



cityofnovi.org

CITY of NOVI CITY COUNCIL

Agenda Item D
February 17, 2009

SUBJECT: Approval of Emergency Response Vehicle Interlocal Agreement between Oakland County and the City of Novi.

SUBMITTING DEPARTMENT: Police *DOM*

CITY MANAGER APPROVAL:

BACKGROUND INFORMATION: *[Signature]*

The City of Novi, in cooperative partnership with the Oakland County Emergency Response and Preparedness Unit (OCERP), has the ability to access three Hazardous Materials Vehicles and one Decontamination Trailer. Several key staff and command personnel from the Novi Fire and Police Departments have received training in the use of these specialty vehicles and will now have access to these resources in the event of a man-made or natural disaster requiring this type of response equipment.

Pursuant to the Urban Cooperation Act of 1967, MCL 124.501 et seq. and the Emergency Management Act, MCL 30.401 et seq., the City of Novi and Oakland County enter into this agreement to set forth the rights and duties regarding the use and operation of the Emergency Response Vehicles purchased and owned by Oakland County. Legal counsel has reviewed this matter and opines there is no legal impediment which precludes the City of Novi from executing this agreement.

RECOMMENDED ACTION: Approval of Emergency Response Vehicle Interlocal Agreement between Oakland County and the City of Novi.

	1	2	Y	N
Mayor Landry				
Mayor Pro Tem Gatt				
Council Member Burke				
Council Member Crawford				

	1	2	Y	N
Council Member Margolis				
Council Member Mutch				
Council Member Staudt				



L. BROOKS PATTERSON, OAKLAND COUNTY EXECUTIVE

C O U N T Y M I C H I G A N
EMERGENCY RESPONSE AND PREPAREDNESS

Thomas J. Gordon, Ph.D, Administrator

December 17, 2008

Mayor David Landry
City of Novi
45175 W. Ten Mile Rd.
Novi, MI 48375-3024

Dear Mayor Landry:

I am the new administrator of the Oakland County Office of Emergency Response and Preparedness and upon review of our files I have discovered that the Emergency Vehicle Interlocal Agreement forwarded to your community for approval and execution some time ago has not been returned to us so we can also sign the agreement. Therefore, I am forwarding two copies of this agreement to you for your governing body's approval and execution to help insure no disruption to emergency services occurs should the use of these vehicles become necessary.

Please sign both copies of this Emergency Response Vehicle Interlocal Agreement and return to my attention by Friday, February 27, 2009. I will submit these signed agreements to the chairperson of the Oakland County Board of Commissioners to execute the agreement on behalf of Oakland County and return a fully executed copy of this agreement to your attention for your files.

Thank you very much for your prompt attention in finalizing this transaction. I will be happy to answer any questions you may have and can be reached at (248) 452-9578.

Sincerely,

Thomas J. Gordon, Ph.D, Administrator
Oakland County Office of Emergency Response & Preparedness

cc: David Molloy, EMC/Police Chief

EMERGENCY RESPONSE VEHICLE INTERLOCAL AGREEMENT

This Interlocal Agreement ("Agreement"), is entered into between Oakland County, a Constitutional and Municipal Corporation, 1200 North Telegraph, Pontiac, Michigan 43421 ("County") and the City of Novi ("Participating Agency")

INTRODUCTION

WHEREAS, each Participating Agency has the power, privilege, and authority to maintain and operate a fire department to provide hazardous incident response ("Hazardous Incident Response");

WHEREAS, each Participating Agency continues to face threats to public safety ("Incidents");

WHEREAS, the resources of the Participating Agency might be strained or overwhelmed if forced to confront such Incidents in isolation and the Parties acknowledge the possibility that additional resources and equipment, beyond those of the Participating Agency facing the Incident, may be required to meet and mitigate the dangers to public safety;

WHEREAS, the County has purchased specialized Emergency Response Vehicles and associated equipment to aid in responding to such Incidents;

WHEREAS, pursuant to the Urban Cooperation Act of 1967, MCL 124.501 et seq. and the Emergency Management Act, MCL 30.401 et seq., the Parties enter into this Agreement to set forth the rights and duties regarding the use and operation of the Emergency Response Vehicles purchased and owned by the County;

NOW THEREFORE, in consideration of the mutual promises, obligations, representations, and assurances in this Agreement, the Parties agree to the following:

§1. DEFINITIONS. The following words and expressions used throughout this Agreement, whether used in the singular or plural, within or without quotation marks, or possessive or non-possessive, shall be defined, read and interpreted as follows.

- 1.1. **Authorized Representative** means the chief executive or designee of a Participating Agency authorized in writing by that governmental unit to request, offer, or provide assistance under the terms of this Agreement.
- 1.2. **County** means Oakland County, a municipal and constitutional corporation, including, but not limited to, all of its departments, divisions, elected and appointed officials, employees, and agents.

- 1.3. **Emergency Response Vehicles** means the Decontamination Trailer and the vehicle used to transport the Trailer, the Hazardous Material Response Vehicles (“HAZMAT Trucks”), and the Portable Decontamination Tents.
- 1.4. **Incident** means any situation in the area of handling emergencies including, but not limited to hazardous materials, building collapse, confined space rescue, trench rescue, high-angle rescue. Any hazardous materials public emergency, conflagration, or disaster where explosive, flammable, combustible, corrosive, oxidizing, toxic, infectious, or radioactive materials are released, or potentially could be released in sufficient quantities that will, or potentially will put some portion of the general public in immediate danger from exposure, contact, inhalation or digestion.
- 1.5. **Participating Agency** means any city, village or township that is a Party to this Agreement, including, but not limited to any and all of its departments, divisions, elected officials, employees, agents, subcontractors and volunteers

§2. USE OF EMERGENCY RESPONSE VEHICLES.

- 2.1. Decontamination Trailer.
 - 2.1.1. The County has purchased one Decontamination Trailer and will allow the Participating Agency to use the Decontamination Trailer upon request. All requests for use of the Decontamination Trailer are subject to availability and resources.
 - 2.1.2. The Decontamination Trailer and vehicle used to transport the Trailer shall be owned, maintained, repaired, insured and housed at a location specified by the County.
 - 2.1.3. The County shall transport the Decontamination Trailer to the scene of an Incident and set up and operate the Decontamination Trailer if necessary, when requested by an Authorized Representative of the Participating Agency.
 - 2.1.4. The request to use the Decontamination Trailer shall be sent to the Oakland County Emergency Response and Preparedness Unit (“OCERP”) or the Oakland County Emergency Operations Center (if operational).
 - 2.1.5. When the County receives multiple requests for the use of the Decontamination Trailer, the County shall prioritize the requests for use of the Decontamination Trailer.
 - 2.1.6. There shall be no cost to the Participating Agency for use of the Decontamination Trailer in responding to an Incident.

- 2.1.7. The Participating Agency may request to use the Decontamination Trailer for training purposes, subject to the Trailer's availability. The Participating Agency shall be responsible for all costs associated with the use of the Decontamination Trailer in such training exercises and the transportation of the Decontamination Trailer to and from such training exercises sponsored by the Participating Agency. The Participating Agency shall be responsible for returning the Decontamination Trailer and transportation vehicle to OCERP cleaned, full of fuel, and in full operational readiness with all expended equipment and supplies replaced.
- 2.1.8. The Participating Agency may request funds for training exercises on the Decontamination Trailer from the County. The County may disperse funds for training exercises in its sole discretion and to the extent appropriations are available. Requests for such funding shall be made to OCERP.

2.2. Hazardous Materials Vehicle ("HAZMAT TRUCKS")

- 2.2.1. The County has purchased three HAZMAT Trucks and intends on purchasing a fourth truck when grant funding becomes available. Each HAZMAT Truck will be designated for use by one of the Mutual Aid Consortiums in Oakland County, Michigan. The Participating Agencies in the Mutual Aid Consortium, to which a HAZMAT Truck has been assigned, shall rotate the possession and storage of the Vehicle as determined by each individual Mutual Aid Consortium (N, W, SE, E). The Participating Agencies in the Mutual Aid Consortium shall be responsible for all costs associated with storing the HAZMAT Truck.
- 2.2.2. The HAZMAT Truck shall be owned, maintained, repaired, and insured by the County.
- 2.2.3. The Participating Agency using the HAZMAT Truck shall be responsible for the Truck's operating expenses such as fuel.
- 2.2.4. The Mutual Aid Consortium assigned to a particular HAZMAT Truck may designate a specific Participating Agency (or Agencies) to add additional equipment to the HAZMAT Truck. Before adding any equipment to the HAZMAT Truck, the Participating Agency must receive prior written approval by the County for such equipment addition. The Participating Agency adding additional equipment shall be responsible for all costs associated with adding the additional equipment to the HAZMAT Truck and for maintenance and repair of the additional equipment.
- 2.2.5. To the extent funding is available, the County shall be responsible for all costs associated with replacing disposable and consumable

equipment and supplies on the HAZMAT Truck. If the Participating Agency that used the equipment and supplies has a cost-recovery ordinance, then the portion of the funding received by the Participating Agency covering equipment and supplies shall be forwarded to the County as reimbursement for replacement of the equipment and supplies.

2.2.6. The Participating Agency shall be responsible for all costs associated with replacing disposable and consumable equipment and supplies on the HAZMAT Truck when it is used for training exercises sponsored by the Participating Agency. The County shall be responsible for replacing disposable and consumable equipment and supplies when it is used for County sponsored training exercises.

2.2.7. The Mutual Aid Consortium designated to receive a HAZMAT Truck shall create a policy for the storage of the vehicle and procedures for requesting the Vehicle. The policies and procedures must be approved by the County.

2.2.8. The County may provide training on the HAZMAT Truck when it deems necessary.

§3. PARTICIPATING AGENCY RESPONSIBILITIES. Subject to the terms and conditions contained in this Agreement and applicable changes in law, the Participating Agency shall provide the following:

- 3.1. Each Participating Agency shall be responsible for obtaining and maintaining, throughout the term of this Agreement, all licenses, permits, certificates and governmental authorizations for its employees, agents and volunteers necessary to perform all its obligations under this Agreement, including but not limited to, obtaining applicable licenses required by the Michigan Secretary of State.
- 3.2. Each Participating Agency shall have all members of its Hazardous Materials Team trained on the Emergency Response Vehicles and associated equipment. All members of the Participating Agency's Hazardous Materials Team shall be a HAZMAT certified technicians. Additional members of each Participating Agency may be trained at the option of the Participating Agency.
- 3.3. Each Participating Agency shall be responsible for all costs of its own personnel used while operating the Emergency Response Vehicles and associated equipment.
- 3.4. Each Participating Agency shall notify the County, in writing, of its Authorized Representative and designee.

§4. DURATION OF INTERLOCAL AGREEMENT.

- 4.1. This Agreement and any amendments hereto shall be effective when executed by the Parties with concurrent resolutions passed by the governing bodies of each party, and the Agreement is filed with the Office of the Great Seal as required by MCL 124.510. This Agreement shall remain in effect until cancelled or terminated by either party pursuant to section 6.

§5. LIABILITY

- 5.1. Each Party shall be responsible for its own acts and the acts of its employees, agents, and subcontractors, the costs associated with those acts, and the costs associated with the defense of those acts.

§6. TERMINATION OR CANCELLATION OF AGREEMENT

- 6.1. A Party may terminate or cancel this Agreement for any reason upon 30 days notice before the effective date of termination or cancellation. The effective date for termination or cancellation shall be clearly stated in the notice.

§7. SUSPENSION OF SERVICES

- 7.1. Upon notice to the Participating Agency, the County may immediately suspend this Agreement or the Participating Agency's participation, if the Participating Agency has failed to comply, with federal, state, or local law, or any requirements contained in this Agreement.

- §8. NO THIRD PARTY BENEFICIARIES.** Except as provided for the benefit of the Parties, this Agreement does not and is not intended to create any obligation, duty, promise, contractual right or benefit, right to indemnification, right to subrogation, and/or any other right in favor of any other person or entity

- §9. COMPLIANCE WITH LAWS.** Each Party shall comply with all federal, state, and local statutes, ordinances, regulations, administrative rules, and requirements applicable to its activities performed under this Agreement.

- §10. DISCRIMINATION.** The Parties shall not discriminate against their employees, agents, applicants for employment, or another persons or entities with respect to hire, tenure, terms, conditions, and privileges of employment, or any matter directly or indirectly related to employment in violation of any federal, state or local law.

- §11. RESERVATION OF RIGHTS.** This Agreement does not and is not intended to impair, divest, delegate, or contravene any constitutional, statutory, and/or other legal right, privilege, power, obligation, duty, or immunity of the parties.

- §12. DELEGATION/SUBCONTRACT/ASSIGNMENT.** A Party shall not delegate, subcontract, and/or assign any obligations or rights under this agreement without the prior written consent of the other Party.

- §13. **NO IMPLIED WAIVER.** Absent a written waiver, no act, failure, or delay by a party to pursue or enforce any rights or remedies under this Agreement shall constitute a waiver of those rights with regard to any existing or subsequent breach of this Agreement. No waiver of any term, condition, or provision of this Agreement, whether by conduct or otherwise, in one or more instances shall be deemed or construed as a continuing waiver of any term, condition, or provision of this Agreement. No waiver by either party shall subsequently effect its right to require strict performance of this agreement.
- §14. **SEVERABILITY.** If a court of competent jurisdiction finds a term or condition of this Agreement to be illegal or invalid, then the term or condition shall be deemed severed from this Agreement. All other terms, conditions, and provisions of this Agreement shall remain in full force.
- §15. **CAPTIONS.** The section and subsection numbers, captions, and any index to such sections and subsections contained in this Agreement are intended for the convenience of the reader and are not intended to have any substantive meaning.
- §16. **NOTICES.** Notices given under this Agreement shall be in writing and shall be personally delivered, sent by express delivery service, certified mail, or first class u.s. mail postage prepaid, and addressed to the persons listed below. Notice will be deemed given on the date when one of the following first occur: (1) the date of actual receipt; (2) the next business day when notice is sent express delivery service or personal delivery; or (3) three days after mailing by first class or certified U.S. mail.
- 16.1. If notice is sent to the County, it shall be addressed and sent to: Oakland County Emergency Response and Domestic Preparedness Division, 1200 N. Telegraph, Building 47 West - Dept. 410, Pontiac, MI 48341-1044
- 16.2. If notice is sent to the Participating Agency, it shall be addressed to that Agency's Authorized Representative:
- 16.3. Either Party may change the address and/or individual to which notice is sent by notifying the other party in writing of the change.
- §17. **GOVERNING LAW/CONSENT TO JURISDICTION AND VENUE.** This Agreement shall be governed, interpreted, and enforced by the laws of the State of Michigan.
- §18. **AGREEMENT MODIFICATIONS OR AMENDMENTS.** Any modifications, amendments, recessions, waivers, or releases to this Agreement must be in writing and agreed to by all Parties. Unless otherwise agreed, the modification, amendment, recession, waiver, or release shall be signed by the same persons who signed the Agreement or other persons as authorized by the Party's governing body.

§19. ENTIRE AGREEMENT. This Agreement represents the entire agreement and understanding between the Parties. This Agreement supercedes all other oral or written agreements between the Parties. The language of this Agreement shall be construed as a whole according to its fair meaning and not construed strictly for or against any Party.

The Parties have taken all actions and secured all approvals necessary to authorize and complete this Agreement. The persons signing this Agreement on behalf of each Party have legal authority to sign this Agreement and bind the Parties to the terms and conditions contained herein.

IN WITNESS WHEREOF, I hereby acknowledge that I have been authorized by resolution, a certified copy of which is attached, to execute this Agreement on behalf of the Municipality and hereby accept and bind the Municipality to the terms and conditions of this Agreement.

EXECUTED: _____
DAVID B. LANDRY, MAYOR
CITY OF NOVI

DATE: _____

WITNESSED: _____
MARYANNE CORNELIUS
CITY CLERK
CITY OF NOVI

DATE: _____

IN WITNESS WHEREOF, Bill Bullard, Jr., Chairperson, Oakland County Board of Commissioners, hereby acknowledges that he has been authorized by a resolution of the Oakland County Board of Commissioners, a certified copy of which is attached, to execute this Agreement on behalf of Oakland County, and hereby accepts and binds Oakland County to the terms and conditions of this Agreement.

EXECUTED: _____
Bill Bullard, Jr., Chairperson
Oakland County
Board of Commissioners

DATE: _____

WITNESSED: _____
Ruth Johnson
Clerk, Register of Deeds
County of Oakland

DATE: _____

February 4, 2009

3000 Northwestern Highway
P.O. Box 3000
Farmington Hills, MI 48333-3000
Tel: 248-851-9500
Fax: 248-851-2158
www.secretwardle.com

David E. Molloy, Chief of Police
City of Novi
45175 West Ten Mile Road
Novi, Michigan 48375-3024

KRISTIN BRICKER KOLB
Direct: 248-539-2837
kko@secretwardle.com

Re: Emergency Response Vehicle Interlocal Agreement

Dear Chief Molloy:

Pursuant to your request, we have reviewed the proposed Emergency Response Vehicle Interlocal Agreement between the City of Novi and Oakland County. In general, we have no significant legal concerns about any of the provisions of the proposed agreement. We note that the City is not obligated to pay any money under the Agreement; however, if the City uses any of the County's emergency response vehicles for training purposes, the City will be responsible for all costs associated with such training. Additionally, we note that the duration of the Agreement is perpetual until terminated by either the City or the County in accordance with the Agreement.

We see no legal impediment to the City proceeding to execute this Agreement.

If you have any questions or need anything further from us on this issue, please feel free to contact me or Tom Schultz.

Very truly yours,



Kristin Bricker Kolb

KBK:jw

cc: Clay J. Pearson, City Manager
 Pamela W. Antil, Assistant City Manager
 Maryanne Cornelius, City Clerk
 Thomas R. Schultz, Esq.

1189332_1