

SOUTH DAKOTA DEPARTMENT OF PUBLIC SAFETY SERVICE CONTRACT

This Agreement is hereby made and entered into by and between the South Dakota Department of Public Safety, Wildland Fire 3305 West South St, Rapid City, South Dakota 57702 (the "State"), and



(legal entity name and address), (the "Contractor").

State hereby enters into this Agreement for services with Contractor in consideration of and pursuant to the terms and conditions set forth herein.

1. Contractor will provide ambulance services according to the requirements in the current *South Dakota Department of Public Safety Wildland Fire Mini-Mobilization Guide for Cooperators*.
2. All other prior discussions, communications and representations concerning the subject matter of this Agreement are superseded by the terms of this Agreement, and except as specifically provided herein, this Agreement constitutes the entire agreement with respect to the subject matter hereof.
3. This Agreement will become effective on the date of the last signature and continue until December 31, 2028, unless otherwise terminated according to the terms of this Agreement.
4. Contractor will not use State equipment, supplies, or facilities, except to the extent agreed upon by the parties. Contractor will provide State with its Employer Identification Number, Federal Tax Identification Number, or Social Security Number upon execution of this Agreement.
5. Contractor agrees to indemnify and hold the State of South Dakota, its officers, agents and employees, harmless from and against any and all actions, suits, damages, liability or other proceedings that may arise as the result of performing services hereunder. This section does not require Contractor to be responsible for or defend against claims or damages arising solely from errors or omissions of State, its officers, agents or employees.
6. This Agreement shall be governed by and construed in accordance with the laws of the State of South Dakota. Any lawsuit pertaining to or affecting this Agreement shall be venued in Circuit Court, Sixth Judicial Circuit, Hughes County, South Dakota.
7. In the event that any court of competent jurisdiction shall hold any provision of this Agreement unenforceable or invalid, such holding shall not invalidate or render unenforceable any other provision hereof. Failure by the State to strictly enforce any provision, right or responsibility contained herein shall not operate as a waiver as to any provision, right or responsibility.
8. While performing services under this Agreement, Contractor is an independent contractor

and not an officer, agent, or employee of the State of South Dakota.

9. Contractor agrees to report to State any event encountered in the course of performance of this Agreement which results in injury to the person or property of third parties, or which may otherwise subject Contractor or State to liability. Contractor shall report any such event to State immediately upon discovery.

Contractor's obligation under this section shall only be to report the occurrence of any event to State and to make any other report provided for by their duties or applicable law. Contractor's obligation to report shall not require disclosure of any information subject to privilege or confidentiality under law (e.g., attorney-client communications). Reporting to State under this section shall not excuse or satisfy any obligation of Contractor to report any event to law enforcement or other entities under the requirements of any applicable law.

10. This Agreement may not be assigned without the express prior written consent of State. This Agreement may not be amended except in writing, which writing shall be expressly identified as a part hereof, and be signed by an authorized representative of each of the parties hereto.
11. Contractor shall comply with all federal, state and local laws, regulations, ordinances, guidelines, permits and requirements applicable to providing services pursuant to this Agreement, and will be solely responsible for obtaining current information on such requirements.
12. Contractor may not use subcontractors to perform the services described herein without the express prior written consent of State. Contractor will include provisions in its subcontracts requiring its subcontractors to comply with the applicable provisions of this Agreement, to indemnify State, and provide proof of insurance coverage in a manner consistent with this Agreement. Contractor will cause its subcontractors' agents and employees to comply with applicable federal, state and local laws, regulations, ordinances, guidelines, permits and requirements, and will adopt such review and inspection procedures as are necessary to assure such compliance.
13. Contractor agrees to obtain, and at all times during the term of this Agreement, maintain insurance coverage of the types and with the limits as follows:
 - a. Commercial General Liability Insurance – Contractor shall maintain occurrence based commercial general liability insurance with a limit of not less than one million (\$1,000,000.00) dollars for each occurrence. If such insurance contains a general aggregate limit, it shall apply separately to this Agreement, or be no less than two times the occurrence limit.
 - b. Professional Liability Insurance or Miscellaneous Professional Liability Insurance – When applicable Contractor agrees to procure and maintain professional liability insurance or miscellaneous professional liability insurance with a limit not less than \$1,000,000.00 as is necessary or required by South Dakota Law.
 - c. Automobile Insurance – Contractor shall maintain automobile liability insurance or equivalent form for all vehicles owned or operated and reported as resources to State, with a limit of not less than one million (\$1,000,000.00) dollars per accident, and an occurrence limit of not less than twice that amount.

- d. Workers' Compensation Insurance – Contractor shall comply with all state laws and regulations pertaining to workers' compensation insurance for personnel.
 - i. Contractors that make their department resources available for out-of-state assignment through this Agreement must provide proof of workers' compensation coverage that provides coverage to their personnel outside of the State of South Dakota.

Before beginning work under this Agreement, the Contractor shall furnish the State with properly executed Certificates of Insurance which shall clearly evidence all insurance required in this Agreement and which provide that such insurance may not be canceled, except on 30 days prior written notice to the State. The Contractor shall furnish copies of insurance policies if requested by the State. Contractor will not use or operate any vehicles while providing services under this Agreement unless the vehicle is covered by the Contractor's automobile insurance policy.

14. Any notice or other communication required under this Agreement shall be in writing. Notice shall be sent by and to South Dakota Department of Public Safety, Wildland Fire, 3305 West South St, Rapid City, SD 57702-8160, (605) 393-8011, on behalf of State and by and to:



on behalf of Contractor, or such authorized designees as either party may from time to time designate in writing. Notices or communications to or between the parties shall be deemed to have been delivered when mailed by first class or electronic mail, provided that notice of default or termination shall be sent by registered or certified mail, or, if personally delivered, when received by such party.

15. Pursuant to Executive Order 2020-01, for contractors, vendors, suppliers, or subcontracts with five (5) or more employees who enter into a contract with the State of South Dakota that involves the expenditure of one hundred thousand dollars (\$100,000) or more, by signing this contract the Contractor certifies and agrees that it has not refused to transact business activities, have not terminated business activities, and have not taken other similar actions intended to limit its commercial relations, related to the subject matter of the contract, with a person or entity that is either the State of Israel, or a company doing business in or with Israel or authorized by, licensed by, or organized under the laws of the State of Israel to do business, or doing business in the State of Israel, with the specific intent to accomplish a boycott or divestment of Israel in a discriminatory manner. It is understood and agreed that, if this certification is false, such false certification will constitute grounds for the State to terminate this contract. The Contractor further agrees to provide immediate written notice to the State if during the term of the contract is no longer complies with this certification, and agrees such noncompliance may be grounds for contract termination.
16. COMPLIANCE WITH SDCL ch 5-18A:
Contractor certifies and agrees that the following information is correct:

The bidder or offeror is not an organization, association, corporation, partnership, joint venture, limited partnership, limited liability partnership, limited liability company, or other entity or business association, including all wholly-owned subsidiaries, majority-owned subsidiaries, parent companies, or affiliates, of those entities or business associations,

regardless of their principal place of business, which is ultimately owned or controlled, directly or indirectly, by a foreign parent entity from, or the government of, the People's Republic of China, the Republic of Cuba, the Islamic Republic of Iran, the Democratic People's Republic of Korea, the Russian Federation, or the Bolivarian Republic of Venezuela.

It is understood and agreed that, if this certification is false, such false certification will constitute grounds for the purchasing agency to reject the bid or response submitted by the bidder or offeror on this project and terminate any contract awarded based on the bid or response, and further would be cause to suspend and debar a business under SDCL § 5-18D-12.

The successful bidder or offeror further agrees to provide immediate written notice to the purchasing agency if during the term of the contract it no longer complies with this certification and agrees such noncompliance may be grounds for contract termination and would be cause to suspend and debar a business under SDCL § 5-18D-12.

17. CERTIFICATION OF NO STATE LEGISLATOR INTEREST:

Contractor (i) understands neither a state legislator nor a business in which a state legislator has an ownership interest may be directly or indirectly interested in any contract with the State that was authorized by any law passed during the term for which that legislator was elected, or within one year thereafter, and (ii) has read South Dakota Constitution Article 3, Section 12 and has had the opportunity to seek independent legal advice on the applicability of that provision to this Agreement. By signing this Agreement, Contractor hereby certifies that this Agreement is not made in violation of the South Dakota Constitution Article 3, Section 12.

18. Both parties agree to provide services covered by this contract without regard to race, color, sex, religion, national origin, creed, marital status, age, or disability as prohibited by state or federal law.

19. The Contractor certifies that neither Contractor nor its principals are presently debarred, suspended, proposed for debarment or suspension, or declared ineligible from participating in transactions by the federal government or any state or local government department or agency. Contractor further agrees that it will immediately notify the State if during the term of this Agreement Contractor or its principals become subject to debarment, suspension or ineligibility from participating in transactions by the federal government, or by any state or local government department or agency.

20. The Contractor agrees to abide by all applicable provisions of the following:

- a. Title VI of the Civil Rights Act of 1964 (P.L. 88-352);
- b. Title IX of the Education Amendments of 1972, as amended (20 U.S.C. §§ 1681-1683, and 1685-1686);
- c. Section 504 of the Rehabilitation Act of 1973, as amended (29 U.S.C. §794) and the Americans with Disabilities Act of 1990 (42 USC § 12101, et seq.; PL 101-336);
- d. the Age Discrimination Act of 1975, as amended (42U.S.C. §§ 6101-6107);
- e. the Drug Abuse Office and Treatment Act of 1972 (P.L. 92-255), as amended;

- f. the comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment and Rehabilitation Act of 1970(P.L. 91-616), as amended;
 - g. §§ 523 and 527 of the Public Health Service Act of 1912 (42 U.S.C. §§ 290 dd-3 and 290 ee-3), as amended;
 - h. Title VIII of the Civil Rights Act of 1968 (42 U.S.C. §§ 3601 et seq);
 - i. the Civil Rights Restoration Act of 1987;
 - j. the Drug-free Workplace Act of 1988 (41 U.S.C. 702);
 - k. the Buy America Act (49 U.S.C. 5323 (j));
 - l. the Hatch Act (5 U.S.C. §§ 1501-1508 and 7324-7328);
 - m. Executive Order 11246 Equal Employment Opportunity;
 - n. Contract Work Hours and Safety Standards Act (40 U.S.C. §§ 3701-3708);
 - o. Clean Air Act (42 U.S.C. §§ 7401-7671q) and the Federal Water Pollution Control Act (33 U.S.C. §§ 1251-1387);
 - p. Debarment and Suspension (Executive Orders 12549 and 12689);
 - q. Byrd Anti-Lobbying Amendment (31 U.S.C. § 1352).
21. Contractor agrees to maintain all records that are pertinent to this contract and retain them for a period of three years following final payment against the contract. These records shall be subject at all reasonable times for inspection, review or audit by the State, other personnel duly authorized by the state, and federal officials so authorized by law.
22. Financing required by this Agreement will come from regular department budgets and the state fire suppression fund. This Agreement depends upon the continued availability of appropriated funds and expenditure authority from the Legislature for this purpose. If for any reason the Legislature fails to appropriate funds or grant expenditure authority, or funds become unavailable by operation of law or federal funds reductions, this Agreement will be terminated by State. Termination for any of these reasons is not a default by State nor does it give rise to a claim against State.
23. This Agreement may be terminated by either party upon sixty (60) days written notice without cause.
24. Nothing in this Agreement shall prohibit the parties from entering into other agreements or contracts with any private agency, or any other local, township, county, city, state, or federal agency.
25. State agrees to compensate Contractor in accordance with the current *NWCG Standards for Interagency Incident Business Management* (PMS 902) and supplements. Personnel and equipment rates are in the current *South Dakota Department of Public Safety Wildland Fire Mini-Mobilization Guide for Contractors*. State will apply the rates which are in effect at the time of dispatch.

- 26. Contractor agrees to furnish a cost statement to the State at the address below, within thirty (30) working days of expenditure:
 Fire Business Staff
 South Dakota Wildland Fire
 3305 West South St
 Rapid City, SD 57702-8160

Payment shall be made by State in the following manner: State will have fifteen (15) working days to review all bills submitted to assure they are proper and correct. Once the bill is accepted as correct, State will pay the cost statement within forty-five (45) days of receipt, in accordance with the Prompt Payment Act (SDCL 5-26).

- 27. Contractor authorizes State to audit wildland fire suppression records including, but not limited to, dispatch logs, expenditures, and training records.
- 28. Contractor agrees to promptly report any vehicle damage sustained on an incident to State or appropriate jurisdictional agency.
- 29. Counterpart: This Agreement may be executed in one or more counterparts, including by the way of .pdf (portable document format) file or other electronic means (such as DocuSign or Adobe eSign), each of which shall be deemed to be an original, but all of which together shall constitute one and the same instrument.

The individual signing this Agreement on behalf of Contractor directly and expressly warrants that they have been given and have received and accepted authority to sign and execute the Agreement on behalf of the Contractor, and further has been expressly given and received and accepted authority to enter into a binding agreement on behalf of Contractor with respect to the matters contained herein and as stated herein.

IN WITNESS WHEREOF, the parties signify their agreement by signing below.

STATE

CONTRACTOR

BY: _____

BY: _____



Robert Perry

Cabinet Secretary

SD Department of Public Safety

Print Name: _____

Title: _____

Date: _____

Date: _____