



Roll Call Number

Agenda Item Number

3a

May 22, 2017

Date

APPROVING AND AUTHORIZING EXECUTION OF MEMORANDUM OF UNDERSTANDING WITH STATE OF IOWA HOMELAND SECURITY AND EMERGENCY MANAGEMENT DEPARTMENT FOR WEAPONS OF MASS DESTRUCTION/ DES MOINES FIRE DEPARTMENT HAZARDOUS MATERIALS TEAM

WHEREAS, the City of Des Moines Fire Department Hazardous Materials Response Team is a member of the Iowa Statewide weapons of mass destruction and chemical, biological, radiological, nuclear and explosive (WMD/HAZMAT) team to respond to incidents involving terrorism or WMDs; and

WHEREAS, the State of Iowa Department of Public Defense Homeland Security and Emergency Management Division ("HSEMD") has obtained federal Homeland Security Grant Program funding for the purchase of equipment and support of training required for statewide deployment involving WMD/HAZMAT teams; and

WHEREAS, the State has prepared a Memorandum of Understanding under which the Fire Department will develop and maintain a homeland security response team with specialized equipment and training designed to enhance statewide HAZMAT response capabilities and to deploy outside the City's jurisdiction when requested by the Governor or the HSEMD, a copy of which is on file in the City Clerk's Office; and

WHEREAS, under the MOU, HSEMD agrees to provide technical assistance and available funding to assist development and maintenance of the Team and to reimburse the Team for certain expenses related to deployment of the Team.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Des Moines, Iowa, that the Memorandum of Understanding with Iowa Homeland Security and Emergency Management Department for Weapons of Mass Destruction/Des Moines Fire Department Hazardous Materials Team is hereby approved and the Mayor is hereby authorized and directed to sign said Agreement on behalf of the City of Des Moines and the City Clerk is directed to attest to his signature.

BE IT FURTHER RESOLVED that the Fire Chief is authorized and directed to carry out the terms of said Agreement and to negotiate and execute agreements implementing the procurement and deployment of equipment and training funded under the Agreement with coordinating private and governmental entities.

(Council Communication No. 17-425)

Moved By \_\_\_\_\_ To Adopt.

APPROVED AS TO FORM:

*Ann DiDonato*

Ann DiDonato, Assistant City Attorney

COUNCIL ACTION	YEAS	NAYS	PASS	ABSENT
COWNIE				
COLEMAN				
GATTO				
GRAY				
HENSLEY				
MOORE				
WESTERGAARD				
TOTAL				

MOTION CARRIED

APPROVED

\_\_\_\_\_  
Mayor

CERTIFICATE

I, DIANE RAUH, City Clerk of said City hereby certify that at a meeting of the City Council of said City of Des Moines, held on the above date, among other proceedings the above was adopted.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my seal the day and year first above written.

\_\_\_\_\_  
City Clerk

**Memorandum of Understanding Between the City of Des Moines  
and Iowa Homeland Security and Emergency Management  
Department  
Weapons of Mass Destruction/Des Moines Fire Department  
Hazardous Materials Team**

**This agreement** is made and entered into on the date when last executed as shown below, by the Iowa Homeland Security and Emergency Management Department (HSEMD), hereinafter referred to as the "State" and the City of Des Moines, hereinafter referred to as the "City."

**I. Purpose of the Agreement.**

A. The purpose of this agreement is to reiterate HSEMD approval and support for the specialty team and its deployment as a resource to supplement and enhance disrupted or overburdened local emergency and disaster operations during times of an emergency or disaster and to provide assistance to other states pursuant to the Interstate Emergency Management Assistance Compact, as described in Iowa Code §§ 29C.8 (f), 29C.21.

B. The purpose of this agreement is to also delineate responsibilities and procedures for the approval, support, activation, deployment, and ongoing operations of the specialty team, a Homeland Security and Emergency Response Team, activated in times of local disasters under the authority of Iowa Code § 29C.8 and 605 Iowa Administrative Code Chapter 12 to provide weapons of mass destruction/hazardous material (WMD/HAZMAT) response and decontamination capabilities in the state of Iowa.

C. The purpose of this agreement is to also describe the minimum standards for this specialty team, how this specialty team will be maintained and deployed, how the team roster of members will be created and approved by HSEMD, and how the City will be compensated and the City and specialty team members will be compensated, indemnified and held harmless in cases of asserted liability, and compensated in cases of injury or death.

D. The further purpose of this agreement is to set out terms and conditions dealing with the activation, deployment, and operation of this specialty team.

**II. Scope of this Agreement.**

A. The provisions of this agreement apply only to the following specialty team activities:

1. Activities performed during an emergency response initiated by a Governor's proclamation of disaster emergency and where the HSEMD director or his/her designee has activated the specialty team,
2. Activities performed during training or exercises approved by HSEMD, or
3. Other activities specifically approved by the HSEMD director or his/her designee.

B. The provisions of this agreement shall not apply to actions of the specialty team outside the scope of any HSEMD activation order, through self-deployment, or mutual aid deployment. Nothing in this agreement shall prevent the specialty team from self-deploying its members or its assets. The specialty team shall assume all the costs of any self-deployment and the provisions of Part VI of this agreement dealing with the State's obligation to indemnify and hold harmless and the coverage for disability, workers' compensation and death benefits shall not apply.

### **III. Definitions.**

A. **Activation Order:** A written HSEMD directive specifically authorizing the specialty team to act while receiving the benefits of this agreement and Iowa law in the following instances: 1) During the course of a disaster declared by the Iowa Governor pursuant to Iowa Code § 29C.6 (1), 2) For select training or exercise activities specifically authorized by HSEMD that will benefit local jurisdictions during a disaster, or 3) Otherwise upon the direct authorization by the HSEMD Director, or his/her designee. The HSEMD activation order shall be in written form and shall designate the scope, location, expected duration or time frame, and other details deemed necessary to describe the nature of the activation.

B. **Covered Benefits:** The benefits authorized by law pursuant to Iowa Code § 29C.8 (f) (1), including disability, workers' compensation, and death benefits consistent with the provisions of Iowa Code Chapters 85, 410, or 411, as appropriate, for team members while deployed pursuant to a HSEMD activation order.

C. **Deployment:** The activation and deployment of the specialty team for emergency response pursuant to a Governor's disaster proclamation for certain select training or exercise activities specifically authorized by HSEMD, or for any other purpose authorized by the HSEMD Director or his designee. A specialty team shall be considered deployed from the time of the specialty team's initial activation until such time as HSEMD terminates its deployment and it returns to its home base.

D. **Director:** The Director of the Iowa Homeland Security and Emergency Management Department.

E. **Eligible Costs:** Those specialty team costs incurred by the members or the members' employers during state deployment that are eligible for HSEMD

reimbursement as allowed by law and as described in Part VII of this agreement.

F. **Membership Roster:** A current listing of all approved specialty team members and such other identifying information that HSEMD shall require in order to compensate members of the specialty team or their employers for activities under this agreement.

G. **Standard Operating Procedures:** A set of guidelines or instructions that describe the organization and operation of the specialty team, its method of selecting members and leadership, and the method of requesting HSEMD reimbursement for services provided under this agreement. A copy of the applicable standard operating procedures are attached to this agreement and incorporated thereby. Should the terms of the standard operating procedures conflict with the terms of this agreement, the terms of this agreement shall control.

H. **Specialty Team:** A homeland security and emergency response teams as defined by Iowa Code § 29C.8 (f) (1) and 605 Iowa Administrative Code Chapter 12 and approved and recognized by Iowa HSEMD. In respect to this agreement, the specialty team is the Hazardous Materials Team of the Des Moines Fire Department and composed of members set out in its membership roster. The purpose of the specialty team is to augment statewide HAZMAT response and decontamination capabilities, to include chemical, biological, radiological, nuclear and explosive (CBRNE) agents during situations believed to involve acts of terrorism and/or the use of a weapon of mass destruction (WMD) throughout the state of Iowa.

#### **IV. The Parties' Responsibilities.**

A. In respect to this agreement, the State shall do the following:

1. Coordinate among the State of Iowa, the specialty team, the specialty team's fiscal agent, local jurisdictions, and other relevant governmental and private parties.
2. Provide technical support for equipment and training used by the specialty team.
3. Reimburse the City for eligible costs incurred in respect to a deployment
4. Maintain and share the standard operating procedures applicable to this agreement.
5. Review the qualifications for specialty team membership, approve the membership roster, determine the size and composition of the specialty teams, and approve new specialty team members.

B. In respect to this agreement, the City shall do the following:

1. Recruit, organize, maintain, and train the specialty team.
2. Provide standards for team membership and forward those standards to HSEMD for their approval and inclusion in the specialty team's standard operating procedures
3. Be responsible for the operation of the specialty team while the team is deployed pursuant to a state activation order.
4. Routinely update all records to accurately reflect membership rosters, including training completed and qualifications obtained by individual members, and major assets at the specialty team's disposal. The specialty team shall update records anytime personnel are added to or removed from the specialty team.
5. Respond in a timely manner to any formal activation request made by the State under the procedures set forth in the standard operating procedures and the terms of any activation order, subject to the provisions of Part VIII A below.
6. Develop, practice, and implement an internal call-out system for specialty team members.
7. Perform all administrative, financial, and personnel management relating to deployments under this agreement by the specialty team alone or in conjunction with a specialty team fiscal agent. The specialty team or its fiscal agent shall maintain appropriate documentation pertaining to these functions and shall provide copies to the HSEMD upon request.
8. Assist the State in creating and updating standard operating procedures that shall be applicable to this agreement

## **V. Specialty Team Activation.**

- A. The State shall issue an activation order to the specialty team for deployment of the specialty team and its assets during a Governor-declared disaster emergency, a training or exercise that HSEMD specifically authorizes, or other specialty team activities authorized by the HSEMD director or his/her designee. The mission's specific terms shall be set forth within the activation order.
- B. Prior to the receipt of an HSEMD activation order, the specialty team shall inform the State whether the requested team resources are available for deployment.
- C. Upon the receipt of an activation order, the specialty team shall initiate call-out procedures.
- D. The specialty team's activation procedures shall be set forth within its standard operating procedures.

**VIII. Miscellaneous Conditions, Amendments, & Termination.**

A. **Conditions:** Nothing contained in this agreement shall be construed to compel the City or its specialty team to respond to any request for mobilization and deployment when, in the opinion of the City, the specialty team or its individual team members are required to perform emergency services in his or her own jurisdiction.

B. **Amendment:** This agreement may be amended or modified only upon written agreement of the State and the specialty team.

C. **Termination:** This agreement may be terminated without cause by either party upon thirty (30) days written notice.

D. **Duration:** This agreement will continue in force until terminated by one or both of the parties.

E. **Compliance with Applicable Laws:** The specialty team agrees to comply with all applicable local, state, and federal laws and administrative rules when deployed under this agreement.

F. **Limitation of Scope.** No separate legal or administrative entity is created by this agreement

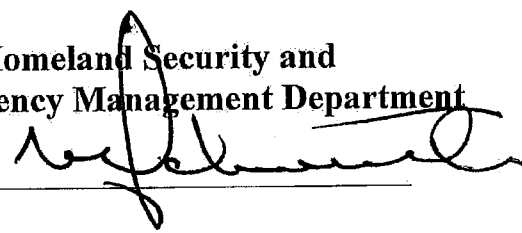
G. **Termination of 2008 MOU.** Effective upon execution of this agreement by both parties, the Iowa Terrorism/Weapons of Mass Destruction Hazardous Materials Response Team Memorandum of Understanding entered into on January 23, 2008 shall be terminated.

**In witness whereof**, the parties' authorized representatives have signed their names effective the day and year set out below.

**The City of Des Moines**

**Iowa Homeland Security and  
Emergency Management Department**

By: \_\_\_\_\_

By:  \_\_\_\_\_

Title: \_\_\_\_\_

Mark J. Schouten, Director

Date: \_\_\_\_\_

Date: 5/9/17

APPROVED AS TO FORM:

  
Assistant City Attorney

## **VI. Legal Consequences of Specialty Team Activation and Deployment.**

A. As provided by Iowa law, including Iowa Code Sec. 29C.8(3)(f)(1), specialty team members who are deployed under the terms of a written activation order shall be considered employees of the State for purposes of section 29C.21 and Iowa Code Chapter 699 and shall be afforded protection as an employee of the State under Iowa Code Section 669.21 in respect to the State's obligation to indemnify and hold its employees harmless under Iowa Code § 669.21 and 29C.21.

B. Specialty team members who are deployed under the terms of a written activation order shall be paid by the State for disability, workers' compensation, and death benefits in a manner consistent with the provisions of Iowa Code Chapters 85, 410, or 411, as those provisions are applicable to the team members according to their regular employment outside their work with the specialty team.

C. Notwithstanding the forgoing, at all times the specialty team shall be a local response team, composed of local members, and its members shall not be considered employees of HSEMD or the State of Iowa.

## **VII. Reimbursement of Eligible Costs.**

A. Following timely submission of required documentation adequately substantiating the nature of the mission completed, all claims submitted to HSEMD for payment pursuant to this agreement upon approval shall be forwarded to the Iowa Executive Council for purposes of payment under Iowa Code §§ 7D.29, 29C.8 (3) (f) (3).

B. Eligible costs qualifying for HSEMD reimbursement shall include:

1. Compensation to the City in accordance with the City's standard operating procedures when deployed under the terms of a written activation order for purposes other than training or exercise.

2. Reimbursement to the City for specialty team travel and per diem costs in accordance with State's travel rules, regulations, and meal reimbursement policies, and consistent with Iowa Code Chapters 85, 410, and 411 and 605 Iowa Administrative Code Section 12.5(2).

3. Reimbursement to the City on a replacement basis for materials, equipment, and supplies consumed in providing the requested assistance.

4. The City shall be reimbursed for the costs of back-filling the specialty team member's position while the member is deployed pursuant to a valid activation order.