

TO: Mayor Robinson and City Council

FROM: Jeffrey L. McCormick, Chief of Police

SUBJECT: Emergency Response Team

DATE: May 13, 2016

BACKGROUND

At the May 17, 2016 City Council Meeting, Council approved entering into a mutual aid agreement with the Goodhue County Emergency Response Team (ERT). The approval authorized the Chief of Police to sign the agreement after it was reviewed and approved by the City Attorney. The City Attorney found that the agreement did not contain language passed by the legislature several years ago to limit the liability of the City and other members of the agreement. Our City Attorney revised the agreement to incorporate that language. That was accepted by the County Attorney and is ready to be signed.

Because of the language change, our City Attorney also advised that the signers of the agreement be changed to the Mayor and City Administrator. I request Council authorize this agreement to be signed as recommended by the City Attorney.

REQUESTED COUNCIL ACTION

Motion and approval authorizing the Mayor and City Administrator to sign the ERT Mutual Aid Agreement.

**GOODHUE COUNTY EMERGENCY RESPONSE TEAM
MULTI-AGENCY MUTUAL AID AND PARTICIPANT AGREEMENT**

The parties to this Agreement are Goodhue County, Wabasha County, the City of Red Wing, the City of Plainview, and the City of Cannon Falls.

Whereas, all parties are desirous of having Goodhue County Sheriff's Office deputies, Wabasha County Sheriff's Office deputies, City of Red Wing Police Department police officers, City of Red Wing Fire Department paramedics, City of Plainview Police Department police officers, City of Cannon Falls Police Department police officers and professionals from these departments extend their services beyond their respective jurisdictions for the purpose of providing assistance and enforcing the laws in emergency situations; and

Whereas, the parties hereto believe that the establishment of a procedure whereby a party to this Agreement may provide to the other party, in the event of an emergency, personnel or equipment, would be of great benefit to the public health, safety, and welfare of their citizens.

MISSION STATEMENT:

Recognizing that the presence of a highly trained, highly skilled police tactical unit has been shown to substantially reduce the risk of injury or loss of life to citizens, police officers and suspects; and recognizing that a well-managed "team" response to critical incidents usually results in successful resolution of critical incidents, it is the intent of the parties that the Goodhue County Sheriff's Department, Red Wing Police Department, Wabasha County Sheriff's Department, Plainview Police Dept., Cannon Falls Police Dept. and the Red Wing Fire Department work together to provide a highly trained and skilled tactical team, as a resource for those law enforcement agencies included in this inter-local agreement who need assistance with critical incidents.

The purpose of this Agreement is to establish the governing provisions in the selection, training, equipping, activating, and use of the Goodhue County Emergency Response Team (ERT). This Agreement also will provide governing provisions to the Crisis Negotiators and Canine Teams who may be working directly with the ERT.

1. MISSION:

The mission of the ERT is to support the jurisdictions within Goodhue and Wabasha Counties with a tactical response to critical incidents, and to provide assistance to other agencies outside of Goodhue County requesting mutual aid assistance from the ERT. Critical incidents are defined as follows:

1. Hostage Situations: the holding of any person (s) against their will by an armed or potentially armed suspect.
2. Barricade Situations: the stand-off created by an armed or potentially armed suspect in any location, whether fortified or not, who is refusing to comply with police demands for surrender.
3. Sniper Situations: the firing upon citizens and/or police by an armed suspect, whether stationary or mobile.

4. High-Risk Apprehension: the arrest or apprehension of armed or potentially armed suspects.
5. High-Risk Warrant Service: the service of search or arrest warrants where the warrant service recommends or requires the use of the ERT.
 - a. The location in question is barricaded against entry or the suspect (s) is inside a location, vehicle or is hidden from view and refuses to comply, or;
 - b. There is reason to believe the suspect (s) is (are) armed and will use the weapon against law enforcement officers, or;
 - c. The suspect (s) background reveals a propensity toward violence, or;
 - d. The incident is a high-risk situation that exceeds normal department capabilities and the need for specialized assistance exists.
6. Personal Protection: the security of special persons, such as VIP's, witnesses, or suspects, based on threat or potential threat to the well-being of those persons.
7. Special Assignments: any assignment approved by the ERT Commander, based upon a high level of threat.

2. COMPOSITION AND STRUCTURE:

Composition of ERT

The ERT is composed of the following elements:

1. Team Commander
2. Assistant Team Commander
3. Team Leaders
4. Team Members
5. Team Medics

Canine Teams

Any canine officer or deputy who is not an ERT member, but whose agency is a member of this Agreement, who have been requested to assist the ERT, will be governed by this multi-agency Agreement, including, but not limited to, the following provisions: mutual-aid, wages, benefits, insurance and liabilities when they are assisting the ERT in accordance with this Agreement.

Assistance of Crisis Negotiations Team

The officers and deputies assigned to the Crisis Negotiation Team (CNT) are not members of the ERT. The CNT are officers and deputies trained in the techniques of crisis negotiations who work together with the ERT to resolve critical incidents.

Upon request, a party to this Agreement may assign CNT officers or deputies to work with the ERT in accordance with this Agreement. The CNT will maintain their own rank structure when assisting the ERT. When CNT officers or deputies are working with the ERT in regard to a critical incident as defined in this Agreement or to provide mutual aid assistance with the ERT, they will be governed by this Agreement, including but not limited to, the following provisions: mutual-aid, wages, benefits, insurance and liabilities.

Structure of ERT

The ranking team member of the ERT is the team commander, followed by the assistant team commander and then the team leaders. These positions constitute the leadership positions within the ERT. The Goodhue County Sheriff will appoint the Team Commander and Assistant Commander. Team Leaders will be recommended by the Team Commander and Assistant Commander, and approved by the Goodhue County Sheriff.

3. COMMAND AND CONTROL STRUCTURE:

The ERT is managed by the Goodhue County Sheriff's Office. When activated for an operation, the ERT Commander, Assistant Commander, or Team Leader (s) (when the Commander or Assistant Commander is absent) reports directly to the Incident Commander, where one has been designated, or to the on-scene supervisor. The ERT Commander is responsible for deployment of the ERT, any canine assistance, all tactical decision-making, and the tactical resolution of the incident.

The ERT Commander is subordinate to the Incident Commander only in terms of when and if the tactical option will be initiated, not how it will be performed. Unless the ERT Commander relinquishes his control to another person outside the ERT, no other person, who is not in a leadership position within the ERT, will attempt to direct, supervise or control any element or member of the ERT.

The CNT will be subordinate to the Incident Commander only and work in cooperation with the ERT command element to bring a resolution to the incident.

For purposes of this Agreement the Incident Commander is the ranking officer or his/her designee of the agency where the ERT mission is taking place.

Team members from the various agencies assigned to the ERT become subordinate to the ERT Commander, Assistant Commander or Team Leaders until the ERT ranking team member determines that the activation is over.

All parties to this Agreement will make every effort to assure participation of their team members in training and team operations. However, it is recognized that at times all team members may not be able to respond to an ERT operation or training due to manpower issues within their perspective departments.

4. WAGES, BENEFITS, INSURANCE AND LIABILITY:

All ERT members, CNT members, and canine handlers are considered on-duty by their respective agencies for all ERT training, actual operations, or other ERT related functions, when approved by the team member's perspective agency. ERT member's, CNT member's, and canine handler's wages and benefits, such as insurance, will be covered by their respective agencies at all times. Each ERT member's, CNT member's,

and canine handler's agency will maintain workers' compensation insurance or self-insurance coverage at all times while they are training, taking part in operations or other ERT functions, when approved by the team member's perspective agency pursuant to this Agreement. Each agency of a party to this Agreement shall provide its own liability insurance for their ERT member(s), CNT member(s), or canine handler(s) while they are performing all ERT functions in or outside of their jurisdiction, pursuant to this Agreement. Each party waives the right to sue any other party for workers' compensation benefits paid to its own employee or volunteer or their dependents, even if the injuries were caused wholly or partially by the negligence of any other party or its officers, employees, or volunteers.

5. ACTIVATION PROCESS:

"OPERATION 1000":

An "Operation 1000" call out is the activation of the ERT. The ERT may be requested to respond to a variety of critical incidents as described in the Mission, section 1 of this Agreement. The following Law Enforcement Officers may request an "Operation 1000" (or ERT) call out:

1. Sheriff of Goodhue County or his designee.
2. Sheriff of Wabasha County or his designee.
3. Chief of Police, (municipalities within Goodhue & Wabasha Counties) or their designee.
4. Chief of Police of the Prairie Island Tribal Community, or his/her designee.
5. Supervisor on duty (municipalities, Prairie Island Tribal Police or county).
6. Senior Officer on duty, (municipalities, Prairie Island Tribal Police or county) when authorized to do so by their agency.
7. A Team Commander or his designee from another law enforcement jurisdiction requesting tactical assistance with a critical incident.
8. Jurisdictions outside of Goodhue County requesting mutual aid assistance from the ERT.

ACTIVATION PROCEDURE:

An "Operation 1000" call out will be requested and coordinated through the Goodhue County Dispatch Center. Once an "Operation 1000" has been requested, Goodhue County Dispatch Center will follow the Goodhue County ERT activation procedure.

The ERT **cannot** be activated without approval from at least one of the ranking team members. If this should occur, dispatch should notify the requesting individual that the ERT cannot be activated until a ranking member can be reached.

The ranking ERT member will decide if the ERT will respond to the requested critical incident. The decision will be made based on the ERT's mission statement, incident information, availability of team members, availability of team medics, and other information deemed necessary by the ranking team member.

When appropriate the ranking ERT member will request the notification and assistance of CNT members or canine teams.

If the decision is made **not** to respond, dispatch will notify the requesting individual of the decision, and discontinue activating the call-out list.

The ERT Commander or Assistant Commander will keep a current list of ERT members listed on the Operation 1000 Call-Out List in the Goodhue County Dispatch Center. This list will be updated whenever possible of the members who are on vacation or unavailable for call-outs by the ERT Commander or Assistant Commander.

6. SELECTION PROCESS:

The Sheriff, Chief of Police, Fire Chief, or their designee, from the parties covered by this Agreement will make recommendations to the ERT Commander for prospective team members.

The acceptance of the prospective member's application will be determined by the ERT Commander, Assistant Commander, Team Leader (s), and the Goodhue County Sheriff. Criteria for application will be based on the following;

- a. Provide letter of interest to ERT Commander;
- b. Time in service (recommended minimum of 3 years);
- c. Satisfactory job performance in present and previous assignments;
- d. Not currently on probationary status (for new hires not promotions);
- e. Successful completion of oral interview with ERT command;
- f. Satisfactory passing of a physical fitness test and firearms qualifications.

Once accepted and assigned to the ERT, all operational team members, regardless of rank or position, must maintain acceptable standards of performance. All testing procedures will be outlined in a course lesson plan, including the passing requirements.

Failure to meet the physical fitness minimum standards may result in the team member being placed in a temporary, non-deployable status. This will be determined by the ERT Command staff and the agency to which the team member is employed by. The decision will be based for the "good of the team" including, but not limited to; the team member's present assignment, an injury or illness that may have affected the member's testing ability. Any team member who is unable to meet the physical fitness standard may be asked to withdraw from the team.

Firearm qualification requirements are outlined in the Goodhue County Sheriff's Office firearm's policy. Failure to meet the minimum acceptable standards within the designated period of time may result in removal from the team.

A team member may voluntarily withdraw from the team at any time, for any reason. A team member may be removed from the team, without cause, when requested by his/her department's administration, or when deemed necessary for the good of the team by a consensus of the leadership elements of the team and approval by Sheriff.

7. TRAINING STANDARDS:

The ERT will conduct training an average of one (1) day per-month. Officers and deputies assigned to the CNT and canine units are not expected to participate in the training set forth in this paragraph. Officers and deputies assigned to the CNT and canine units will participate in the training set forth in this paragraph when it is applicable to their duties if approved by the party that employs the officer or deputy. The ERT will train

on appropriate subjects related to the mission of the team. All training will be documented and training records will be maintained on file. Attendance at the annual week long SWAT camp is highly encouraged. Participation at 50% or more of the monthly trainings is required to be on deployable status for call outs

All training will be performance oriented and ERT task specific. The ERT Commander or Assistant Commander will maintain a current list that lists the qualifications for each team individual.

The training program will also include updates on legal and training issues.

8. EQUIPMENT STANDARDS:

All members of the multi-agency Agreement establishing the ERT will help supply the team with at least the following safety equipment when or as required;

1. Ballistic Helmet
2. Safety glasses and goggles
3. Hearing protection
4. Complete coverage ballistic entry vest
5. Load bearing vest or duty belt for tactical equipment
6. Special weapons as authorized by the ERT Commander
7. Appropriate amount of ammunition for weapons training and qualification
8. Other equipment deemed necessary by the ERT

ERT members will utilize appropriate utility type uniforms, of an approved color/pattern, and footwear. Uniforms will utilize clearly visible and identifiable placards, patches, badges, or lettering that identifies the wearer of the uniform as a law enforcement officer. All other items of personal wear or equipment must be approved by the ERT Commander. The ERT Commander, Assistant Commander or Team Leader (s) will determine which equipment is appropriate for each team mission and ensure each member is properly equipped.

ERT members, to whom any item of equipment is issued, are responsible for the care, security and maintenance of the equipment.

In regard to property that is owned by a party to this Agreement and used during an ERT training or operation, each party shall be responsible for damages to or loss of its own equipment. Each party waives the right to sue any other party or ERT member for damages to or loss of its equipment, even if the damage or losses were caused wholly or partially by the negligence of any other party or its officers, employees or volunteers.

In the event that this Agreement is terminated or a party withdraws from this Agreement, officer equipment purchased by a party to this Agreement remains the property of that party, i.e. firearms, weapon lights, portable radios, and personal protection equipment. Team equipment purchased on behalf of the ERT by a party will remain the property of ERT, i.e., breaching tools, diversionary devices, or other chemicals or less lethal devices.

9. SPECIAL EQUIPMENT:

Recognizing that the missions of the ERT are performed in a hazardous environment, and recognizing that the safety of innocent citizens, officers, and suspects is often jeopardized by the hazardous conditions, it shall be the intent of the ERT to utilize special equipment, as listed below, in an attempt to lessen the risk of injury or death to all involved during the performance of a ERT operation.

The ERT recognizes, however, that the use of the special equipment in no way implies or guarantees that injury or death will not occur during an ERT operation.

1. Primary Entry Weapons: e.g.: entry shotguns, assault carbines, submachine guns; a short-barreled weapon which enables the team member to acquire rapid target acquisition, enhances high levels of accuracy, and provides maneuverability, reliability, stopping power, and the ability to sustain fires.
2. High caliber rifles: commonly referred to as counter-sniper rifles and assault rifles, these weapons allow the team member to place highly accurate rounds where needed to help resolve life threatening incidents.
3. Less Lethal Weapons or Ammunition: weapons or ammunition which propel a round or device that is not normally lethal in nature. Designed to offer an alternative to the use of deadly force when appropriate.
4. Flash/Noise Diversionary Devices: designed to save lives and reduce the potential for shooting situations by providing for a diversion for the entry of ERT members into a hazardous area. Utilizes a bright flash of light followed immediately by a loud noise.
5. Breaching Tools and Ammunition: items such as rams, pry bars, hydraulic or electronic machines, special frangible shotgun rounds, etc. which are designed to force entry into barricaded or secured areas.
6. Explosives: tactical explosives used to force entry into barricaded or secured areas, or to create an entry point for tactical teams where appropriate speed and surprise can only be accomplished through the use of the explosive. Also used to create large exterior distractions.

The ERT Commander, Asst. Commander or Team Leader (s) will insure that only those Team members properly trained and certified in the use of the special equipment will utilize the equipment. The ERT Commander and team trainers will be responsible for establishing the certification standards and criteria for the team.

The Team Commander or Assistant Commander will keep a current roster of assigned weapons and qualifications of all team members.

In regard to property that is owned by a party to this Agreement and used during an ERT training or operation, each party shall be responsible for damages to or loss of its own equipment. Each party waives the right to sue any other party or ERT member for damages to or loss of its equipment, even if the damage or losses were caused wholly or partially by the negligence of any other party or its officers, employees or volunteers.

10. MISSION PLANNING:

The ERT will utilize a written planning process for all operations that are proactive or anticipatory in nature, such as raids. The written process will include a format that will document how the operation is to be conducted, command/control/communication, and support required. All operation plans will be documented on the after action report.

The ERT Commander, Assistant Commander or Team Leader (s) will log all events and record them in an after action report for all ERT operations, and will also cause all planning or decision-making documents to be recorded. These documents will be stored and maintained in a file.

A radio operations log will be maintained during ERT operations when applicable.

11. DOCUMENTATION OF ACTIVATION:

The ERT Commander, Assistant Commander or Team Leader (s) will create an after action report detailing the activation and use of the team. This report will document the details of the operation and pertinent information required for follow up investigators, prosecutors, etc.

12. AFTER ACTION CRITIQUE:

At the completion of all operations and significant training events the ERT Commander or Assistant Commander will conduct an after action review. The purpose of this review will be to create a forum for team members to offer information for the improvement of the team. The after action review will be formatted to develop the following information; Positive Factors, Negative Factors, and Solutions for the Negative Factors.

13. LIABILITY:

A. Definitions

- (1) "Requesting Party" means a party to this agreement that requests assistance from other parties.
- (2) "Responding Party" means a party to this agreement that provides assistance to a Requesting Party.

B. Damage to equipment

Each party shall be responsible for damages to or loss of its own equipment. Each party waives the right to sue any other party for any damages to or loss of its equipment, even if the damages or losses were caused wholly or partially by the negligence of any other party or its officers, employees, or volunteers.

C. Municipal tort liability

- (1) For purposes of determining total liability for damages, the Parties are considered a single governmental unit and the total liability for all Parties shall not exceed the limits on governmental liability for a single governmental unit, subject to the limits of liability under Minnesota Statutes Chapter 466 and other applicable laws, rules, and regulations, including common law. Under no circumstances shall a Party be required to pay on behalf of itself and other Parties, any amounts in excess of the limits on liability established in Minnesota Statutes Chapter 466 applicable to any one Party. The statutory limits of liability for some or all of the Parties may not be added together or stacked to increase the maximum amount of liability for any one Party pursuant to Minnesota Statutes § 471.59, subd. 1a.
- (2) The Requesting Party agrees to defend and indemnify the Responding Party against any claims brought or actions filed against the Responding Party or any officer, employee, or volunteer of the Responding Party for injury to, death of, or damage to the property of any third person or persons, arising from the performance and provision of assistance in responding to a request for assistance by the Requesting Party pursuant to this agreement.
- (3) The intent of this paragraph is to impose on each Requesting Party a limited duty to defend and indemnify a Responding Party for claims arising within the Requesting Party's jurisdiction subject to the limits of liability under Minnesota Statutes Chapter 466. The purpose of creating this duty to defend and indemnify is to simplify the defense of claims by eliminating conflicts among defendants, and to permit liability claims against multiple defendants from a single occurrence to be defended by a single attorney.
- (4) For the purposes of the Minnesota Municipal Tort Liability Act (Minn. Stat. 466), the employees and officers of the Responding Party are deemed to be employees (as defined in Minn. Stat. 466.01, subdivision (6) of the Requesting Party.
- (5) No party to this agreement nor any officer of any Party shall be liable to any other Party or to any other person for failure of any party to furnish assistance to any other party, or for recalling assistance, both as described in this agreement.

D. Charges to the Requesting Party

No charges will be levied by a Responding Party to this agreement for assistance rendered to a Requesting Party under the terms of this agreement unless that assistance continues for a period of more than 48 hours. If assistance provided under this agreement continues for more than 48 hours, the Responding Party will submit to the Requesting Party an itemized bill for the actual cost of any assistance provided after the initial 48 hour period, including salaries, overtime, materials and supplies and other necessary expenses; and the Requesting Party will reimburse the party providing the assistance for that amount.

14. PERIODIC REVIEW OF AGREEMENT:

The ERT Commander will periodically review and, when necessary, update this Agreement. The ERT Commander will then cause this Agreement to be reviewed and approved, by signature, by the parties participating on the multi-agency tactical team.

15. MODIFICATIONS TO THE AGREEMENT

All amendments or modifications to this Agreement must be in writing and approved by all parties. Any such amendment shall be in writing and will be attached to this Agreement.

16. MINNESOTA LAW

This Agreement shall be governed by, construed, and enforced in accordance with the laws of the State of Minnesota.

17. SEVERABILITY

The provisions of this Agreement shall be severable, and if any provision, or any portion thereof, contained in this Agreement is held unconstitutional, invalid, or unenforceable, the remainder of the Agreement or portion thereof shall remain in full force and effect.

18. ENTIRE AGREEMENT

This Agreement contains the entire agreement of the parties hereto. Except as stated in this Agreement, no party has relied on any statement, promise inducement, or representation of the other. This Agreement supersedes any and all other prior statements and agreements between the parties relating to the subject matter contained herein.

EFFECTIVE DATE: July 6th, 2016

Supersedes: July, 15, 2008, 03/25/2005, 03/15/2004, 07/22/03, 04/26/03, 07/27/01

CITY OF CANNON FALLS

By _____
Robby Robinson, Mayor

Date: _____

ATTEST:

Ron Johnson, City Administrator

Date: _____

COUNTY OF GOODHUE

By _____
Dan Rechtzigel, Board of Commissioners Chair

Date: _____

ATTEST

Scott O. Arneson, County Administrator

Date: _____

CITY OF PLAINVIEW

By _____
William Goede, Mayor

Date: _____

ATTEST:

Renee Mierau, City Administrator

Date: _____

CITY OF RED WING

By _____
Daniel D. Bender, Mayor

Date: _____

ATTEST:

Kay Kuhlmann, City Administrator

Date: _____

COUNTY OF WABASHA

By _____
Rich Hall, Board of Commissioners Chair

Date: _____

ATTEST

Michael Plante, County Administrator

Date: _____