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CITY of NOVI CITY COUNCIL

Agenda Item B
March 17, 2008

SUBJECT: Approval of the Oakland County Interlocal Agreement establishing a new Oakland County Mutual Aid Association and to approve the membership of Novi Fire Department.

SUBMITTING DEPARTMENT: Fire

CITY MANAGER APPROVAL:

BACKGROUND INFORMATION:

I recommend that the City of Novi adopt this Interlocal Agreement because of the huge advantage that we gain. We are in a unique position geographically to need the resources of surrounding communities. The composition of our City with the St. John Providence Trauma Center, ITC, CSX Rail and Delta Fuels each create a very special demand upon emergency services. It would be virtually impossible to handle some emergencies with only the resources of Novi. Delta Fuels alone has almost fourteen million gallons of flammable hydrocarbon fuels on site.

In addition to the Western Wayne Interlocal Agreement which provides mutual aid resources of twenty-three communities, the Oakland County Interlocal Agreement would provide resources of forty-two additional communities. This is the cheapest insurance available for a City of our size and with our potential for problems.

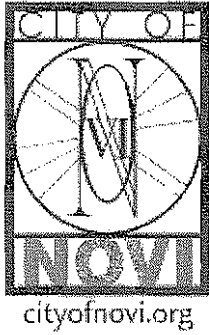
This concept itself represents the very core of the philosophy of shared services and a benefit for Novi that is very reasonable. This final document has had the input of all Fire Chiefs in Oakland County and has been designed with the assistance and guidance of attorney Julie Secontine, Oakland County Risk Manager. The City Attorney has reviewed the OCMAA and has no objections.

RECOMMENDED ACTION: Approval of the Oakland County Interlocal Agreement establishing a new Oakland County Mutual Aid Association and to approve the membership of Novi Fire Department.

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

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

MEMORANDUM



TO: CLAY PEARSON, CITY MANAGER
FROM: FRANK SMITH, FIRE CHIEF
SUBJECT: MUTUAL AID AGREEMENT
DATE: MARCH 5, 2008

Since 2005, a special ad hoc committee of Oakland County Fire Chiefs, has been researching and creating a Proposed Interlocal Agreement and Association Bylaws for the Oakland County Mutual Aid Association. This final document has had the input of all Fire Chiefs in Oakland County and has been designed with the assistance and guidance of attorney Julie Secontine, Oakland County Risk Manager.

I recommend that the City of Novi adopt this Interlocal Agreement because of the huge advantage that we gain. We are in a unique position geographically to need the resources of surrounding communities. The composition of our City with the new Providence Trauma Center, ITC, CSX Rail and Delta Fuels each create a very special demand upon emergency services that are virtually impossible to handle with solely Novi's resources. Delta Fuels alone has almost fourteen million gallons of hydrocarbon fuels on site.

In addition to the Western Wayne Interlocal Agreement which provides mutual aid resources of twenty-three communities, the Oakland County Interlocal Agreement would provide resources of forty-two additional communities. This is the cheapest insurance available for a City of our size and with our potential for problems.

We share a unique relationship with Farmington Hills because they also belong to both of these County Interlocal Agreements. This concept itself represents the very core of the philosophy of shared services and a benefit for Novi that is very cheap.

The City Attorney has reviewed the OCMAA and has no objections.

December 17, 2007

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Steven P. Joppich
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Clay J. Pearson, City Manager
City of Novi
45175 West Ten Mile Road
Novi, MI 48375

**RE: Oakland County Mutual Aid Association
Proposed Interlocal Agreement and Association Bylaws**

Dear Mr. Pearson:

The City has been presented with a draft Interlocal Agreement and Bylaws for the establishment of a county-wide emergency mutual aid association. For just shy of a year, our office has been involved in reviewing and commenting upon the various proposed drafts of this Agreement as presented by the Oakland County Fire Chiefs Association. We have worked closely with the attorneys assisting the OCFCA, and all of the comments, issues, and suggested changes that our office has identified have been adequately addressed.

Below is a *summary* of what have proved to be some of the more significant provisions of the Agreement and Bylaws, followed by our conclusions regarding this matter:

1. Article III states that the general purpose of the Oakland County Mutual Aid Association (OCMAA) is to jointly exercise the governmental emergency services powers set forth in the Agreement "*in order to provide for the mutual protection of persons and property without regard to boundary lines between the Parties during times of public emergencies, including multiple casualty incidents, conflagrations or disasters.*" This Article also provides for the cooperative efforts of the participating parties in lending personnel and equipment for fire services, as well as planning and developing standard operating procedures for the Association, preparedness, exercising and training for major emergency incidents.
2. Article IV states that the OCMAA possesses all powers set forth in the Urban Cooperation Act (MCL § 124.501 *et seq.*). The Urban Cooperation Act generally provides the following powers: (a) to sue and be sued; (b) to enter into contracts; (c) to make and amend bylaws; (d) to solicit and accept gifts, grants, loans, and assistance

funds, and to participate in any federal, state, or local government program (note that it is my understanding that one of the chief initial objectives of the OCMAA is to apply for and obtain grants for emergency preparedness purposes, under the belief that a unified organization such as the OCMAA will be a more qualified and attractive grant recipient than individual communities vying for such funds independently); (e) to procure insurance; (f) to employ agencies or employees as is necessary for rendering professional management and technical assistance and advice; (g) to charge, impose, and collect fees and charges; (h) to indemnify and procure insurance to indemnify members of the OCMAA Board; (i) to exercise any and all other necessary and proper powers agreed upon by the parties to the Agreement; (j) to acquire, construct, manage, maintain, and operate buildings, works, or improvements; (k) to acquire, hold, or dispose of property; (l) to incur debts, liabilities, or obligations which, except as expressly authorized by the parties, do not constitute the debts, liabilities, or obligations of any of the parties to the Agreement; and (m) to cooperate with a public agency, an agency or instrumentality.

The OCMAA does *not* have the power or authority to levy any type of tax within the boundaries of the City, or any of the other participating governmental units, or to issue any type of bond in its own name, or to in any way indebted the City or any of the other governmental units participating in the Interlocal Agreement.

3. Article V provides, among other things, that there is no employer-employee relationship, or entitlements to benefits or compensation that arise between the parties and their employees in the course of implementing the Agreement or providing shared services. Furthermore, this Article provides that each party will be solely responsible for the acts of its own employees, agents, and subcontractors, and the costs associated with those acts in the course of the contract, and that the parties will not be responsible for any liability or costs associated with the acts of other parties outside of their political jurisdictions. Article V also provides that no party will be liable for failure to respond for any reason to any request for fire services or for leaving the scene of an incident with proper notice after responding to a request for service. Lastly, this Article provides that each Party is responsible for having appropriate insurance coverage in place for its activities as they relate to the OCMAA.

4. Article VI of the Agreement provides that any party may withdraw from the OCMAA, at any time, for any reason, or for no reason at all, upon 30 days written notice.
5. Article VII of the Agreement provides that each party to the Agreement shall appoint one individual from its Fire Department to serve as a member of the Association Board, i.e., each party has a vote on the Board. Significantly, Article VII also obligates the Board to adopt the Bylaws that have been attached to the Agreement at its first meeting. Such Bylaws can only be amended upon a two-thirds vote of the total Board membership, and, importantly, any such amendment is not effective for a period of at least 60 days following the approval of the amendment. This 60 day delay has been incorporated to provide the City a window of opportunity to withdraw from membership in the OCMAA or otherwise react should it determine that any future amendments of the Bylaws are unacceptable to it for any reason.
6. Article VIII of the Agreement provides for the method of requesting and providing shared fire services by the members of the OCMAA in times of emergency. Upon a request for assistance, each party is agreeing to provide fire services subject to the following two key exceptions: (1) at all times "*the assisting Party shall have the right to maintain the operational capability of their own jurisdiction*"; and (2) "*A Party responding to a request for fire services shall not be required to maintain firefighters or fire apparatus within the boundaries of the requesting Party for a period longer than is necessary or until such time the responding Party needs its resources to maintain the operational capacity of its own jurisdiction.*" This Article of the Agreement also provides for the command, control, and coordination at an Incident to be conducted in accordance with the National Incident Management System (NIMS). The Agreement plainly states that the Fire Chief, ranking officer on duty, or other officer *of the requesting party* shall be the officer in charge of the Incident.

Article VIII also contains provisions establishing methods for dispute resolution and recourse to address situations in which either the refusal to respond to requests is believed to be unreasonable, or one party believes that its resources have been requested by another party on multiple occasions in abuse of the intent of the Agreement. If it is determined that a refusal of service was unreasonable, the responsible party can potentially be removed from the Association. In the event there is a finding of an abuse of the intent of the Agreement through multiple requests for

assistance, the responsible party be responsible for cost recovery or removed from the OCMAA, as determined by the Association Board.

7. Article X provides for the authority of the OCMAA Board to determine dues, fees, and assessments, the amount of which and payment procedure is established by way of the Bylaws. This provision of the Agreement requires a two-thirds vote of the OCMAA Board to approve any assessments and mandates at least a 60-day waiting period before any such assessment approval becomes effective. As before, this provision for a 60-day waiting period was inserted to provide a window of opportunity for each individual community's representative on the OCMAA Board to report back to its legislative body any assessments in the event any approvals or budget adjustments need to be considered by the legislative body before the assessment becomes effective. The safeguard is that should such approval of any party's legislative body not be forthcoming, such party will have the opportunity to withdraw from the OCMAA and alternatively the OCMAA will have an opportunity to reconsider any such assessment should negative responses be received from one or more local legislative bodies.
8. Article XI of the Agreement contains various miscellaneous terms, which are important, but mostly boilerplate legal provisions. Of these, Section 11.07 is worth pointing out. It provides that the Agreement can only be amended if the *governing bodies of all of the parties agree*.
9. Articles I – IV of the Bylaws set out the purposes, procedure for becoming a member, voting rights, designation of officers and their duties, holding of meetings, and other similar organizational matters in a manner consistent with the terms of the Agreement.
10. Article V provides details regarding dues, fees, and assessments also in a manner consistent with the Agreement, except with regard to assessments, the Bylaws require further procedural steps beyond those provided in the text of the Agreement. This Article also requires any expenditures of more than \$1,000.00 to be approved at a regular meeting of the OCMAA Board.
11. Similar to the Agreement, Article VII of the Bylaws provides that any amendment of the Bylaws requires a two-thirds vote, and requires any such amendment to be read at two successive meetings and voted upon at the second successive meeting.

Furthermore, amendments of the Bylaws are not effective until at least 60 days after the vote.

It is our considered opinion that the City is authorized by law to enter into an interlocal agreement such as this. It is our further opinion that the Agreement and Bylaws have sufficient procedural safeguards to protect the City against unexpected and excessive fees, dues, and assessments, as well as potentially disagreeable amendments to the Agreement and Bylaws. Additionally, pursuant to the provisions of both the Urban Cooperation Act and the Agreement itself, the City is exempted from responsibility for any debts or contractual obligations incurred by the OCMAA.

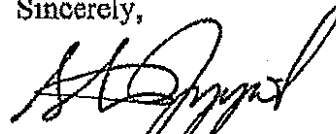
As far as liability is concerned, the Agreement provides that each individual party will be responsible and liable for its individual acts and omissions, including the City, and is required to maintain appropriate insurance. While there can be no absolute guarantee that the City will not be sued or held liable in connection with the activities of the OCMAA, the provisions of the Agreement outlined above appear to provide sufficient and reasonable protections, especially when weighed against the overall benefits to the public that may be achieved through participation in a mutual aid agreement of this nature.

In sum, the legal issues, comments and requested changes that we have discussed with the organizers of the OCMAA over the course of the past year have been satisfactorily addressed in the Agreement and Bylaws, and our office has no further objections from a legal standpoint.

Should the City Council desire to participate in the OCMAA, we have attached an appropriate resolution for such purposes.

Please do not hesitate to contact our office, with any questions or concerns you may have in these regards.

Sincerely,



Steven P. Loppich

SPJ/sls

Enclosures

C: Frank A. Smith, Fire Chief (w/Enclosures)
Maryanne Cornelius, Clerk (w/Enclosures)
Thomas R. Schultz, Esquire (w/Enclosures)

CITY OF NOVI
COUNTY OF OAKLAND, MICHIGAN

**RESOLUTION APPROVING PARTICIPATION IN THE OAKLAND COUNTY
MUTUAL AID ASSOCIATION AND EXECUTION OF THE INTERLOCAL
AGREEMENT RELATING THERETO**

RESOLUTION NO: _____

At a regular meeting of the City Council of the City of Novi, County of Oakland, State of Michigan, held on _____, 2007, the following Resolution was moved, supported and adopted.

RECITALS:

WHEREAS, the City of Novi has the power, privilege and authority to maintain and operate a fire department providing fire protection, fire suppression, emergency medical services, technical rescue, hazardous incident response, and other emergency response services ("Fire Services");

WHEREAS, Fire Services can further be improved by cooperation between political subdivisions during times of public emergency, conflagration, or disaster;

WHEREAS, the Michigan Constitution of 1963, Article 7, § 28, and the Urban Cooperation Act of 1967, Act No. 7 of the Public Acts of 1967, Ex. Sess., being MCL 124.501, *et seq.* (the "Act"), permit a political subdivision to exercise jointly with any other political subdivision any power, privilege or authority which such political subdivisions share in common and which each might exercise separately;

WHEREAS, the City of Novi has been presented with an Interlocal Agreement Creating the Oakland County Mutual Aid Association ("Interlocal Agreement");

WHEREAS, the Interlocal Agreement establishes the Oakland County Mutual Aid Association as a separate legal entity and as a non-profit corporate body, pursuant to the Act, with the intention of further improving Fire Services through cooperative efforts between political subdivisions and achieving other related objectives stated in the Agreement; and

WHEREAS, the City of Novi desires to participate in the Oakland County Mutual Aid Association and enter into the Interlocal Agreement.

NOW, THEREFORE BE IT RESOLVED, that the City Council of the City of Novi hereby authorizes the City Manager and City Clerk to enter into and execute the Interlocal Agreement Creating the Oakland County Mutual Aid Association on behalf of the City of Novi.

NOW, THEREFORE BE IT FURTHER RESOLVED, that the City Council of the City of Novi hereby appoints Fire Chief Frank A. Smith to serve as its designated member of the Oakland County Mutual Aid Association Board.

AYES:
NAYES:
ABSENT:
ABSTENTIONS:

CERTIFICATION

I hereby certify that the foregoing is a true and complete copy of a Resolution adopted by the City of Novi City Council at a regular meeting held on _____, 2007.

Maryanne Cornelius, City Clerk

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INTERLOCAL AGREEMENT

Effective: _____, 2007

BETWEEN

**PARTICIPATING POLITICAL SUBDIVISIONS AS SIGNATORIES TO THIS
INTERLOCAL AGREEMENT**

CREATING THE

**OAKLAND COUNTY FIRE MUTUAL AID ASSOCIATION
AND MUTUAL AID BOX ALARM SYSTEM AGREEMENT**

A Michigan Public Body Corporate

THIS INTERLOCAL AGREEMENT (the "Agreement") is entered into by and between [Insert city names], referred to in this Agreement individually as a "Party" and collectively as "Parties".

RECITALS:

WHEREAS, each Party has the power, privilege and authority to maintain and operate a fire department providing fire protection, fire suppression, emergency medical services, technical rescue, hazardous incident response, and other emergency response services ("Fire Services");

WHEREAS, Fire Services can further be improved by cooperation between political subdivisions during times of public emergency, conflagration or disaster ("Incidents");

WHEREAS, the Michigan Constitution of 1963, Article 7, § 28, and the Urban Cooperation Act of 1967, Act No. 7 of the Public Acts of 1967, Ex. Sess., being MCL 124.501 et seq. (the "Act"), permit a political subdivision to exercise jointly with any other political subdivision any power, privilege or authority which such political subdivisions share in common and which each might exercise separately;

WHEREAS, the Parties desire to enter into an Interlocal agreement, pursuant to the Act, to further improve Fire Services;

WHEREAS, as a result of entering into an interlocal agreement to further improve Fire Services, the Parties are creating the Oakland County Mutual Aid Association, as a separate legal entity and as a non-profit public body corporate (the "Association"), pursuant to the Act;

WHEREAS, each Party has the authority to execute this Agreement pursuant to resolution of its governing body; and

WHEREAS, each Party desires to commit personnel and equipment to another Party upon the request of another Party;

WHEREAS, the Michigan Constitution and the people of the State of Michigan have long recognized the value of cooperation by and among the state and its political subdivisions;

NOW, THEREFORE, In consideration of the mutual covenants, undertakings, understandings and agreements set forth in this Agreement, It is hereby agreed as follows:

**ARTICLE I
DEFINITIONS AND EXHIBITS**

Section 1.01. Definitions. The Parties agree that the following words and expressions, as used in this Agreement, whenever initially capitalized, whether used in the singular or plural, possessive or non-possessive, either within or without quotation marks, shall be defined and interpreted as follows:

(a) "Agreement" means this Agreement creating the Oakland County Mutual Aid Association and Mutual Aid Box Alarm System Agreement;

(b) "Mutual Aid Box Alarm System" ("MABAS") means a definite and prearranged plan whereby response and assistance is provided to a Requesting Party by an Assisting Party in accordance with the system established and maintained by MABAS Members;

(a) "Association Board" means the Board of the Association created by this Agreement.

(b) "Bylaws" means such rules and procedures for the operation of the Association as established by the Association Board and as may from time to time be amended.

(c) "Days" means calendar days.

(d) "Effective Date" means the date on which the Agreement is first filed with the Department of State, the Office of the Great Seal, and each county where Parties are located, which filing shall occur after the first meeting of the Association as described in Section 7.03 of this agreement.

(e) "Fire Apparatus" means vehicles and equipment of a Party used in performing Fire Services.

(f) "Fire Chief" means the chief of a Fire Department or a director of public safety.

(g) "Fire Department" means the operating department of a Party providing Fire Services.

(h) "Fire Fighters" means personnel qualified and trained in providing Fire Services.

(i) "Fire Services" means providing fire protection, fire suppression, emergency medical services, hazardous incident response, technical rescue and such other services as may be set forth in the Bylaws.

(j) "Fiscal Year" means October 1 to September 30.

(k) "Hazardous Materials (HAZMAT) Team" means a team which includes Fire Fighters qualified and trained in hazardous materials incidents.

(l) "Technical Rescue Team" means a team that includes Fire Fighters who have been trained to respond to rope, trench, confined space, building collapse and other technical rescue emergencies.

(m) "Incident" means a public emergency, conflagration, serious threat to public safety or disaster.

(n) "Party" means a political subdivision. For purposes of Article V, the term "Party" means a political subdivision including, but not limited to, elected and appointed officials, board members, fire department and public safety personnel, volunteers, employees, agents, sub-contractors and other related staff, which has entered into this Agreement.

(o) "State" means the State of Michigan.

Section 1.02. Agreement Exhibits. The Exhibits listed below and their properly promulgated amendments are attached hereto and incorporated into this Agreement.

(a) Exhibit A - The Oakland County Mutual Aid Association Bylaws.

ARTICLE II ESTABLISHMENT OF THE ASSOCIATION

Section 2.01. Establishment and Legal Status of the Association. The Parties intend and agree that Oakland County Mutual Aid Association is established as a separate legal entity and public body corporate pursuant to the Act and this Agreement.

Section 2.02. Name of Association. The name of the Association is "Oakland County Mutual Aid Association."

Section 2.03. Federal Tax Status. The Parties intend that the Association shall be exempt from federal income tax under Section 115(1) of the Internal Revenue Code of 1986, as amended, or corresponding provisions of any future tax code.

Section 2.04. State and Local Tax Status. The parties intend that the Association shall be exempt from all State and local taxation including, but not limited to, sales, use, income, single business, and property taxes under the applicable provisions of the laws of the State.

Section 2.05. Title to Association Property. All property is owned by the Association as a separate legal entity. The Association may hold any of its property in its own name or in the name of one (1) or more of the Parties, as determined by the Parties.

Section 2.06. Principal Office. The principal office of the Association ("Principal Office") shall be at such locations determined by the Association Board.

ARTICLE III PURPOSE

Section 3.01. General Purpose. The general purpose of the Association is for the joint exercise of the shared and essential governmental power, privilege or authority of the Parties set forth in this Agreement in order to provide for the mutual protection of persons and property without regard to boundary lines between the Parties during times of public emergencies, including multiple casualty incidents, conflagrations or

disasters. Additional detail regarding the foregoing purposes may be provided in the Bylaws.

Section 3.02. Primary and Secondary Activities. In exercising this shared power, the primary activities of the Association shall be the cooperative efforts of the Parties in lending personnel and equipment for Fire Services. Secondary activities may include, but are not limited to, cooperative efforts of the Parties in planning, developing standard operating procedures for the Association, preparedness, exercising and training for major emergency incidents during which these shared powers may be utilized. Additional detail regarding the foregoing activities may be provided in the Bylaws.

ARTICLE IV SHARED POWERS

Section 4.01. Shared Powers of the Association. In carrying out the purpose as set forth in Article III of this Agreement, the Association, either independently or with any individual or legal entity, possesses all powers, set forth in the Urban Cooperation Act (MCL 124.501).

ARTICLE V

RESERVATION OF RIGHTS, INSURANCE AND LIABILITY ASSURANCES

Section 5.01. No Waiver of Governmental Immunity. All of the privileges and immunities from liability, and exemptions from laws, ordinances and rules, and all pensions, relief, disability, worker's compensation and other benefits which apply to the activity of Parties, officers, agency, or employees of any public agents or employees of any public agency when performing their respective functions within the territorial limits for their respective agencies, shall apply to the same degree and extent to the performance of such functions and duties of such Parties, officers, agents or employees extraterritorially under the provision of this Agreement. No provision of the Agreement is intended, nor shall any provision of this Agreement be construed, as a waiver by any Party of any governmental immunity as provided by the Act or otherwise under law.

Section 5.02. Independent Contractor. The Parties agree that at all times and for all purposes under the terms of this Agreement each Party's relationship to any other Party shall be that of an Independent contractor. No liability, right or benefit arising out of any employer/employee relationship, either express or implied, shall arise or accrue to any Party as a result of this Agreement. Personnel dispatched to aid a Party are entitled to receive benefits and/or compensation to which they are otherwise entitled under the Michigan Workers' Disability Compensation Act of 1969, any pension law, or any act of Congress.

Section 5.03. Liability. Each Party will be solely responsible for the acts of its own employees, agents, and subcontractors, the costs associated with those acts and the defense of those acts. The Parties shall not be responsible for any liability or costs associated with those acts and the defense of those acts for Parties outside of their political jurisdictions. It is agreed that none of the Parties shall be liable for failure to respond for any reason to any request for Fire Services or for leaving the scene of an Incident with proper notice after responding to a request for service.

Section 5.04. Insurance. Insurance covering the activities of the Association will be obtained, if possible and feasible. However, it is recognized that such Insurance may be financially untenable or non-existent. Therefore, each Party shall be responsible for insuring its activities as they relate to the Association. The Association may choose to require each Party to provide Certificates of Insurance or Self-Insurance demonstrating the Party's proper coverage and limits. In the event any Party has a lapse in proper insurance coverage, as determined by the Board, the Party may be suspended from participation in the Association.

ARTICLE VI DURATION, WITHDRAWAL, AND TERMINATION OF INTERLOCAL AGREEMENT

Section 6.01. Duration. The existence of the Association commences on the Effective Date and continues until terminated in accordance with Section 6.03.

Section 6.02. Withdrawal by a Party. Any Party may withdraw, at any time, from this Agreement for any reason, or for no reason at all, upon thirty (30) days written notice to the Association. The withdrawal of any Party shall not terminate or have any effect upon the provisions of this Agreement so long as the Association remains composed of at least two (2) Parties. Parties withdrawing from the Association and subsequently requesting a mutual aid resource from an Association member may be subject to reasonable fees for that resource according to the fee schedule established, and periodically reviewed and updated, by the Association Board.

Section 6.03. Termination. This Agreement shall continue until terminated by the first to occur of the following:

- (a) The Association consists of less than two (2) Parties; or
- (b) A unanimous vote of termination by the total membership of the Association Board.

Section 6.04. Disposition upon Termination. As soon as possible after termination of this Agreement, the Association shall wind up its affairs as follows:

(a) All of the Association's debts, liabilities, and obligations to its creditors and all expenses incurred in connection with the termination of the Association and distribution of its assets shall be paid first.

(b) Any remaining assets shall be distributed equally to the remaining Parties.

ARTICLE VII ASSOCIATION BOARD

Section 7.01. Association Board Composition. The governing body of each Party shall appoint one (1) individual from its Fire Department to serve as a member of the Association Board, who shall serve at the pleasure of the governing body of the appointing Party. In the absence of a specific appointment by a Party's governing body, its Fire Chief is hereby declared to be its appointed representative on the Association Board.

Section 7.02. Association Board Authority. The Association Board shall have the powers of the Association, including adopting and amending needed rules, procedures, bylaws and any other matters deemed necessary by the Parties. The Association Board shall elect a President, Vice-President, Secretary, and Treasurer and such other officers as it deems necessary from the membership. The Association Board shall elect a member and an alternate to serve as the voting representative on the Michigan MABAS Executive Board. The Association Board Officers shall serve without compensation. The Association Board may establish committees as it deems necessary.

Section 7.03. Association Bylaws. At its first meeting, to occur 6 months after the Association is first established by the adoption of this agreement by 2 or more members, the Board shall adopt the Association Bylaws attached hereto, without modification, and shall review them thereafter on a regular basis. After initial adoption, the Board may approve amendments of such Bylaws upon a 2/3 vote of the total Board membership, and any such amendment shall not be effective for a period of at least sixty (60) days following approval of the amendment.

ARTICLE VIII FIRE SERVICES

Section 8.01. Requests for Fire Services. The Fire Chief, the ranking officer on duty, or other officer as designated by the Fire Chief, shall have the right to initiate requests for Fire Services at such times as deemed to be in the best interests of the

Party to do so. Response of mutual aid resources shall be in accordance with the Mutual Aid Box Alarm System in place at the time of the request. Nothing within this agreement shall prohibit a Party from activating existing mutual aid agreements.

Section 8.02. Response to Request for Fire Services. Upon a Fire Department's receipt of a request from another Party for Fire Services, the Fire Chief, the ranking officer on duty or other officer as designated by the Fire Chief shall have the right to commit the requested Fire Fighters, other personnel, and Fire Apparatus to the requesting Party. A Party shall provide Fire Services to any other Party upon request provided that the assisting Party shall have the right to maintain the operational capability of their own jurisdiction. An authorized representative of the Party which has withheld or refused to provide requested assistance under this Agreement shall immediately notify the requesting Party, and shall submit an explanation for the refusal to the Association Board in writing to the requesting Party within ten (10) days of the refusal. A Party responding to a request for Fire Services shall not be required to maintain Fire Fighters or Fire Apparatus within the boundaries of the requesting Party for a period longer than is necessary or until such time the Responding Party needs its resources to maintain the operational capacity of its own jurisdiction. Additional response guidelines may be established by the Association Board or by the Bylaws.

Section 8.03. Dispute Resolution and Recourse Regarding Mutual Aid Requests. In the interest of fostering a fair and sustainable mutual aid arrangement between the Parties, the following methods of dispute resolution shall be available to the Parties:

(a) If a Party believes their resources have been requested by another Party on multiple occasions in abuse of the intent of this Agreement, or if a Party believes the refusal to respond to a request was unreasonable, it may file a complaint with the Association Board for resolution under subsection (b), below.

(b) Without waiving the rights, powers, privileges and authority of individual jurisdictions to address issues at the direction and discretion of their governing body, upon receipt of a complaint under (a), above, the Association Board, shall appoint a panel of three Association Board members that will investigate the complaint and make recommendations for resolution, and the Association Board shall thereafter determine the resolution of the complaint. For purposes of considering such complaints, the Association representatives of the complaining Party and the Party that is the subject of the complaint, shall not participate in and shall abstain from any vote concerning the complaint, but shall be given an opportunity to submit statements and materials to the Association Board for its consideration. The determination of the Association Board shall not be at the same meeting at which the panel's recommendation concerning the complaint is first discussed. An unreasonable refusal of service may constitute

grounds for removal from the Association, as determined by the Association Board. An abuse of the Intent of this Agreement may constitute grounds for cost recovery or removal from the Association, as determined by the Association Board.

Section 8.04. Mutual Aid Box Alarm System. All Parties shall utilize the Mutual Aid Box Alarm System as specified by the Association.

Section 8.05. Incident Management System. Command, control and coordination at an Incident shall be conducted in accordance with the National Incident Management System (NIMS). The Fire Chief, the ranking officer on duty or other officer of the requesting Party shall be the officer in charge of the Incident. All Fire Fighters, other personnel and Fire Apparatus of the responding Party shall be under the command and control of the highest commanding officer of the responding Party. All directives and orders by the officer in charge of operations at the Incident regarding Fire Fighters, other personnel and Fire Apparatus shall be directed to the highest ranking officer of the responding Party.

Section 8.06. Obligations to Non-Parties. This Agreement shall not release any Party from any agreements such Party may have with any individual or legal entity relating to Fire Services who is not a Party to this Agreement. This Agreement shall not preclude, supersede or negate the activation or the fulfillment of the terms of any local, regional or state mutual aid or reciprocal aid compacts or agreements.

ARTICLE IX ADMISSION AND REMOVAL OF PARTIES

Section 9.01. Admission. A political subdivision may become a Party upon approval of two-thirds of the total Association Board.

Section 9.02. Removal. A Party may be removed from the Association upon a vote of two-thirds of the Association Board.

Section 9.03. Active Members. The Board shall maintain a current list of parties after the effective date, to include any new party as approved by the Board.

ARTICLE X FINANCES

Section 10.01. Dues, Fees and Assessments. The Association Board shall determine any dues, fees and assessments to each Party, the amount of which and payment procedure shall be set forth in the Bylaws. Approval of an assessment shall require an affirmative vote of two-thirds of the total membership as of the date of the vote, and such an approval shall not be effective until sixty (60) days after the date of Board approval, unless a longer period of time is designated in the motion.

SECTION XI MISCELLANEOUS

Section 11.01. Entire Agreement. This Agreement sets forth the entire agreement 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.

Section 11.02. Severability of Provisions. If a Court of competent jurisdiction finds any provision of this Agreement invalid or unenforceable, then that provision shall be deemed severed from this Agreement. The remainder of this Agreement shall remain in full force.

Section 11.03. Governing Law/Consent to Jurisdiction and Venue. This Agreement is made and entered into in the State of Michigan and shall in all respects be interpreted, enforced and governed under the laws of the State of Michigan. Except as otherwise required by law or court rule, any action brought to enforce, interpret or decide any claim arising under this Agreement shall be brought in the 6th Judicial Circuit Court of the State of Michigan or the United States District Court for the Eastern District of Michigan, Southern Division as dictated by the applicable jurisdiction of the court. Except as otherwise required by law or court rule, venue is proper in the courts set forth above.

Section 11.04. Captions. The captions, headings, and titles in this Agreement are intended for the convenience of the reader and not intended to have any substantive meaning and are not to be interpreted as part of this Agreement.

Section 11.05. Terminology. All terms and words used in this Agreement, regardless of the numbers or gender in which they are used, are deemed to include any other number and any other gender as the context may require.

Section 11.06. Recitals. The Recitals shall be considered an integral part of this Agreement.

Section 11.07. Amendment. The Agreement may be amended or an alternative form of the Agreement adopted only upon written agreement and approval of the governing bodies of all Parties, except an amendment to remove a Party shall not require agreement or approval of the governing body of the Party being removed. Amendments to this Agreement shall be filed with the Department of State, the Office of the Great Seal, each county of the State where a Party is located, and any other governmental agency, office and official required by law.

Section 11.08. Compliance with Law. The Association shall comply with all federal and State laws, rules, regulations, and orders applicable to this Agreement.

Section 11.09. No Third Party Beneficiaries. Except as expressly provided herein, this Agreement does not create, by implication or otherwise, any direct or indirect obligation, duty, promise, benefit, right of indemnification (i.e., contractual, legal, equitable, or by implication) right of subrogation as to any Party's rights in this Agreement, or any other right of any kind in favor of any individual or legal entity.

Section 11.10. Counterpart Signatures. This Agreement may be signed in counterpart. The counterparts taken together shall constitute one (1) agreement.

Section 11.11. Permits and Licenses. Each Party shall be responsible for obtaining and maintaining, throughout the term of this Agreement, all licenses, permits, certificates, and governmental authorizations for its employees/and/or agents necessary to perform all its obligations under this Agreement. Upon request, a Party shall furnish copies of any permit, license, certificate or governmental authorization to the requesting party.

Section 11.12. No Implied Waiver. Absent a written waiver, no fact, 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 affect its right to require strict performance of this Agreement.

Section 11.13. 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 to the person appointed to the governing board by the governing body of the participating agency.

IN WITNESS WHEREOF, this Agreement is executed by the Parties on the date hereafter set forth.

WITNESSES:

_____	BY: _____
_____	ITS: _____
_____	DATE: _____
_____	BY: _____
_____	ITS: _____
_____	DATE: _____

[Insert added signatories, as necessary, in final]

Exhibit A

OAKLAND COUNTY MUTUAL AID ASSOCIATION AND MABAS DIVISION BYLAWS

ARTICLE I NAME, PURPOSE AND DEFINITIONS

Section 1. Name - This organization shall be known as Oakland County Mutual Aid Association, hereinafter referred to as the "Association."

Section 2. Purpose and Activities - The purpose and activities of this Association are stated in the Agreement and further detailed below:

- a) To render reciprocal aid between the member communities or agencies in fire protection, emergency medical service, hazardous incident response, technical rescue and other emergency services.
- b) To provide professional leadership and training in the fire service.
- c) To promote fire prevention, education, and safety in the fire service.
- d) To establish and implement cooperative programs and activities in the field of fire protection, fire prevention and emergency medical service that will enhance public safety.
- e) To provide a forum for the free exchange of ideas by Fire Department personnel.

Section 3. Definitions - To the extent any of the words and expressions defined in the Interlocal Agreement are set forth in these Bylaws, they shall have the meanings ascribed to them in the Interlocal Agreement.

ARTICLE II MEMBERSHIP

Section 1. Request for membership - Requests for membership in the Association subsequent to the establishment of the Association shall be made by the Chief Executive or Administrative Officer or the Fire Chief of the prospective political subdivision. Such request shall be made in writing to the Secretary of the Association stating the political subdivision's ability to meet all requirements as set forth in the Oakland County Mutual Aid Association Agreement and the Bylaws. Political subdivisions wishing to join the Association and benefit from its services shall be

required to pay a fee, determined by the Association Board at the time of the request. Any political subdivision within or in close proximity to Oakland County that has a Fire Department and provides Fire Services shall be eligible for membership in the Association.

Section 2. Receipt of request for membership - The Secretary shall send a copy of the request for membership to the Fire Chief of each Party. The request shall appear on the agenda for discussion at the first regular or special meeting held after receipt of the request.

Section 3. Approval – Approval of membership shall be granted by affirmative vote of 2/3 or more of the total membership at the time of such vote.

Section 4. Removal – Removal from membership shall be by affirmative vote of 2/3 or more of the total membership at the time of such vote.

Section 5. Representation - Each member shall be represented on the Board by the Fire Department Chief Officer or other representative of the Fire Department approved by the governing body of the member.

Section 6. Voting - Each member present at a meeting, through its designated representative, shall have one (1) vote on all issues brought before the Board. This vote shall be cast only by the Fire Department Chief Officer or other designated representative at scheduled meetings. Presence in person at the meeting shall be required for voting. Unless otherwise specified in the Interlocal Agreement or these Bylaws, a majority vote of those present at a duly constituted meeting of the Board shall be necessary for the transaction of business.

Section 7. Compensation. No member of the Board, including its elected officers, shall receive compensation from the Association for the performance of their duties, but each member may be reimbursed by the Association for his or her reasonable expenses in carrying out those duties.

ARTICLE III OFFICERS

Section 1. Officers – The officers of this Association shall consist of: President, Vice-President, Secretary and Treasurer.

Section 2. Term of office – The terms of office of all officers of the Association shall be from January 1 to December 31 of each year.

Section 3. Election of officers – The election of officers shall be conducted at the first regular scheduled meeting where a quorum is present after September 30th of each year. If there is not a quorum at a regular scheduled meeting between September 30th and December 31st of any year, the officers of the Association shall be elected at the first regular meeting when a quorum is present after January 1st, and officers shall commence their terms in all respects as if they had been elected prior to January 1st. Officers shall be elected by a majority vote of those present and voting at a duly constituted meeting. If an officer vacates his or her position mid-term for any reason, nominations shall be made and voted upon at the next scheduled meeting or a special meeting called by the President or, in the President's absence, the Vice-President of the Association.

Section 4. Duties of officers - The President shall be the Chief Officer of the Association. The President shall preside at all meetings of the Association. The President shall call meetings as necessary or as requested by a simple majority of the membership.

The Vice-President shall assume the duties of the President in his absence or unavailability for any cause.

The Secretary shall assume the duties of President in the absence of the President and Vice-President at any duly constituted meeting. The Secretary shall keep the records and minutes of the Association and shall maintain the roster of members, the Mutual Aid Agreement, Bylaws, and all other documents. It shall be the Secretary's duty to receive and acknowledge all communications of the Association, and perform such duties as assigned by the President.

The Secretary shall provide each member of the Association a copy of the minutes of each past meeting at least ten days prior to the next regular scheduled meeting.

The Treasurer shall be custodian and sole depositor of the funds of the Association and shall disburse such funds by check as herein authorized or upon approval of the Board. The Treasurer shall render a complete summary of all income, disbursements and balances whenever requested by the Board, and to the membership at each regular meeting. A written copy shall be made available to any member upon request. The Treasurer shall invoice and collect all dues, assessments and fees from the membership.

ARTICLE IV

MEETINGS

Section 1. Regular meetings – The regular meetings of the Association shall be on the third Wednesday of each month, except the months specifically omitted by a majority vote of the members present at a regular scheduled meeting.

Section 2. Special meetings – Special meetings of the Association may be called by the President of this Association, or by a majority of the members who petition the President. The place and time shall be determined by the President. Proper notice of at least five days shall be given to all members.

Section 3. Rules of Order – All meetings shall be conducted in compliance with Robert's Rules of Order.

Section 4. Motions requiring special procedures. All motions for termination and assessment and dues changes must be made at meetings at least one month prior to the meeting where the vote on the motion is taken.

Section 5. Quorum - A quorum shall be required for the conduct of any business at regular and special meetings. A quorum shall be a majority of the total membership of the Association at the time of the meeting. A quorum for removal proceedings or for a waiver of annual dues shall be two-thirds of the total membership of the Association at the time of the meeting.

Section 6. Attendance - Any member whose board representative fails to attend three regular meetings of the Association within one calendar year shall be notified of such absences in writing by the Secretary. Such notification shall be sent to the Fire Chief of such member community. Failure to attend regular meetings will result in the loss of participation point values and additional assessments may be charged.

Section 7. Fiduciary Duties – The members are under a fiduciary duty to conduct the activities and affairs of the Association in the best interests of the Association. The members of the Association shall discharge this duty in good faith. In the event that any members of the Association Board are faced with a conflict between their fiduciary duty to the Association and the duty owed to their respective political subdivision, those members should refrain from voting on the issue presenting the conflict of interest.

**ARTICLE V
DUES, ASSESSMENTS, AND FEES**

Section 1. Dues – The annual dues for the Association shall be \$_____ per member (political subdivision).

Section 2. Assessments – Assessments may be levied in the following manner:

- a) An assessment proposal may be submitted, in writing, by any member to the Secretary.
- b) This proposal shall be placed on the agenda at the next regular scheduled meeting. The proposal shall be read and placed on the floor for discussion, but no vote shall be taken.
- c) The proposal shall be entered in the minutes and published.
- d) The proposal shall be brought to the floor for further discussion and voted upon at the next regular scheduled meeting.
- e) Assessment motions must indicate a commencement date at least sixty (60) days after approval and indicate when the assessment expires.

Section 3. Deposits and Investments. The Association shall deposit and invest all funds of the Association not otherwise employed in carrying out the purposes of the Association, in accordance with an investment policy established by the Association Board and consistent with laws regarding investment of public funds.

Section 4. Fees – Fees or other charges shall be brought before the membership for approval in the same manner as assessments.

Section 5. Timeliness of Payments – Dues, fees, assessments and other charges are due in advance by each member.

Section 6. Failure to pay – The failure of any member to pay all dues, assessments, or fees within 90 days of the start of the fiscal year shall forfeit membership in the Association. Reinstatement is conditioned on approval of the membership and payment of all arrears.

Section 7. Prorating of Charges - When new members are accepted for membership, dues and assessments shall be prorated in accordance with their official fiscal year. All other fees, however, shall be paid in full.

Section 8. Expenditures – Expenditures exceeding \$1,000.00 shall be approved at a regularly scheduled meeting.

ARTICLE VI COMMITTEES

Section 1. Special committees –The Association Board may establish such committees as are necessary to conduct the business of the Association. Ad hoc committees may be established by majority vote of the Association Board for short term purposes as may be necessary to the Association, however any committee whose active work continues for greater than one (1) year shall be considered a standing committee except by majority vote of the Association Board. Standing committees may be established by majority vote of the Association as may be necessary to the Association.

Section 2. Standing committees - Committee Composition and Membership. Standing committees established by majority vote of the Association shall be comprised of a Chief Officer, nominated and elected by the Association from each of the geographic mutual aid areas represented within the Association. Additional technical expertise from members may be added to such committees as necessary to conduct the business of the committee upon majority vote of the committee.

ARTICLE VII AMENDMENT

Section 1. Requirements - These Bylaws may be amended at any regular or special meeting of the Association by an affirmative vote of two-thirds of the members present in the following manner:

- a) Any member in good standing at a regular meeting may propose an amendment, alteration, revision or addition to the Bylaws of this Association.
- b) A written copy of the proposed amendment, alteration, revision or addition shall be filed with the Secretary.
- c) The Secretary shall publish the proposed amendment, alteration, revision or addition in the minutes, and read the proposal at two successive meetings, and it shall be voted upon at the second successive meeting.

Section 2. Effective date - Amendments of the Bylaws shall be effective sixty (60) days after the vote, unless a longer period of time is designated by a majority vote of the Board.

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OUR VIEWS

Mutual aid agreement could be a lifesaver

No fire department in Oakland County has the personnel or equipment to handle a huge disaster. That's why it makes sense for them to join the new Oakland County Mutual Aid Association.

The agreement gives departments that join immediate access to the resources of every other member department during an emergency, without having to go through time-delaying approval processes and without having to pay costly bills for the assistance.

So far, about 24 of the county's 42 departments have signed on, including Rochester Hills and Farmington Hills.

We encourage the rest to do so before the agreement goes into effect this spring.

The benefits far outweigh the costs — \$1,000 the first year, \$2,000 the second and \$3,000 the third.

The new association is being formed under a law that allows it to apply for grants that individual departments don't qualify for. Plus, member departments may be able to save money on equipment purchases through group buys.

Most important, it will likely save lives because departments won't lose time trying to get permission to use haz-mat or other speciality response or rescue equipment they don't own.

Independence Township

Fire Chief Steve Ronk, who came up with the idea, said the association is planning for worst-case scenarios. Preparedness is something taxpayers expect of their government during an emergency — and rightly so.

The agreement also breaks down the barriers among paid and volunteer fire departments and departments of public safety, who historically refused to provide mutual aid to each other, Ronk said.

Unfortunately, some municipalities have been slow to join.

Some have raised legitimate questions about financial accountability and concerns about liability when their firefighters respond to emergencies in other communities.

The bylaws will include language for financial accountability, according to Ronk. And insurance policies that don't already cover firefighters when they respond to emergencies as part of a mutual aid association can be expanded to include that coverage. Once again, we think the benefits will outweigh the costs.

We hope politics isn't the real reason some municipalities haven't yet joined, including wanting to have control over every dime.

Frankly, we can't think of one good reason why a city wouldn't want to have access to all the help it can get in safeguarding the well-being of its residents.