

STATE OF MINNESOTA (REV 10/16/2013)

Professional Technical Services Master Contract --Encumbrance Form (For State Use Only)

RECS Project ID.: N/A	Project Mgr.: Gordon Christofferson	Contract Specialist: Talia Landucci Owen
		RFP Event ID (if applicable): 2-9210
Project Name : Asbestos and Other Hazardous Material Remediation Design Master Contract		

Total Amount of Contract: N/A	Amount of Contract First FY:	Vendor Number: 0000205818
Category Code:	Category Code:	Category Code:
Account:	Account:	Account:
Amount: N/A	Amount:	Amount:

Accounting Distribution 1:	Accounting Distribution 2:	Accounting Distribution 3:
Business Unit:	Business Unit:	Business Unit:
Accounting Date:	Accounting Date:	Accounting Date:
Fund:	Fund:	Fund:
DeptID:	DeptID:	DeptID:
AppropID:	AppropID:	AppropID:
Project ID: N/A	Project ID:	Project ID:
Activity:	Activity:	Activity:
Amount: N/A	Amount:	Amount:

SWIFT Contract No: **T#19MHR/154989**

 Number/Date/Entry Initials

SWIFT Order: _____ -
 Number / Date/ See Signature Page

[Individual signing SWIFT Order or Contract certifies that funds have been encumbered as required by Minn. Stat. §§ 16A.15 and 16C.05]

NOTICE TO CONSULTANT: You are required to provide your social security number or Federal employer tax identification number and Minnesota tax identification number if you do business with the State of Minnesota.

Contractor Name and Address: Legend Technical Services, Inc.
 88 Empire Drive
 St Paul, MN 55103-1855

Contract Execution Date: 04/03/2019
Contract End Date: 3/31/2024

(*Note: According to Minn. Stat. 16C.08 Subd. 3(5), the combined contract and amendment cannot exceed five years, unless otherwise provided for by law.)

Contact Person: Cheryl A Sykora
Contact Person Phone: 651.221.4085
Contact Person Fax: 651.642.1239
Contact Person Email: csykora@legend-group.com

Professional and Technical Services Master Contract

State of Minnesota

SWIFT Contract No.: 00000000000000000000154989

T-Number: 19MHR

This master contract is between the **State of Minnesota, acting through its Commissioner of Administration** ("State") and **Legend Technical Services, Inc., 88 Empire Drive, St Paul, MN 55103-1855** ("Consultant").

Recitals

1. Under Minnesota Statute § 15.061 the State is empowered to engage such assistance as deemed necessary.
2. The State is in need of asbestos and other hazardous material remediation design services.
3. The Contractor represents that it is duly qualified and agrees to perform all services described in this master contract and performed under work order contracts to the satisfaction of the State.

Master Contract

1 Term of Master Contract

- 1.1 **Effective Date:** The date the State obtains all required signatures under Minnesota Statute § 16C.05, subdivision 2, whichever is later.
The Contractor must not accept work under this master contract until this master contract is fully executed and the Contractor has been notified by the State's Authorized Representative that it may begin accepting Work Order Contracts.
- 1.2 **Work Order Contracts.** The term of work under work order contracts issued under this master contract may not extend beyond the expiration date of this master contract.
- 1.3 **Expiration Date: March 31, 2024.**
- 1.4 **Survival of Terms.** The following clauses survive the expiration or cancellation of this master contract and all work order contracts: 8. Indemnification; 9. State Audits; 10. Government Data Practices and Intellectual Property; 13. Publicity and Endorsement; 14. Governing Law, Jurisdiction, and Venue; and 18. Data Disclosure.

2 Scope of Work

The Contractor, who is not a state employee, may be requested to perform any of the following services under individual work order contracts:

The Scope of Work for this master contract may include one or all of the following as described. A complete detailed description of required work will be furnished in each work order contract issued.

- Site inspections to develop proposals for design.
- Remediation drawings, specifications, and public bidding.
- Emergency response process.
- Project management, construction administration, and final project report.
- Other related services

Asbestos and other hazardous material abatement projects have three stages of services: remediation design, industrial hygiene services and abatement work. The remediation designer, the industrial hygiene services consultant, and the abatement contractor will be three different entities on

a given project. The State reserves the right to use the same Responder for design and industrial hygiene services when it is in the best interest of the State.

The Consultant understands that only the receipt of a fully executed work order contract authorizes the Consultant to begin work under this master contract. Any and all effort, expenses, or actions taken before the work order contract is fully executed is not authorized under Minnesota Statutes and is under taken at the sole responsibility and expense of the Consultant. **A sample work order contract is attached and incorporated into this master contract as Exhibit A.**

The Consultant understands that this master contract is not a guarantee of a work order contract. The State has determined that it may have need for the services under this master contract, but does not commit to spending any money with the Consultant.

3 Time

The Contractor must comply with all the time requirements described in work order contracts. In the performance of work order contracts, time is of the essence.

4 Consideration and Payment

4.1 **Consideration.** The State will pay for all services satisfactorily performed by the Consultant for all work order contracts issued under this master contract. The total compensation of all work order contracts may not exceed **\$1,000,000.00**. All costs will follow the Consultant's fee schedule attached as **Exhibit B** and incorporated into this agreement. The Consultant may revise its fee schedule **once a year after April 1, 2020**. However, hourly rates may not exceed a **3%** increase each year. Revised fee schedules meeting the requirements of this section will be effective on the date an amendment to this Agreement is fully executed.

Travel Expenses. There are no allowable travel or other reimbursable expenses. All such expenses are included in the Consultant's fee schedule of hourly rates.

If included in hourly rates, travel and subsistence expenses actually and necessarily incurred by the Consultant as a result of any work order contract will be in same manner and in no greater amount than provided in the current "Commissioner's Plan" promulgated by the commissioner of Employee Relations. A copy of the Commissioner's Plan is available on the web at: <http://www.mmb.state.mn.us/comp-commissioner> (click on "Commissioner's Plan" in the right side column). The Consultant will not be reimbursed for travel and subsistence expenses incurred outside Minnesota unless it has received the State's prior written approval for out of state travel. Minnesota will be considered the home state for determining whether travel is out of state. If during the course of the work, it is determined that subconsultant(s) are needed, their costs, when approved by the State's Project Manager, will be negotiated as an additional service at one (1.0) times Responder's cost.

4.2. Payment

- (A) **Invoices.** The State will promptly pay the Contractor after the Contractor presents an itemized invoice for the services actually performed and the State's Authorized Representative accepts the invoiced services. Invoices must be submitted timely no more frequently than monthly.
- (B) **Retainage.** Under Minn. Stat. § 16C.08, subd. 2(10), no more than 90 percent of the amount due under any work order contract may be paid until the final product of the work order contract has been reviewed by the State's agency head. The balance due will be paid when the State's agency head determines that the Contractor has satisfactorily fulfilled all the terms of the work order contract.

5 Conditions of Payment

All services provided by the Contractor under a work order contract must be performed to the State's satisfaction, as determined at the sole discretion of the State's Authorized Representative

and in accordance with all applicable federal, state, and local laws, ordinances, rules, and regulations. The Contractor will not receive payment for work found by the State to be unsatisfactory or performed in violation of federal, state, or local law.

6 Authorized Representatives and Project Managers

The State's Authorized Representative for this master contract is **Talia Landucci Owen, Contracts Specialist, 651.201.2372** or **Gordon Christofferson, Project Operations Manager, 651.201.2380**, or his/her successor, and has the responsibility to monitor the Consultant's performance.

The State's Project Manager will be identified in each work order contract.

The Consultant's Authorized Representative is **Cheryl A Sykora, 651.221.4085**. If the Consultant's Authorized Representative changes at any time during this master contract, the Consultant must immediately notify the State.

The Consultant's Project Manager will be identified in each work order contract.

7 Assignment, Amendments, Waiver, and Contract Complete

7.1 Assignment. The Contractor may neither assign nor transfer any rights or obligations under this master contract or any work order contract without the prior consent of the State and a fully executed Assignment Agreement, executed and approved by the same parties who executed and approved this master contract, or their successors in office.

7.2 Amendments. Any amendment to this master contract or any work order contract must be in writing and will not be effective until it has been executed and approved by the same parties who executed and approved the original contract, or their successors in office.

7.3 Waiver. If the State fails to enforce any provision of this master contract or any work order contract, that failure does not waive the provision or its right to enforce it.

7.4 Contract Complete. This master contract and any work order contract contain all negotiations and agreements between the State and the Contractor. No other understanding regarding this master contract or work order contract, whether written or oral, may be used to bind either party.

8 Indemnification

In the performance of this contract by Contractor, or Contractor's agents or employees, the contractor must indemnify, save, and hold harmless the State, its agents, and employees, from any claims or causes of action, including attorney's fees incurred by the state, to the extent caused by Contractor's:

- 1) Intentional, willful, or negligent acts or omissions; or
- 2) Actions that give rise to strict liability; or
- 3) Breach of contract or warranty.

The indemnification obligations of this section do not apply in the event the claim or cause of action is the result of the State's sole negligence. This clause will not be construed to bar any legal remedies the Contractor may have for the State's failure to fulfill its obligation under this contract.

9 State Audits

Under Minnesota Statute § 16C.05, subdivision 5, the Contractor's books, records, documents, and accounting procedures and practices relevant to any work order contract are subject to examination by the State and/or the State Auditor or Legislative Auditor, as appropriate, for a minimum of six years from the end of this master contract.

10 Government Data Practices and Intellectual Property

- 10.1. **Government Data Practices.** The Contractor and State must comply with the Minnesota Government Data Practices Act, Minnesota Statute Ch. 13, as it applies to all data provided by the State under any work order contract, and as it applies to all data created, collected, received, stored, used, maintained, or disseminated by the Contractor under the work order contract. The civil remedies of Minnesota Statute § 13.08 apply to the release of the data referred to in this clause by either the Contractor or the State.

If the Contractor receives a request to release the data referred to in this Clause, the Contractor must immediately notify the State. The State will give the Contractor instructions concerning the release of the data to the requesting party before the data is released.

10.2. **Intellectual Property Rights**

(A) **Intellectual Property Rights.** The State owns all rights, title, and interest in all of the intellectual property rights, including copyrights, patents, trade secrets, trademarks, and service marks in the Works and Documents *created and paid for under work order contracts*. Works means all inventions, improvements, discoveries (whether or not patentable), databases, computer programs, reports, notes, studies, photographs, negatives, designs, drawings, specifications, materials, tapes, and disks conceived, reduced to practice, created or originated by the Contractor, its employees, agents, and subcontractors, either individually or jointly with others in the performance of this master contract or any work order contract. Works includes "Documents." Documents are the originals of any databases, computer programs, reports, notes, studies, photographs, negatives, designs, drawings, specifications, materials, tapes, disks, or other materials, whether in tangible or electronic forms, prepared by the Contractor, its employees, agents, or subcontractors, in the performance of a work order contract. The Documents will be the exclusive property of the State and all such Documents must be immediately returned to the State by the Contractor upon completion or cancellation of the work order contract. To the extent possible, those Works eligible for copyright protection under the United States Copyright Act will be deemed to be "works made for hire." The Contractor assigns all right, title, and interest it may have in the Works and the Documents to the State. The Contractor must, at the request of the State, execute all papers and perform all other acts necessary to transfer or record the State's ownership interest in the Works and Documents.

(B) **Obligations**

1. **Notification.** Whenever any invention, improvement, or discovery (whether or not patentable) is made or conceived for the first time or actually or constructively reduced to practice by the Contractor, including its employees and subcontractors, in the performance of the work order contract, the Contractor will immediately give the State's Authorized Representative written notice thereof, and must promptly furnish the Authorized Representative with complete information and/or disclosure thereon.

2. **Representation.** The Contractor must perform all acts, and take all steps necessary to ensure that all intellectual property rights in the Works and Documents are the sole property of the State, and that neither Contractor nor its employees, agents, or subcontractors retain any interest in and to the Works and Documents. The Contractor represents and warrants that the Works and Documents do not and will not infringe upon any intellectual property rights of other persons or entities. Notwithstanding Clause 8, the Contractor will indemnify; defend, to the extent permitted by the Attorney General; and hold harmless the State, at the Contractor's expense, from any action or claim brought against the State to the extent that it is based on a claim that all or part of the Works or Documents infringe upon the intellectual property rights of others. The Contractor will be responsible for payment of any and all such claims, demands, obligations, liabilities, costs, and damages, including but not limited to, attorney fees. If such a claim or action arises, or in

the Contractor's or the State's opinion is likely to arise, the Contractor must, at the State's discretion, either procure for the State the right or license to use the intellectual property rights at issue or replace or modify the allegedly infringing Works or Documents as necessary and appropriate to obviate the infringement claim. This remedy of the State will be in addition to and not exclusive of other remedies provided by law.

11 Affirmative Action Requirements for Contracts in Excess of \$100,000 and if the Contractor has More than 40 Full-time Employees in Minnesota or its Principal Place of Business

The State intends to carry out its responsibility for requiring affirmative action by its Contractors.

11.1 Covered Contracts and Contractors. If the Contract exceeds \$100,000 and the contractor employed more than 40 full-time employees on a single working day during the previous 12 months in Minnesota or in the state where it has its principle place of business, then the Contractor must comply with the requirements of Minnesota Statute § 363A.36 and Minnesota Rule Parts 5000.3400-5000.3600. A contractor covered by Minnesota Statute § 363A.36 because it employed more than 40 full-time employees in another state and does not have a certificate of compliance, must certify that it is in compliance with federal affirmative action requirements.

11.2 Minnesota Statute § 363A.36. Minnesota Statute § 363A.36 requires the Contractor to have an affirmative action plan for the employment of minority persons, women, and qualified disabled individuals approved by the Minnesota Commissioner of Human Rights ("Commissioner") as indicated by a certificate of compliance. The law addresses suspension or revocation of a certificate of compliance and contract consequences in that event. A contract awarded without a certificate of compliance may be voided.

11.3 Minnesota Rule Parts 5000.3400-5000.3600.

(A) *General.* Minnesota Rule Parts 5000.3400-5000.3600 implement Minnesota Statute § 363A.36. These rules include, but are not limited to, criteria for contents, approval, and implementation of affirmative action plans; procedures for issuing certificates of compliance and criteria for determining a contractor's compliance status; procedures for addressing deficiencies, sanctions, and notice and hearing; annual compliance reports; procedures for compliance review; and contract consequences for non-compliance. The specific criteria for approval or rejection of an affirmative action plan are contained in various provisions of Minnesota Rule Parts 5000.3400-5000.3600 including, but not limited to, parts 5000.3420-5000.3500 and 5000.3552-5000.3559.

(B) *Disabled Workers.* The Contractor must comply with the following affirmative action requirements for disabled workers.

- (1) The Contractor must not discriminate against any employee or applicant for employment because of physical or mental disability in regard to any position for which the employee or applicant for employment is qualified. The Contractor agrees to take affirmative action to employ, advance in employment, and otherwise treat qualified disabled persons without discrimination based upon their physical or mental disability in all employment practices such as the following: employment, upgrading, demotion or transfer, recruitment, advertising, layoff or termination, rates of pay or other forms of compensation, and selection for training, including apprenticeship.
- (2) The Contractor agrees to comply with the rules and relevant orders of the Minnesota Department of Human Rights issued pursuant to the Minnesota Human Rights Act.
- (3) In the event of the Contractor's noncompliance with the requirements of this clause, actions for noncompliance may be taken in accordance with Minnesota Statutes Section 363A.36, and the rules and relevant orders of the Minnesota Department of Human Rights issued pursuant to the Minnesota Human Rights Act.
- (4) The Contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices in a form to be prescribed by the commissioner of the Minnesota Department of Human Rights. Such notices must state the

Contractor's obligation under the law to take affirmative action to employ and advance in employment qualified disabled employees and applicants for employment, and the rights of applicants and employees.

- (5) The Contractor must notify each labor union or representative of workers with which it has a collective bargaining agreement or other contract understanding, that the contractor is bound by the terms of Minnesota Statutes Section 363A.36, of the Minnesota Human Rights Act and is committed to take affirmative action to employ and advance in employment physically and mentally disabled persons.
- (C) *Consequences.* The consequences for the Contractor's failure to implement its affirmative action plan or make a good faith effort to do so include, but are not limited to, suspension or revocation of a certificate of compliance by the Commissioner, refusal by the Commissioner to approve subsequent plans, and termination of all or part of this contract by the Commissioner or the State.
- (D) *Certification.* The Contractor hereby certifies that it is in compliance with the requirements of Minnesota Statute§ 363A.36 and Minnesota RuleParts 5000.3400-5000.3600 and is aware of the consequences for noncompliance.

12 **Workers' Compensation and Other Insurance**

Consultant certifies that it is in compliance with all insurance requirements specified in Exhibit D1.

Further, the Consultant certifies that it is in compliance with Minnesota Statute§ 176.181, subdivision 2, pertaining to workers' compensation insurance coverage. The Consultant's employees and agents will not be considered State employees. Any claims that may arise under the Minnesota Workers' Compensation Act on behalf of these employees or agents and any claims made by any third party as a consequence of any act or omission on the part of these employees or agents are in no way the State's obligation or responsibility.

13 **Publicity and Endorsement**

13.1 *Publicity.* Any publicity regarding the subject matter of a work order contract must identify the State as the sponsoring agency and must not be released without prior written approval from the State's Authorized Representative. For purposes of this provision, publicity includes notices, informational pamphlets, press releases, research, reports, signs, and similar public notices prepared by or for the Contractor individually or jointly with others, or any subcontractors, with respect to the program, publications, or services provided resulting from a work order contract.

13.2 *Endorsement.* The Contractor must not claim that the State endorses its products or services.

14 **Governing Law, Jurisdiction, and Venue**

Minnesota law, without regard to its choice-of-law provisions, governs this master contract and all work order contracts. Venue for all legal proceedings out of this master contract and/or any work order contracts, or its breach, must be in the appropriate state or federal court with competent jurisdiction in Ramsey County, Minnesota.

15 **Payment to Subcontractors**

(If applicable) As required by Minnesota Statute§ 16A.1245, the prime contractor must pay all subcontractors, less any retainage, within 10 calendar days of the prime contractor's receipt of payment from the State for undisputed services provided by the subcontractor(s) and must pay interest at the rate of one and one-half percent per month or any part of a month to the subcontractor(s) on any undisputed amount not paid on time to the subcontractor(s).

16 **Minnesota Statute§ 181.59** The vendor will comply with the provisions of Minnesota Statute§ 181.59 which requires:

Every contract for or on behalf of the state of Minnesota, or any county, city, town, township, school, school district, or any other district in the state, for materials,

supplies, or construction shall contain provisions by which the contractor agrees: (1) That, in the hiring of common or skilled labor for the performance of any work under any contract, or any subcontract, no contractor, material supplier, or vendor, shall, by reason of race, creed, or color, discriminate against the person or persons who are citizens of the United States or resident aliens who are qualified and available to perform the work to which the employment relates; (2) That no contractor, material supplier, or vendor, shall, in any manner, discriminate against, or intimidate, or prevent the employment of any person or persons identified in clause (1) of this section, or on being hired, prevent, or conspire to prevent, the person or persons from the performance of work under any contract on account of race, creed, or color; (3) That a violation of this section is a misdemeanor; and (4) That this contract may be canceled or terminated by the state, county, city, town, school board, or any other person authorized to grant the contracts for employment, and all money due, or to become due under the contract, may be forfeited for a second or any subsequent violation of the terms or conditions of this contract.

17 Termination

17.1 **Termination by the State.** The State or commissioner of Administration may cancel this master contract and any work order contracts at any time, with or without cause, upon 30 days' written notice to the Contractor. Upon termination, the Contractor will be entitled to payment, determined on a pro rata basis, for services satisfactorily performed.

17.2 **Termination for Insufficient Funding.** The State may immediately terminate this master contract and any work order contract if it does not obtain funding from the Minnesota legislature or other funding source; or if funding cannot be continued at a level sufficient to allow for the payment of the services covered here. Termination must be by written or fax notice to the Contractor. The State is not obligated to pay for any services that are provided after notice and effective date of termination. However, the Contractor will be entitled to payment, determined on a pro rata basis, for services satisfactorily performed to the extent that funds are available. The State will not be assessed any penalty if the master contract or work order is terminated because of the decision of the Minnesota legislature or other funding source, not to appropriate funds. The State must provide the Contractor notice of the lack of funding within a reasonable time of the State's receiving that notice.

18 Data Disclosure

Under Minnesota Statute § 270C.65, Subdivision 3 and other applicable law, the Contractor consents to disclosure of its social security number, federal employer tax identification number, and/or Minnesota tax identification number, already provided to the State, to federal and state agencies and state personnel involved in the payment of state obligations. These identification numbers may be used in the enforcement of federal and state laws which could result in action requiring the Contractor to file state tax returns, pay delinquent state tax liabilities, if any, or pay other state liabilities.

19 E-Verify Certification (In accordance with Minn. Stat. §16C.075)

For services valued in excess of \$50,000, Contractor certifies that as of the date of services performed on behalf of the State, Contractor and all its subcontractors will have implemented or be in the process of implementing the federal E-Verify program for all newly hired employees in the United States who will perform work on behalf of the State. Contractor is responsible for collecting all subcontractor certifications and may do so utilizing the E-Verify Subcontractor Certification Form available at <http://www.mmd.admin.state.mn.us/doc/EVerifySubCertForm.doc>. All subcontractor certifications must be kept on file with Contractor and made available to the State upon request.

20 Schedule of Exhibits

The following exhibits are attached in SWIFT and incorporated into this Master Contract.

- Exhibit A: Sample Work Order
- Exhibit B: Fee Schedule
- Exhibit C: Consultant's Qualifications
- Exhibit D1: State Insurance Requirements
- Exhibit E: Affirmative Action Certification
- Exhibit F: Certification Regarding Lobbying
- Exhibit G: Not Used
- Exhibit H: Not Used
- Exhibit I: Affidavit of Noncollusion

Distribution:
 Contractor
 Agency
 State's Authorized Representative

Signatures

Document Signature Details -- External User

Order	Ext. User	Status	Actual Singer	Name	Title	Date/Time
1	VN0000205818_3	Signed	VN0000205818_3	CHERYL SYKORA	EXTERNAL	04/01/2019 at 03:21 PM

Document Signature Details -- Internal Users

Order	Type	Role/User	Status	Actual Signer	Name	Title	Date/Time
1	User ID	00701468	Signed	00701468	Julie C. Ouradnik	Accounting Tech	April 01, 2019 at 03:26 PM
2	User ID	00831050	Signed	00831050	Wayne J Waslaski	Senior Director	April 02, 2019 at 11:33 AM
3	Role	M_FS_WF_SC_DOC_SIGNER_03	Signed	01131551	Sara E Freedland	MMD P/T Dept of Admin Signer	April 03, 2019 at 02:12 PM