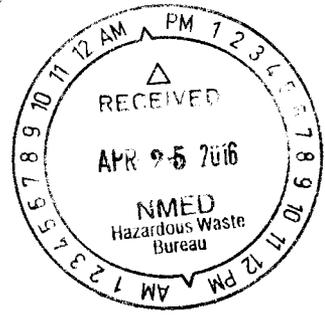




Department of Energy
 Carlsbad Field Office
 P. O. Box 3090
 Carlsbad, New Mexico 88221
 APR 19 2016

ENTERED



Mr. John E. Kieling, Bureau Chief
 New Mexico Environment Department
 Hazardous Waste Bureau
 2905 Rodeo Park Drive East, Building 1
 Santa Fe, NM 87505-6313

Subject: Settlement Agreement and Stipulated Final Order Number HWB-14-21 (CO), State of New Mexico Environment Department v. United States Department of Energy and Nuclear Waste Partnership LLC, dated January 21, 2016

Dear Mr. Kieling:

Per Section J, *Notice to Parties*, of the Settlement Agreement, I am providing documentation of the \$1,000,000.00 obligation to fund enhanced training and capabilities for local emergency responders and local mine rescue teams required in Section 35. This obligation was required by April 20, 2016, within ninety (90) calendar days of the effective date of the Settlement Agreement.

Enclosed you will find Energy, Minerals, and Natural Resources Department – Cooperative Agreement Number DE-FC29-88AL53813 Modification 0099, dated April 4, 2016. This modification obligates funding in the amount of \$800,000.00 for enhanced training and capabilities for local emergency responders. Also enclosed is Nuclear Waste Partnership LLC – Contract DE-EM0001971 Modification 137, dated April 11, 2016. This modification obligates funding in the amount of \$200,000.00 for training and exercises with local mine rescue teams, in and around Carlsbad, New Mexico. Both modifications have been executed in accordance with the requirements in the Settlement Agreement and Stipulated Final Order Number HWB-14-21 (CO) Section 35.

If you have questions on these obligations, please contact me at (575) 234-7525.

Sincerely,

Suzanne W. Hunt
 Contracting Officer

Enclosures (2)

cc: w/enclosures

T. Shrader, CBFO *ED
 S. Dunagan, CBFO ED
 W. Mackie, CBFO ED
 D. Snow, CBFO ED
 T. Miles, EMCBC ED

L. Parsons, EMCBC ED
 R. Tormey, EMCBC ED
 CBFO Contract File
 CBFO M&RC

*ED denotes electronic distribution



2. AMENDMENT/MODIFICATION NO. 137	3. EFFECTIVE DATE See Block 16c	4. REQUISITION/PURCHASE REQ. 16EM001505	5. PROJECT NO. (If applicable) N/A
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6. ISSUED BY U.S. Department of Energy Carlsbad Field Office P. O. Box 3090 Carlsbad, NM 88220-3090	CODE 03003	7. ADMINISTERED BY (If other than Item 6) CODE
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8. NAME AND ADDRESS OF CONTRACTOR (No., street, county, state, ZIP Code) Nuclear Waste Partnership, LLC Attn: Marty Gonzales Nuclear Waste Partnership 106 Newberry Street SW Aiken, SC 29801 CODE 968993910 FACILITY CODE	9A. AMENDMENT OF SOLICITATION NO. 9B. DATED (SEE ITEM 11) 10A. MODIFICATION OF CONTRACT/ORDER NO. DE-EM0001971 10B. DATED (SEE ITEM 13) April 20, 2012
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11. THIS ITEM ONLY APPLIES TO AMENDMENTS OF SOLICITATIONS

The above numbered solicitation is amended as set forth in Item 14. The hour and date specified for receipt of Offers is extended, is not extended.

Offers must acknowledge receipt of this amendment prior to the hour and date specified in the solicitation as amended, by one of the following methods:
 (a) By completing Items 8 and 15, and returning ___ copies of the amendment; (b) By acknowledging receipt of this amendment on each copy of the offer submitted; or (c) By separate letter or telegram which includes a reference to the solicitation and amendment numbers. FAILURE OF YOUR ACKNOWLEDGMENT TO BE RECEIVED AT THE PLACE DESIGNATED FOR THE RECEIPT OF OFFERS PRIOR TO THE HOUR AND DATE SPECIFIED MAY RESULT IN REJECTION OF YOUR OFFER. If by virtue of this amendment you desire to change an offer already submitted, such change may be made by telegram or letter, provided each telegram or letter makes reference to the solicitation and this amendment, and is received prior to the opening hour and date specified.

12. ACCOUNTING AND APPROPRIATION DATA (If required)
 01250 2016 33 490004 0000000 25400 1110954 0000442 0000000 0000000 \$200,000.00

13. THIS ITEM APPLIES ONLY TO MODIFICATIONS OF CONTRACTS/ORDERS; IT MODIFIES THE CONTRACT/ORDER NO. AS DESCRIBED IN ITEM 14.

	A. THIS CHANGE ORDER IS ISSUED PURSUANT TO (Specify authority):
	B. THE ABOVE-NUMBERED CONTRACT/ORDER IS MODIFIED TO REFLECT THE ADMINISTRATIVE CHANGES (Such as changes in paying office, appropriation date, etc.) SET FORTH IN ITEM 14, PURSUANT TO THE AUTHORITY OF FAR 43.103(b).
X	C. THIS SUPPLEMENTAL AGREEMENT IS ENTERED INTO PURSUANT TO AUTHORITY OF: 1.166 DEAR 970.5243-1 Changes (DEC 2000)
	D. OTHER (SPECIFY TYPE OF MODIFICATION AND AUTHORITY)

E. IMPORTANT: Contractor is not, is required to sign this document and return 1 copies to the issuing office.

14. DESCRIPTION OF AMENDMENT/MODIFICATION (Organized by UCF section headings, including solicitation/contract subject matter where feasible.)
 The purposes of this modification are to:

- (1) Obligate funding of \$200,000.00 as certified in Procurement Request 16EM001505 in accordance with Programmatic Change Request CBFO 16-016 (NWP 16-040) approved by the Carlsbad Field Office on April 1, 2016. Total contract funding is increased from \$729,805,722.40 by \$200,000.00 to \$730,005,722.40.
- (2) Increase the Fiscal Year 2016 anticipated funding by \$200,000.00 in Section B.2.2.(b) of the contract titled Transition Costs, Anticipated Funding, and Total Available Award Fee. Total contract value is increased from \$1,658,536,663.40, by \$200,000.00, to \$1,658,736,663.40. See Page 4.
- (3) Restrict NWP's use of the funding pending the submittal and DOE approval of the Final Plan for completing the requirements of the Settlement Agreement.

Except as provided herein, all terms and conditions of the document referenced in Items 9A or 10A, as heretofore changed, remains unchanged and in full force and effect.

15A. NAME AND TITLE OF SIGNER (Type or print) Kevin S. Donovan, Business Manager	16A. NAME AND TITLE OF CONTRACTING OFFICER (Type or print) Vicki Diane Snow, Contracting Officer
15B. CONTRACTOR/OFFEROR BY (Signature of person authorized to sign)	16B. UNITED STATES OF AMERICA BY (Signature of Contracting Officer)
15C. DATE SIGNED 4/7/16	16C. DATE SIGNED 4/11/16

Background for funding action:

The State of New Mexico Environment Department, the U.S. Department of Energy (DOE), and Nuclear Waste Partnership LLC, signed Settlement Agreement and Stipulated Final Order No. HWB-14-21 (CO) on January 21, 2016 to resolve the State of New Mexico Environment Department's allegations against DOE and its contractor related to the February 2014 incidents at the Waste Isolation Pilot Plant (WIPP) in Carlsbad, NM.

Paragraph 35 of the Settlement Agreement requires "Within ninety (90) calendar days of the effective date of this Settlement Agreement, the Respondents shall obligate \$1 million to fund enhanced training and capabilities for local emergency responders, including funding for training and exercises with local mine rescue teams, in and around Carlsbad, NM, that exist at the time this Settlement Agreement is signed."

Out of the \$1M, funding of \$800,000 for training activities, supplies, and equipment has already been provided through Financial Assistance Agreement DE-FC29-AL53813 with the New Mexico Energy, Minerals, and Natural Resources Department for pass through to the local agencies in and around Carlsbad, NM.

In Modification 137, the remaining \$200,000 of the \$1M is obligated to Contract DE-EM0001971 with Nuclear Waste Partnership LLC for training and exercises with existing local mine rescue teams, in and around Carlsbad, NM.

The effective date of the obligation of funding in Modification 137 is the date the modification is signed by the Department of Energy and is within the 90-day requirement for obligation of funding.

Although the funding and budget for these activities was approved in Programmatic Change Request (PCR) CBFO 1-016 (NWP 16-040), the PCR did not provide the finalized schedule or the detailed costs for each activity for the Carlsbad Field Office to determine cost reasonableness. Until the final plan is submitted to the Carlsbad Field Office for approval and a cost reasonableness determination, the contractor shall not spend any of the funding obligated in this modification. The preliminary list of proposed activities and equipment approved per the Regional Response Capabilities Strategic Plan for 2016 is provided below prior to finalization.

Activity/Equipment	Core Capability	2016 Cost
Dräger RZ 7000 Testers x 6 Approx. \$8k each	Mass Search and Rescue Operations	\$50k
MRT Training – MX6 Gas Detector Course <i>Note: Cost is estimated for vendor travel and training (2 x 3-day course) for a minimum of six Mine Rescue Teams (6- 10 person teams) to participate.</i> MX6 Gas Detector Course # 1 (\$20k) MX6 Gas Detector Course # 2 (\$20k)	Mass Search and Rescue Operations	\$40k
MRT Training (e.g. Colorado School of Mines) <i>Note: Cost is estimated for travel and training for a minimum of four Mine Rescue Teams (6- 10 person teams) to participate.</i> Training Academy Course # 1 (\$25k) Training Academy Course # 2 (\$25k)	Mass Search and Rescue Operations	\$50k
MRT Exercises/Competitions (Local, Regional) <i>Note: Cost is estimated for travel and training (1-week) for a minimum of four Mine Rescue Teams (6-10 person teams) to participate.</i> Exercise/Competition # 1 (\$15k) Exercise/Competition # 2 (\$15k) Exercise/Competition # 3 (\$15k) Exercise/Competition # 4 (\$15k)	Mass Search and Rescue Operations	\$60k
Total		\$200k

The final plan submitted to the Carlsbad Field Office will include detailed schedules for the specific training classes and exercises planned, the number of participants from local mines and WIPP employees projected for each activity, and detailed cost estimates for classes, registration fees, travel and per diem, supplies, and any other miscellaneous costs associated with these activities.

Per the Settlement Agreement, the completion date for the activities funded in this modification is September 30, 2016. In the interim, the contractor shall provide the Carlsbad Field Office quarterly progress and financial reports providing the status for completing these activities. Reports will be transmitted to the following staff with the first report due July 10, 2016.

Carlsbad Field Office Contracting Officer
Carlsbad Field Office Emergency Management Specialist

Page 4 of this modification provides the revised Section B.2.2.(b) of the contract incorporating the increase to funding and budget for Fiscal Year 2016.

All other terms and conditions remain unchanged.

Changes to Section B.2-2(b) Transition Cost, Anticipated Funding, and Total Available Award Fee

	Actual Funding	Anticipated Funding	Annual Fee Base***
CLIN 1: Transition			
July 1, 2012 - September 30, 2012	\$1,553,670.00	\$1,553,670.00	
CLIN 2: Base Period – Site Operations			
October 1, 2012 through September 30, 2013	\$141,902,556.74	\$141,902,556.74	\$109,238,604
Funding transferred from WTS contract	\$7,995,864.65	\$7,995,864.65	
Funding from other DOE entities per H.55	\$11,373,074.35	\$11,373,074.35	
October 1, 2013 through September 30, 2014	\$139,265,040.00	\$139,265,040	\$109,238,604
Funding from other DOE entities per H.55	\$1,232,980.92	\$1,232,980.92	
October 1, 2014 through September 30, 2015	\$126,513,115.82	\$126,513,115.82	\$100,097,068
Funding from other DOE entities per H.55	\$5,551,193.66	\$5,551,193.66	
October 1, 2015 through September 30, 2016	\$69,709,306.00	\$143,633,488	\$109,238,604
Funding from other DOE entities per H.55	\$3,688,835.26	\$3,688,835.26	
October 1, 2016 through September 30, 2017	\$0.00	\$133,217,810	\$109,238,604
Funding from other DOE entities per H.55	\$0.00	\$0	
TOTALS	\$507,231,967.40	\$714,373,959.40	\$537,051,484
CLIN 3: Option Period – Site Operations			
October 1, 2017 through September 30, 2018	\$0.00	\$133,217,810	\$109,238,604
October 1, 2018 through September 30, 2019	\$0.00	\$133,217,810	\$109,238,604
October 1, 2019 through September 30, 2020	\$0.00	\$133,217,810	\$109,238,604
October 1, 2020 through September 30, 2021	\$0.00	\$133,217,810	\$109,238,604
October 1, 2021 through September 30, 2022	\$0.00	\$133,217,810	\$109,238,604
TOTALS		\$666,089,050	\$546,193,020
CLIN 4: WBS. 1.7 Performance Measurement Baseline for Recovery Activities			
FY14 WIPP Recovery Project WBS 1.7, Fee, MR: (Note: FY14 funding was obligated to CLIN 2 in STRIPES before Mod 94)	\$31,148,035.00	\$31,148,035	
FY15 WIPP Recovery Project WBS 1.7, Fee, MR - (Note: FY15 funding was obligated to CLIN 2 in STRIPES before Mod 94)	\$122,713,847.00	\$122,713,847	\$82,115,542
FY16 WIPP Recovery Project WBS 1.7, Fee, MR	\$59,278,134.00	\$79,459,008	
FY17 WIPP Recovery Project WBS 1.7, Fee, MR	\$0.00	\$12,322,628	
FY18 WIPP Recovery Project WBS 1.7, Fee, MR	\$0.00	\$358,466	
TOTALS	\$213,140,016.00	\$246,001,984	\$82,115,542
CLIN 5: WBS 1.8 Capital Asset Project(s) for Permanent Ventilation System and Exhaust Shaft			
FY16 funding -Capital Asset Project 15-D-411	\$6,000,000.00	\$23,218,000.00	
FY16 funding – Capital Asset Project 15-D-412	\$2,080,069.00	\$7,500,000.00	
TOTALS	\$8,080,069.00	\$30,718,000.00	
Total Contract Funding to Date	\$730,005,722.40		
Total Contract Value		\$1,658,736,663.40	

ASSISTANCE AGREEMENT

1. Award No. DE-FC29-88AL53813		2. Modification No. 0099	3. Effective Date 04/01/2016	4. CFDA No. 81.106	
5. Awarded To ENERGY, MINERALS & NATURAL RESOURCES DEPARTM Attn: Eletha Trujillo 1220 S. ST. FRANCIS DR. SANTA FE NM 875054000		6. Sponsoring Office Office of Environmental Mgt		7. Period of Performance 07/26/1988 through 06/30/2016	
8. Type of Agreement <input type="checkbox"/> Grant <input checked="" type="checkbox"/> Cooperative Agreement <input type="checkbox"/> Other	9. Authority 31 USC 6304 PL 95-91; PL 96-164		10. Purchase Request or Funding Document No. 16EM001470		
11. Remittance Address ENERGY, MINERALS & NATURAL RESOURCES DEPARTM Attn: Eletha Trujillo 1220 S. ST. FRANCIS DR. SANTA FE NM 875054000		12. Total Amount Govt. Share: \$24,900,706.00 Cost Share : \$0.00 Total : \$24,900,706.00	13. Funds Obligated This action: \$800,000.00 Total : \$24,150,948.00		
14. Principal Investigator Eletha Trujillo (505)476-3324	15. Program Manager		16. Administrator EMCBC - Carlsbad U.S. Department of Energy Carlsbad Project Office P.O. Box 3090 Carlsbad NM 88221		
17. Submit Payment Requests To OR for EMCBC U.S. Department of Energy Oak Ridge Financial Service Center P.O. Box 5777 Oak Ridge TN 37831		18. Paying Office OR for EMCBC U.S. Department of Energy Oak Ridge Financial Service Center P.O. Box 5777 Oak Ridge TN 37831		19. Submit Reports To James.Mason@cbfo.doe.gov Suzanne.Hunt@cbfo.doe.gov Diane.Snow@cbfo.doe.gov	
20. Accounting and Appropriation Data See Schedule					
21. Research Title and/or Description of Project					
For the Recipient			For the United States of America		
22. Signature of Person Authorized to Sign 			25. Signature of Grants/Agreements Officer 		
23. Name and Title Eletha Trujillo WIPP Program Coordinator	24. Date Signed 4/24/16	26. Name of Officer Vicki D. Snow		27. Date Signed 4-4-16	

CONTINUATION SHEET

REFERENCE NO. OF DOCUMENT BEING CONTINUED
DE-FC29-88AL53813/0099

PAGE OF
2 | 2

NAME OF OFFEROR OR CONTRACTOR
ENERGY, MINERALS & NATURAL RESOURCES DEPARTMENT, NEW MEXICO

ITEM NO. (A)	SUPPLIES/SERVICES (B)	QUANTITY (C)	UNIT (D)	UNIT PRICE (E)	AMOUNT (F)
	<p>DUNS Number: 808561849 ASAP: Y Extent Competed: NOT COMPETED Davis-Bacon Act: NO</p> <p>The purposes of this amendment are to:</p> <ol style="list-style-type: none"> Obligate funding in the amount of \$800,000 for enhanced training and capabilities for local emergency responders in accordance with the requirements in the Settlement Agreement and Stipulated Final Order No. HWB-14-21 (CO) signed January 21, 2016 by the New Mexico Environment Department, the Department of Energy, and DOE's Prime Contractor, Nuclear Waste Partnership LLC (NWP). Increase the budget for the current budget period of July 1, 2015 - June 30, 2016 from \$1,328,048, by \$800,000, to \$2,128,048 for these activities. Increase total funding under the agreement from \$23,540,948, by \$800,000, to \$24,150,948. <p>Accounting and Appropriation Data: 01250 2016 33 490801 41020 1110957 0000443 0000000 0000000 \$800,000.00</p> <ol style="list-style-type: none"> Revise the FY16 objectives of the agreement by adding the projects and activities for enhanced training and capabilities for emergency responders in and around Carlsbad, NM estimated at \$800,000. See following pages. 				

Background:

The State of New Mexico Environment Department, the U.S. Department of Energy (DOE) and its contractor, Nuclear Waste Partnership LLC, signed a Settlement Agreement and Stipulated Final Order No. HWB-14-21 (CO) on January 21, 2016 to resolve the State of New Mexico Environment Department's allegations against DOE and its contractor related to the February 2014 incidents at the Waste Isolation Pilot Plant (WIPP) in Carlsbad, NM.

Paragraph 35 of the Settlement Agreement requires "Within ninety (90) calendar days of the effective date of this Settlement Agreement, the Respondents shall obligate \$1 million to fund enhanced training and capabilities for local emergency responders, including funding for training and exercises with local mine rescue teams, in and around Carlsbad, NM, that exist at the time this Settlement Agreement is signed."

Out of the \$1M, training activities, supplies, and equipment estimated at \$800,000 will be funded through Financial Assistance Agreement DE-FC29-AL53813 with the New Mexico Energy, Minerals, and Natural Resources Department for pass through to the local agencies in and around Carlsbad, NM. The projects to be completed with the funding also fall within the authority of the Land Withdrawal Act, P.L. 102-579, as amended by P.L. 104-201, which is the legal basis for the award of the financial assistance agreement. Section 16 of the LWA titled Transportation requires the DOE provide funding for accident prevention and emergency preparedness in any State or Indian Tribe through whose jurisdiction the Secretary plans to transport transuranic waste to or from WIPP.

The remaining \$200K of the \$1M will be obligated to Contract DE-EM0001971 with Nuclear Waste Partnership LLC prior to April 21, 2016 for training and exercises with existing local mine rescue teams, in and around Carlsbad, NM.

The effective date of the obligation of \$800,000 in Amendment 99 is the date the amendment is signed by the Department of Energy and is within the 90-day requirement.

A list of the approved projects, activities, and equipment is attached to this amendment. The list is from the Regional Response Capabilities Strategic Plan for 2016. The final copy of the Strategic Plan will be provided to the State.

NMEMNRD shall provide quarterly progress and financial reports providing the status of the activities funded in Amendment 99. Per the Settlement Agreement, the completion date for the activities is September 30, 2016. Reports should be provided to the following:

Mike McCoy at Mike.McCoy@cbfo.doe.gov
James Mason at James.Mason@cbfo.doe.gov
Suzanne Hunt at Suzanne.Hunt@cbfo.doe.gov

Allowability of costs for the approved activities and equipment will be determined in accordance with 2 CFR 225 Cost Principles for State, Local, and Tribal Governments.

Regional Response Capabilities Strategic Plan for 2016 - Approved Activities/Equipment

Activity/Equipment	Core Capability	2016 Cost	Totals
REGIONAL HAZARDOUS MATERIALS TEAM			
Hazardous Materials Equipment/Supplies (Must Include Radiological Equipment)	Environmental Response/Health and Safety	\$400,000	
Hazardous Materials Technician Training	Environmental Response/Health and Safety	\$50,000	
Hospital Radiological Preparedness Training (e.g., Radiation Emergency Assistance Center/Training Site - Radiation Emergency Medicine)	Environmental Response/Health and Safety	\$50,000	
			\$500,000
BIOLOGICAL PROTECTIVE MEASURES			
Biomist Sanitizing System Equipment and Supplies	Environmental Response/Health and Safety	\$52,000	
			\$52,000
INTEROPERABLE COMMUNICATIONS SUPPORT FOR FIRST RESPONDERS			
Kenwood TK-5430 Portable 7/800 MHz, 1024 Channel X 22 (Lea County Emergency Management)	Operational Communications	\$35,000	
Kenwood TK-5430 Portable 7/800 MHz, 1024 Channel X 100 (City of Hobbs Fire Department)	Operational Communications	\$150,000	
			\$185,000
LAW ENFORCEMENT RESPONSE AND SAFETY			
Officer Down Medical Kits (Lea County Sheriff's Department)	On-Scene Security and Protection	\$13,000	
Officer Down Medical Kits (City of Hobbs Police Department)	On-Scene Security and Protection	\$20,000	
			\$33,000
CONTINGENCY			
Projects are based on estimated costs; contingency is provided in the event that actual costs are greater than estimated.		\$30,000	
			\$30,000
TOTAL COSTS FOR PROJECTS		\$800,000	\$800,000