performance. Contractor is responsible for determining the appropriate means and manner of performing any Services called for under the Contract.
- 6.2** If Contractor is currently performing work for the State of Oregon or the Federal Government, Contractor by signature to this Agreement declares and certifies that: Contractor's performance of this Agreement creates no potential or actual conflict of interest as defined by ORS 244.020 and no state or federal rules or regulations would prohibit Contractor's performance of this Contract. Contractor is not an "officer," "employee," or "agent" of the State or Agency, as those terms are used in ORS 30.265.
- 6.3** Contractor shall be responsible for all Federal and State taxes applicable to compensation or payments paid to Contractor under this Agreement and, unless Contractor is subject to backup withholding, Agency will not withhold from such compensation or payments any amount(s) to cover Contractor's Federal or State tax obligations.

## **7.0 RETIREMENT SYSTEM STATUS, SOCIAL SECURITY, WORKERS COMPENSATION.**

Contractor is not entitled under this Agreement to any Public Employees Retirement System benefits and is responsible for payment of any applicable federal or State taxes. Contractor is not entitled under this Agreement to any benefits for payments of federal Social Security, employment insurance, or workers' compensation from the State of Oregon.

## **8.0 ASSIGNMENTS; SUBCONTRACTS.**

Contractor shall not assign, sell, transfer, subcontract or sublet rights, or delegate responsibilities under this Agreement, in whole or in part, without the prior written approval of the OSFM. Such written approval will not relieve Contractor of any obligations under this Agreement. Except where the OSFM expressly approves otherwise, Contractor shall remain liable as between the original parties to this Agreement as if no such assignment had occurred.

## **9.0 SUCCESSORS IN INTEREST.**

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

## **10.0 COMPLIANCE WITH GOVERNMENT REGULATIONS.**

Contractor agrees to comply with federal, state and local laws, codes, regulations and ordinances applicable to the work performed under this Agreement including, but not limited to, OAR 437-002-0100(18) (Hazardous waste operations and emergency response), which adopts 29 CFR 1910.120 (amended 2/8/13, FR vol. 78, no. 27, p. 9311).

## **11.0 FORCE MAJEURE.**

Neither Party to this Agreement shall be held responsible for delay or default caused by fire, riots, acts of

God, or war, which is beyond that Party's reasonable control. OSFM or Contractor may terminate this Agreement upon written notice after determining such delay or default will reasonably prevent performance of the Agreement.

## **12.0 INDEMNIFICATION, CONTRIBUTION, SCOPE OF LIABILITY.**

### **12.1 ACTIVITIES AUTHORIZED UNDER ORS 453.374 – 453.390:**

12.1.1 CONTRACTOR'S RHMERT MEMBERS: AS PROVIDED IN ORS 453.384, DURING EMERGENCY RESPONSE OPERATIONS UNDER ORS 453.374 TO 453.390 PURSUANT TO THIS AGREEMENT, THE STATE OF OREGON, BY AND THROUGH THE DEPARTMENT OF STATE FIRE MARSHAL, SHALL PROTECT AND DEFEND CONTRACTOR'S RHMERT MEMBERS FROM LIABILITY UNDER ORS 30.260 TO 30.300 (OREGON TORT CLAIMS ACT). AS USED IN THIS SECTION, "OPERATIONS" MEAN ACTIVITIES DIRECTLY RELATED TO A PARTICULAR EMERGENCY RESPONSE INVOLVING A HAZARDOUS MATERIAL BY A RHMERT AS PROVIDED FOR UNDER THIS AGREEMENT. "OPERATIONS" ALSO INCLUDE ADVANCED TRAINING ACTIVITIES PROVIDED TO THE CONTRACTOR'S RHMERT MEMBERS AS PROVIDED FOR UNDER THIS AGREEMENT, BUT DO NOT INCLUDE TRAVEL TO AND FROM SUCH TRAINING.

12.1.2 CONTRACTOR: EXCEPT AS OTHERWISE PROVIDED UNDER PARAGRAPHS 12.1.1, 12.2, AND 3.4.2, AND AS PROVIDED IN SECTION 12.3 REGARDING THIRD PARTY CLAIMS, THE OSFM AND CONTRACTOR SHALL EACH BE RESPONSIBLE, TO THE EXTENT PERMITTED BY THE OREGON TORT CLAIMS ACT (ORS 30.260 THROUGH 30.300) AND THE OREGON CONSTITUTION (INCLUDING BUT NOT LIMITED TO ARTICLE XI, SECTION 7), FOR ANY LEGAL LIABILITY, LOSS, DAMAGES, COSTS AND EXPENSES ARISING IN FAVOR OF ANY PERSON, ON ACCOUNT OF PERSONAL INJURIES, DEATH, OR PROPERTY LOSS OR DAMAGE OCCURRING, GROWING OUT OF, INCIDENT TO OR RESULTING DIRECTLY FROM THEIR RESPECTIVE ACTS OR OMISSIONS UNDER THIS AGREEMENT.

**12.2 ACTIVITIES NOT AUTHORIZED UNDER ORS 453.374 - 453.390:** WHEN CONTRACTOR USES OSFM-PROVIDED EQUIPMENT OR OTHER VEHICLES AND EQUIPMENT PROVIDED TO CONTRACTOR BY OSFM OR STATE PROCEDURES OR TRAINING FOR ANY ACTION NOT AUTHORIZED UNDER ORS 453.374 TO 453.390 OR THIS AGREEMENT, THE CONTRACTOR SHALL INDEMNIFY, DEFEND AND HOLD HARMLESS THE STATE, 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, SUBJECT TO THE OREGON TORT CLAIMS ACT, ORS 30.260 TO 30.300, AND THE OREGON CONSTITUTION.

### **12.3 THIRD PARTY CLAIMS:**

12.3.1 IF ANY THIRD PARTY MAKES ANY CLAIM OR BRINGS ANY ACTION, SUIT OR PROCEEDING ALLEGING A TORT AS NOW OR HEREAFTER DEFINED IN ORS 30.260 ("THIRD PARTY CLAIM") AGAINST A PARTY (THE "NOTIFIED PARTY") WITH RESPECT TO WHICH THE OTHER PARTY ("OTHER PARTY") MAY HAVE LIABILITY, THE NOTIFIED PARTY MUST PROMPTLY NOTIFY THE OTHER PARTY IN WRITING OF THE THIRD PARTY CLAIM AND DELIVER TO THE OTHER PARTY A COPY OF THE CLAIM, PROCESS, AND ALL LEGAL PLEADINGS WITH RESPECT TO THE THIRD PARTY CLAIM. EITHER PARTY IS ENTITLED TO PARTICIPATE IN THE DEFENSE OF A THIRD PARTY CLAIM, AND TO DEFEND A THIRD PARTY CLAIM WITH COUNSEL OF ITS OWN CHOOSING. RECEIPT BY THE OTHER PARTY OF THE NOTICE AND COPIES REQUIRED IN THIS PARAGRAPH AND MEANINGFUL OPPORTUNITY FOR THE OTHER PARTY TO PARTICIPATE IN THE INVESTIGATION, DEFENSE AND SETTLEMENT OF THE THIRD PARTY CLAIM WITH COUNSEL OF ITS OWN CHOOSING ARE CONDITIONS PRECEDENT TO THE OTHER PARTY'S LIABILITY WITH RESPECT TO THE THIRD PARTY CLAIM.

12.3.2 EXCEPT AS OTHERWISE PROVIDED IN SECTIONS 12.1.1 AND 12.2, WITH RESPECT TO A THIRD PARTY CLAIM FOR WHICH THE STATE IS JOINTLY LIABLE WITH THE CONTRACTOR (OR WOULD BE IF JOINED IN THE THIRD PARTY CLAIM ), THE STATE SHALL CONTRIBUTE TO THE AMOUNT OF EXPENSES (INCLUDING ATTORNEYS' FEES), JUDGMENTS, FINES AND AMOUNTS PAID IN SETTLEMENT ACTUALLY



AND REASONABLY INCURRED AND PAID OR PAYABLE BY THE CONTRACTOR IN SUCH PROPORTION AS IS APPROPRIATE TO REFLECT THE RELATIVE FAULT OF THE STATE ON THE ONE HAND AND OF THE CONTRACTOR ON THE OTHER HAND IN CONNECTION WITH THE EVENTS WHICH RESULTED IN SUCH EXPENSES, JUDGMENTS, FINES OR SETTLEMENT AMOUNTS, AS WELL AS ANY OTHER RELEVANT EQUITABLE CONSIDERATIONS. THE RELATIVE FAULT OF THE STATE ON THE ONE HAND AND OF THE CONTRACTOR ON THE OTHER HAND SHALL BE DETERMINED BY REFERENCE TO, AMONG OTHER THINGS, THE PARTIES' RELATIVE INTENT, KNOWLEDGE, ACCESS TO INFORMATION AND OPPORTUNITY TO CORRECT OR PREVENT THE CIRCUMSTANCES RESULTING IN SUCH EXPENSES, JUDGMENTS, FINES OR SETTLEMENT AMOUNTS. THE STATE'S CONTRIBUTION AMOUNT IN ANY INSTANCE IS CAPPED TO THE SAME EXTENT IT WOULD HAVE BEEN CAPPED UNDER OREGON LAW IF THE STATE HAD SOLE LIABILITY IN THE PROCEEDING.

12.3.3 EXCEPT AS OTHERWISE PROVIDED IN SECTIONS 12.1.1 AND 12.2, WITH RESPECT TO A THIRD PARTY CLAIM FOR WHICH THE CONTRACTOR IS JOINTLY LIABLE WITH THE STATE, INCLUDING CONTRACTOR'S RHMERT MEMBERS ACTING AS AGENTS OF THE STATE IN ACCORDANCE WITH THIS AGREEMENT AND ORS 453.374 TO 453.390, (OR WOULD BE IF JOINED IN THE THIRD PARTY CLAIM), THE CONTRACTOR SHALL CONTRIBUTE TO THE AMOUNT OF EXPENSES (INCLUDING ATTORNEYS' FEES), JUDGMENTS, FINES AND AMOUNTS PAID IN SETTLEMENT ACTUALLY AND REASONABLY INCURRED AND PAID OR PAYABLE BY THE STATE IN SUCH PROPORTION AS IS APPROPRIATE TO REFLECT THE RELATIVE FAULT OF THE CONTRACTOR ON THE ONE HAND AND OF THE STATE ON THE OTHER HAND IN CONNECTION WITH THE EVENTS WHICH RESULTED IN SUCH EXPENSES, JUDGMENTS, FINES OR SETTLEMENT AMOUNTS, AS WELL AS ANY OTHER RELEVANT EQUITABLE CONSIDERATIONS. THE RELATIVE FAULT OF THE CONTRACTOR ON THE ONE HAND AND OF THE STATE ON THE OTHER HAND SHALL BE DETERMINED BY REFERENCE TO, AMONG OTHER THINGS, THE PARTIES' RELATIVE INTENT, KNOWLEDGE, ACCESS TO INFORMATION AND OPPORTUNITY TO CORRECT OR PREVENT THE CIRCUMSTANCES RESULTING IN SUCH EXPENSES, JUDGMENTS, FINES OR SETTLEMENT AMOUNTS. THE CONTRACTOR'S CONTRIBUTION AMOUNT IN ANY INSTANCE IS CAPPED TO THE SAME EXTENT IT WOULD HAVE BEEN CAPPED UNDER OREGON LAW IF IT HAD SOLE LIABILITY IN THE PROCEEDING.

**12.4 LIMITATIONS.** Except as provided in Section 3.4, this Agreement in no way limits a Contractor from responding with OSFM-Provided Equipment under local authority, mutual-aid agreements, or other contracts under local authority.

**12.5 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. Such reports shall be directed to:

State Fire Marshal Hazardous Materials Duty Officer  
3991 Fairview Industrial Dr SE  
Salem, Oregon 97302  
Oregon Emergency Response System (OERS) 800-452-0311

**13.0 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; and 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.

**14.0 ACCESS TO RECORDS.**

Subject to the state's Public Record Laws, each Party to this Agreement, the federal government, and their duly authorized representatives shall have access to the other Party's books, documents, investigative reports, papers and records which are directly pertinent to this Agreement for the purpose of making

financial, maintenance or regulatory audit. Such records shall be maintained for at least six (6) years, or longer where required by law.

#### **14.1 CONFIDENTIALITY.**

Except as otherwise provided by law, each Party to this Agreement agrees that they shall not in any way, disclose each other's confidential information to a third party. The rights and obligations set forth in this section shall survive termination of the Agreement.

#### **15.0 AMENDMENTS.**

**15.1** To the extent permitted by applicable statutes and administrative rules, this Agreement may be amended, modified, or supplemented only by a written amendment signed by the OSFM and Contractor that has been approved by the OSFM and the Oregon Department of Justice, if required by applicable law ("Amendment"). Any Amendment that provides for additional Services may only provide for Services directly related to the scope of Services described in the Agreement and no Amendment shall be effective until all requisite signatures and approvals are obtained.

**15.2** Either the OSFM or Contractor may submit an Amendment request to amend this Agreement, including all Exhibits hereto, by submitting to the OSFM Agreement Administrator a written Amendment request describing the change requested. The OSFM and Contractor's Authorized Representatives will review the written Amendment request and will mutually approve it for either amendment, further refinement, or reject it. In the event an Amendment request is approved for further refinement the parties agree that it may be refined by mutual agreement and submitted as an Amendment, or rejected.

**15.3** Either Party may make changes to its Authorized Representative, listed in this Agreement, and such changes shall constitute contract administration for purposes of this Agreement. A Party shall provide the other Party with written notice of any such change, which shall be effective without the necessity of a formal amendment to this Contract.

#### **16.0 PAYMENT OF CONTRACTOR OBLIGATIONS.**

Contractor agrees to make payment promptly, as due, 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 OSFM may be held liable, the proper officer(s) representing the OSFM, 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.

#### **17.0 NON-DISCRIMINATION.**

Contractor shall comply with all applicable requirements of federal and state civil rights and rehabilitation statutes, rules and regulations. Contractors are encouraged to recruit qualified women and minorities as RHMERT personnel.

#### **18.0 DUAL PAYMENT.**

Contractor shall not be compensated for work performed under this Agreement by any state agency or person(s) responsible for causing a hazardous materials emergency Incident except as approved and authorized under this Agreement.

#### **19.0 PAYMENT FOR MEDICAL CARE.**

Contractor agrees to make, or cause to be made through an insurer or third-party, prompt payment, as due, to any person, partnership, association or corporation furnishing medical, surgical, hospital or other needed medical care to Contractor employees, except as noted in 4.1.2, Medical Surveillance. Nothing in this section shall be interpreted as creating any new or additional obligations on Contractor to pay on

a claim that Contractor is not otherwise obligated to pay in accordance with applicable law and Contractor's policies and procedures.

## **20.0 INSURANCE COVERAGE.**

If Contractor is a public body and is self-insured, Contractor shall maintain self-insurance, and/or excess liability coverage sufficient to cover the requirements set forth in Sections 20.1 to 20.9, and shall maintain it in full force and at its own expense throughout the duration of this Agreement and all warranty periods, if any. If Contractor is not a self-insured public body, or at any time during the term of this Agreement ceases to be self-insured, Contractor shall obtain private insurance coverage as specified in Sections 20.1 to 20.9 prior to performance under this Agreement and shall maintain it in full force and at its own expense throughout the duration of this Agreement and all warranty periods, if any. Contractor shall obtain any private insurance only from insurance companies or entities that are authorized to transact the business of insurance and issue coverage in Oregon and that are acceptable to OSFM.

**20.1 WORKERS' COMPENSATION INSURANCE.** All employers, including Contractor, that employ subject workers, as defined in ORS 656.027, shall comply with ORS 656.017 and provide workers' compensation insurance coverage for those workers, unless they meet the requirement for an exemption under ORS 656.126(2). Contractor shall require and ensure that each of its subcontractors complies with these requirements. If Contractor is a subject employer, as defined in ORS 656.023, Contractor shall also obtain employers' liability insurance coverage with limits not less than \$500,000 each accident. If Contractor is an employer subject to any other state's workers' compensation law, Contractor shall provide workers' compensation insurance coverage for its employees as required by applicable workers' compensation laws including employers' liability insurance coverage with limits not less than \$500,000 and shall require and ensure that each of its out-of-state subcontractors complies with these requirements.

**20.2 COMMERCIAL GENERAL LIABILITY.** Commercial General Liability Insurance covering bodily injury and property damage in a form and with coverage that are satisfactory to the State. This insurance shall include personal and advertising injury liability, products and completed operations, contractual liability coverage for the indemnity provided under this contract, and have no limitation of coverage to designated premises, project or operation. Coverage shall be written on an occurrence basis in an amount of not less than \$2,000,000 per occurrence. Annual aggregate limit shall not be less than \$4,000,000.

**20.3 AUTOMOBILE LIABILITY.** Automobile Liability Insurance covering Contractor's business use including coverage for all owned, non-owned, or hired vehicles with a combined single limit of not less than \$2,000,000 for bodily injury and property damage. This coverage may be written in combination with the Commercial General Liability Insurance (with separate limits for Commercial General Liability and Automobile Liability). Use of personal automobile liability insurance coverage may be acceptable if evidence that the policy includes a business use endorsement is provided.

**20.4 EXCESS/UMBRELLA INSURANCE.** A combination of primary and excess/umbrella insurance may be used to meet the required limits of insurance.

**20.5 ADDITIONAL INSURED.** All liability insurance, except for Workers' Compensation, Professional Liability, and Network Security and Privacy Liability (if applicable), required under this Contract must include an additional insured endorsement specifying the State of Oregon, its officers, employees and agents as Additional Insureds, including additional insured status with respect to liability arising out of ongoing operations and completed operations, but only with respect to Contractor's activities to be performed under this Contract. Coverage shall be primary and non-contributory with any other insurance and self-insurance. The Additional Insured endorsement with respect to liability arising out of your ongoing operations must be on ISO Form CG 20 10 07 04 or equivalent and the Additional Insured endorsement with respect to completed operations must be on ISO form CG 20 37 07 04 or equivalent.

**20.6 WAIVER OF SUBROGATION.** Contractor shall waive rights of subrogation which Contractor or any insurer of Contractor may acquire against the OSFM or State of Oregon by virtue of the payment of any loss. Contractor will obtain any endorsement that may be necessary to affect this waiver of subrogation, but this provision applies regardless of whether or not the OSFM has received a waiver of subrogation endorsement from the Contractor or the Contractor's insurer(s).

**20.7 CONTINUOUS CLAIMS MADE COVERAGE.** If any of the required liability insurance is on a claims made basis and does not include an extended reporting period of at least 24 months, then Contractor shall maintain continuous claims made liability coverage, provided the effective date of the continuous claims made coverage is on or before the effective date of the Contract, for a minimum of 24 months following the later of:

- (i) Contractor's completion and OSFM's acceptance of all Services required under the Contract, or
- (ii) OSFM or Contractor termination of this Contract, or
- (iii) The expiration of all warranty periods provided under this Contract.

**20.8 CERTIFICATE(S) AND PROOF OF INSURANCE.** Contractor shall provide to OSFM Certificate(s) of Insurance for all required insurance before delivering any Goods and performing any Services required under this Contract. The Certificate(s) shall list the State of Oregon, its officers, employees and agents as a Certificate holder and as an endorsed Additional Insured. The Certificate(s) shall also include all required endorsements or copies of the applicable policy language effecting coverage required by this Contract. If excess/umbrella insurance is used to meet the minimum insurance requirement, the Certificate of Insurance must include a list of all policies that fall under the excess/umbrella insurance. As proof of insurance OSFM has the right to request copies of insurance policies and endorsements relating to the insurance requirements in this Contract.

**20.9 NOTICE OF CANCELLATION OR CHANGE.** There shall be no cancellation, material change, reduction of limits or intent not to renew the insurance coverage(s) without 30 days prior written notice from Contractor or its insurer(s) to OSFM.

#### **21.0 GOVERNING LAW; VENUE; CONSENT TO JURISDICTION.**

This Agreement shall be governed and construed in accordance with the laws of the State of Oregon without regard to principles of conflicts of laws. Any claim, action, suit or proceeding (collectively, "Claim") between OSFM (and any other agency or department of the State of Oregon) and Contractor that arises from or relates to this Agreement shall be brought and conducted solely and exclusively within the Circuit Court of Marion County for the State of Oregon; provided, however, if a Claim must be brought in a federal forum, then it shall be brought and conducted solely and exclusively within the United States District Court for the District of Oregon. In no event shall this section be construed as a waiver by the State of Oregon of any form of defense of immunity, whether it is sovereign immunity or governmental immunity, immunity based on the Eleventh Amendment to the Constitution of the United States or otherwise, from any Claim or from the jurisdiction of any court. CONTRACTOR, BY EXECUTION OF THIS AGREEMENT, HEREBY CONSENTS TO THE IN PERSONAM JURISDICTION OF SAID COURTS.

#### **22.0 TERMINATION.**

**22.1** This Agreement may be terminated by mutual consent of both Parties. This Agreement may be terminated by either Party upon 180 days' notice, in writing, and delivered by certified mail or in person.

**22.2** The OSFM or Contractor may terminate this Agreement at will effective upon delivery of written notice to the Contractor or OSFM, or at such later date as may be established by the OSFM or Contractor, under any of the following conditions:

- 22.2.1 if either party fails to receive funding, appropriations, or other expenditure authority from federal, state, local, or other sources at levels sufficient in the Party's reasonable administrative discretion to perform its obligations under this agreement. As an alternative to termination, the parties may instead agree to modify in writing the Agreement to accommodate a reduction in funding.

22.2.2 if federal, state, or local laws, rules, regulations, or guidelines are modified, changed, or interpreted in such a way that either Party's performance under this Agreement is prohibited or performance of either Party's obligations under this agreement may no longer be paid for from the planned funding source.

22.2.3 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.

**22.3** Any termination of the Agreement shall be without prejudice to any obligations or liabilities of either Party already accrued prior to such termination.

**22.4** Default. The OSFM or Contractor, by written notice of default (including breach of contract) to the other Party, delivered by certified mail or in person, may terminate the whole or any part of this Agreement:

22.4.1 if the other Party fails to provide services called for by this Agreement within the time specified herein or any extension thereof; or,

22.4.2 if the other Party fails to perform any other provision of this Agreement, or so fails to pursue the work as to endanger performance of this Agreement in accordance with its terms, and, after receipt of written notice from the other Party, fails to correct such failures within 10 days or such longer period as the notice may authorize.

### **23.0 APPROVAL AUTHORITY.**

Contractor's representative(s) certify by their signature herein that they have the necessary and lawful authority to enter into contracts and Agreements on behalf of the Contractor.

### **24.0 RESERVED.**

### **25.0 WRITTEN NOTIFICATIONS.**

Any written notifications required for the administration of this Agreement shall be sent to the following:

Office of State Fire Marshal  
3991 Fairview Industrial Dr SE  
Salem, OR 97302

### **26.0 MERGER; WAIVER.**

This Agreement and attached exhibits constitute the entire agreement between the parties on the subject matter hereof. There are no understandings, agreements, or representations, oral or written, not specified herein regarding this Agreement. No waiver, consent, modification, or change of terms of this Agreement shall bind all parties unless in writing and signed by both parties and all necessary state approvals have been obtained. Such waiver, consent, modification or change, if made, shall be effective only in the specific instance and for the specific purpose given. The failure of OSFM to enforce any provision of this Agreement shall not constitute a waiver by OSFM of that or any other provision.

### **27.0 REMEDIES.**

**27.1** In the event that Contractor violates any term or condition under this Agreement, OSFM may, at its option, pursue any or all of the remedies available to it under this Agreement and at law or in equity, including but not limited to: (a) termination of this Agreement under Section 22, (b) reducing or withholding payment for work that Contractor has failed to perform within any scheduled completion dates or has performed inadequately or defectively, (c) requiring Contractor to perform, at Contractor's expense, additional work necessary to satisfy its performance obligations or meet performance standards under this Agreement, (d) initiation of an action or proceeding for damages, specific performance, or

declaratory or injunctive relief, or (e) exercise of its right of recovery of overpayments or setoff, or both. These remedies are cumulative to the extent the remedies are not inconsistent, and OSFM may pursue any remedy or remedies singly, collectively, successively or in any order whatsoever.

**27.2** In the event OSFM violates any term or condition of this Agreement, Contractor may, at its option, pursue any or all of the remedies available to it under this Agreement and at law or equity, including but not limited to: (a) termination of this Agreement under Section 22, (b) initiation of an action or proceeding for damages, specific performance, or declaratory or injunctive relief, or (c) recovery of payments due for any work performed or any costs or other expenses incurred by Contractor pursuant to the terms of this Agreement. These remedies are cumulative to the extent the remedies are not inconsistent, and Contractor may pursue any remedy or remedies singly, collectively, successively or in any order whatsoever.

**28.0 NON-APPROPRIATION.**

The State of Oregon's payment obligations, and Contractor's performance obligations, under this Agreement are conditioned upon OSFM receiving funding, appropriations, limitations, allotments, or other expenditure authority sufficient to allow OSFM, in the exercise of its reasonable administrative discretion, to meet its payment obligations under this Agreement. Contractor is not entitled to receive payment under this Agreement from any part of Oregon state government other than OSFM. Nothing in this Agreement is to be construed as permitting any violation of Article XI, section 7 of the Oregon Constitution or any other law regulating liabilities or monetary obligations of the State of Oregon.

**29.0 ALTERNATIVE DISPUTE RESOLUTION.**

The parties should attempt in good faith to resolve any dispute arising out of this agreement. This may be done at any management level, including at a level higher than persons directly responsible for administration of the agreement. In addition, the parties may agree to utilize a jointly selected mediator or arbitrator (for non-binding arbitration) to resolve the dispute short of litigation.

**30.0 TRAVEL REIMBURSEMENT COSTS.**

**30.1** The OSFM will reimburse Contractor for travel expenses authorized under this Agreement at the rates specified in the General Services Administration (GSA) as of the date Contractor incurs the travel expenses.

**30.2** Contractor shall travel in the most efficient and cost-effective manner resulting in the best value to OSFM. The travel must comply with all the requirements specified in this section and must be for official business under this Agreement only. Contractor shall provide OSFM with receipts for all travel expenses over \$25.00 incurred for which Contractor seeks reimbursement.

**31.0 COUNTERPARTS.**

This Contract may be executed in several counterparts, all of which when taken together constitute one agreement binding on all parties, notwithstanding that all parties are not signatories to the same counterpart. Each copy of the Contract so executed constitutes an original.

**32.0 AUTHORIZED REPRESENTATIVES.**

**32.1** OSFM's Authorized Representative is:

Mariana Ruiz-Temple  
3991 Fairview Industrial Dr SE, Salem, OR 97302  
503-378-3479  
mariana.ruiz@osfm.oregon.gov

**32.2 Contractor's Authorized Representative is:**

Sara Boone, Fire Chief  
1500 SE 122nd Ave, Portland, OR 97233  
503-793-1606  
chief@portlandoregon.gov

IN WITNESS WHEREOF, the Parties have entered into this Agreement as of the effective date shown in paragraph 1.1 above.

BY EXECUTION OF THIS CONTRACT, EACH PARTY HEREBY ACKNOWLEDGES THAT THEY HAVE READ THIS CONTRACT, UNDERSTAND IT, AND AGREE TO BE BOUND BY ITS TERMS AND CONDITIONS.

**Approving Signatures:**

**On Behalf of the State of Oregon,**

**Dated this \_\_\_\_\_ day of \_\_\_\_\_, 2023**

**Signature \_\_\_\_\_**

**Printed Name** Mariana Ruiz-Temple

**State Fire Marshal  
3991 Fairview Industrial Dr SE  
Salem, OR 97302**

**On Behalf of \_\_\_\_\_**

**Dated this \_\_\_\_\_ day of \_\_\_\_\_, 2023**

**Signature \_\_\_\_\_**

**Printed Name \_\_\_\_\_**

**Title \_\_\_\_\_**

**Address \_\_\_\_\_**

**City \_\_\_\_\_ Zip \_\_\_\_\_**

**On Behalf of \_\_\_\_\_**

**Dated this \_\_\_\_\_ day of \_\_\_\_\_, 2023**

**Signature \_\_\_\_\_**

**Printed Name \_\_\_\_\_**

**Title \_\_\_\_\_**

**Address \_\_\_\_\_**

**City \_\_\_\_\_ Zip \_\_\_\_\_**

## **EXHIBIT A**

### **Regional Team Primary Response Area Boundary Description**

The HM07 response area is the area within the following boundary: The Northern boundary begins at the Eastern most point of McGuire Island on the Columbia River and follows the Oregon-Washington State Line West and Northwest along the Columbia River to the intersection of the Western boundary of the Columbia County. The Western boundary follows the Columbia/Clatsop County Line South from the intersection of that line with the Oregon-Washington State Line to the intersection with the Southern Columbia County Line. The Southern boundary is the entire Southern Columbia County Line extending from the Columbia/Clatsop line eastward to the intersection with the Multnomah County Line. From that point, the Southern and eastern boundaries of the HM07 response area are the southern and eastern borders of the area served by the Portland Fire Bureau



**EXHIBIT B**

**INVENTORY OF  
OSFM-Provided EQUIPMENT FOR RHMERT  
As of June 2023**

<b>DECONTAMINATION EQUIPMENT</b>			
<b>Item Name</b>	<b>OSFM ID TAG #</b>	<b>Serial #</b>	<b>Model #</b>
Hose, w/Nozzle & Adaptor Garden - 2 ea.			
Shower, DQE Portable 12 1/2 x 15			
<b>DETECTION EQUIPMENT</b>			
<b>Item Name</b>	<b>OSFM ID TAG #</b>	<b>Serial #</b>	<b>Model #</b>
Detector, TIFF Combustibles			TIF8800
Kit & Test Sets, Drager CDS/HazMat			
Meter, Radiological Alarming Pocket Survey	25700-04415	187131	2401 EC2A
Meter, Radiological Alarming Pocket Survey	25700-04416	187135	2401 EC2A
Meter, Radiological Alarming Pocket Survey	25700-04417	187135	2401 EC2A
Meter, Radiological Pancake Pocket Survey	25700-04460	212621	2401-P
Meter, Radiological Pancake Pocket Survey	25700-04461	212624	2401-P
Meter, Radiological Pancake Pocket Survey	25700-04462	212626	2401-P
Meter, Radiological Pancake Pocket Survey	25700-04419	187138	
Meter, Radiological Pancake Pocket Survey	25700-05534		
Meter, Radiological Pancake Pocket Survey	25700-05535		
Meter, Radiological Pancake Pocket Survey	25700-05547		
Meter, Radiological Pancake Pocket Survey	25700-05549	232407	
Meter, Radiological Pancake Pocket Survey	25700-05548	216644	
MINIRAE SYSTEM 3000 PID W/ 106.EV LAMP, RECHARGEABLE BATTERY, WIRELESS, ACCESSORY KIT WITH GAS AND REGULATOR	25700-06733	592-909978	
Monitor, Canberra Ultraradiac Radiation	25700-08890	11064983	MRAD113
Monitor, Canberra Ultraradiac Radiation	25700-08891	9562	MRAD113
Monitor, Canberra Ultraradiac Radiation	25700-08892	9844	MRAD113
Monitor, Canberra Ultraradiac Radiation	25700-08893	11055143	MRAD113
Monitor, Canberra Ultraradiac Radiation	25700-08894	9738	MRAD113
Monitor, Canberra Ultraradiac Radiation	25700-08895	12056519	MRAD113
Monitor, Canberra Ultraradiac Radiation	25700-08896	12056059	
Monitor, Canberra Ultraradiac Radiation	25700-08897	12066113	
MULTI RAE LITE WIRELESS PORTABLE, ONE TO SIX GAS CONFINED SPACE MONITOR	25700-06720	MAB3Z050Q4	
MultiRAE Lite	25700-08605	M01CA07421	
MultiRAE Lite	25700-08606	M01CA07423	
MultiRAE 2 Cradle	25700-08561	T023002197	
ToxiRAE Cradle	25700-08587	T025000637	
ToxiRAE Pro		G024001613	PGM-1860
ToxiRAE Pro		G024001615	PGM-1860
AutoRAE 2 Controller	25700-08574	T021001693	
Echo View Host	25700-08626	F043001101	
Ultra-Rae 3000	25700-07269	596-908569	
Calibration Cradle for PID	25700-07295	T02-335-000U3	
Calibration Cradle for PID	25700-07296	T02-7000721U3	
Drager X-Act 5000 Kit	25700-07316	ARJN-0005	
Raid 5 Kits (4) - Exp Kit 8/31/2023			
One Kit	25700-06987		
EPA 10 Step Kit			
Gemini, Handheld Analyzer for Unknown Substances by Thermo Scientific	25700-08882	GM3985	S3-T Ramen/FTIR

<b>ELECTRONICS</b>			
<b>Item Name</b>	<b>OSFM ID TAG #</b>	<b>Serial #</b>	<b>Model #</b>
Antenna, Receiver and Controller (EntryLink) - 2	25700-05477	EL3-RXA & C	SC-EL-N
Cable, EntryLink - 2	25700-05577		SC-EL-N
Camera, EntryLink Wireless Video - 2	25700-05476	EL3-233	SC-EL-N
Camera, Thermal Imaging, Flir	25700-08641	72212818	K65
Computer, Panasonic Toughbook 33/ Premium Keyboard /Panasonic Office Dock/ Office Dock Adapter	25700-07414	FTTC39667/ Keyboard SN# 1CTSA03498	
Computer, Power User Desktop HP Workstation Z2 G5 SFF	25700-07409	MXL1084BS0	
Tablet, iPad: Apple 11-inch iPad Pro Wi-Fi + Cellular - 2nd generations w/ Apple Care 2 years (carry in) and Urban Armor Gear Metropolis Series Case	25700-07410	DMPFG1H0PV16	
Monitor, Computer 1	25700-07135		
Monitor, Computer 2	25700-07136		
Phone, Globalstar Satellite (New 10/2020)	11601234545	254-241-1046	
Phone, Globalstar Satellite Docking Station	AA008335		
Phone, Globalstar Satellite Batteries (Spare) - 11/2018 1yr warranty (1)		17-A25199	
Tripod, Antenna & Mast - 2	25700-05478		SC-EL-N
TV, Apple	25700-08899		
<b>LEAK CONTROL EQUIPMENT</b>			
<b>Item Name</b>	<b>OSFM ID TAG #</b>	<b>Serial #</b>	<b>Model #</b>
Chlorine Kit "A" Training Kit	ER1102		
Chlorine Kit "A"	A-15403	A-Kit	
Chlorine Kit "B"	B-15533	B-Kit	
Chlorine Kit "C"	ER1138		
Clamps, Dome Cover 3/Set	ER2708		
Clamps, Dome Cover 3/Set	ER2709		
Kit, Initial	ER2759		
Leaker 6000			
RAILROAD TANK CAR GAUGE KIT	25700-06978		
Midland Kit Box 1	25700-08900		
Midland Kit Box 2	25700-08901		
Midland Kit Box 3	25700-08902		
<b>MISC EQUIPMENT</b>			
<b>Item Name</b>	<b>OSFM ID TAG #</b>	<b>Serial #</b>	<b>Model #</b>
Binoculars	ER0182		
Cones, Traffic 20	ER0170		
Cord, Extension 100' - 2 ea.			
Cord, Extension 50' - 2 ea.			
Drum Up Ender	ER1004		
Scope, Spotting	ER0187		
Tripod, SunPac Ultra	25700-05613	757B	
Truck, Drum	ER0207		
Truck, Hand	ER0198		
<b>PERSONAL PROTECTIVE EQUIPMENT</b>			
<b>Item Name</b>	<b>OSFM ID TAG #</b>	<b>Serial #</b>	<b>Model #</b>
Air-Pak, MSA SCBA	25700-07365	1151930001746	
Air-Pak, MSA SCBA	25700-07366	1151930003994	
Air-Pak, MSA SCBA	25700-07367	1151930001754	
Air-Pak, MSA SCBA	25700-07368	11551930008891	
Air-Pak, MSA SCBA	25700-07369	11551930001157	
Air-Pak, MSA SCBA	25700-07370	11551930000259	
Air-Pak, MSA SCBA	25700-07371	11551931008090	

Air-Pak, MSA SCBA	25700-07372	11551930003?74	
Cylinders, Scott SCBA 4500PSI, 60min, Snap-Change	25700-08930	OP485307	
Cylinders, Scott SCBA 4500PSI, 60min, Snap-Change	25700-08931	OP4881153	
Cylinders, Scott SCBA 4500PSI, 60min, Snap-Change	25700-08932	OP487896	
Cylinders, Scott SCBA 4500PSI, 60min, Snap-Change	25700-08933	OP487895	
Cylinders, Scott SCBA 4500PSI, 60min, Snap-Change	25700-08934	OP484377	
Cylinders, Scott SCBA 4500PSI, 60min, Snap-Change	25700-08935	OP484516	
Cylinders, Scott SCBA 4500PSI, 60min, Snap-Change	25700-08936	OP485414	
Cylinders, Scott SCBA 4500PSI, 60min, Snap-Change	25700-08937	OP485388	
Bottle, Snap-Change Cylinder Carbon Wrapped, Pressure 4500, 60 Minutes	25700-07373	115A2036002256	
Bottle, Snap-Change Cylinder Carbon Wrapped, Pressure 4500, 60 Minutes	25700-07374	115A2036002257	
Bottle, Snap-Change Cylinder Carbon Wrapped, Pressure 4500, 60 Minutes	25700-07375	115A2036002258	
Bottle, Snap-Change Cylinder Carbon Wrapped, Pressure 4500, 60 Minutes	25700-07376	115A2036002262	
Bottle, Snap-Change Cylinder Carbon Wrapped, Pressure 4500, 60 Minutes	25700-07377	115A2036015762	
Bottle, Snap-Change Cylinder Carbon Wrapped, Pressure 4500, 60 Minutes	25700-07378	115A2036015765	
Bottle, Snap-Change Cylinder Carbon Wrapped, Pressure 4500, 60 Minutes	25700-07379	115A2038003478	
Bottle, Snap-Change Cylinder Carbon Wrapped, Pressure 4500, 60 Minutes	25700-07380	115A2038003479	
Bottle, Snap-Change Cylinder Carbon Wrapped, Pressure 4500, 60 Minutes	25700-07381	115A2038003480	
Bottle, Snap-Change Cylinder Carbon Wrapped, Pressure 4500, 60 Minutes	25700-07382	115A2038003486	
Bottle, Snap-Change Cylinder Carbon Wrapped, Pressure 4500, 60 Minutes	25700-07383	115A2038003487	
Bottle, Snap-Change Cylinder Carbon Wrapped, Pressure 4500, 60 Minutes	25700-07384	115A2038006871	
Bottle, Snap-Change Cylinder Carbon Wrapped, Pressure 4500, 60 Minutes	25700-07385	115A2038006879	
Bottle, Snap-Change Cylinder Carbon Wrapped, Pressure 4500, 60 Minutes	25700-07386	115A204006884	
Bottle, Snap-Change Cylinder Carbon Wrapped, Pressure 4500, 60 Minutes	25700-07387	115A204006891	
Bottle, Snap-Change Cylinder Carbon Wrapped, Pressure 4500, 60 Minutes	25700-07388	115A204006893	
Boots, Chemical Resistant 20 pr asst sizes			
Suit, Nomex Coverall with Reflective Tape, Various Sizes, approx. 30			
Devices, Personal Floatation (PFD) - 6			
Goggles - 4 pr			
Hand Release - Quick - 8 each			
Shield, Polycarb Face			
Suit, TrellChem VPS Flash Chemical, L, Training Suit		7008052	
Suit, TrellChem VPS Flash Chemical, L, Training Suit		7008053	

Suit, TrellChem VPS Flash Chemical, M, Training Suit		7008186	
Suit, TrellChem VPS Flash Chemical, M, Training Suit		7008188	
Suit, TrellChem VPS Flash Chemical, L, Training Suit		7008238	
Suit, TrellChem VPS Flash Chemical, L, Training Suit		7008715	
Suit, TrellChem VPS Flash Chemical, L, Training Suit		7008716	
Suit, Kappler, Zytron 300, Decon (L/XL)			
Suit, Kappler, Zytron 300, Decon (L/XL)			
Suit, Kappler, Zytron 300, Decon (L/XL)			
Suit, Kappler, Zytron 300, Decon (L/XL)			
Suit, Kappler, Zytron 300, Decon (2X/3X)			
Suit, Kappler, Zytron 300, Decon (2X/3X)			
Suit, Kappler Frontline 500, Level A, LG/XL		31154 5/20/19	Frontline 500
Suit, Kappler Frontline 500, Level A, SM/MD		67241 10/29/19	Frontline 500
Suit, Kappler Frontline 500, Level A, 2X/3X		67231 10/29/2019	Frontline 500
Suit, Kappler Frontline 500, Level A, 2X/3X		122693 9/9/2020	Frontline 500
Suit, Kappler Frontline 500, Level A, LG/XL		67222 10/29/19	Frontline 500
Suit, Kappler Frontline 500, Level A, LG/XL		67218 10/29/19	Frontline 500
Suit, Kappler Frontline 500, Level A, LG/XL		67223 10/29/19	Frontline 500
Suit, Kappler Frontline 500, Level A, LG/XL		67219 10/29/19	Frontline 500
Suit, Kappler Frontline 500, Level A, LG/XL	201996	12/21/2021	Frontline 500
Suit, Kappler Frontline 500, Level A, LG/XL	201994	12/21/2021	Frontline 500
Suit, Kappler Digital Pressure Test Kit		64078	AKMOC
Suit, Class II Garment Lion, M		7702611783	MT94
Suit, Class II Garment Lion, M		7702611753	MT94
Suit, Class II Garment Lion, L		7702611923	MT94
Suit, Class II Garment Lion, L		7702611983	MT94
Suit, Class II Garment Lion, XL		7702612493	MT94
Suit, Class II Garment Lion, XL		7702612553	MT94
Suit, Class II Garment Lion, XL		7702612363	MT94
Suit, Class II Garment Lion, XL		7702612413	MT94
MT-94 Lion Training Suit CMTRNFE			
MT-94 Lion Training Suit CMTRNFE			
MT-94 Lion Training Suit CMTRNFE			
MT-94 Lion Training Suit CMTRNFE			
MT-94 Lion Training Suit CMTRNFE			
MT-94 Lion Training Suit CMTRNFE			
MT-94 Lion Training Suit CMTRNFE			
<b>SUPPRESSION EQUIPMENT</b>			
<b>Item Name</b>	<b>OSFM ID TAG #</b>	<b>Serial #</b>	<b>Model #</b>
Applicator, Pro Pak Foam			
Extinguisher, ABC Dry Chem - 20lb	ER0454		
Extinguisher, CO2 - 20lb	ER0460		
<b>TOOLS</b>			
<b>Item Name</b>	<b>OSFM ID TAG #</b>	<b>Serial #</b>	<b>Model #</b>
Air Bags, Vetter			

Axe, Pick head			
Axe, Single bit			
Bar, Pry 54"			
Brush, Wire			
Chisel Set & Punch			
Crowbar - 24"			
Cutters, Bolt - 18"			
Extractors, Easy-Out/Stud			
Extractors, Easy-Out/Stud			
Hose, Air w/Regulator 3/8" x 50'			
Index, Drill w/Drill Bit Set			
Jack, Hydraulic			
Kit, Grounding/Bonding Equipment, 25ft - 2 ea.	ER2613		
Kit, Grounding/Bonding Equipment, 50ft - 2 a	ER2613		
Kit, Lockout/Tagout			
Knife, Putty			
Knife, Utility			
NS Bar, Pinch - 18"			
NS Hammer, Dead Blow			
NS Maul - 2 lb.			
NS Scraper			
NS Screwdriver - Straight Tip, Large			
NS Wrench, 55 Gallon Drum Bung			
NS Wrench, Crescent - 12"			
NS Wrench, Pipe - 24" - 2 ea.			
NS Wrench, Pipe - 36" - 2 ea.			
Pliers			
Pliers, Arc Joint			
Pliers, Locking			
Pulaski			
Pump, Wilden Mdl. 200 w/hose kit			
Saw, 3 1/8" Hole			
Saw, Hack			
Saw, Hand			
Set, Screwdriver			
Set, Basic 215 Piece			
Shears, Aviation Left			
Shears, Aviation Right			
Shears, Aviation Straight			
Shovel, Round Point			
Shovel, Scoop - Aluminum			
Shovel, Square Point -			
Tape, Measuring 30'			
Wheel, Measuring			
Wrenches, Open End/Box End LG - 6 ea.			
<b>VEHICLE</b>			
<b>Item Name</b>	<b>OSFM ID TAG # / PLATE #</b>	<b>Serial # / VIN #</b>	<b>Model #</b>
Tires, Studded, Les Schwab			
Trailer, 14' Wells Cargo Enclosed	E218015	1WC200F2314042199	
Truck, RAM 5500	E267256	3C7WRNEL8FG671567	5500

**EXHIBIT C**

**FUNDING AVAILABLE FOR THE OSFM TO PURCHASE AND MAINTAIN  
OSFM-PROVIDED EQUIPMENT FOR RHMERT  
2023-2025 Biennium Funding**

**Funding Available for the OSFM to  
Purchase and Maintain OSFM-Provided Equipment.....\$16,000.00**

Vehicle(s) and Equipment Loans. The OSFM agrees to loan to the RHMERT the OSFM-Provided Equipment specified in Exhibit "B" of this Agreement. Replacement of OSFM-Provided Equipment, including but not limited to capital equipment, expendable items, PPE, and other equipment, will be provided as necessary by prior approval of OSFM, pursuant to Section 3.4 and OSFM's approved purchasing process.

The OSFM encourages Contractor to follow the recommendation of the HazMat Equipment Committee for the selection of PPE suits, however the OSFM shall have no responsibility or liability whatsoever arising out of Contractor's choice of PPE suits, their safety, reliability, testing of the PPE suits, or their maintenance.

OSFM-Provided PPE suits shall be procured according to the procedure established in Standard Operating Guideline T021, all applicable provisions of ORS chapters 279A and 279B, and Contractor's own procurement ordinances, codes, rules and regulations.

**EXHIBIT D**

**SPECIALIZED TRAINING FOR RHMERT  
2023-2025 Biennium Funding**

Funds for approved Technician level specialized training are available under this Agreement as follows:

**Funding Available for Specialized Training for RHMERT .....\$55,077.60**

Funding is calculated by 24 team members x \$2,294.90. It is not the intent of the OSFM for each team member to receive or be limited to \$2,294.90. Reimbursement for training cost during 2023-2025 biennium is not to exceed \$55,077.60 for the RHMERT.

The OSFM will provide funding for advanced training and education to Contractor’s RHMERT Members as specified in this exhibit if approved by the OSFM in advance. All such training and selection of training or training providers must comply with all federal, state and local rules and regulations and be approved by OSFM. If training is approved, the OSFM agrees to pay the cost of tuition, per diem, personnel costs, and travel expenses at the rates specified in Section 30 of this Agreement utilizing funds in this exhibit to pay for all above mentioned expenses.

Contractor may elect to use up to 100% of funding available in this exhibit for the reimbursement of personnel costs incurred as a result of RHMERT employees attending advanced training. OSFM will track how money is spent, and see if it is feasible to continue allowing 100% of funding available in this exhibit for the reimbursement of personnel costs in future contracts.

In addition to the specialized training costs in Exhibit D of this agreement, and to help alleviate department costs of technician training for the RHMERT Program, OSFM agrees to pay the cost of registration, per diem, personnel costs, and travel expenses to send one student per RHMERT through Technician Training during the biennium if approved by OSFM, in writing, prior to the request for those funds. If student attends the Hybrid Technician Academy with minimal personnel costs, OSFM agrees to pay these costs for a second student during the same biennium.

On a case-by-case basis, additional specialized training funds may be available for new team members to attend Technician Part I & II.

**EXHIBIT E**

**MEDICAL SURVEILLANCE FOR RHMERT  
2023-2025 Biennium Funding**

Funds for approved medical surveillance exams are available for Contractor’s RHMERT Members under this Agreement as follows:

Up to **24** of Contractor’s RHMERT Members may receive medical surveillance exam(s), up to a maximum cost of \$756.39 per person. Total Medical Surveillance examinations for all members of the RHMERT shall not exceed total funding available for medical surveillance shown below.

This amount shown above is the per-person maximum payable for medical surveillance exam(s) during the 2023-2025 biennium. It is understood that costs will vary for baseline, maintenance and exit exams, and therefore, the total funding available for medical surveillance *is not* based on the maximum per-person allowance, but rather on \$756.39 per person *average* cost. This allows *flexibility* in the per-person cost *within* the maximum funding available for medical surveillance.

**Funding Available for Medical Surveillance Exams for RHMERT**

**Not to Exceed.....\$18,153.36**



**EXHIBIT F**

**Extraordinary Response Cost Fee Schedule – Part I  
2023-2025**

**SECTION 1: Extraordinary Response Costs Reimbursed to Contractor**

Pursuant to Section 4 of this Agreement, OSFM shall reimburse Contractor and seek compensation from the Responsible Person(s) for OSFM-approved extraordinary response costs incurred by Contractor in response to a hazardous materials incident at the following rates:

<b><u>Item</u></b>	<b><u>Cost</u></b>
OSFM-owned Cellular.....	\$50.00 per incident per phone (SMR)
Mobile and Specialized Mobile Radio .....	Actual Replacement Expense
Contractor-owned Personal Protective Equipment damaged or destroyed during the response to the Hazardous Materials Incident .....	Actual Replacement Expense
Contractor-owned Materials and Supplies.....	Actual Replacement Expense
Exposure Medical Exam.....	Actual Expense
RHMERT Operations Rehabilitation Costs .....	Actual Expense
Rental of equipment or materials by Contractor.....	Actual Expense

Any Contractor-owned vehicles and apparatus used during a RHMERT Operation not listed above will be charged at a rate identified in the OSFM State Mobilization Plan under Equipment Rates, available for review on OSFM’s website.

Source of replacement materials and supplies may be selected by Contractor.

**EXHIBIT F (cont'd)**

**SECTION 2: Extraordinary Response Costs Not Reimbursed to Contractor**

OSFM shall not pay compensation to Contractor for the following non-reimbursed extraordinary response costs, but OSFM will seek compensation from the Responsible Person(s) for Contractor’s use of OSFM-Provided Equipment, and other extraordinary response costs incurred in response to a Hazardous Materials Incident at the following rates:

<b><u>Item</u></b>	<b><u>Cost</u></b>
Use of OSFM-owned or provided HM Heavy-Duty Response Vehicle .....	\$240.00 per hour
Use of OSFM-owned or provided HM Initial Response Vehicle and Trailer .....	\$150.00 per hour
Repair or replacement of OSFM-owned Personal Protective Equipment damaged or destroyed during the response to the Hazardous Materials Incident .....	Actual Replacement Expense
OSFM-owned or provided Materials and Supplies .....	Actual Replacement Expense
Exposure Medical Exam .....	Actual Expense
Rental of equipment or materials by OSFM.....	Actual Expense

Source of replacement materials and supplies shall be selected by the OSFM.

**Other Associated Costs**

A response to a hazardous materials incident may incur other extraordinary response costs which cannot be anticipated. These costs may include, but are not limited to, replacement and repair costs for damaged or expended equipment and supplies. OSFM shall seek compensation from the Responsible Person(s) for these other associated extraordinary response costs on an actual cost basis.

**EXHIBIT G**

**Extraordinary Response Cost Fee Schedule – Part II**

**COMPENSATION FOR CONTRACTOR'S RESPONSE PERSONNEL  
2023-2025**

OSFM shall reimburse Contractor and seek compensation from the Responsible Person(s) for Contractor personnel utilized in response to a hazardous materials Incident at the following rates:

<b><u>Personnel Category</u></b>	<b><u>Hourly Rate</u></b>
HazMat Team Member – All Personnel - Straight Time	\$139.27

All other support personnel at actual costs.

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**EXHIBIT H**

**FUNDING FOR PROGRAM OUTREACH FOR RHMERT  
2023-2025 Biennium Funding**

Funds for approved outreach training, allowing team personnel to interface with, educate and train other local agencies.

**Funding Available for RHMERT Program Outreach .....\$6,342.00**

**EXHIBIT I**

**FUNDING FOR SUB-COMMITTEE AND SPECIAL PROJECTS PARTICIPATION FOR  
RHMERT  
2023-2025 Biennium Funding**

Funds for approved sub-committee and special projects participation.

Funds can be used for personnel and backfill costs associated with team members participating on a sub-committee or special project. Associated travel and per diem costs shall also be deducted from this fund.

Funding available in this exhibit for the reimbursement of sub-committee or special projects costs.

**Funding Available for Sub-Committee and Special Projects Participation for RHMERT**  
.....**\$5,000.00**

**EXHIBIT J****SUMMARY - 2023-2025 BIENNIUM FUNDING AVAILABLE  
FOR STAND-BY COSTS**

<b>Funding Available For OSFM to Purchase And Maintain OSFM-Provided Equipment for RHMERT – 2023-2025 Biennium Funding - (See Exhibit C)</b>	<b>\$16,000.00</b>
<b>Specialized Training for RHMERT –2023-2025 Biennium Funding - (See Exhibit D)</b>	<b>\$55,077.60</b>
<b>Medical Surveillance for RHMERT–2023-2025 Biennium Funding - (See Exhibit E)</b>	<b>\$18,153.36</b>
<b>Funding for Contractor Program Outreach for RHMERT–2023-2025 Biennium Funding – (See Exhibit H)</b>	<b>\$6,342.00</b>
<b>Funding for Contractor Sub-Committee and Special Project Participation for RHMERT– 2023-2025 Biennium Funding (See Exhibit I)</b>	<b>\$5,000.00</b>
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<b>Total 2023-2025 Biennium Funding Available for Stand-By Costs for RHMERT<sup>1</sup> .....</b>	<b>\$100,572.96</b>

<sup>1</sup> This not-to-exceed amount reflects the total compensation for the RHMERT. In the event that the RHMERT consists of multiple contractors, the contractor tasked with Team Administration shall allocate budgeted funds among the contractors in the RHMERT up to, but not in excess of, the amount identified in this Exhibit J.

**EXHIBIT K**

**State Spill Response Revolving Fund**

**2023-2025 Biennium Funding.....\$300,000.00**

This is the ***Total*** State Spill Revolving Funding limitation available for the 2023-2025 biennium RHMERT services by ***all*** Contracted RHMERT's. This does ***not*** guarantee that any Contractor will be reimbursed for any specific amount from the State Spill Revolving Fund; only that funding in this amount is available for reimbursement of emergency response team costs within any OSFM limitation or appropriation.