

RESOLUTION NO. 11-2014

A RESOLUTION AUTHORIZING THE CITY MANAGER TO ENTER INTO AN AGREEMENT BY AND BETWEEN THE CITY OF MONROE AND LEXIPOL LLC FOR THE DEVELOPMENT OF A POLICY MANUAL FOR THE DEPARTMENT OF FIRE.

WHEREAS, Lexipol will provide on-line policy manual services to ensure compliance with federal and state laws as well as best practices from experts in fire law.

NOW, THEREFORE, BE IT RESOLVED BY THE COUNCIL OF THE CITY OF MONROE, STATE OF OHIO, THAT:

SECTION 1: The City Manager is hereby authorized to enter into an agreement by and between the City of Monroe and Lexipol LLC for the development of a policy manual for the Department of Fire pursuant to the terms and conditions set forth on Exhibit "A" attached hereto and made a part hereof.

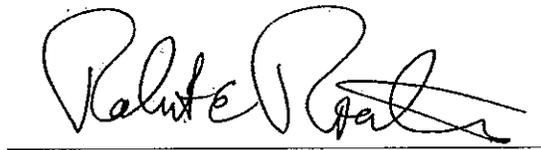
SECTION 2: This measure shall take effect and be in full force from and after the earliest period allowed by law.

PASSED: March 25, 2014

ATTEST:


Clerk of Council

APPROVED:


Mayor

First Reading: March 11, 2014

This legislation was enacted in an open meeting pursuant to the terms and provisions of the Sunshine Law, Section 121.22 of the Ohio Revised Code.

I, the undersigned Clerk of Council of the City of Monroe, Ohio, hereby certify that the foregoing (ordinance or resolution) was published as Required by Section 7.16 of the Charter of the City of Monroe.


Clerk of Council
City of Monroe, Ohio"



Predictable Is Preventable®

Lexipol LLC
6B Liberty, Suite 200
Aliso Viejo, CA 92656
Tel: 949.484.4444
Fax: 949.484.4443

Monroe Fire Department
3 Year Agreement

TERMS AND CONDITIONS FOR USE OF SUBSCRIPTION MATERIAL

I. ACCEPTANCE OF TERMS

The services that Lexipol, LLC, a Delaware Limited Liability Company (hereinafter "Lexipol"), provides to Agency, Customer, User, Purchaser are subject to the following Terms and Conditions of Use. These Terms and Conditions are valid through the subscription period of **three** years. Lexipol reserves the right to update/change the Terms and Conditions of Use on the renewal date of the subscription agreement period whereas those updates/changes on the Terms and Conditions of Use will be valid for the new subscription period. This document represents the most current version of the Terms and Conditions of Use. Any changes or updates can be reviewed by clicking on the "Terms and Conditions of Use" hypertext link located on Lexipol's Forum page once Agency becomes a subscriber. AGENCY MUST AGREE WITH THESE TERMS AND CONDITIONS OF USE BEFORE AGENCY CAN USE THIS ONLINE PLATFORM.

II. DESCRIPTION OF SERVICES

Through Lexipol's online platform, Lexipol provides Agency with access to the Lexipol Knowledge Management System. Lexipol provides numerous subscriptions to this system, each with varying services depending on the level of subscription. The Agency is subscribing to the services indicated on the data page included on the last page of this agreement.

III. MEMBER ACCOUNT, PASSWORD AND SECURITY

If any of the Services provided to Agency by this online platform requires Agency to open an account, Agency must complete the registration process by providing Lexipol with current, complete and accurate information as prompted by the applicable registration form. Agency will also be able to change the user name and password on the account after initial login. Agency is entirely responsible for maintaining the confidentiality of Agency's password and account. Agency is entirely responsible for any and all activities that occur under Agency's account. Agency agrees to notify Lexipol immediately of any unauthorized use of Agency's account or any other breach of security.

Agency may not use any other Agency's account at any time, as Agency's password and user name are for the purchaser's sole use. Purchasers of content through this online platform are not permitted to share, distribute, sell, or otherwise transfer their password to other individuals. Significant or unusual use of a single user name and password (including, but not limited to, significant use of a single user name and password on multiple computers) could result in suspension of that password.

Neither Agency nor its administrators or users may permit use of user names and passwords by third parties. Neither Agency nor its users may provide access to any of the services to any third party, or any other user not authorized to access services provided pursuant to this agreement. Agency Administrator may be granted administrator passwords permitting access to Lexipol Forum Pages, Release Notes and Guide Sheets; Agency Administrators may not permit use of administrator user names and administrator passwords by any other user.

Agency, administrators and users are responsible for maintaining the confidentiality of user names and passwords assigned to them and for restricting access to Lexipol services by unauthorized users.

Unauthorized use of user names and passwords could result in suspension of access to Lexipol services.

IV. NOTICES

Any notice to be given to the parties shall be sent to Lexipol at the address above or if to the Agency to the contact person registered as the authorized signer.

V. PAYMENT TERMS

Agency agrees to pay the current fees for all services purchased using Agency's user name and password. All services are payable in full within thirty (30) days from invoice date. Any amounts past sixty (60) days from due date shall accrue interest at one (1%) percent per month for past due accounts. Invoices are sent thirty (30) days previous to the subscription start date and anniversary date thereafter. All payments are applied to the oldest balance.

VI. PRIVACY POLICY

Lexipol shall keep all information Agency provides confidential and private unless required to provide information in accordance with an order from a court of competent jurisdiction. Agency acknowledges Lexipol may provide view only access and summary information to the Agency's affiliated Risk Management Authority, Insurance Pool or Group if they have provided an economic subsidy. Because security is important to Lexipol and our users, Lexipol will always make reasonable efforts to ensure the security of Lexipol's systems. Lexipol employs security systems to protect the information Lexipol receives from Agency's users. The Lexipol Policy online platform uses Secure Socket Layer (SSL) Protocol for browsers supported by Lexipol application(s). SSL encrypts information as it travels between customer and Lexipol. Please be aware that Internet data transmission is not always 100% secure and Lexipol cannot warrant that information Agency transmits utilizing Lexipol's Service or online platform is 100% secure.

VII. APPLICATION OF LAW AND JURISDICTION

Agency agrees that any claim, action, or proceeding arising out of these Terms and Conditions of Use, or Agency's use of the online platform, shall be governed by and construed in accordance with the laws of the State of Delaware applicable to contracts to be wholly performed therein, and any action based on or alleging a breach of this Agreement must be brought in a state or federal court in Delaware. This Agreement shall be governed and interpreted pursuant to the laws of the State of Delaware, United States of America, notwithstanding any principles of conflicts of law.

VIII. INDEMNIFICATION

Agency understands that Lexipol and its agents, employees and representatives have developed policy guidelines and content in a good faith effort to comply with all applicable statutes, case law and industry standards in effect at the time such policies were approved and adopted by Agency. Agency acknowledges that Lexipol shall not be responsible for updating these policies to adhere to subsequent changes in the law or other conditions and those changes and updates will only be provided by Lexipol as a part of an annual subscription. While Lexipol has made a good faith effort to develop all policies and training in accordance with existing law and standards, Agency acknowledges that neither Lexipol nor any of its agents, attorneys, employees or representatives are obligated to provide legal representation, defense, or indemnification for any litigation in which said policies are subject to challenge.

To the fullest extent permissible under applicable law, and except as otherwise herein, Lexipol and/or other persons creating or transmitting the information and the service will in no event be liable to

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Agency or anyone else for any direct, indirect, consequential, incidental, special, exemplary, or punitive damages for the information, even if Lexipol or other persons creating or transmitting the information or the service shall have been advised of the possibility of such damages. To the fullest extent permitted by law, Lexipol or other persons creating or transmitting the service and the information shall have no responsibility or liability to Agency or anyone else under any tort, contract, negligence, strict liability, products liability or other theory with respect to any subject matter of this agreement or terms and conditions of use thereto with the exception of liability resulting from a finding of gross negligence, and/or willful and wanton conduct of Lexipol.

IX. COPYRIGHT

Agency expressly acknowledges and agrees that each and every policy provided by Lexipol including, but not limited to, all updates, revisions to Lexipol content, Supplemental Policy Publications and/or Procedure Manuals, and Daily Training Bulletins are expressly created for Agency's exclusive use. Agency further agrees that Lexipol owns the copyright to all content created by Lexipol which is incorporated into Policy Manual(s), content created by Lexipol which is incorporated into Supplemental Policy Publications and/or Procedure Manuals, Policy and/or Procedure update content and Daily Training Bulletins (hereinafter "Lexipol Content"). Agency further agrees that any content within an Agency Policy Manual prepared by Agency, based in whole or in part on content created by Lexipol, or based on any Supplemental Policy Publications and/or Procedure Manuals, and Daily Training Bulletins copyrighted by Lexipol shall be derivative works subject to the copyright of Lexipol.

Agency may not copy, republish, lend, modify, distribute, post on servers, transmit, redistribute, display, in whole or in part, by any means electronic or mechanical, or by any information storage and retrieval system, for commercial purposes, any Lexipol Content or derivative works thereof.

Agency may not copy, republish, lend, modify, distribute, post on servers, transmit, redistribute, display, in whole or in part, by any means electronic or mechanical, or by any information storage and retrieval system, to any third party agency or company, regardless of commercial purpose or compensation, any Lexipol Content or derivative works thereof.

Agency may not copy, republish, lend, modify, distribute, post on servers, transmit, redistribute, display, in whole or in part, by any means electronic or mechanical, or by any information storage and retrieval system, to any third party which provides services comparable to the services provided under this agreement in competition with Lexipol, regardless of commercial purpose or compensation, any Lexipol Content or derivative works thereof.

Agency may not copy, republish, lend, modify, distribute, post on servers, transmit, redistribute, display, in whole or in part, by any means electronic or mechanical, or by any information storage and retrieval system, to effect importation into any third party Knowledge/Content Management Service which provides services comparable to the services provided under this agreement in competition with Lexipol, regardless of commercial purpose or compensation, any Lexipol Content or derivative works thereof.

Nothing in this statement is intended to prohibit or restrict Agency from access and reproduction for department functions and providing any policies contained within the Policy Manual(s) pursuant to and authorized by a request under the Public Records Act, pursuant to Court order or any other lawful process. Nor is there intent to restrict Agency from use of any content created independently by agency and included in Lexipol's knowledge management systems.

The Lexipol Forum Pages, Release Notes and Guide Sheets, (which are provided under the Policy Manual Subscription) are copyrighted by Lexipol. Agency may not copy, republish, lend, modify, distribute, post on servers, transmit, redistribute, display, in whole or in part, by any means electronic or mechanical, or by any information storage and retrieval system, the contents of Lexipol Forum

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Pages, Release Notes and Guide Sheets to any third party for any purpose without prior written permission of Lexipol.

Agency is hereby given permission by Lexipol to reproduce any or all of the contents of Policy Manual(s), Supplemental Policy Publications and/or Procedure Manuals, Policy and/or Procedure update content and Daily Training Bulletins for its internal use. Agency is hereby given permission by Lexipol to prepare derivative works based on any or all of the contents of Policy Manual(s), Supplemental Policy Publications and/or Procedure Manuals, Policy and/or Procedure update content and Daily Training Bulletins for its internal use.

Subject to the provisions of this Section IX, Agency shall have a perpetual right and license to use all materials provided by Lexipol for internal use under this Agreement, and all derivative works based on such materials.

X. DISCLAIMER OF WARRANTIES

The service and all information is provided "as is" without warranties, express or implied, or representations of any kind whatsoever. There shall be no warranties of merchantability, fitness for a particular use, non-infringement of proprietary rights, enjoyment of the information or service, system integration, or accuracy of the information. To the fullest extent permitted by law, Lexipol disclaims any warranties for the security, reliability, timeliness, and performance of the information and the service. The entire risk as to satisfactory quality, performance, accuracy and effort is with Agency.

Some jurisdictions do not allow the disclaimer of implied warranties. In such jurisdictions, the foregoing disclaimers may not apply to Agency insofar as they relate to implied warranties. In those jurisdictions Lexipol shall use its best efforts, including industry standards of care, to insure satisfactory quality, performance and accuracy.

XI. NON-WAIVER AND SEVERABILITY

Lexipol's failure to exercise any right or provision of this Agreement shall not constitute a waiver of such right or provision. If a court of competent jurisdiction holds any provision of this Agreement to be invalid, the parties nevertheless agree that the court should endeavor to give effect to the parties' intentions as reflected in the provision, and agree that the other provisions of this Agreement remain in full force and effect.

XII. POLICY ADOPTION

The Agency hereby agrees and certifies that any and all policies developed and provided by Lexipol and its agents, employees and representatives have been individually reviewed, customized and adopted for the exclusive use of the Agency. It is further acknowledged and agreed that Lexipol and its agents, employees and representatives shall not be considered "policy makers" in any legal or other sense and that, upon acceptance of the policy manual(s) and execution of this Agreement, the chief executive of the Agency for all purposes be considered the "policy maker" with regard to each and every policy contained in said manual.

XIII. TERMINATION

This Subscription Agreement may be terminated at the annual anniversary date of the subscription period by written notice to the other party at least 30 days preceding the subscription anniversary date.

Agency is purchasing the following service(s):

POLICY MANUAL SUBSCRIPTIONS:	
Law Enforcement Policy Manual	<input type="checkbox"/>
Custody Policy Manual	<input type="checkbox"/>
Fire Policy Manual – includes DTBs	<input type="checkbox"/>

TRAINING SUBSCRIPTIONS:	
Law Enforcement Daily Training Bulletins (DTB)	<input type="checkbox"/>
Custody Daily Training Bulletins (CDTB)	<input type="checkbox"/>
National Daily Training Bulletins (NDTB)	<input type="checkbox"/>

Please complete all fields and place N/A where applicable.

(Chief/Sheriff Name) (Title) (Chief/Sheriff Email) (Chief/Sheriff Direct Phone)

(Custody Facility Manager Name) (Title) (Custody Fac. Mgr Email) (Custody Fac. Mgr Direct Phone)

(Name of Agency as you want it to appear on the manual)

(Agency Street Address) (City) (State) (Zip Code) (County)

(Custody Street Address – If different) (City) (State) (Zip Code) (County)

(Billing Address if different from above) (City) (State) (Zip Code)

(Agency Phone) (Fax) (Email)

(Risk Management Group/Insurance Pool) (Accreditation Agency)

(No. of Authorized Sworn Officers) (If Custody – No. of Beds) (Agency Fiscal Year End) (Agency Website)

(Policy Primary User Full Name) (Title) (Policy Primary User Phone) (Policy Primary User Email)

(Custody Primary User Full Name) (Title) (Custody Primary User Phone) (Custody Primary User Email)

(Policy Unique User ID number for system access; 2-5 digits i.e. badge number, employee number)

(Custody Unique User ID number for system access; 2-5 digits i.e. badge number, employee number)

The subscription agreement is authorized and approved by:

(Name of Authorized Signer) (Title) (Email, Authorized Signer) (Phone, Authorized Signer)

Authorized Agency Signature

Date

Please return all five (5) pages via fax, email or send to:
Fax: 949.484.4443 - Email: contracts@lexipol.com
Send: Lexipol LLC, 6B Liberty, Suite 200, Aliso Viejo, CA 92656

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