



City of Bayard
CITY COUNCIL REGULAR MEETING
September 11, 2023 at 5:30 PM
Bayard City Hall

AGENDA

WORK SESSION

CALL TO ORDER: Mayor Chon S. Fierro

PLEDGE OF ALLEGIANCE

ROLL CALL

APPROVAL OF THE AGENDA

PUBLIC INPUT

CONSENT AGENDA

1. Approval of Regular Minutes for August 28, 2023.
2. Approval of Accounts Payable Report for September 11, 2023.
3. Approval of Bayard Library Report for August 2023.
4. Approval of Chief Hector Carrillo attending Organized Retail Crime Conference in Albuquerque on September 28, 2023.
5. Approval of Chief Carrillo attending Use of Force Report Writing in Albuquerque on October 19, 2023.
6. Approval of Trevor Jensen and Anthony Macias attending IR 8000 Operator Class in T or C on October 26, 2023.

OLD BUSINESS

7. Discussion/Approval of Solid Waste Contract.

NEW BUSINESS

8. Appointment of Mayor Pro-tem Eloy Medina.
9. Discussion/Approval of Planning & Zoning requesting City Staff as a Secretary.
10. Approval of Lexipol Master Service Agreement.

ACTION FOR PERSONNEL

11. Approval of Hiring of Animal Control/Code Enforcement Officer.
12. Discussion/Approval of Notary Increases.

CLOSED SESSION

A Closed Session may be held pursuant to 10-15-1 (H-2) NMSA 1978 for limited personnel matters.

DEPARTMENT HEAD REPORTS

MAYOR AND COUNCILORS REPORTS

NEXT MEETING DATE:

Regular Meeting - September 25, 2023

ADJOURNMENT

ACCOUNTS PAYABLES**11-Sep-23****GENERAL FUND - 10**

Amazon	Center Pull Towels-City Hall	\$ 32.64
Amazon	Center Pull Towels-PD	\$ 32.64
Amazon	Center Pull Towels-Animal Control	\$ 32.64
J&S Plumbing & Heating	Air Conditioner-City Hall	\$ 2,615.77
Morning Star	Polo Shirt-Chon	\$ 40.00
Bank of America	Standard Microphone-PD	\$ 314.95
Bank of America	Wiper Blades- Explorer-PD	\$ 62.40
TOTAL:		\$ 3,131.04

JNT W/S O&M FUND - 150

Amazon	Center Pull Towels	\$ 32.64
Amazon	Bleach for Booster	\$ 1,793.40
TOTAL:		\$ 1,826.04

JNT WASTEWATER FUND - 170

Amazon	Center Pull Towels	\$ 32.64
Cummins Sales & Service	Assy Bar Graph	\$ 851.85
Northern Safety	Safe Grip Gloves	\$ 265.30
TOTAL:		\$ 1,149.79

COMMUNITY CENTER FUND - 200

Amazon	Center Pull Towels	\$ 32.65
Foxworth	Pads for Cooler	\$ 124.51
TOTAL:		\$ 32.65

LIBRARY FUND - 210

Amazon	Center Pull Towels	\$ 32.65
Amazon	Go Bonds Books	\$ 1,021.21
TOTAL:		\$ 1,053.86

MUNICIPAL STREET FUND - 240

Bank of America	Flat Tire Grasshopper Mower	\$172.96
TOTAL:		\$ 172.96

MUNICIPAL COURT FUND - 20

Amazon	Center Pull Towels	\$ 32.64
TOTAL:		\$ 32.64

FIRE FUND- 30

Amazon	Center Pull Towels	\$ 32.64
TOTAL:		\$ 32.64

LAW ENFORCEMENT FUND - 60

The Line	Uniforms/Patches/Collor Pins	\$ 1,559.93
----------	------------------------------	-------------

TOTAL: \$ 1,559.93

TOTAL: \$ 8,991.55

ACCOUNTS PAID**11-Sep-23****GENERAL FUND - 10**

Abila	Monthly Accounting System-CH	\$ 123.74
Abila	Monthly Accounting System-PD	\$ 123.74
Spectrum Technologies	Monthly Full IT Coverage-CH	\$ 4,404.96
Spectrum Technologies	Monthly Full IT Coverage-PD	\$ 1,391.04
The UPS Store	Shipping for Police Dept	\$ 21.89
PNM	Monthly Electricity Service-CH	\$ 654.74
PNM	Monthly Electricity Service-Parks	\$ 132.87
PNM	Monthly Electricity Service-PD	\$ 162.18
Grant County	FY2024 Code Red Service	\$ 1,000.00
Xfinity	Internet Service-Fire Dept	\$ 10.23
Town & Country Vet	Euthanasia- Animal Control	\$ 108.11
Ricoh	Monthly Printer Services-CH	\$ 32.29
Ricoh	Monthly Printer Services-PD	\$ 32.28
SC Daily Press	RFP 2024-1L	\$ 31.61
SC Daily Press	RFP 2024-1F	\$ 31.61
SC Daily Press	Tri-City Landfill Reg Meeting	\$ 19.85
SC Daily Press	Humane Officer	\$ 29.78
SC Daily Press	Work Session/Reg Meeting	\$ 34.55
AT&T Mobility	Monthly Cell Phone Service-CH	\$ 131.48
AT&T Mobility	Monthly Cell Phone Service-PD	\$ 424.49
Vivint	Monthly Security System Service-CH	\$ 60.67
Comcast	Monthly Internet Service-CH	\$ 312.46
Federal Licensing Inc	Radio License Renewal	\$ 119.00
TOTAL:		\$ 9,393.57

JNT W/S O&M FUND - 150

Abila	Monthly Accounting System	\$123.74
Spectrum Technologies	Monthly Full IT Coverage	\$772.80
Badger Meter	Monthly Beacon Services	\$290.64
PNM	Monthly Electricity Services	\$3,140.04
AT&T Mobility	Monthly Cell Phone Service	\$ 91.44
Vivint	Monthly Security System Service	\$ 72.21
TOTAL:		\$4,490.87

SEWER OPERATIONS FUND- 155

Abila	Monthly Accounting System	\$123.74
TOTAL;		\$123.74

JNT WASTEWATER FUND - 170

The UPS Store	Shipping for Sample	\$ 256.56
Abila	Monthly Accounting System	\$ 123.74
Spectrum Technologies	Monthly Full IT Coverage	\$ 386.40

American Linen	Laundry Services	\$48.47
PNM	Monthly Electricity Service	\$72.62
Hall Envir Analysis Lab	Plant Testing	\$ 582.42
AT&T Mobility	Monthly Cell Phone Service	\$ 54.52
TOTAL:		\$ 1,524.73

COMMUNITY CENTER FUND - 200

PNM	Monthly Electricity Service	\$ 245.00
Vivint	Monthly Security System Service	\$ 56.06
TOTAL:		\$ 301.06

LIBRARY FUND - 210

Ricoh	Monthly Printer Services	\$ 32.29
NM Library Association	Membership Dues	\$ 55.00
AT&T Mobility	Monthly Cell Phone Service	\$ 45.72
TOTAL:		\$ 133.01

MUNICIPAL STREET FUND - 240

Abila	Monthly Accounting System	\$ 122.45
PNM	Monthly Electricity Service	\$2,725.02
TOTAL:		\$ 2,847.47

MUNICIPAL COURT FUND - 20

Abila	Monthly Accounting System	\$ 123.74
Spectrum Technologies	Monthly Full IT Coverage	\$ 327.12
PNM	Monthly Electricity Service	\$ 144.81
AT&T Mobility	Monthly Cell Phone Service	\$ 45.72
Caselle	Monthly Software Service	\$179.00
Admin Office of Courts	Monthly Fee Report	\$ 111.00
TOTAL:		\$ 931.39

FIRE FUND- 30

Abila	Monthly Accounting System	\$123.74
Spectrum Technologies	Monthly Full IT Coverage	\$463.68
PNM	Monthly Electricity Services	\$272.23
AT&T Mobility	Monthly Cell Phone Service	\$45.72
TOTAL:		\$905.37

LAW ENFORCEMENT FUND - 60

Law Enforce Seminars	Internal Affairs Investigation	\$ 425.00
TOTAL:		\$425.00

Solid Waste -160

Abila	Monthly Accounting System	\$123.74
TOTAL:		\$123.74

GRAND TOTAL: **\$ 20,651.21**

August 2023 Library Report / Council Meeting 8/28/2023

1. We made a large order of new books for the new fiscal year.
2. Sonya submitted the grant to LWCF for the library park.
3. Sonya attended the CIP meeting on 8/21/23.
4. We have made arrangements for an intern to begin work on 8/28/23 from the Dept. of Workforce Solutions. She will be paid through them.
5. We received the final bid proposal for the park landscaping and they were sent up on 8/23/23.
6. The library received a large amount of donations this month and we are currently cataloging and disbursing those we cannot use.
7. The library received a donation from patron L. Herrington in memory of her friend. Acknowledgements were sent out.
8. The Imagination Library presented a plaque to be attached to one of our benches once the library park is further along.
9. A group of volunteers had a clean up day, 8/9/23, in the park to get a handle on the weeds.
10. We received an apricot tree sapling from a patron and Sonya planted it.
11. The seed library stewards came to update our seed library catalogue while Sonya was away on vacation. We now are fully stocked for fall planting.
12. Jenny has her art exhibited in our conference room and we will host a reception for her in October.
13. The Planning & Zoning Committee is using the conference room for their meetings the 1st and 3rd Thursdays of the month.

Chief

NMORCA

NEW MEXICO ORGANIZED RETAIL CRIME ASSOCIATION



ORGANIZED RETAIL CRIME CONFERENCE

September 28, 2023

8:00 AM - 5:00 PM

\$50 Early Bird Registration Fee

Sheraton Albuquerque Uptown

2600 Louisiana Blvd NE,

Albuquerque, NM 87110

**REGISTER TODAY & JOIN YOUR RETAIL &
LAW-ENFORCEMENT PEERS AT
NMORCA'S 2023 CONFERENCE**

**RAFFLE TO
BE HOSTED**



**YOU WON'T WANT
TO MISS OUT!**

**SCAN HERE TO VIEW THE VISIT
ALBUQUERQUE VISITOR'S GUIDE!**

VISIT
ALBUQUERQUE
CHANGE YOUR PERSPECTIVE

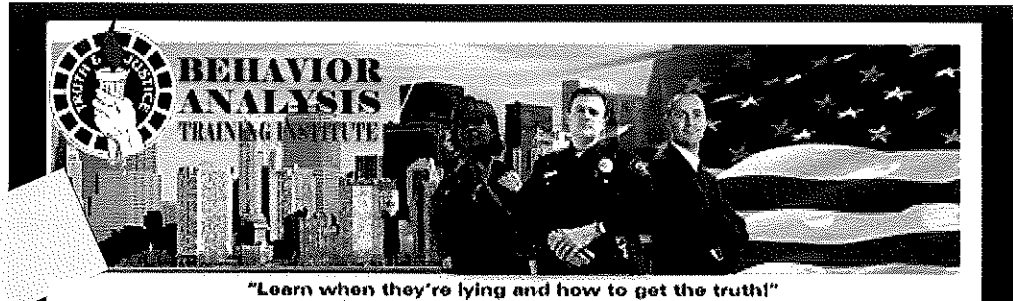


The Original
B.A.T.I.
Training

**Documenting Use of Force Report Writing Hosted by
Fraternal Order of Police in Albuquerque, New Mexico
NEW MEXICO POST APPROVED / NMLEA P230185**

AUGUST 24, 2023

VOLUME 1, NUMBER 1



Chief

"Recipient of the CA
Governor's Award
for Excellence in
Peace Officer
Training"

**Documenting Use of Force Report Writing
Course 8 Hour Class-NMLEA Post Approved**

Fraternal Order of Police Lodge #1 Heroes Hall

4120 Cutler Avenue NE, Albuquerque, New Mexico 87110

October 19, 2023 Tuition: \$100

0800 - 1700 hrs. NMLEA P2580003

Purpose:

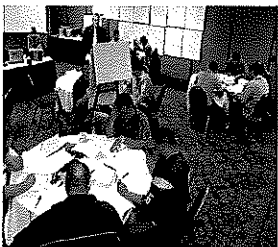
The purpose of this course is to establish a strong framework that will enable students to document any use of force properly and thoroughly while in the execution of their duties. The lessons learned in this course will provide students with the ability to continuously hone their skills in the art of report writing, specifically the use of force. **This class is designed for line staff and Command Staff at all levels.**

- *Developing a consistent framework to document use of force incidents*
- *Organizing all verbal and non-verbal actions into a document*
- *Learning to recall use of force incidents cognitively*
- *Translating the details that influenced your decision making*

Course Objectives:

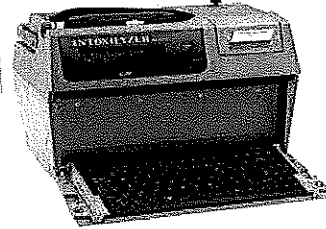
Students will:

1. Assess and recognize where their use of force reporting is deficient.
2. Learn to recall use of force incidents cognitively.
3. Learn to organize their thoughts and translate them into a document.
4. Better understand the importance of detail.



IR 8000 Operator Class

Trevor A.A.
Jensen & Macias



Hosted by Truth or Consequences Police Department

Where: The Olive Tree - 808 Fir St. TorC, N.M. 87901

When: Thursday, October 26th 2023

Full Certification 0800-1700

Re-Certification 1300-1700

***If you have not attended a class within 24 months you must attend the full certification class**

For registration email Chief Tavizon at ltavizon@torcnm.org

Instructor Lydia Tavizon

New Mexico State Police





MASTER SERVICE AGREEMENT

Agency's Name: Bayard Police Department
 Agency's Address: POB 788
 Bayard, New Mexico 88023

Agency's Sourcwell Member ID: 215883

Attention: Chief Hector Carrillo

Sales Rep: Jean Farmer
 Lexipol's Address: 2611 Internet Boulevard, Suite 100
 Frisco, Texas 75034

Effective Date: _____
 (to be completed by Lexipol upon receipt of signed Agreement)

This Master Service Agreement (the "Agreement") is entered into by and between Lexipol, LLC, a Delaware limited liability company ("Lexipol"), and the department, entity, or organization referenced above ("Agency"). This Agreement consists of:

- (a) this **Cover Sheet**
- (b) **Exhibit A** - Selected Services and Associated Fees
- (c) **Exhibit B** - Terms and Conditions of Service

This Agreement is entered into subject to the terms and conditions contained in **Sourcwell Contract Number 011822-LXP (the Sourcwell Contract)**. In the event of any conflict between the terms and conditions of this Agreement and the terms and conditions set forth in the Sourcwell Contract, the terms and conditions of the Sourcwell Contract shall control.

Each individual signing below represents and warrants that they have full and complete authority to bind the party on whose behalf they are signing to all terms and conditions contained in this Agreement.

Bayard Police Department

Lexipol, LLC

Signature: _____
 Print Name: _____
 Title: _____
 Date Signed: _____

Signature: _____
 Print Name: _____
 Title: _____
 Date Signed: _____

Exhibit A

SELECTED SERVICES AND ASSOCIATED FEES

Agency is purchasing the following:

QTY	DESCRIPTION	UNIT PRICE	SOURCEWELL DISC	DISC AMT	EXTENDED
6	PoliceOne Academy Annual Rate (12 Months)	USD 96.00	5%	USD 28.80	USD 547.20
	Subscription Line Items Total			USD 28.80	USD 547.20
1	P1A Account Set-Up Fee	USD 325.00	5%	USD 16.25	USD 308.75
	One-Time Line Items Total			USD 16.25	USD 308.75
				USD 45.05	USD 855.95
				Sourcewell Discount:	USD 45.05
				TOTAL:	USD 855.95

Discount Notes

5% Sourcewell

Exhibit B
Terms and Conditions of Service

These Terms and Conditions of Service (the “Terms”) govern the rights and obligations of Lexipol and Agency under this Agreement. Lexipol and Agency may each be referred to herein as a “party” and collectively as the “parties.”

1. Definitions. Each of the following capitalized terms will have the meaning included in this Section 1. Other capitalized terms are defined within their respective sections, below.

1.1 “Agency” means the department, agency, office, organization, company, or other entity purchasing and/or otherwise subscribing to the Lexipol Services set forth in Exhibit A.

1.2 “Agency Data” means data, information, and content owned by Agency prior to the Effective Date, or which Agency provides during the Term of this Agreement for purposes of identifying authorized users, confirming agency or department information, or other purposes that are ancillary to receipt of the Service.

1.3 “Agreement” means the combination of the cover sheet (signature page); Exhibit A (“Selected Services and Associated Fees”); this Exhibit B; and any other documents attached hereto and expressly incorporated herein by reference.

1.4 “Effective Date” means the date specified on the cover sheet (signature page), or as otherwise expressly set forth and agreed upon by Lexipol and Agency in a writing and defined as the “Effective Date.”

1.5 “Initial Term” means the period commencing on the Effective Date and continuing for the length of time indicated on Exhibit A. If not so indicated, the default Initial Term is one (1) year from the Effective Date.

1.6 “Lexipol Content” means all content in any format including but not limited to: written content, images, videos, data, information, and software multimedia provided by Lexipol and/or its licensors via the Services.

1.7 “Services” means all products and services, including but not limited to all software subscriptions, professional services, and ancillary support services, as may be offered by Lexipol and/or its affiliates from time to time.

2. Term; Renewal. This Agreement becomes enforceable upon signature by Agency’s authorized representative, with an Effective Date as indicated on the cover page. Unless expressly stated in the “Custom Agreement Terms” section of Exhibit A, this Agreement shall automatically renew in successive one-year periods (each, a “Renewal Term”) on the anniversary of the Effective Date unless a party provides written notice of non-renewal to the other party at least sixty (60) days prior to such renewal. The Initial Term and all Renewal Terms collectively comprise the “Term” of this Agreement.

3. Termination.

3.1 For Convenience; Non-Appropriation. This Agreement may be terminated at any time for convenience (including due to lack of appropriation of funds) upon sixty (60) days written notice.¹

3.2 For Cause. This Agreement may be terminated by either party, effective immediately, (a) in the event the other party fails to discharge any obligation, including payment obligations, or remedy any default hereunder for a period of more than thirty (30) calendar days after it has been provided written notice of such failure or default; or (b) in the event that the other party makes an assignment for the benefit of creditors or commences or has commenced against it any proceeding in bankruptcy, insolvency or reorganization pursuant to the bankruptcy laws of any applicable jurisdiction.

3.3 Effect of Expiration or Termination. Upon the expiration or termination of this Agreement for any reason, Agency’s access to Lexipol’s Services shall immediately cease unless Lexipol has, in its sole discretion, provided for their limited continuation. Termination or expiration of this Agreement shall not, however, relieve either party from any obligation or liability that has accrued under this Agreement prior to the date of such termination or expiration, including payment obligations.

¹ Note: fees paid for Online Services are not eligible for refund, proration, or offset in the event of Agency’s termination for convenience as Online Services are delivered in full as of the Effective Date. Fees pre-paid for Professional Services are eligible for refund, proration, or offset to the extent such Services have not been delivered or utilized by Agency.

4. **Fees; Invoicing.** Lexipol will invoice Agency at the commencement of the Initial Term and at the commencement of each Renewal Term. Agency agrees to remit payment within thirty (30) calendar days following receipt of Lexipol’s invoice. Payments may be made electronically or by mailing a check to Lexipol at 2611 Internet Blvd, Ste. 100, Frisco, TX 75034 (Attn: Accounts Receivable). Lexipol reserves the right to increase fees for Renewal Terms. All fee amounts stated in Exhibit A are exclusive of taxes and similar fees now in force or enacted in the future. Agency is responsible for all third-party fees (e.g., wire fees, bank fees, credit card processing fees). Unless otherwise exempt, Agency is responsible for and will pay in full all taxes related to its receipt of Lexipol’s Services, except for taxes based on Lexipol’s net income.

5. **Terms of Service.** The following terms and conditions govern access to and use of Lexipol’s Services:

5.1 **Online Services.** Lexipol’s Online Services include all cloud-based services offered by Lexipol and its partners, affiliates, and licensors. Online Services include, without limitation, Lexipol’s Knowledge Management System (“KMS”) for policy, Learning Management System (“LMS”)², GrantFinder, and Cordico wellness applications (collectively, the “Online Services”). Lexipol’s Online Services are proprietary and, where applicable, protected under U.S. copyright, trademark, patent, and/or other applicable laws. By subscribing to Lexipol’s Online Services, Agency receives a personal, limited, non-sublicensable and non-assignable license to access and use such Services in conformity with these Terms.

5.2 **Professional Services.** Lexipol’s Professional Services include all Services that are not part of Lexipol’s Online Services, and which require the professional expertise of Lexipol personnel and/or contractors, including implementation support for policy manuals, technical support for online learning, accreditation consulting, grant writing and consulting³, and projects requiring regular input from Lexipol’s subject matter experts (collectively, “Professional Services”). Lexipol shall provide all Professional Services in accordance with industry best practices.

5.3 **Intellectual Property; License.** Lexipol’s Services and all Lexipol Content are the proprietary intellectual property of Lexipol and/or its licensors, and are protected where applicable by copyright, trademark, and patent laws. Nothing contained in this Agreement or these Terms shall be construed as conferring any right of ownership or use to Lexipol’s Services or Lexipol Content. Notwithstanding the foregoing, Agency may, in limited circumstances (e.g. creation, modification, and updating of Agency’s policy manuals) create Derivative Works based on Lexipol’s Content and shall retain a personal, non-commercial, non-sublicensable and non-assignable license to use such Derivative Works, including beyond the expiration or termination of this Agreement. “Derivative Works” include all work product based on or which incorporates any Lexipol Content, including any revision, modification, abridgement, condensation, expansion, compilation, or any other form in which Lexipol Content, or any portion thereof, is recast, transformed, or adapted. Agency acknowledges and agrees that Lexipol shall have no responsibility to update Lexipol Content used by Agency beyond the Term of this Agreement and shall have no liability whatsoever for Agency’s creation or use of Derivative Works.

5.4 **Account Security.** Access to Lexipol’s Services is personal and unique to Agency. Agency shall not assign or otherwise transfer any such rights to any other person or entity. Except as set forth herein, Agency remains responsible for maintaining the security and confidentiality of Agency’s usernames and passwords and the security of Agency’s accounts. Agency will immediately notify Lexipol if Agency becomes aware that any person or entity other than authorized Agency personnel has used Agency’s account or Agency’s usernames and/or passwords.

5.5 **Agency Data.** Lexipol will use commercially reasonable efforts to ensure the security of all Agency Data. Lexipol’s Services use the Secure Socket Layer (SSL) protocol, which encrypts information as it travels between Lexipol and Agency. However, data transmission on the internet is not always 100% secure and Lexipol cannot and does not warrant that information Agency transmits to or through Lexipol or the Services is 100% secure. Lexipol’s use of Agency Data is limited to providing the Services, retaining records in the regular course of business, and complying with valid legal obligations.

6. **Confidentiality.** During the Term of this Agreement, each party may disclose information to the other party that would be reasonably considered confidential, including Agency Data (collectively, “Confidential Information”). The receiving party will: (a) limit disclosure of any such Confidential Information to the receiving party’s authorized representatives; (b) advise its personnel and agents of the confidential nature of the Confidential Information and of the obligations set forth in this Agreement; and (c) not disclose any Confidential Information to any third party unless expressly authorized by the disclosing party. A party may disclose Confidential Information pursuant to a valid governmental, judicial, or administrative order, subpoena, regulatory request, Freedom of

² LMS Services include, but are not limited to: PoliceOne Academy, FireRescue1 Academy, EMS1 Academy, Corrections1 Academy, and LocalGovU.

³ Agency is responsible for submitting all information reasonably required by Lexipol’s grant writing team in a timely manner and always at least five (5) days prior to each grant application submission date. Agency is responsible submissions of final grant applications by grant deadlines. Failure to timely submit required materials to Lexipol’s grant writing team will result in rollover of project fees to next grant application cycle, not a refund of fees. Requests for cancellation of grant writing services which have already begun will result in a 50% fee of the total value of the service.

Information Act (FOIA) request, Public Records Act (PRA) request, or equivalent, provided that the disclosing party promptly notified to the extent practicable, the other party in writing prior to such disclosure so that the other party may seek to make such disclosure subject to a protective order or other appropriate remedy to preserve the confidentiality of the Confidential Information. Each party shall be responsible for any breach of this section by any of such party's personnel or agents. The parties may also disclose the fact that they are working together, including for promotional purposes, and include each other's name and logo(s) for such purposes.

7. Warranty. LEXIPOL WARRANTS THAT ITS SERVICES ARE PROVIDED IN A PROFESSIONAL AND WORKMANLIKE MANNER IN ACCORDANCE WITH PREVAILING INDUSTRY STANDARDS, THAT THEY SHALL BE FIT FOR THE PURPOSES SET FORTH HEREIN, AND THAT SUCH SERVICES SHALL NOT INFRINGE THE RIGHTS OR INTELLECTUAL PROPERTY OF THIRD PARTIES. NOTWITHSTANDING THE FOREGOING, LEXIPOL'S SERVICES ARE PROVIDED "AS-IS" AND LEXIPOL DISCLAIMS ALL OTHER WARRANTIES, WHETHER EXPRESS, IMPLIED, STATUTORY, OR OTHERWISE, INCLUDING ALL IMPLIED WARRANTIES OF MERCHANTABILITY, AS WELL AS ALL WARRANTIES ARISING FROM COURSE OF DEALING, USAGE, OR TRADE PRACTICE.

8. Indemnification. Lexipol will indemnify, defend, and hold harmless Agency from and against any and all loss, liability, damage, claim, cost, charge, demand, fine, penalty, or expense arising directly and solely out of Lexipol's gross negligence or willful misconduct in providing Services pursuant to this Agreement. Agency shall likewise indemnify, defend, and hold Lexipol harmless from and against any and all loss, liability, damage, claim, cost, charge, demand, fine, penalty, or expense arising out of acts or omissions by Agency, Agency's personnel, or any party acting on Agency's behalf.

9. Limitation of Liability. Each party's cumulative liability resulting from any claims, demands, or actions arising out of or relating to this Agreement, the Services, or the use of any Lexipol Content shall not exceed the larger of: the aggregate amount of fees paid to Lexipol by Agency during the twelve-month period immediately prior to the assertion of such claim, demand, or action; or \$10,000.00. In no event shall either party be liable for any indirect, incidental, consequential, special, exemplary damages, or lost profits, even if such party has been advised of the possibility of such damages.

10. General Terms.

10.1 Entire Agreement. This Agreement embodies the entire agreement between the parties and supersedes all prior agreements with respect to the subject matter hereof. No representation, promise, or statement of intention has been made by either party that is not embodied herein. Terms and conditions set forth in any purchase order or other document that are inconsistent with or in addition to the terms and conditions set forth in this Agreement are rejected in their entirety and void, regardless of when received, without further action. No amendment, modification, or supplement to this Agreement shall be binding unless it is made in writing and signed by both parties.

10.2 General Interpretation. The terms of this Agreement have been chosen by the parties hereto to express their mutual intent. This Agreement shall be construed equally against each party without regard to any presumption or rule requiring construction against the party who drafted this Agreement or any portion thereof.

10.3 Invalidity of Provisions. Each provision contained in this Agreement is distinct and severable. A declaration of invalidity or unenforceability of any provision or portion thereof shall not affect the validity or enforceability of any other provision. Should any provision or portion thereof be held to be invalid or unenforceable, the parties agree that the reviewing authority should endeavor to give effect to the parties' intention as reflected in such provision to the maximum extent possible.

10.4 Compliance; Governing Law. Each party shall maintain compliance with all applicable laws, rules, regulations, and orders relating to its obligations pursuant to this Agreement. This Agreement shall be construed in accordance with, and governed by, the laws of the state in which Agency is located, without giving effect to any choice of law doctrine that would cause the law of any other jurisdiction to apply.

10.5 Assignment. This Agreement may not be assigned by either party without the prior written consent of the other. Notwithstanding the foregoing, this Agreement may be assumed by a party's successor in interest through merger, acquisition, or consolidation without additional notice or consent.

10.6 Waiver. Either party's failure to exercise, or delay in exercising, any right or remedy under any provision of this Agreement shall not constitute a waiver of such right or remedy.

10.7 Notices. Any notice required hereunder shall be in writing and shall be made by certified mail (postage prepaid) to known, authorized recipients at such address as each party may indicate from time to time. In addition, electronic mail (email) to established and authorized recipients is acceptable when acknowledged by the receiving party.