

ORDINANCE NO. 2009 - 9

**AUTHORIZING THE CITY MANAGER TO EXECUTE THE WARREN COUNTY FIRE RESPONSE AND LIFE SAFETY COUNCIL OF GOVERNMENTS AGREEMENT**

WHEREAS, approximately one year ago Warren County discontinued providing direct emergency HazMat response to the various communities of Warren County; and

WHEREAS, since that time, Warren County communities have received such service from individual fire department with the assistance of the Greater Cincinnati HazMat organization.; and

WHEREAS, in order to formalize the relationship with Greater Cincinnati HazMat, it is necessary to create a Council of Governments to be the contracting party on behalf the various communities in Warren County; and

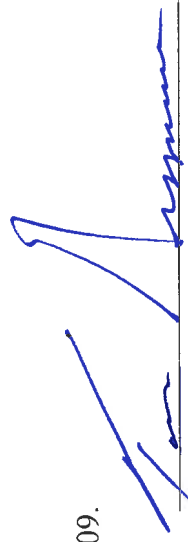
WHEREAS, in order for the City of Mason to enjoy the benefits of the relationship with Greater Cincinnati HazMat, it is necessary for the City of Mason, on behalf of the Mason Fire Department, to join this Council of Governments.

NOW THEREFORE, BE IT ORDAINED by the Council of the City of Mason, Ohio, five members elected thereto concurring:

Section 1. That the City Manager hereby is authorized to execute the Warren County Fire Response and Life Safety Council Of Governments Agreement attached hereto as Exhibit "A" and incorporated herein by reference.

Section 2. That this Ordinance shall take effect and be in force from and after the earliest period provided by law.

Dated this 26<sup>th</sup> day of January, 2009.

  
\_\_\_\_\_  
Mayor

Attest:

  
\_\_\_\_\_  
Clerk of Council

## WARREN COUNTY FIRE RESPONSE AND LIFE SAFETY COUNCIL OF GOVERNMENTS (“COG”) AGREEMENT

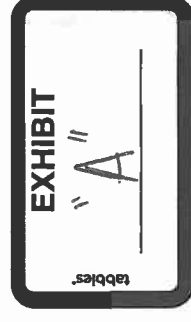
This Agreement is entered into on the dates stated below, effective as of \_\_\_\_\_, 2009, between the Carlisle City Council on behalf of the **Carlisle Fire Department**, **Clinton-Warren Joint Fire & Rescue District**, the Clearcreek Township Board of Trustees on behalf of the Clearcreek Township Fire District, the Deerfield Township Board of Trustees on behalf of Deerfield Township Fire & Rescue, Franklin City Council on behalf of the **Franklin Fire Department**, the Franklin Township Board of Trustees on behalf of the **Franklin Township Fire Department**, the Hamilton Township Board of Trustees on behalf of the **Hamilton Township Fire and Rescue**, the Harlan Township Board of Trustees on behalf of **Harlan Township Fire and Rescue**, the Board of Trustees of the Joint Emergency Medical Services District on behalf of the Joint Emergency medical Services, the Lebanon City Council on behalf of the **Lebanon Fire Department**, the Loveland City Council on behalf of the **Loveland Fire Department**, the Mason City Council on behalf of the **Mason Fire Department**, the Massie Township Board of Trustees on behalf of the **Massie Township Fire Department**, the Middletown City Council on behalf of the **Middletown Fire Department**, the Monroe City Council on behalf of the **Monroe Fire Department**, the Salem Township Board of Trustees on behalf of the **Salem/Morrow Fire District**, the Turtlecreek Township Board of Trustees on behalf of the **Turtlecreek Township Fire Department**, the Union Township Board of Trustees on behalf of the **Union Township Fire Department**, the Wayne Township Board of Trustees on behalf of the **Wayne Township Fire Department** (hereinafter collectively referred to as the Participating Agencies”).

**WHEREAS**, the parties hereto are engaged in the provision of Fire Response and Life Safety public services within their respective jurisdictions but only those portions of the jurisdictions in Warren County, Ohio: and,

**WHEREAS**, the parties have duly qualified persons who are members of a rescue service or a fire department, including volunteers, and who are on duty pursuant to the rules or directives of that rescue or fire service, and such persons are trained, among other things, in providing Chemical Emergency/Environmental Hazards (“HazMat”) Response; and,

**WHEREAS**, the parties desire to provide a mechanism pursuant to which contributions of equipment and personnel may be utilized collectively in furtherance of the purpose of maintaining a qualified and efficient HazMat response to HazMat incidents, and other mutually Fire Response and Life Safety public services that may occur in Warren County, Ohio; and

**WHEREAS**, Ohio Revised Code § 167.01 permits the establishment of regional councils of government for the purpose of the promoting cooperative arrangements and coordinating action among its members, and between its members and other agencies of local or state governments, whether or not within Ohio, and the federal government, as well as to perform any functions and duties as are performed or capable of being performed by its members individually that are necessary or desirable for dealing with problems of mutual concern.



**NOW THEREFORE BE IT RESOLVED** that the Participating Agencies do hereby agree to the following terms and conditions for purposes of providing fire response and life safety services within the boundaries of Warren County, Ohio:

**I. LENGTH OF AGREEMENT:**

This Agreement shall become effective on \_\_\_\_\_ and shall remain in force and effect indefinitely unless otherwise terminated as provided herein.

**II. WARREN COUNTY FIRE RESPONSE AND LIFE SAFETY POLICY BOARD:**

A. The Warren County Fire Response and Life Safety Policy Board shall consist of the appointees of each Participating Agency. The Participating Agency may also appoint an alternate appointee in the event the appointee is unable to attend one or more meetings of the Policy Board.

B. The organization of the Warren County Fire Response and Life Safety Policy Board and its operations shall be pursuant to written by-laws adopted in accordance with Ohio Rev. Code § 167.04.

**III. RELATIONSHIP OF PARTIES:**

A. Personnel participating in the activities of this organization shall act under the authority and direction of their respective Chief or his/her Designee. This provision notwithstanding, the parties shall be independent contractors in connection with the performance of their respective obligations under this Agreement and this Agreement shall not be construed to create any partnership, joint venture, agency or franchise. Nor shall this Agreement be construed to create an employer-employee relationship between the Warren County Fire Response and Life Safety COG, the participating agencies and personnel providing services pursuant to this Agreement.

B. Nothing contained herein shall be interpreted or construed to alter or modify the responsibilities of participating agencies as provided in the Ohio Revised Code, relevant provisions of law and other contracts and agreements regarding compensation for the time, services, and expenses of personnel, and contributions to and liability for workers compensation, unemployment compensation benefits, retirement benefits, health care benefits and other benefits accrued by law enforcement personnel within the scope of any investigation covered by this Agreement, or at any other time.

**IV. GOVERNING LAW:**

This Agreement shall be construed in accordance with, and the legal relations between the parties shall be governed by, the laws of the State of Ohio as applicable to contracts executed and fully performed in the State of Ohio.

**V. ASSUMPTION OF RISK:**

- A. All personnel providing services pursuant to this Agreement shall, for purposes of allocation of liability to third parties only, be deemed to be acting under the direction and control of their respective participating agencies and not under the direction and control of the Warren County Fire & Life Safety COG, and the participating agencies shall assume the risk of any liability to third parties arising from the conduct, acts and omissions of such personnel;
- B. Each party hereto agrees that with respect to any activities in which it participates, it will protect and defend each political subdivision or other participating agency in any such activity, and each and every specialized fire & life safety person who has so participated, against any claim, loss, damage, cause of action. Provided, however, that such duty to defend shall not apply to a participating agency and its personnel to the extent that any such personnel have acted outside the scope of lawful orders issued by their respective participating agencies or the Warren County Fire Response and Life Safety COG, or to the extent that any such personnel willfully and maliciously cause injury to person or property.

- 1. If any party challenges its duty to defend against any claim or action, it shall within thirty (30) days after receiving written notice of such claim or action, give written notice to the parties herein, that it will defend under a reservation of rights until it is decided whether or not such participating agency owes a duty to indemnify and defend under the terms of this Agreement.
- 2. In the event of any claim or action arising under circumstances to which this Agreement applies, and whether or not a reservation of rights is made, any participating agency, as a condition to obtaining the benefits of this Agreement, shall give its full cooperation to any participating agency assuming the defense of such claim or action in accordance with the terms of this Agreement.
- 3. The parties may bring an action for declaratory judgment in the Common Pleas Court of Warren County, Ohio, to determine which Participating Agency owes a duty to indemnify and defend under the terms of this Agreement. In any such litigation, the prevailing party shall be entitled to an award of reasonable attorney fees and other costs of litigation, against the non-prevailing party or parties.

**VI. FISCAL AGENT:**



Whenever the parties are referred to herein, the reference shall include, without exception, the employees, agents and authorized representatives of the parties.

**XIV. TERMINATIONS:**

Any party may terminate this Agreement with or without cause with thirty (30) days written notice to the other parties.

**XV. NOTICES:**

All notices required to be given herein shall be in writing and shall be sent to the following respective addresses:

TO: Chief Greg Wallace  
**Carlisle Fire Department**  
760 Central Avenue  
Carlisle, Ohio 45005  
Ph. 513-423-2636  
Email: [cfiredept1@cinci.rr.com](mailto:cfiredept1@cinci.rr.com)

TO: Chief Robert Wysong  
**Clinton-Warren Joint Fire & Rescue District**  
228 East Main Street  
Clarksville, Ohio 45113  
Ph. 937-289-3427  
Email: ?

TO: Asst. Chief, Thomas Morrison  
Attn. Ron Wilhelm, Safety Director  
**Clearcreek Fire District**  
925 S. Main Street  
Springboro, Ohio 45066  
Ph. 937-748-2766  
Email: [tmorrison@clearcreektownship.com](mailto:tmorrison@clearcreektownship.com)  
[rwillhelm@clearcreektownship.com](mailto:rwillhelm@clearcreektownship.com)

TO: Chief Chris Eisele  
**Deerfield Township Fire and Rescue**  
8355 Snider Road  
Mason, Ohio 45040  
Ph. 513-459-0875  
Email: [reise@deerfieldtwp.com](mailto:reise@deerfieldtwp.com)

TO: Chief Jonathan Westendorf  
**Franklin Fire Department**  
41 E. Fourth Street

Franklin, Ohio 45005  
Ph. 937-746-4542  
Email: [jwestendorff@franklinohio.org](mailto:jwestendorff@franklinohio.org)

TO: Captain Jesse Madden  
**Franklin Township Fire Department**  
P.O. Box 364  
Franklin, Ohio 45005  
Ph. 937-746-9811  
Email: [jmadden\\_gems@yahoo.com](mailto:jmadden_gems@yahoo.com)

TO: Chief Mark Greateorex  
**Hamilton Township Fire and Rescue**  
69 W. Foster-Maineville Road  
Maineville, Ohio 45039  
Ph. 513-683-1622  
Email: [Mark.Greateorex@htfire.org](mailto:Mark.Greateorex@htfire.org)

TO: Chief Andy Mitten  
**Harlan Township Fire and Rescue**  
9009 Morrow-Rosburg Road  
P.O. Box 155  
Pleasant Plain, Ohio 45162  
Ph. 513-877-2727  
Email: [harlanfirerescue@tds.net](mailto:harlanfirerescue@tds.net)

TO: Chief Brandon Saylor  
Joint Emergency Medical Services  
201 E. 6th Street  
P.O. Box 525  
Franklin, Ohio 45005  
937-746-3483  
Email: [bsaylor@mavericklogisticsll.com](mailto:bsaylor@mavericklogisticsll.com)

TO: Chief Michael Hannigan  
**Lebanon Fire Department**  
20 W. Silver Street  
Lebanon, Ohio 45036  
Ph. 513-932-6119  
Email: [mhannigan@ci.lebanon.oh.us](mailto:mhannigan@ci.lebanon.oh.us)

TO: Chief Otto Huber  
**Loveland Fire Department**  
1 Safety Center Drive  
Loveland, Ohio 45140

Ph. 513-583-3001  
Email: [ohuber@safety-center.org](mailto:ohuber@safety-center.org)

TO: Chief John Moore  
**Mason Fire Department**  
6000 Mason-Montgomery Road  
Mason, Ohio 45040  
Ph. 513-229-8540  
Email: [jmoore@masonoh.org](mailto:jmoore@masonoh.org)

TO: Chief Bob Coffman  
**Massie Township Fire Department**  
P.O. Box 27  
Harveysburg, Ohio 45032  
Ph. 513-897-5039  
Email: ?

TO: Chief Steven M. Botts  
**Middletown Fire Department**  
2300 Roosevelt Blvd.  
Middletown, Ohio 45042  
Ph. 513-425-7996  
Email: [steveb@cityofmiddletown.org](mailto:steveb@cityofmiddletown.org)

TO: Chief Mark Neu  
**Monroe Fire Department**  
6262 Hamilton-Middletown Road  
P.O. Box 117  
Monroe, Ohio 45050  
Ph. 513-539-8380  
Email: [neu@monroeohio.org](mailto:neu@monroeohio.org)

TO: Chief Fred Lafollette  
**Salem/Morrow Fire Department**  
P.O. Box 161  
Morrow, Ohio 45152  
Ph. 513-899-2222  
Email: [chief71@station71.com](mailto:chief71@station71.com)

TO: Chief Steve Flint  
**Turtlecreek Township Fire Department**  
670 North State Route 123  
Lebanon, Ohio 45036  
Ph. 513-932-4902  
Email: [sflint@go-concepts.com](mailto:sflint@go-concepts.com)



TO: Chief Bob Napier  
**Union Township/South Lebanon Fire Department**  
285 E. Pike Street  
South Lebanon, Ohio 45065  
Ph. 513-494-2566  
Email: [chiefnapier@utsifd.com](mailto:chiefnapier@utsifd.com)

TO: Chief Paul Scherer  
**Wayne Township Fire Department**  
165 Miami Street  
Waynesville, Ohio 45068  
Ph. 513-897-3010  
Email: [wtfchief1@waynetownship.us](mailto:wtfchief1@waynetownship.us)

**XVI. Authorization For Agreement:**

This Agreement has been signed by the respective parties pursuant to the attached resolutions and/or ordinances.

**XVII. Execution.**

The parties to this Agreement have caused it to be executed as follows:

IN EXECUTION WHEREOF, the Mason City Council has caused this Agreement to be executed by Eric Hansen, its City Manager, on the date stated below pursuant to Resolution/Ordinance No. 2009-09, dated 12/1/09.

SIGNATURE: [Signature]

NAME: City Manager

TITLE: \_\_\_\_\_

DATE: \_\_\_\_\_

APPROVED AS TO FORM:

By [Signature]  
Kenneth Schneider, Law Director

**WARREN COUNTY FIRE RESPONSE AND LIFE SAFETY  
COUNCIL OF GOVERNMENTS ("COG") BYLAWS**

**WHEREAS**, in accordance with Ohio Revised Code § 167.04, the members of the Warren County Fire Response and Life Safety Council of Governments consisting of **Carlisle City Council on behalf of the Carlisle Fire Department, Clinton-Warren Joint Fire & Rescue District, the Clearcreek Township Board of Trustees on behalf of the Clearcreek Township Fire District, the Deerfield Township Board of Trustees on behalf of Deerfield Township Fire & Rescue, Franklin City Council on behalf of the Franklin Fire Department, the Franklin Township Board of Trustees on behalf of the Franklin Township Fire Department, the Hamilton Township Board of Trustees on behalf of the Hamilton Township Fire and Rescue, the Harlan Township Board of Trustees on behalf of Harlan Township Fire and Rescue, the Board of Trustees of the Joint Emergency Medical Services District on behalf of Joint Emergency Medical Services, the Lebanon City Council on behalf of the Lebanon Fire Department, the Loveland City Council on behalf of the Loveland Fire Department, the Mason City Council on behalf of the Mason Fire Department, the Massie Township Board of Trustees on behalf of the Massie Township Fire Department, the Middletown City Council on behalf of the Middletown Fire Department, the Monroe City Council on behalf of the Monroe Fire Department, the Salem Township Board of Trustees on behalf of the Salem/Morrow Fire District, the Turtlecreek Township Board of Trustees on behalf of the Turtlecreek Township Fire Department, the Union Township Board of Trustees on behalf of the Union Township Fire Department, the Wayne Township Board of Trustees on behalf of the Wayne Township Fire Department (hereinafter collectively referred to as the "COG"), desire to adopt written by-laws; and,**

**NOW THEREFORE BE IT RESOLVED**, by at least a majority vote of the members of the COG do hereby adopt the following by-laws in accordance with Ohio Revised Code § 167.04:

**Membership, withdrawals and representation.**

In accordance with Ohio Revised Code § 167.02, membership in the COG shall be the municipal corporations, townships, special districts, state agencies or other political subdivisions entering into the agreement establishing the council or admitted to membership subsequently thereto.

Any county, municipal corporation, township, special district, school district, or other political subdivision which has become a member of the COG may withdraw by giving written notice to the COG, or should the member fail to participate as a member of the Policy Board for an extended period of time and the Policy Board by a least a majority vote of the quorum present at a regular meeting elect to give notice to such member that its membership is being revoked for lack of participation.

### **Governing Board and Power to Act for the Council.**

The COG Agreement, Section II, established a Policy Board consisting of the Participating Agencies. The Policy Board shall also consist of appointees of any municipal corporations, townships, special districts, state agencies or other political subdivisions that join after the inception of the COG, so long as each enters into the COG Agreement, or any amendment thereto, in accordance with Ohio Revised Code § 167.02.

The Policy Board shall be the governing board of the COG that may act for the COG in accordance with Ohio Revised Code § 167.04.

The Policy Board shall have the power to act for and on behalf of the COG, unless otherwise provided by law, pursuant to the powers explicitly provided in Ohio Revised Code § 167.03.

The Policy Board shall have the power to act for and on behalf of the COG in the transaction of business and in personnel matters pursuant to the powers explicitly provided in Ohio Revised Code § 167.05, to-wit: to employ such staff and **contract for the services** of such consultants and experts; to purchase or lease or otherwise provide for such supplies, materials, equipment, and facilities as it deems necessary and appropriate in the manner and under procedures established by the Policy Board. Such act or acts of the Policy Board shall be determined by at least a majority of the members of the Policy Board during a regular or special meeting. An affirmative vote to so act shall be recorded in the minutes of the Policy Board meeting, and when appropriate, a separate Resolution shall be prepared to memorial the act or acts approved by affirmative vote.

The Policy Board shall set policy for the various COG activities within the jurisdictions represented by members of the COG but only the portion of such jurisdictions in Warren County, Ohio, and such enforcement shall be carried out by the COG representative of each member jurisdiction.

### **Limitation on Authority to Levy Dues**

The Policy Board shall have no authority to levy dues on the Participating Agencies. The levying of dues on Participating Agencies shall be reserved for a majority vote of the Legislative Authorities that enter into the COG Agreement.

### **Designation of and Method of Selection of Officers of the Council.**

At the organizing meeting, the Policy Board shall elect the following officers and designate at that time the length of terms of respective offices up for election.

- Chairperson – duties shall include presiding at meetings of the COG
- Secretary / Recorder – duties shall include keeping summary records of meetings of the COG including a record of items discussed an votes taken, maintaining records of the COG
- Treasurer – duties shall include accounting for funds of the COG from whatever source, maintaining auditable records of the COG, and dispensing funds as directed by the membership.

#### **Regular Monthly Meetings.**

The Policy Board shall conduct regular monthly meetings. The meetings shall be held at \_\_\_\_\_, on the \_\_\_\_\_ day of each month at \_\_\_\_\_ a.m./p.m.. If the date is a legal holiday or a weekend, then the regular monthly meeting shall be held on the next business day at the same time. The date, place and time may be changed by at least a majority vote of the quorum present at a regular meeting.

#### **Special Meetings.**

The members of the Policy Board may conduct special meetings. Special meetings may be called by any member of the Policy Board by giving written notice of the time, place and purpose of such meeting to the other members of the Policy Board.

#### **Notice of Meetings.**

These by-laws shall serve as notice of the date, time and place of all regular meetings. If the date, time or place of a regular meeting is changed, written notice shall be required the same as if a special meeting was being called. Written notice of all special meetings must be delivered to the members of the Policy Board by ordinary U.S. mail, or facsimile, or email at least seven days prior to the meeting. No meeting shall be held sooner than seven days from the date of the notice of the special meeting. The notice of a regular meeting need not state the purpose for the meeting, unless the purpose involves the expenditure of funds or modification of by-laws or policies and procedures. No irregularity of notice of a regular meeting will invalidate the notice or any proceeding of the meeting.

#### **Vote Required for Action.**

At least a majority of the Policy Board members must be present at a meeting to constitute a quorum; and, at least a majority of the quorum present at a meeting must vote in the affirmative to authorize an act or acts. A tie vote shall be declared a negative vote or denial.

#### **Designation of Fiscal Officer and Authorization for Disbursements.**

In accordance with Ohio Revised Code § 167.04 (B) and Section VI of the COG Agreement, the Fiscal Officer is hereby designated to be \_\_\_\_\_, whose address is \_\_\_\_\_. The Fiscal Officer is authorized to require

the submission of purchase orders and vouchers for the disbursement of funds to or on behalf of the COG. The Policy Board shall also comply with all other requirements of the \_\_\_\_\_ Procurement Policy relating to any disbursements on behalf of the COG, if applicable.

**Fiscal support and activities.**

In accordance with Ohio Revised Code § 167.06, the members of the COG may

- Appropriate funds to meet the expenses of the COG.
- The COG may accept services of personnel, use of equipment, office space and other necessary services from members of the COG as part of their financial support.
- The members of the COG, the State of Ohio and its departments, agencies and instrumentalities, or political subdivisions, or any governmental unit may give moneys, real property, personal property or services to the COG.
- The COG may establish schedules of dues to be paid by its members to aid the financing of the operations and programs of the COG, which shall be determined by and require at least a majority vote of the quorum of the members present at a regular meeting of the Policy Board.
- The COG may permit non-member political subdivisions to participate in any of its activities regardless of whether such political subdivisions have paid dues to the COG. T
- The COG may accept funds, grants, gifts, and services from the government of the United States or its agencies, from the State of Ohio or its departments, agencies, instrumentalities, or from political subdivisions or from any other governmental unit whether participating in the COG or not, and from private and civic sources.

The COG shall make an annual report of its financial activities to its members.

**Membership not a barrier to holding another public office.**

In accordance with Ohio Revised Code §167.07, membership in the COG does not constitute the holding of a public office or employment; shall not constitute an interest, either direct or indirect, in a contract or expenditure of money by any municipal corporation, township, special district, school district, county or other political subdivision; and, no member of the COG shall be disqualified from holding any public office or employment, nor forfeit any such office or employment by reason of his or her position as a member or officer of the COG.

**Contracts for service to or from political subdivisions.**

In accordance with Ohio Revised Code §167.08 the Policy Board may enter into contracts to provide services to or receive services from appropriate officials, authorities, boards, or bodies of municipal corporations, townships, special districts, state agencies or other political subdivisions.

Such contracts may also authorize the COG to perform any function or render any service on behalf of such counties, municipal corporations, townships, special districts, State agencies or other political subdivisions, which such municipal corporations, townships, special districts, State agencies or other political subdivisions may perform or render.

#### **Amendments to Bylaws**

These bylaws may be amended or repealed by a vote of a majority of the quorum of the Policy Board present at a regular meeting, or at a special meeting called for the purpose of amending these by-laws.

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IN EXECUTION WHEREOF, the Mason City Council has caused this Agreement to be executed by Eric Hansen, its City Manager, on the date stated below pursuant to Resolution/Ordinance No. 2009-09, dated 12/10/09.

SIGNATURE: 

NAME: Eric Hansen

TITLE: City Manager

DATE: \_\_\_\_\_

APPROVED AS TO FORM:

By:   
Kenneth Schneider, Law Director