

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

**Between**

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

**And**

**CITY OF GRESHAM  
MULTNOMAH COUNTY**

**STATE OF OREGON  
Theodore R. Kulongoski, Governor**

**Nancy Orr, State Fire Marshal**

**July 1, 2007**

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

**General Agreement Information**

**This Intergovernmental Agreement constitutes the entire agreement between  
the Office of State Fire Marshal and the Contractor.**

**Agreement Type:** This Agreement is between the State of Oregon, acting by and through the Office of State Fire Marshal (hereinafter "OSFM") and City of Gresham and Multnomah County (hereinafter "Contractor") for the provision of regional hazardous materials emergency response services as described herein and authorized under ORS 453.374 to 453.390.

**1.1 Recitals:** 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.

The OSFM desires to enter into this Agreement to establish Contractor as a Regional Hazardous Materials Emergency Response Team, and Contractor desires to be so designated and to enter into this Agreement.

**1.2 Agreement Term:** This Agreement shall be from the date of the last required signature to June 30, 2009. Subject to Legislative approval, future Agreements will be awarded on a biennial basis. The OSFM has sufficient funds currently available and authorized for expenditure to finance the costs of the Agreement within the OSFM's 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.

**Standard Agreement Terms and Conditions**

**2.0 Definitions:**

**"Agreement"** means this Intergovernmental Agreement and addenda.

**“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”** means the local government agency(s) by which the service or services will be performed under this Agreement, including those agencies under an approved inter-governmental / agency agreement.

**“Emergency Response”** means:

- a. Actions taken to monitor, assess and evaluate a spill or release or threatened spill or release of hazardous materials;
- b. First aid, rescue or medical services that may be required as the result of a spill or release or threatened spill or release of hazardous materials;
- c. Fire suppression, containment, confinement, or other actions appropriate to prevent, minimize or mitigate damage to the public health, safety, welfare or the environment which may result from a spill or release or threatened spill or release of a hazardous material if action is not taken.

**“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 local government 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 of a hazardous material or in stabilizing the emergency response incident.

**“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, rupture, fire or accident that results, 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 and one or more units of local government of the State of Oregon.

**“Local Government Agency”** 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.

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

**“Regional Hazardous Materials Emergency Response Team” (RHMERT)** means the designated employees of the Contractor who are expected to respond to, control, and/or stabilize actual or potential emergency releases of hazardous substances. A Regional Hazardous Materials Emergency Response Team 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 Party”** means the person or persons responsible for causing the emergency to which the Contractor responded. (See, e.g. ORS 453.382).

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

**“State Owned Equipment”** means all vehicles, equipment, and supplies provided to Regional Hazardous Materials Emergency Response Teams as described in this Agreement.

**“State Spill Response Fund”** means the response 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 expressly allowed under this Agreement and are approved by the OSFM. Team Costs under this Agreement do not include the wide range of emergency response costs associated with a hazardous materials emergency, but shall be limited to approved

expenses directly related to Regional Hazardous Materials Emergency Response Team operations.

## **2.1 Statement of Work:**

**2.1.1 Services to be Provided by Contractor:** During the term of this Agreement the Contractor agrees to provide Regional Hazardous Material Emergency Response Team services within the boundaries of Contractor assigned Primary Response Area as generally depicted and described in "Exhibit A", and by this reference incorporated herein. Contractor is hereby designated "HM03".

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

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

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.

Contractor personnel shall perform only those actions and duties for which they are trained and equipped.

**2.1.2 Compliance with Regulatory Requirements:** Contractor certifies that its employees, equipment, and vehicles meet or exceed applicable regulatory requirements.

**2.1.3 Personnel:** Contractor shall provide an adequate number of trained, medically monitored, competent, and supervised Regional Hazardous Materials Emergency Response Team (RHMERT) personnel as is necessary to operate within the safety levels of a Regional Hazardous Materials Emergency Response Team as specified in OR-OSHA's OAR 437, Division 2. Contractor shall limit its

team activities to that within the safety and training levels specified by Oregon-OSHA for a Hazardous Materials response team.

To document training and/or experience, team members shall complete the tasks in the Hazardous Material Technician Individual Compliance Training book within a 24 month period. Contractor shall provide notification of successful completion by the team member to OSFM. Notifications of completion shall be submitted to OSFM prior to June 30, 2009.

**2.1.4 Vehicles and Equipment:** Contractor may utilize such vehicles and equipment as it currently has available as provided in 2.1.2 herein. The Contractor will operate a hazardous materials emergency response team using hazmat vehicle(s) and emergency response team equipment as specified in Exhibit "B" of this Agreement, on loan from the OSFM. State owned vehicles shall meet or exceed all regulatory requirements. Routine maintenance of state owned and local vehicles and equipment shall be the sole responsibility of the Contractor. Contractor shall limit its activities to that which can be safely accomplished within the technical limitations of the vehicles and equipment provided by the Contractor or the OSFM.

Physical damage specified in section 2.19.6 of this Agreement and routine maintenance shall be the responsibility of the Contractor. All repairs to State owned vehicles and equipment shall be the responsibility of the OSFM. For purposes of this Agreement, routine maintenance means:

- A. Apparatus and Vehicles
  - 1. Daily/weekly/monthly checks of vehicle and equipment.
  - 2. Semiannual and/or mileage-related lubrication, oil and filter changes.
  - 3. Annual tune-up as required for preventive maintenance.
- B. Equipment checks and testing as outlined in the Oregon-OSHA standards and manufacturer's recommendations.
- C. Protective clothing to be tested as per Oregon-OSHA standards and manufacturer's recommendations.
- D. Communications equipment checked regularly.

The Contractor may use state owned emergency response vehicles and equipment in conjunction with other non-hazardous materials emergency response activities. The vehicle and equipment shall at all times be immediately available for emergency response with hazardous materials incidents having highest priority.

State owned vehicle(s) and equipment shall not be used by other than Contractor RHMERT employees, except as approved by the team leader/administrator.

When the state owned emergency response vehicles and equipment are used in conjunction with other non-hazardous materials emergency response activities, including assistance to local government entities at events not meeting state authorized response criteria. Contractor is liable for major repairs or replacement directly attributable to that use. Contractor is also liable for abuse or neglect of state owned emergency response vehicles and equipment when equipment is used in conjunction with other non-hazardous materials emergency response activities.

Contractor shall submit a monthly vehicle usage log to the OSFM no later than the 10<sup>th</sup> of the following month. Beginning and ending mileage for each trip must be recorded, whether it is incident response, training, maintenance, or any other activity.

**2.1.5 Right of Refusal:** The OSFM recognizes that the obligations of the Contractor in its own jurisdiction are paramount. If, on occasion, a response under this Agreement would temporarily place an undue burden on the Contractor because Contractor resources are otherwise 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 a regional emergency response, however, the state owned emergency response vehicles and equipment shall remain available for OSFM's use in this instance.

**2.1.6 Standard Operating Guidelines:** Contractor and OSFM agree that regional response team operations will 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.

**2.1.7 Administrative Rules:** The parties acknowledge that the OSFM has adopted OAR 837, Division 120 and that this Agreement is consistent with those administrative rules. If those rules are amended, such amendments are incorporated into this Agreement and may require modification of the procedures, terms and conditions of this Agreement.

**2.2 Contractor Compensation:** There are three types of Contractor compensation under this Agreement: (1) Contractor stand-by costs, (2) Contractor team response costs, and (3) Contractor administrative costs. Each of these is discussed more fully below.

**2.2.1 Contractor Stand-by Costs:** Contractor shall be compensated by the

OSFM under this Agreement for its OSFM-approved stand-by costs. Such stand-by costs include:

**Specialized Training Costs:** The OSFM will provide funding for advanced training and education to Contractor RHMERT employees as specified in Exhibit "D" and if approved by the OSFM in advance. All such training and selection of training/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, and per diem/travel expenses at OSFM-approved rates. With prior approval by the OSFM, up to fifty percent of the funding specified in Exhibit "D" may be used to reimburse personnel costs incurred by employees attending training.

**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. Cost 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. Additionally, the OSFM will provide funding from the State's Spill Response Fund for exposure exams where no responsible party or parties is identified.

**Equipment Loans:** The OSFM agrees to loan the Contractor emergency response equipment as specified in Exhibit "B" of this Agreement. Equipment and materials will be provided by the OSFM as specified in Exhibit "C" of this Agreement.

**Level A/B Personal Protective Equipment (PPE) Acquisition:** Contractor shall be exclusively responsible for its selection of PPE suits, suit types or models to meet its own specific needs, and the OSFM shall have no involvement in, and no responsibility or liability whatsoever arising out of Contractor's choice of suits, their safety or reliability, or their testing or maintenance. The OSFM will pay for, and Contractor is authorized to purchase, only PPE suits that meet or exceed all applicable regulatory requirements and National Fire Protection Association guidelines.

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 contracting for the acquisition of the suits. The suits shall be procured according to the procedure established in Standard Operating Guideline T021. Upon their acquisition, the suits become part of the state-owned equipment on loan to the Contractor as specified in Exhibit "B" of this Agreement.

**2.2.2 Contractor's Team Response Costs:** Contractor shall be compensated by the OSFM under this Agreement for its OSFM-approved team response costs. The funding available for team response costs as specified in Exhibit "J" of this Agreement is in addition to Contractor stand-by costs as specified in section 2.2.1. Such team response costs shall be limited only by the funds available in the State Spill Response Fund established under ORS 453.390 for the 2007-2009 biennium. Such Team response costs may include, but are not limited to:

**Compensation for Contractor Vehicle(s) and Apparatus:** Where the OSFM has approved the use of Contractor vehicles and equipment, OSFM shall compensate Contractor at the rates described in Exhibit "F" of this Agreement.

**Compensation for Contractor Personnel Response Costs:** Contractor RHMERT personnel response costs, which are approved and authorized under this Agreement are compensable at the rates described in Exhibit "G". Hourly personnel rates for the 2007-2009 biennium will be calculated as follows:

- a) Base Hourly Rate/Non-officer - will 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) – will 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) - will be calculated at the salary rate, plus benefits, of the highest paid, technician trained officer on the team.

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 and used for purposes of calculating compensation for Contractor's Personnel Response Costs.

A Response Availability Rate of \$15.5788 will be added to each base hourly rate to determine the total hourly personnel response rate for each category. Contractor will be required to document total hourly personnel response rates for each category utilizing OSFM provided format. That documentation will be

entered into this Agreement as addendum #1. Contractor RHMERT personnel response costs shall be billed to the nearest one-fourth (1/4) hour period worked.

**Emergency Expenses:** Contractor necessary and reasonable emergency response costs related to services rendered under this Agreement are reimbursable. 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 will attempt to contact the OSFM Duty Officer for approval of Contractor emergency expenses exceeding \$100. Contractor claim 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.

**2.2.3 Contractor Administrative Costs:** Team administrative costs, not to exceed 8% of the Contractor team response costs, may be billed as part of the emergency response costs, and will be reimbursed to Contractor upon receipt from responsible party or parties.

**2.2.4 Billing System:** Contractor will notify OSFM Regional Teams Operations Manager at (503) 373-1540, ext. 238 within 24 hours of a hazardous materials emergency response. An OSFM incident number will be assigned to the response at that time. Contractor shall leave a voice-mail message if notification is made after business hours. Contractor call will be returned the next business day. Contractor will provide an estimate of team emergency response costs to the OSFM within 10 working days of the response. An expenditure report and invoice shall be submitted to the OSFM within 30 days of the response. Contractor claim for reimbursement shall be on OSFM approved forms and shall contain such documentation as is necessary to support OSFM cost-recovery operations and financial audits.

The State shall bill the responsible party or parties within 30 days of receipt of Contractor invoice. The OSFM agrees to bill responsible parties for team emergency response costs and may bill for the total emergency response costs. Team emergency response costs include such items as vehicle and equipment use, expendables, and personnel costs. Normally Contractor team emergency response costs shall be collected by the OSFM from the responsible party or parties before payment is made to the Contractor. Where payment has not been received by the OSFM within 30 days after the second billing to the responsible party or parties, then the Contractor approved team emergency response costs shall be paid to the Contractor from the State Spill Response Fund. In no case shall the OSFM

payment to the Contractor exceed 63 days after receipt of the Contractor invoice by OSFM, provided responsible party information supplied by the Contractor is correct to the best of the Contractor knowledge or belief.

**Billing for State Owned Equipment Only:** All responses to incidents utilizing state owned equipment will be billed for state owned equipment use only, including those incidents within the Contractor's local jurisdiction. A statement for equipment used will be prepared by the Office of State Fire Marshal, and forwarded to the identified responsible party any time the state owned vehicle or equipment is used for hazmat response. If there is no responsible party identified, the local first responder will not be billed for the use of the equipment.

**Option for Waiver:** The Contractor shall have the option of requesting a waiver of state owned 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 party or parties. Requests for waiver will be subject to review and approval by the State Fire Marshal.

**Billing for Personnel/Incidents not meeting OSFM Response Criteria:** If Contractor opts to bill for personnel cost during a local response not meeting state authorized response criteria, the OSFM will pursue billing for those personnel costs. Those personnel costs will be reimbursed to the Contractor only upon collection from the responsible party or parties, and will not be subject to reimbursement from the State Spill Response Fund.

**Priority of Reimbursements:** If the OSFM successfully recovers payment from the responsible party or parties it shall first be used to pay the Contractor team emergency response costs, if these have not been paid in their entirety, then used to reimburse the State Spill Response Fund for the amount previously paid to the Contractor and the OSFM administrative costs. 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 third parties and pursue cost recovery actions.

If a disputed billing is resolved in favor of the responsible party or parties then the Contractor shall not be required to reimburse the OSFM for payments previously made.

**2.2.5 Interest:** If the OSFM fails to make timely payments to Contractor as described in 2.2.2, 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 by the Contractor on

OSFM-approved forms and responsible party information supplied by the Contractor is correct to the best of the Contractor knowledge or belief.

**2.2.6 State Funding Available:** The OSFM believes that sufficient funds will be available and authorized within the OSFM 2007-2009 appropriation or limitation. State funding for standby costs available under this Agreement for the 2007-2009 biennium shall be the sum of the amounts specified in exhibits C, D, E and H to this Agreement and are summarized in Exhibit I of this Agreement.

The funding available as specified in Exhibits C, D, E and H to this Agreement does not include Contractor team emergency response costs as specified in 2.2.2. Such team emergency response costs are available in addition to Contractor standby costs and shall be limited only by the funds available in the State Spill Response Fund established under ORS 453.390 for the 2007-2009 biennium and identified in Exhibit J to this Agreement.

Additional Contractor compensation shall be paid under this Agreement only if specifically agreed to by the OSFM and the Contractor in writing. 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. Acceptance of payment by the Contractor shall release the OSFM from all claims by Contractor for reimbursement of team emergency response costs except where partial payment has been made due to limitations of the State's Spill Response Fund and subject to further payment as set forth above.

**2.2.7 Prior Approval:** Contractor, when acting under this Agreement, may not respond without prior written or verbal approval by OSFM as set forth in Section 2.2.8. Granting of response approval by the OSFM Duty Officer constitutes the OSFM agreement to pay Contractor team emergency response costs from the State Spill Response Fund if recovery from a responsible party or parties is not obtained in a timely manner. Contractor agrees to make reasonable and good faith efforts to minimize responsible party and/or OSFM expenses.

**2.2.8 Response Procedures and Limitations/Automatic Response:** If the Contractor has received state authority for automatic response, Contractor may, upon receipt of an emergency response request, provide emergency response services as specified under the terms of this Agreement and the OSFM's Standard Operating Guidelines, which is incorporated herein by this reference. Contractor shall immediately thereafter notify the OSFM Duty Officer.

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.

**2.2.9 Spill Response Fund:** If the Spill Response 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.

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

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

If, after becoming depleted or fiscally unsound, additional funds become available in the Spill Response Fund and Contractor has billed the OSFM as set forth in Section 2.2.2, Contractor shall be reimbursed for unpaid team emergency response costs to the extent funds are available.

**2.3 Where No Responsible Party Can Be Identified:** As previously mentioned in Section 2.2, OSFM agrees to bill the party or parties responsible for causing the hazardous materials emergency for total emergency response costs. Where there is no identifiable responsible party, or if the responsible party is unable to pay, the OSFM agrees to pay Contractor team emergency response costs from the State's Spill Response Fund provided funds are available and Contractor has complied with 2.2. herein.

**2.4 Contractor Status:** Contractor certifies it is not an employee of the State of Oregon and is a local government agency or agencies.

**2.5 Retirement System Status:** Contractor is not entitled under this Agreement to any Public Employees Retirement System benefits and will be 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.

**2.6 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 OSFM. Such written approval will not relieve Contractor of any obligations of this Agreement, and any assignee, transferee or subcontractor shall be considered the agent of Contractor. Except where OSFM expressly approves otherwise, Contractor shall remain liable as between the original parties to this Agreement as if no such assignment had occurred.

Contractor shall not agree in writing or otherwise with other local governmental entities to provide the state owned emergency response vehicles and equipment to assist those entities at events not meeting OSFM authorized response criteria unless the OSFM also is a party to that agreement.

**2.7 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.

**2.8 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 437-002-100 (18) which adopts 29 CFR 1910.120(q) and its Appendix B.

**2.9 Force Majeure:** Neither party to this Agreement shall be held responsible for delay or default caused by fire, riots, acts of God and/or war, which is beyond that party's reasonable control. OSFM or Contractor may terminate this Agreement upon written notice after determining such delay or default will reasonably prevent performance of the Agreement.

**2.10 State Tort Claims Act:**

**2.10.1 Scope:** During operations authorized by this Agreement, Contractor and Contractor's RHMERT employees shall be agents of the state and protected and defended from liability under ORS 30.260 to 30.300. For purposes of this section, operations means activities directly related to a particular emergency response involving a hazardous material by a Regional Hazardous Materials Emergency Response Team. Operations also include advanced training activities provided under this Agreement to the Contractor's Hazardous Materials Emergency Response Team employees, but do not include travel to and from the training.

**2.10.2 Limitations:** Except as provided in Section 2.1.4, this Agreement in no way limits a Contractor from responding with State owned equipment and supplies

under local authority, mutual-aid agreements, or other contracts under local authority.

**2.10.3 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  
4760 Portland Road NE  
Salem, Oregon 97305  
Pager: (503) 370-1488

Copies of such written reports shall also be sent to:

State Risk Management Division  
1225 Ferry Street SE.  
Salem, Oregon 97310

**2.11 Indemnification:** When performing operations not authorized under ORS 453.374 – 453.390, while using state's equipment, procedures, or training, 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.

**2.12 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.

**2.13 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 three (3) years, or longer where required by law.

**2.13.1 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.

**2.14 Amendments:** The terms of this Agreement shall not be waived, altered, modified, supplemented or amended in any manner whatsoever without prior written approval of OSFM and Contractor.

**2.15 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.

**2.16 Nondiscrimination:** 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.

**2.17 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 except as approved and authorized under this Agreement.

**2.18 Payment for Medical Care:** Contractor agrees to make payment promptly, 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 2.2.1, Medical Surveillance. Such payment shall be made from all sums, which Contractor has agreed to pay for such services, and from all sums, which Contractor has collected or deducted, from the wages of employees pursuant to any law, contract or agreement for the purpose of providing or paying for such service. It is the intent of the parties that this section includes any collective bargaining agreements that the Contractor has entered into with Contractor employees.

**2.19 Insurance Coverage:**

**2.19.1 Worker Compensation:** Contractor, its subcontractors (if any), and all employers working under this Agreement are subject employers under the Oregon Workers' Compensation Law and shall comply with ORS 656.017, which requires

them to provide workers' compensation coverage for all their subject workers. Nothing in this Agreement is intended or shall be construed to create the relationship of employer and employee as between the OSFM and Contractor. If, however, the Contractor Workers' Compensation costs increase as a direct result of an injury, illness or participation as Regional Hazardous Materials Emergency Response Team, the OSFM will compensate the Contractor for the increased costs.

**2.19.2 Comprehensive or Commercial General Liability:** Contractor shall maintain at its own expense, and keep in effect during the term of this Agreement, comprehensive or commercial general liability insurance, or its equivalent for self-insured Contractor, covering personal injury and property damage. This insurance shall include coverage for contractual liability related to the indemnity provisions of this Agreement. Contractor general liability coverage limits shall not be less than five hundred thousand dollars (\$500,000) in the aggregate, or the equivalent.

**2.19.3 Automobile Liability:** Contractor and OSFM shall obtain and keep in effect automobile liability insurance or its equivalent for self-insured Contractor, for their respective vehicle(s) during the term of this Agreement. The Contractor shall obtain separate automobile liability insurance providing primary coverage for OSFM vehicles when Contractor uses OSFM vehicles as provided in Section 2.10.2 of this Agreement. Auto liability coverage limits shall not be less than five hundred thousand dollars (\$500,000) combined single limit occurrence, or equivalent.

**2.19.4 Notice of Cancellation or Change:** Contractor and OSFM agree there shall be no cancellation, material change, exhaustion of aggregate limits or intent not to renew their respective insurance coverage without 30 days' written notice to the other party.

**2.19.5 Certificate(s) of Insurance:** As evidence of the insurance coverage required by this Agreement, both OSFM and Contractor shall furnish copies of or updates of previously provided Certificates of Insurance or Certificates of Self-Insurance as the case may be, to each other prior to the beginning of work under this Agreement.

**2.19.6 Physical Damage Clause:** Excluding ordinary wear and tear, Contractor is responsible for any physical damage to or loss of, State-owned equipment that is directly attributable to local response, regardless of fault. When Contractor acts under OSFM authority, the OSFM will be responsible for physical damage to or loss of state-owned vehicles and equipment regardless of fault, subject to the terms and conditions of the Oregon Risk Management Division Policy 125-7-101 (Property Policy Manual).

**2.20 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 CONTRACT, HEREBY CONSENTS TO THE IN PERSONAM JURISDICTION OF SAID COURTS.

**2.21 Termination:** This Agreement may be terminated by mutual consent of both parties, or by either party upon 180 days notice, in writing, and delivered by certified mail or in person.

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:

- a. if State Fire Marshal funding from federal, state, or other sources is not obtained or continued at levels sufficient to allow for payment of costs under the terms of this Agreement. The Agreement may be modified to accommodate a reduction in funding.
- b. if federal or state laws, rules, regulations, or guidelines are modified, changed, or interpreted in such a way that the services are no longer allowable or appropriate for purchase under this Agreement or is no longer eligible for the funding proposed for payments by this Agreement.
- c. if any license or certification required by law or regulation to be held by the Contractor to provide the services required by this Agreement is for any reason denied, revoked, or not renewed.

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

**2.21.1 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:

- a. if the other party fails to provide services called for by this Agreement within the time specified herein or any extension thereof; or,
- b. 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.

**2.22 Approval Authority:** Contractor representatives certify by their signature herein that he or she, as the case may be, has the necessary and lawful authority to enter into contracts and Agreements on behalf of the local government entity.

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

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

Office of State Fire Marshal  
4760 Portland Rd. NE  
Salem, OR 97305

City of Gresham/Multnomah County  
c/o Gresham Fire Department  
1333 NW Eastman Parkway  
Gresham, OR 97030

**2.25 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.

**2.26 Remedies** In the event that Contractor violates any term or condition under this Agreement, OSFM shall have all remedies available to it under law, in equity, and under this Agreement.

## **EXHIBIT A**

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

**HazMat 3/Gresham-Multnomah County** - Beginning at the Columbia River at the City of Gresham's western boundary, south along the Gresham service boundary to the Clackamas County line, then west of the Clackamas county line to the Willamette River. South along the Willamette to the northern boundary of Canby Fire District. Continue east, south and west along the Canby RFD boundary to Highway 99E. South along Highway 99E to the Clackamas/Marion County line. South and east on Clackamas County border to the western boundary of the Warm Springs Indian Reservation. North and East on Warm Springs border to Highway 26 at its junction with Highway 216. East on Highway 216 to the Wasco Sherman County line then south and east along the Wasco County line to the John Day River. North along John Day River to the Columbia River. West on Columbia River to the point of beginning.

## EXHIBIT B

### INVENTORY OF OSFM-PROVIDED VEHICLES AND EQUIPMENT 05-0-1-07

ItemName	MdlNum	SrlNum	OSFMNum
ZODI Quick Hut Shower	PRO 70		
APD 2000	838		0052
AIM Commander, Multigas Monitor	XP111-MABCN	700002070	25700-04736
AIM Commander, Multigas Monitor	XP111-MABCQ	700002090	25700-04739
ISC M-40 Multigas Monitor	M40-KIT-11101	0608157-120	25700-05393
DOSIMETER; Dositec	L36	250459	25700-04315
DOSIMETER; Dositec	L36	250458	25700-04314
DOSIMETER; Dositec	L36	250457	25700-04313
DOSIMETER; Dositec	L36	250456	25700-04312
DOSIMETER; Dositec	L36	250460	25700-04316
DOSIMETER; Dositec	L36	250461	25700-04317
Drager CDS/HazMat Kit & Test Sets			
Drager Training sets I & V			
M256A1 Kit and Training Kit, 2002			
M8 & M9 Paper, 2001			
Radiological Alarming Pocket Survey	2401 EC2A	187097	25700-04407
Radiological Alarming Pocket Survey	2401 EC2A	187095	25700-04406
Radiological Alarming Pocket Survey	2401 EC2A	187098	25700-04408
Radiological Pancake Pocket Survey	2401-P	212611	25700-04453
Radiological Pancake Pocket Survey	2401-P	212610	25700-04452
Radiological Pancake Pocket Survey	2401-P	212608	25700-04451
Mini Rae 2000		110-005044	0052
CANBERRA ULTRARADIAC RADIATION	MRAD113	05062704	25700-05325
CANBERRA ULTRARADIAC RADIATION	MRAD113	05062811	25700-05328
CANBERRA ULTRARADIAC RADIATION	MRAD113	05062794	25700-05327
CANBERRA ULTRARADIAC RADIATION	MRAD113	05062732	25700-05326
CANBERRA ULTRARADIAC RADIATION	MRAD113	05062697	25700-05324
CANBERRA ULTRARADIAC RADIATION	MRAD113	05062694	25700-05323
MSA 261 w/Calibration Equipment, Harness			ER0439
Sensidyne Detection Kit			ER1370
SPECTROMETER; Portable I.R.	023-1005 HazMat ID	00282	25700-03503
Victoreen			
128 Channel Radio - UHF			ER0531
128 Channel Radio - VHF			ER0512
35mm Camera-Olympus			ER0071
800 MHz Watt Radio & Base Station			
AdvanceTec 4 Charger/conditioner wall mounted	ADCAT4-2060 IFD		
ANTENNA; Receiver and Controller	SC-EL-N	EL3-RXA & C 00230	25700-05468
Bag Phone	MC 480		
Calculator			ER0082
CAMERA: Thermal Imaging; FireFlir	FF131	100318	25700-04946
CaMERA; EntryLink Wireless Video	SC-EL-N	EL3-230	25700-05467

Canon 3 in 1 Printer	MPC530		
Canon PC-6RE Copier w/Cartridge			
Com Space Motorola Interface cables w/throat mic & ear cable			
Com Space Motorola Interface cables w/throat mic & ear cable			
Com Space Motorola Interface cables w/throat mic & ear cable			
Com Space Motorola Interface cables w/throat mic & ear cable			
Com Space Motorola Interface cables w/throat mic & ear cable			
Com Space Motorola Interface cables w/throat mic & ear cable			
Com Space Motorola Interface cables w/throat mic & ear cable			
Compaq Advanced Port Replicator	307651-001	5Y31KW44H558	0151
Compaq EVO N800C Laptop	470042-969	5Y31KLM2V044	0106
COMPUTER; Dell Inspiron 5100 Laptop	5100 Inspiron	F1SL941	25700-03504
Copier		NTW 93257	
HP 6L Laser Printer			
Micro Cassette Recorder			ER0575
Micro Cassette Recorder			ER0579
Mobile Telephone			ER2798
Mobile Telephone			ER2797
MONITOR: Insignia Flat Screen Video/TV	14" FLATSCRN	N/A	25700-05508
Multimedia Speakers, set			
Polaroid Land Camera			ER0075
Portable FAX Machine			ER1791
PRINTER; HP LaserJet	LJ1022	CNBC58737W	25700-04921
Proxima Projector & Case		05375	
Radio, Act 6 Unit Radio Rack			
Radio, Charger, Travel Motorola HT1550xls			
Radio, Charger, Travel Motorola HT1550xls			
Radio, I Charge 6bay Unit		65030082	0487
Radio, Portable Motorola, HT1250 VHF		749TDEB533	0484
Radio, Portable Motorola, HT1250 VHF		749TDEB531	0485
Radio, Portable Motorola, HT1250 VHF		749TDEB530	0486
Radio, Portable Motorola, HT1250 VHF		749TDEB528	0479
Radio, Portable Motorola, HT1250 VHF		749TDEB511	0482
Radio, Portable Motorola, HT1250 VHF		749TDEB522	0483
Radio, Portable Motorola, HT1250 VHF		749TDEB515	0480
Radio, Portable Motorola, HT1250 VHF		749TDEB532	0481
SERVER; LinkSys Wireless Printer Server	WPS54GU2	SF5005606530	25700-04920
Sony Digital Camera, 128 & 16 mg Mem Stick, Chgr, Floppy Adapter			
Sony Video Camera & Tripod			ER0413
TRIPOD; Antenna & Mast	SC-EL-N	N/A	25700-05469
UPS			ER1704
14 Gal Overpack Drum			
30 Gal Overpack Drum			
55 Gal Overpack Drum			
95 Gal Overpack Drum			
Air Bag System			ER2783
Chlorine Kit "A"			ER1132
Chlorine Kit "B"			ER1136
Chlorine Kit "C"			ER1137
Dome Cover Clamps, 3/Set			ER2717
Dome Cover Clamps, 3/Set			ER2716

Leaker 6000			
American Railroad Emergency Action Guide / Emergency Action Guides, 1997			
CHRIS Response Methods Handbook			
Effects of Exposure to Toxic Gases, First Aid & Medical Treatment, Third Edition, 1988			
Emergency Handling of Hazardous Materials in Surface Transportation			
Farm Chemicals Handbook & CD			
Firefighter Handbook to Hazardous Materials			
Firefighter Hazardous Materials Reference Book, Second Edition			
GATX Tank Car Manual			
Guide to Occupational Exposure Values, 1999			
Handbook of Compressed Gases, Fourth Edition, 1999			
Handbook of Health Physics and Radiological Health, Third Edition, 1998			
Hawley's Condensed Chemical Dictionary, Thirteenth Edition, 1997			
Hazardous Materials Air Monitoring & Detection Devices, 2002			
Jane's Chem Bio Handbook, 2001			
Merck Index, Twelfth Edition, 1996			
NFPA Fire Protection Guide on Hazardous Materials, Twelfth Edition, 1997			
ODOT Emergency Response Guidebook, 2000			
OREIS, 2001			
Pestline, Material Safety Data Sheet for Pesticides and Related Chemicals, 2 vol, First Edition			
Pocket Guide to Chemical Hazards, 1997			
Preparing for Biological Terrorism, 2002			
Preparing for Terrorism, 2002			
Sax's Dangerous Properties of Industrial Materials, 3 vol, Tenth Edition, 1999			
Terrorism Handbook for Operational Responders, 2002			
Binoculars			ER0181
Convertible Hand Truck			
Drum Truck			ER0205
Drum Up Ender			ER1005
Duo Safety Ladder			ER2678
Ground Meter & Accessories			
Hand Truck			ER0200
High Pressure Regulator			
MDT Mobile Workstation			
Porta Potty			
Spotting Scope			ER0189
Stream-light Lantern			ER2692
Stream-light Lantern			ER2693
TESTER; DUPONT PROTECTIVE SUIT	990810	KC1083114800049	25700-04991
PRESSURE			
Traffic Cones, 10			ER1745
Weather PAK			ER1746
Weather Station			ER1352
AIR-PAK; MSA SCBA	FireHawk	*HM8	25700-04708
AIR-PAK; MSA SCBA	FireHawk	*HM1	25700-04701
AIR-PAK; MSA SCBA	FireHawk	*HM7	25700-04707
AIR-PAK; MSA SCBA	FireHawk	*HM2	25700-04702
AIR-PAK; MSA SCBA	FireHawk	*HM3	25700-04703
AIR-PAK; MSA SCBA	FireHawk	*HM4	25700-04704
AIR-PAK; MSA SCBA	FireHawk	*HM5	25700-04705
AIR-PAK; MSA SCBA	FireHawk	*HM6	25700-04706
Boots; HazProof			

BOTTLE; MSA 60 Min SCBA	56121	25700-04711
BOTTLE; MSA 60 Min SCBA	55491	25700-04713
BOTTLE; MSA 60 Min SCBA	56109	25700-04714
BOTTLE; MSA 60 Min SCBA	54630	25700-04715
BOTTLE; MSA 60 Min SCBA	56112	25700-04716
BOTTLE; MSA 60 Min SCBA	54891	25700-04712
BOTTLE; MSA 60 Min SCBA	55490	25700-04709
BOTTLE; MSA 60 Min SCBA	56146	25700-04710
Bunker Boots - 7 pr		
Chemical Resistant Boots - 24 pr assorted sized		
Chemtex Sijal, 1992, - 36 ea assorted sizes		
Con-Space Quiet Push-to-Talk	SR65I04	
Con-Space Quiet Push-to-Talk	SR65I04	
Con-Space Quiet Push-to-Talk	SR65I04	
Con-Space Quiet Push-to-Talk	SR65I04	
Con-Space Quiet Push-to-Talk	SR65I04	
Con-Space Quiet Push-to-Talk	SR65I04	
Con-Space Quiet Push-to-Talk	SR65I04	
Con-Space Quiet Push-to-Talk	SR65I04	
DuraFab Comfort Guard III, 1993 - 18 ea		
Gear Bag - 12 ea		
Hard Hat - 6 ea		
Kappler Reflector Level A Suit - XL		
Kappler Reflector Level A Suit - XL		
Kappler Reflector Level A Suit - XXL		
Kappler Reflector, 2001 - 4 ea		
Kappler Responder Level A Suit - L		
Kappler Responder, 2001 - 4 ea		
Lakeland Tychem BR 440 Level B, 2001 - 16 ea		
Lakeland, Dupont, 2001 - 4 ea		
MSA SCBA Bottle		ER1770
MSA SCBA Bottle		ER1776
MSA SCBA Bottle		ER1775
MSA SCBA Bottle		ER1774
MSA SCBA Bottle		ER1773
MSA SCBA Bottle		ER1777
MSA SCBA Bottle		ER1772
MSA SCBA Bottle		ER1771
MSA Spectacle Kit		
MSA Spectacle Kit		
MSA Spectacle Kit		
MSA Spectacle Kit		
MSA Spectacle Kit		
Nomex Coveralls - 33 ea		
Personal Floatation Devices		
Polycarb Face Shield		
Polycarb Face Shield		
Ranger Firefighting Boots - 6 pr		
SCBA Bottle		ER0753
SCBA Bottle		ER0754
SCBA Bottle		ER0752
SCBA Bottle		ER0757

SCBA Bottle	ER0751
SCBA Bottle	ER0755
SCBA Bottle	ER0756
SCBA Bottle	ER0758
SCBA Spare Tank	ER1057
SCBA Spare Tank	ER1058
SCBA Spare Tank	ER1063
SCBA Spare Tank	ER1062
SCBA Spare Tank	ER1061
SCBA Spare Tank	ER1060
SCBA Spare Tank	ER1055
SCBA Spare Tank	ER1059
SCBA Spare Tank	ER1056
SCBA Spare Tank	ER1054
SCBA Spare Tank	ER1053
SCBA Spare Tank	ER1052
SCBA Spare Tank	ER1051
SCBA Spare Tank	ER1064
SCBA Spare Tank	ER1049
SCBA Spare Tank	ER1050
Trelleborg Repair Kit	ER2500
Turnouts, Full Firefighting w/Nomex Hoods - 16 ea	
Pro Pak Foam Applicator	
3 1/8" Hole Saw - 2 ea	
Air Drill w/Drill Bit, Auto Oiler	ER2119
Air Hose w/Regulator 3/8" x 50' - 2 ea	
Arc Joint Pliers	
Aviation Shears, Left	
Aviation Shears, Right	
Aviation Shears, Straight	
Basic 215 Piece Set	
Bolt Cutters - 18"	
Chain Saw	
Chisel & Punch Set	
Craftsman 144 Piece Mechanics Set	
DeWalt Cordless Circular Saw	
Drill	
Drill Index	
Easy-Out/Stud Extractors	
Easy-Out/Stud Extractors	
Grounding Equipment/Bonding Equipment, 25ft - 2 ea	
Grounding Equipment/Bonding Equipment, 50ft - 2 ea	
Hydraulic Jack	
Impulse Framing Nailer	
Locking Pliers	
Lockout/Tagout Kit	
Meger Meter	
NS 2 lb Maul	
NS 55 Gallon Drum Bung Wrench - 2 ea	
NS Crescent Wrench - 12"	
NS Dead Blow Hammer	
NS Pinch Bar - 18"	

NS Pipe Wrench - 24" - 2 ea  
NS Pipe Wrench - 36" - 2 ea  
NS Scraper  
NS Screw Driver - Straight Tip, Large  
Open End/Box End Wrenches, LG - 6 ea  
Pliers  
Pry Bar, 54"  
Pulaski - 2 ea  
PUMP; Wilden Mdl 200 Transfer; w/Hose Kit  
Putty Knife  
Rotary Rescue Saw  
Sawzall & Drill Pack - 24v  
Scissors  
Scoop Shovel (4 ea) - Aluminum  
Screwdriver set  
Shovel, round point - 2 ea  
Shovel, square point - 2 ea  
Tool Box - 4 ea  
Vetter Inductor  
Viking Magnets  
Wire Brush  
Extinguisher, Type D  
Tire Chains, Cable Singles  
Tire Chains, Link Singles  
Wheel Chocks, set of 2  
Wheel Chocks, set of 2

ER1636

## **EXHIBIT C**

### **ESTIMATED COST OF STATE-PROVIDED EQUIPMENT TO BE PURCHASED**

**2007-2009 Biennium Funding**

**Funds for approved equipment purchases are available under this Agreement as follows:**

<b>Training Equipment, Materials and Supplies</b>	<b>\$1000.00</b>
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<b>Replacement of capital equipment and expendable items will be provided as necessary, by prior approval of the Office of State Fire Marshal, not to exceed a maximum of</b>	<b>\$15,000.00</b>
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<b>Funding Available for Equipment</b>	<b>\$16,000.00</b>
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**EXHIBIT D**  
**TRAINING**  
**2007-2009 Biennium Funding**

**Funds for approved Technician; Specialty, Recertification, and HazCat training are available under this Agreement as follows:**

<b>Funding Available for Training</b>	<b>\$46,904.00</b>
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**Contractor may elect to use up to 50% of funding available in this exhibit for the reimbursement of personnel costs incurred as a result of RHMERT employees attending advanced training. Reimbursement for personnel cost during 2007-2009 biennium is not to exceed \$23,452.00.**

## EXHIBIT E

### MEDICAL SURVEILLANCE 2007-2009 Biennium Funding

Funds for approved medical surveillance are available for Contractor RHMERT employees under this Agreement as follows:

Up to 22 personnel may receive medical surveillance exam(s), up to a maximum of \$700 per person, not to 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 2007-2009 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 \$700 per person *average* cost. This allows *flexibility* in the per-person cost *within* the maximum funding available for medical surveillance.

<b>Funding Available for Medical Surveillance</b>	<b>\$15,400.00</b>
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## **EXHIBIT F**

### **Compensation for Vehicles and Apparatus 2007-2009**

**State to provide the compensation for use of Contractor's vehicles and apparatus in response to a hazardous materials incident at the following rates:**

<b><u>Vehicles</u></b>	<b><u>Rate Per Hour</u></b>
Each engine	\$100.00
Each aerial ladder	150.00
Each utility/staff vehicle	50.00

#### **Contractor Equipment Charges**

Cellular/Mobile/SMR Telephone Charge	\$50.00 per incident per phone
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#### **Other Associated Costs**

Replacement and/or repair costs for damaged and/or expended equipment and supplies will be charged on an actual cost basis.

## **EXHIBIT G**

### **CONTRACTOR'S RESPONSE PERSONNEL 2007-2009**

**OSFM to provide compensation for Contractor personnel utilized in response to a hazardous materials incident as follows:**

#### **Personnel Category**

##### **Gresham Fire Department**

	<b><u>Rate per hour</u></b>
HazMat Team Member-Non Officer	\$67.08
HazMat Team Member – Officer	\$76.67
HazMat Team Member - Salary	\$80.59

##### **Multnomah Co. Sheriff Office**

HazMat Team Member-Non Officer	\$102.11
HazMat Team Member – Officer	\$88.56

All other support personnel at actual costs.

Pursuant to section 2.2.2. of this Agreement, 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 any collective bargaining agreement between Contractor and Contractor's employees, that on the effective date those changes become effective under a collective bargaining agreement, those changes will be incorporated in this Agreement and used for purposes of calculating compensation for Contractor's Personnel Response Costs.

## **EXHIBIT H**

### **OUTREACH TRAINING 2007-2009 Biennium Funding**

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

<b>Funding Available for Outreach Training</b>	<b>\$6,342.00</b>
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## **EXHIBIT I**

### **Summary - 2007-2009 Biennium Funding Available for Standby Costs**

<b>Equipment Purchases - 2007-2009 Biennium Funding - (See Exhibit C)</b>	<b>\$16,000.00</b>
<b>Training - 2007-2009 Biennium Funding - (See Exhibit D)</b>	<b>\$46,904.00</b>
<b>Medical Surveillance - 2007-2009 Biennium Funding - (See Exhibit E)</b>	<b>\$15,400.00</b>
<b>Outreach Training - 2007-2009 Biennium Funding</b>	<b>\$6,342.00</b>
<b>Total 2007-2009 Biennium Funding Available for Standby Costs</b>	<b>\$84,646.00</b>

## EXHIBIT J

### State's Spill Response Fund

#### 2007-2009 Biennium Funding

\$ 300,000.00

This is the *Total* State's Spill Response Funding limitation available for the 2007-2009 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's Spill Response Fund; only that funding in this amount is available for reimbursement of emergency response team costs is available within the OSFM limitation or appropriation.

**Approving Signatures:**

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

Dated this \_\_\_\_\_ day of \_\_\_\_\_, 2007

\_\_\_\_\_  
**Nancy Orr  
State Fire Marshal**

On Behalf of The City of Gresham  
Dated this 11<sup>th</sup> day of September, 2007

Signature [Signature]  
Printed Name Shane T. Bemis  
Title Mayor  
Address 1333 NW Eastman Parkway  
City Gresham, OR Zip 97030

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

Dated this \_\_\_\_\_ day of \_\_\_\_\_, 2007

Signature \_\_\_\_\_  
Printed Name \_\_\_\_\_  
Title \_\_\_\_\_  
Address \_\_\_\_\_  
City \_\_\_\_\_ Zip \_\_\_\_\_

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

Dated this \_\_\_\_\_ day of \_\_\_\_\_, 2007

Signature \_\_\_\_\_  
Printed Name \_\_\_\_\_  
Title \_\_\_\_\_  
Address \_\_\_\_\_  
City \_\_\_\_\_ Zip \_\_\_\_\_

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

Dated this \_\_\_\_\_ day of \_\_\_\_\_, 2007

Signature \_\_\_\_\_

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

Title \_\_\_\_\_

Address \_\_\_\_\_

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

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

Dated this \_\_\_\_\_ day of \_\_\_\_\_, 2007

Signature \_\_\_\_\_

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

Title \_\_\_\_\_

Address \_\_\_\_\_

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

On Behalf of Gresham City Attorney's Office

Dated this 22<sup>nd</sup> day of August, 2007

Signature David R Ry

Printed Name DAVID R RY

Title Senior Assistant City Attorney

Address \_\_\_\_\_

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

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

**Dated this** \_\_\_\_\_ **day of** \_\_\_\_\_, 2007

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

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

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

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

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

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

**Dated this** \_\_\_\_\_ **day of** \_\_\_\_\_, 2007

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

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

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

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

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

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

**Dated this** \_\_\_\_\_ **day of** \_\_\_\_\_, 2007

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

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

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

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

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

**ADDENDUM #1**  
**Hourly Personnel Response Rate**  
**Calculation Worksheet**

**NON-OFFICER-GRESHAM FIREFIGHTER**

Complete calculations for each line item and enter amount in column to the right. When calculations are complete, add together all amounts in the right hand column for a total, which will determine the contracted hourly personnel rate for non-officer team members.

NOTE: Base Hourly Rate/Non-Officer is calculated at the overtime rate for the highest paid, technician trained team member who is not an officer.

<b>BASE SALARY</b>	<b>\$33.87</b>
Regular hourly rate <u>22.58</u> x 1 ½ =	
<b>INSURANCE/BENEFITS</b>	<b>\$4.50</b>
Premium paid per month ÷ <u>2880</u> hours worked per month =	
<b>PERS</b>	<b>\$4.59</b>
Employer's contribution paid per month ÷ _____ hours worked per month =	
<b>WORKERS COMP INSURANCE*</b>	<b>\$51</b>
Base hourly rate _____ x .015 =	
<b><u>FICA* (Medicare 1.45%, OASDI 6.2%)</u></b>	<b>\$2.59</b>
Base hourly rate _____ x 7.65% =	
<b>UNEMPLOYMENT TAX**</b>	<b>\$0.08</b>
Base hourly rate _____ x _____ % =	
<b>PAYROLL TAX**</b>	<b>\$0.36</b>
Base hourly rate _____ x _____ % =	
<b>INCENTIVE/PREMIUM PAY</b>	<b>\$5.00</b>
Incentive pay paid per month ÷ _____ hours worked per month =	
<b>RESPONSE AVAILABILITY RATE</b>	<b><u>\$15.5788</u></b>
<b>TOTAL HOURLY RATE</b>	<b>\$67.08</b>

\* Percentage for calculation provided by Allison Absher, Oregon State Payroll System, effective March 14, 2007. \*\* Unemployment and Payroll Taxes are local taxes which, if applicable, are calculated by the percentage allowed by local laws.

Hourly Personnel Response Rate  
Calculation Worksheet

**OFFICER (Eligible for Overtime)-GRESHAM FIRE**

Complete calculations for each line item and enter amount in column to the right. When calculations are complete, add together all amounts in the right hand column for a total, which will determine the contracted hourly personnel rate for team members who are officers eligible for overtime.

NOTE: Base Hourly Rate/Non-Officer is calculated at the overtime rate for the highest paid, technician trained team member who is not an officer.

<b>BASE SALARY</b>	<b>\$40.79</b>
Regular hourly rate <u>27.19</u> x 1 ½ =	
<b>INSURANCE/BENEFITS</b>	<b>\$4.50</b>
Premium paid per month ÷ <u>2880</u> hours worked per month =	
<b>PERS</b>	<b>\$5.53</b>
Employer's contribution paid per month ÷ _____ hours worked per month =	
<b>WORKERS COMP INSURANCE*</b>	<b>\$.61</b>
Base hourly rate _____ x .015 =	
<b>FICA* (Medicare 1.45%, OASDI 6.2%)</b>	<b>\$3.12</b>
Base hourly rate _____ x 7.65% =	
<b>UNEMPLOYMENT TAX**</b>	<b>\$.08</b>
Base hourly rate _____ x _____ % =	
<b>PAYROLL TAX**</b>	<b>\$.44</b>
Base hourly rate _____ x <u>1.0718</u> % =	
<b>INCENTIVE/PREMIUM PAY</b>	<b>\$6.02</b>
Incentive pay paid per month ÷ _____ hours worked per month =	
<b>RESPONSE AVAILABILITY RATE</b>	<b><u>\$15.5788</u></b>
<b>TOTAL HOURLY RATE</b>	<b>\$76.67</b>

\* Percentage for calculation provided by Allison Absher, Oregon State Payroll System, effective March 14, 2007. \*\* Unemployment and Payroll Taxes are local taxes which, if applicable, are calculated by the percentage allowed by local laws.

**ADDENDUM #1**  
Hourly Personnel Response Rate  
Calculation Worksheet

**OFFICER/Salaried (Not Eligible for Overtime)-GRESHAM FIRE**

Complete calculations for each line item and enter amount in column to the right. When calculations are complete, add together all amounts in the right hand column for a total, which will determine the contracted hourly personnel rate for team members who are officers, but not eligible for overtime.

**NOTE:** Base Hourly Rate/Salaried Officer is calculated at the hourly salary rate of the highest paid, technician trained team member who is an officer.

<b>BASE SALARY</b>	<b>\$47.76</b>
Regular hourly rate = $99,336/2080$	
<b>INSURANCE/BENEFITS</b>	<b>\$5.78</b>
Premium paid per month ÷ <u>2080</u> hours worked per month =	
<b>PERS</b>	<b>\$6.47</b>
Employer's contribution paid per month ÷ _____ hours worked per month =	
<b>WORKERS COMP INSURANCE*</b>	<b>\$ .72</b>
Base hourly rate _____ x .015 =	
<b><u>FICA* (Medicare 1.45%, OASDI 6.2%)</u></b>	<b>\$3.65</b>
Base hourly rate _____ x 7.65% =	
<b>UNEMPLOYMENT TAX**</b>	<b>\$ .12</b>
Base hourly rate _____ x _____ % =	
<b>PAYROLL TAX**</b>	<b>\$ .51</b>
Base hourly rate _____ x _____ % =	
<b>INCENTIVE/PREMIUM PAY</b>	<b>\$</b>
Incentive pay paid per month ÷ _____ hours worked per month =	
<b>RESPONSE AVAILABILITY RATE</b>	<b><u>\$15.5788</u></b>
<b>TOTAL HOURLY RATE</b>	<b>\$80.59</b>

\* Percentage for calculation provided by Allison Absher, Oregon State Payroll System, effective March 14, 2007.

\*\* Unemployment and Payroll Taxes are local taxes which, if applicable, are calculated by the percentage allowed by local laws.

Hourly Personnel Response Rate  
Calculation Worksheet

**NON-OFFICER (LE Sergeant)**

Complete calculations for each line item and enter amount in column to the right. When calculations are complete, add together all amounts in the right hand column for a total, which will determine the contracted hourly personnel rate for non-officer team members.

NOTE: Base Hourly Rate/Non-Officer is calculated at the overtime rate for the highest paid, technician trained team member who is not an officer.

<b>BASE SALARY</b>	\$57.60
Regular hourly rate $38.40 \times 1 \frac{1}{2} =$	
<b>INSURANCE/BENEFITS</b>	\$5.02
Premium paid per month $(\$870.25) \div 173.34$ hours worked per month =	
<b>PERS</b>	\$15.10
Employer's contribution paid per month $\div$ _____ hours worked per month = (PERS & PERS Bond Surcharge) $26.2\% \times 57.60$	
<b>WORKERS COMP INSURANCE*</b>	\$.87
Base hourly rate $57.60 \times .015 =$	
<b><u>FICA* (Medicare 1.45%, OASDI 6.2%)</u></b>	\$4.41
Base hourly rate $57.60 \times 7.65\% =$	
<b>UNEMPLOYMENT TAX**</b>	\$.52
Base hourly rate $57.60 \times .90\% =$	
<b>PAYROLL TAX**</b>	\$.37
Base hourly rate $57.60 \times .64\% =$ (Tri-Met Tax)	
<b>INCENTIVE/PREMIUM PAY</b>	\$3.46
Incentive pay paid per month $\div$ _____ hours worked per month = ( $6\% \times 57.60$ )	
<b>RESPONSE AVAILABILITY RATE</b>	<u>\$15.5788</u>
<b>TOTAL HOURLY RATE</b>	\$102.9288

\* Percentage for calculation provided by Allison Absher, Oregon State Payroll System, effective March 14, 2007.

\*\* Unemployment and Payroll Taxes are local taxes which, if applicable, are calculated by the percentage allowed by local laws.

Hourly Personnel Response Rate  
Calculation Worksheet

***OFFICER/ (Eligible for Overtime) - MCSO***

Complete calculations for each line item and enter amount in column to the right. When calculations are complete, add together all amounts in the right hand column for a total, which will determine the contracted hourly personnel rate for team members who are officers eligible for overtime.

NOTE: Base Hourly Rate/Non-Officer is calculated at the overtime rate for the highest paid, technician trained team member who is not an officer.

<b>BASE SALARY</b>	<b>\$47.54</b>
Regular hourly rate $31.69 \times 1\frac{1}{2} =$	
<b>INSURANCE/BENEFITS</b>	<b>\$5.02</b>
Premium paid per month $(\$870.25) \div 173.34$ hours worked per month =	
<b>PERS</b>	<b>\$12.46</b>
Employer's contribution paid per month $\div$ _____ hours worked per month = (PERS & PERS Bond Surcharge) $26.2\% \times 47.54$	
<b>WORKERS COMP INSURANCE*</b>	<b>\$ .72</b>
Base hourly rate $47.54 \times .015 =$	
<b><u>FICA* (Medicare 1.45%, OASDI 6.2%)</u></b>	<b>\$3.64</b>
Base hourly rate $47.54 \times 7.65\% =$	
<b>UNEMPLOYMENT TAX**</b>	<b>\$ .43</b>
Base hourly rate $47.54 \times .9\% =$	
<b>PAYROLL TAX**</b>	<b>\$ .31</b>
Base hourly rate $47.54 \times .64\% =$ (Tri-Met Tax)	
<b>INCENTIVE/PREMIUM PAY</b>	<b>\$2.86</b>
Incentive pay paid per month $\div$ _____ hours worked per month = (6% $\times$ 47.54)	
<b>RESPONSE AVAILABILITY RATE</b>	<b><u>\$15.5788</u></b>
<b>TOTAL HOURLY RATE</b>	<b>\$88.5588</b>

\* Percentage for calculation provided by Allison Absher, Oregon State Payroll System, effective March 14, 2007.

\*\* Unemployment and Payroll Taxes are local taxes which, if applicable, are calculated by the percentage allowed by local laws.