

Technical Rescue Service Contract
City of Waukesha Fire Department

This Agreement is by and between the City of Waukesha, referred to herein as Waukesha, and the Municipality identified below, pursuant to Wis. Stats. §66.0301. Together, Waukesha and Municipality are referred to herein as the Parties.

Municipality: *City of Delafield, c/o Lake Country Fire District, 115 Main Street, Delafield, WI 53018, Attention: Fire Chief, (262) 646-6235*

Recitals

Waukesha's Fire Department has equipment suitable for, and personnel trained for, the performance of certain technical-rescue operations. Waukesha's Fire Department is also capable of providing training in certain technical-rescue situations to other municipalities' emergency-services personnel.

Municipality wishes to contract with Waukesha to provide technical-rescue services within Municipality, and Waukesha is willing to provide such services, subject to the terms of this Contract.

Now, therefore, in consideration of the mutual promises contained herein, the Parties agree and contract as follows:

1. **Definition.** For purposes of this Contract, Technical Rescue Services means the provision of personnel, materials and equipment for rescue in incidents meeting the technician level as specified in NFPA 1670 Operations and Training for Technical Search and Rescue Incidents (2014 edition) chapters 5 (Rope Rescue), 6 (Structural Collapse Search and Rescue), 7 (Confined Space Search and Rescue) and 11 (Trench and Excavation Search and Rescue).
2. **Waukesha Obligations.** Waukesha shall provide Technical Rescue Services for Municipality, 24 hours per day, seven days per week, subject to all of the terms and conditions of this Contract. Personnel provided by Waukesha shall be trained to the Technician Level, and equipment provided by Waukesha shall be appropriate for the Technical Rescue Services requested by Municipality, in Waukesha's sole discretion. Waukesha shall also provide to Municipality a 24-hour-per day Technical Rescue Help Line and on-site evaluations.
3. **Municipality Obligations.** Municipality shall provide personnel trained to the Technical Rescue Awareness Level to assist with incident operations, when its own needs allow.
4. **Request for Services Procedure.** Requests for Technical Rescue Services shall be made by the Municipality's Incident Commander. Requests shall be made to the City of Waukesha Dispatch Center. Incident Commanders can request a technical rescue response through their normal mutual aid or MABAS procedures.

Waukesha is not obliged to accept calls for Technical Rescue Services from any persons other than Municipality command staff as described above. Waukesha shall have discretion to refuse calls from other persons.

5. **Availability of Services.** All of Waukesha's obligations stated in section 2 shall be subject to availability of personnel and equipment, determined in the sole discretion of Waukesha. Incidents within the City of Waukesha shall receive priority over obligations to Municipality under this Contract. Availability shall not be withheld by Waukesha unreasonably, and Waukesha shall honor its obligations to Municipality in good faith. Once on-site at an incident in response to a request from Municipality, Waukesha shall not leave the site until the Incident Commander has consented.

6. **Incident Command.** Municipality's fire department will be the incident commander at all incidents to which City of Waukesha Fire Department provides Technical Rescue Services pursuant to this Contract; however, Waukesha shall have complete discretion and authority as to the provision of Technical Rescue Services.
7. **Term, Renewal, Early Termination.** This Contract shall be effective upon its complete execution, and its initial term shall be one year from its effective date. This Contract shall automatically renew for additional successive one-year renewal terms, unless notice of non-renewal is given by either party at least 30 days in advance of the expiration of the current term.
8. **Compensation.** Municipality shall compensate Waukesha for the expenses of providing personnel, materials and equipment for Technical Rescue Services, as follows:
 - a. **Annual Fee.** **\$2,866.00**, paid in advance upon the execution of this Contract and upon the commencement of each renewal term. If this Contract is terminated early by Waukesha as provided in section 7, a pro-rata refund of the Annual Fee shall be paid to Municipality.
 - b. **Per-Incident Fee.** A fee for each incident to which Waukesha provides Technical Rescue Services, determined by the type of services, personnel, materials, and equipment provided to Municipality for each incident, according to the Fee Schedule maintained by Waukesha. The Fee Schedule is attached as Exhibit A. The Fee Schedule may be amended by Waukesha from time to time, in Waukesha's sole discretion. The Incident Fee shall be invoiced to Municipality, and payments shall be due 30 days after invoice date. A late fee of 1% per month shall be paid by Municipality for all amounts remaining unpaid 60 days after invoice date. Documentation to support Incident Fee invoices shall be provided to Municipality on request.
9. **Responsibility for Personnel.** The Parties shall each retain responsibility for compensation of their own employees, contractors and agents. The Parties shall each retain responsibility for injuries to their respective employees, contractors and agents; and shall each maintain worker compensation insurance at a minimum of statutory requirements.
10. **Indemnification.** The Parties shall each indemnify and hold the other harmless from any and all third-party (including the Parties' respective employees) claims, demands, causes of action, lawsuits, judgments, penalties, and other liabilities of any kind arising out of, or connected in any way with, the acts or omissions of the Parties' respective employees, contractors and agents occurring in the performance of this Contract, including court costs and actual attorney fees.
11. **Parties Are Independent Contractors.** Nothing in this Contract shall be construed to create any relationship between the Parties other than independent contractors, contracting pursuant to Wis. Stats. §66.0301. Unless specifically provided in this Contract, the Parties are not agents for one another, have no authority to bind the other to contracts, and have no vicarious liability for the other's acts or omissions.
12. **Governmental Immunities and Notice Requirement Preserved.** Nothing in this Contract shall be construed to be a waiver or modification of the governmental immunities or notice requirements imposed by Wis. Stats. §893.80 or any other law.
13. **Costs of Enforcement.** The Parties agree that in the event legal action is necessary to enforce any term or condition of this Contract, then the breaching Party will pay the non-breaching Party's costs incurred in such legal action, including actual attorney fees. If a judgment is taken, then costs of enforcement will be added to the judgment.
14. **Severability.** If any term of this Contract is held unenforceable by a court having jurisdiction, then to the extent the unenforceable term can be severed from the remainder of this Contract without affecting the enforceability of the remainder of this Contract or substantially frustrating its purpose, it will be so severed, and the remainder of this Contract will remain in effect and enforceable.

15. **Notices.** All written notices required by this Contract shall be addressed as follows:

To Waukesha: Attention Fire Chief
City of Waukesha Fire Department
130 W St Paul Ave
Waukesha WI 53188

To Municipality: *City of Delafield*
Attention Fire Chief
Lake Country Fire District
115 Main Street
Delafield, WI 53018

16. **Governing Law and Jurisdiction.** This Contract will be construed and enforced according to the laws of Wisconsin. If a lawsuit arises out of this Contract, it shall be filed in the state Circuit Court for Waukesha County, Wisconsin. The Parties consent to personal and subject-matter jurisdiction in Wisconsin, and waive all jurisdictional defenses.

17. **Integration.** This Contract constitutes the entire agreement of the Parties concerning the subject matter expressed herein. All other agreements and understandings of the parties with respect to the subject matter expressed in this Contract are unenforceable.

Executed as of the date of last signature below.

City of Waukesha

Shawn N. Reilly, Mayor
Date: _____

Gina L. Kozlik, Clerk-Treasurer
Date: _____

Steven Howard, Chief, Waukesha Fire Department
Date: _____

Municipality

michèle F. Deyoe

(sign above)
Print name: *Michèle F. Deyoe*
Title: *Mayor*
Date: *3-21-18*

Jeanne O'Brien

(sign above)
Print name: *Jeanne O'Brien*
Title: *Interim Clerk*
Date: *3-19-18*

Exhibit A

**Waukesha Fire Department
Technical Rescue Services
Per-Incident Fee Schedule
January 1, 2018**

Personnel

Hourly rate of on duty (straight time rate) and call back (overtime rate) personnel (includes fringe benefits)

Emergency Response – Actual time

Stand By – Minimum 2 hour charge

Materials

Supplies Used - Invoice price, including shipping and handling

Additional Equipment Used - Costs associated with repair or replacements

Specialized Equipment - Municipality responsible for purchase

Equipment

According to the current "Schedule of Equipment Rates" published by Federal Emergency Management Agency (FEMA)

Emergency Response – Actual time

Stand By – Minimum 2 hour charge

Administrative Fee

Flat rate - \$200.00