



CITY of NOVI CITY COUNCIL

Agenda Item B
April 7, 2014

SUBJECT: Approval of Amended and Restated Interlocal Agreement and Resolution creating the Western Wayne County Fire Department Mutual Aid Association and MABAS Division.

SUBMITTING DEPARTMENT: Department of Public Safety

CITY MANAGER APPROVAL: 

EXPENDITURE REQUIRED	\$0
AMOUNT BUDGETED	\$0
APPROPRIATION REQUIRED	n/a
LINE ITEM NUMBER	n/a

BACKGROUND INFORMATION:

The City is a party to the Interlocal Agreement Creating the Western Wayne County Fire Department Mutual Aid Association and MABAS Division. There are a number of local government members as described in the Agreement. Members can join without any sort of payment, and may leave the Association as well. However, as currently written, any change in membership requires formal action and approval to amend the Agreement by all remaining members.

The proposed change removes that section (Section 10.30), thereby allowing the representative Board to approve all new memberships and removals/departures from the Association—that is, without the need for action by the City Council each time the membership changes. The Public Safety Department supports the proposed amendment, and the City Attorney's office has reviewed the amendment as well.

RECOMMENDED ACTION: Approval of Amended and Restated Interlocal Agreement and Resolution creating the Western Wayne County Fire Department Mutual Aid Association and MABAS Division.

	1	2	Y	N
Mayor Gatt				
Mayor Pro Tem Staudt				
Council Member Casey				
Council Member Fischer				

	1	2	Y	N
Council Member Markham				
Council Member Mutch				
Council Member Wrobel				



JOHNSON ROSATI SCHULTZ JOPPICH PC

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Phone: 248.489.4100 | Fax: 248.489.1726

Elizabeth Kudla Saarela
esaarela@jrsjlaw.com

www.jrsjlaw.com

March 31, 2014

Jeff Johnson
Director of EMS & Fire Operations
City of Novi
Fire Station No. 1, 42975 Grand River Avenue
Novi, MI 48375

RE: Amended and Restated Western Wayne County Fire Department Mutual Aid Association and MABAS Division Interlocal Agreement

Dear Director Johnson:

We have reviewed the Amended and Restated Western Wayne County Fire Department Mutual Aid Association and MABAS Division Interlocal Agreement. The City has been a party to this Interlocal Agreement to provide fire department emergency response resources, including personnel and equipment, to Western Wayne and Southwestern Oakland County communities participating in the Western Wayne County Fire Department Mutual Aid Association since 2003. The Interlocal Agreement is for the purpose of providing additional resources to augment each community's response to large scale incidents.

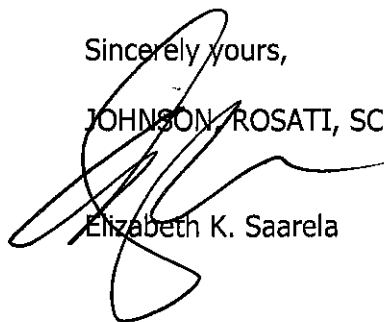
The City approved an amendment to the Interlocal Agreement in 2010 to incorporate the Mutual Aid Box Alarm System (MABAS) plan into the Agreement. The recent proposed amendment to the Agreement is solely for the purpose of changing the procedure to add or eliminate parties to the Agreement. The previous version of the Agreement required all participating communities to approve an amended version of the Agreement each time a community was added to or eliminated from the Association. The Agreement has been modified to allow the addition or elimination of parties by vote of two-thirds of the Association's Board without going back to each City Council or Township Board for consideration. All other terms and conditions of the Agreement remain unchanged. We see no legal impediment to entering into the Amended and Restated Western Wayne County Fire Department Mutual Aid Association and MABAS Division Interlocal Agreement

Please feel free to contact me with any questions or concerns in regard to this matter.

Jeff Johnson
Director of EMS & Fire Operations
March 31, 2014
Page 2

Sincerely yours,

JOHNSON, ROSATI, SCHULTZ & JOPPICH, P.C.

A handwritten signature in black ink, appearing to read 'Elizabeth K. Saarela', is written over the typed name. The signature is stylized with large loops and a long horizontal stroke extending to the right.

Elizabeth K. Saarela

Enclosure

cc: Maryanne Cornelius, City Clerk
Victor Cardenas, Interim City Manager
David Molloy, Director of Public Safety
Thomas R. Schultz

CITY OF NOVI

COUNTY OF OAKLAND, MICHIGAN

**RESOLUTION REGARDING AMENDED AND RESTATED
INTERLOCAL AGREEMENT FOR WESTERN WAYNE COUNTY FIRE
DEPARTMENT MUTUAL AID ASSOCIATION AND MABAS DIVISION**

Minutes of a _____ Meeting of the City Council of the City of Novi, County of Oakland, Michigan, held in the City Hall in said City on April 7, 2014, at 7:00 o'clock P.M., Prevailing Eastern Time.

PRESENT: Councilmembers _____

ABSENT: Councilmembers _____

The following preamble and Resolution were offered by Councilmember _____
_____ and supported by Councilmember _____.

WHEREAS, THE City of Novi is a Michigan municipal corporation; and

WHEREAS, City of Novi has the power, privilege and authority to maintain and operate a fire department providing fire protection, fire suppression, emergency medical services, and special operations ("Fire Services"); and

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

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. of the Michigan Compiled Laws (the "Cooperation 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; and

WHEREAS, the Western Wayne County Fire Department Mutual Aid Association (the "Association") has been formed as a separate legal entity Michigan public body corporate under the Cooperation Act pursuant to an Interlocal Agreement effective March 24, 2003; and

WHEREAS, the Association is governed by an Association Board; and

WHEREAS, City of Novi is a party to the Interlocal Agreement; and

WHEREAS, it is desirous to amend the Interlocal Agreement to allow the addition or elimination of parties to the Agreement by 2/3 vote of the Association Board.

WHEREAS, the Amendments have been approved by the Association Board; and

WHEREAS, the Cooperation Act and/or the Interlocal Agreement require an amendment to the Interlocal Agreement to be approved by all the parties to the Interlocal Agreement; and

NOW, THEREFORE, IT IS RESOLVED, that the City of Novi does hereby approve, and authorize and direct its Mayor and Clerk to execute, the attached "Amended and Restated Interlocal Agreement," subject, if necessary to technical, typographical, or non-substantial modifications approved by legal counsel before the Effective Date of the Amended and Restated Interlocal Agreement.

AYES:

NAYS:

ABSENT:

ABSTENTIONS:

RESOLUTION DECLARED ADOPTED _____, 2014

CERTIFICATION

I hereby certify that the foregoing is a true and complete copy of a Resolution adopted by the City Council of the City of Novi at _____ meeting held this _____ day of _____, 2014.

MARYANNE CORNELIUS, CITY CLERK

Clean Version
Agreement

AMENDED AND RESTATED INTERLOCAL AGREEMENT

Effective: March 24, 2014

BETWEEN

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

CREATING THE

**WESTERN WAYNE COUNTY FIRE DEPARTMENT MUTUAL AID ASSOCIATION
AND MABAS DIVISION**

A Michigan Public Body Corporate

THIS AMENDED AND RESTATED INTERLOCAL AGREEMENT (this “Agreement”) is entered into by _____ and the other political subdivisions that approve and sign this Agreement referred to in this Agreement as “Party” and collectively as the “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, and special operations (“Fire Services”); and

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

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. of the Michigan Compiled Laws (the “Cooperation 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; and

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

WHEREAS, as a result of entering into an interlocal agreement to further improve Fire Services, the Parties are creating the Western Wayne County Fire Department Mutual Aid Association, as a separate legal entity and as a public body corporate (the “Association”), pursuant to the Cooperation Act; and

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.

NOW, THEREFORE, in consideration of the mutual covenants, undertakings, understandings and agreements set forth in this Agreement, and the background facts presented above, it is hereby agreed as follows:

ARTICLE I 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:

Section 1.01. Association Board. “Association Board” means the board of the Association created by this Agreement.

Section 1.02. Bylaws. “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 by the Association Board.

Section 1.03. Days. “Days” means calendar days.

Section 1.04. Effective Date. “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.

Section 1.05. Fire Apparatus. “Fire Apparatus” means vehicles and equipment of a Party used in performing Fire Services.

Section 1.06. Fire Chief. “Fire Chief” means the chief of a Fire Department.

Section 1.07. Fire Department. “Fire Department” means the operating fire department of a Party.

Section 1.08. Fire Fighters. “Fire Fighters” means personnel qualified and trained in providing Fire Services.

Section 1.09. Fire Services. “Fire Services” means providing fire protection, fire suppression, emergency medical services, special operations, and such other services as may be set forth in the Bylaws for an Incident.

Section 1.10. Fiscal Year. “Fiscal Year” means the fiscal year of the Association ending on September 30th of each year.

Section 1.11. Freedom of Information Act. “Freedom of Information Act” means Act No. 442 of the Public Acts of 1976, as amended, being MCL 15.231 et seq.

Section 1.12. Incident. “Incident” means a public emergency, conflagration, or disaster.

Section 1.13 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

Section 1.14. Open Meetings Act. “Open Meetings Act” means Act No. 267 of the Public Acts of 1976, as amended, being MCL 15.261 et seq.

Section 1.15. Party. “Party” means a political subdivision which has entered into this Agreement as a signatory.

Section 1.16. Special Operations Group or SOG. “Special Operations Group” or “SOG” means a team which includes Fire Fighters qualified and trained to provide an emergency response to an Incident.

Section 1.17. SOG Constitution. “SOG Constitution” means such rules and procedures for the operation of the Special Operations Group as established by the Association Board and as may from time to time be amended by the Association Board.

Section 1.18. State. “State” means the State of Michigan.

ARTICLE II ESTABLISHMENT OF THE ASSOCIATION

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

Section 2.02. Name of Association. The name of the Association is “Western Wayne County Fire Department 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 nominees, as determined by the Parties.

Section 2.06. Compliance with Law. The Association shall comply with all federal and State laws, rules, regulations, and orders applicable to this Agreement.

Section 2.07. 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. Each Party will be solely responsible for the acts of its own employees, agents, and servants. 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.

Section 2.08. 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 2.09. 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. Purpose. The purpose of the Association shall include joint exercise of the shared and essential governmental power, privilege or authority of the Parties for the mutual protection of persons and property without regard to boundary lines between the Parties during times of public emergency, conflagration or disaster.

Section 3.02. Major Activities. The major activities of the Association in the exercise of this shared power shall be the cooperative efforts of the Parties in lending personnel and equipment for Fire Services.

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 is authorized to perform the following, either independently or with any individual or legal entity, subject to the limitations contained in this Agreement:

- (a). Sue and be sued;
- (b). Make, execute, and deliver contracts, conveyances, and other instruments that are necessary or convenient;
- (c). Make and amend bylaws;
- (d). Solicit and accept gifts, grants, loans and other aids from any individual or legal entity or to participate in any other way in any federal, State or local government program;

(e). Procure insurance against any loss in connection with the Association's property or activities;

(f). Engage personnel as is necessary and engage the services of private consultants, managers, counsel, auditors, and others for rendering professional management and technical assistance and advice;

(g). Charge, impose, and collect fees and charges in connection with any transactions or services as approved by the Association Board;

(h). To the extent allowed by law, indemnify and procure insurance indemnifying any members of the Association Board, officers or employees for personal loss or accountability from liability asserted by any individual or legal entity for any acts or omissions of the Association;

(i). Borrow money, incur debts, liabilities or obligations. The debts, liabilities or obligations of the Association shall not constitute debts, liabilities or obligations of any Party; and

(j). Exercise any and all other necessary and proper powers to effectuate the purposes and intent of this Agreement.

Section 4.02 Limitation on Shared Powers. In the event that the exercise of any of the above shared powers will result in a charge to one or more of the Parties exceeding \$10,000, the Association Board will provide each such Party with notice sixty (60) Days prior to the expected date of the expenditure, giving the Party the opportunity to withdraw, in accordance with Section 6.02 hereof.

ARTICLE V
ADDITIONAL POWERS; LIMITATION ON POWERS; NO WAIVER
OF GOVERNMENTAL IMMUNITY

Section 5.01. Additional Powers. In addition to the powers set forth in Article IV of this Agreement, the Association is authorized to:

(a). Form and own other legal entities to further the purposes of this Agreement; and

(b). Cooperate with a political subdivision, an instrumentality of that political subdivision, or other legal or administrative entity created under the Cooperation Act.

Section 5.02. Limitation of Powers. The Association may not:

(a). Levy any type of tax; or

(b). Incur debts, liabilities or obligations that constitute debts, liabilities or obligations of any Party.

Section 5.03. No Waiver of Governmental Immunity. The Parties agree that no provision of the Agreement is intended, nor shall be construed, as a waiver by any Party of any governmental immunity as provided by the Cooperation Act or otherwise under law.

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 from the Agreement at any time upon thirty (30) Days notice to the Association. The withdrawal of any Party shall not terminate nor have any effect upon the provisions of the Agreement so long as the Association remains composed of at least two (2) Parties.

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). Unanimous vote of termination by 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). The remaining assets, if any, shall be distributed to the Parties on an equitable basis as determined by the Association Board.

ARTICLE VII ASSOCIATION BOARD

Section 7.01. Association Board Composition. The governing body of each Party shall appoint one (1) member to the Association Board who shall serve at the pleasure of the governing body of the appointing Party.

Section 7.02. Association Board Authority. The Association Board shall have the powers of the Association. The Association Board shall elect a President, Vice-President, Secretary and Treasurer and such other officers as it deems necessary from the membership and

the duties of the officers may be set forth in the Bylaws. The Association Board may establish such committees it deems necessary. The Association Board shall elect a member and an alternate to serve as the voting representative on the Michigan MABAS Executive Board.

Section 7.03. Meetings. The Association Board shall hold at least one (1) annual meeting at the place, date, and time as the Association Board shall determine. Meetings shall comply with the Open Meetings Act and the Bylaws.

Section 7.04. Quorum and Voting. Members constituting a majority of the Association Board shall be required to constitute a quorum for the transaction of business and a majority vote at a meeting at which a quorum is present shall be necessary for the transaction of business. Presence in person shall be required for both quorum and voting.

Section 7.05. Fiduciary Duty. The members of the Association Board are under a fiduciary duty to conduct the activities and affairs of the Association in the best interests of the Association, including the safekeeping and use of all Association monies and assets for the benefit of the Association. The members of the Association Board shall discharge this duty in good faith with the care an ordinarily prudent individual in a like position would exercise under similar circumstances.

Section 7.06. Compensation. The members of the Association Board shall receive no compensation for the performance of their duties, but each member shall be reimbursed for his or her reasonable expenses in carrying out those duties. A member of the Association Board may engage in private or public employment or in a profession or business.

ARTICLE VIII PARTY CONTRIBUTION

Section 8.01. Fire Fighters. Each Party shall provide without cost to the Association or any other Party such Fire Fighters as set forth in the SOG Constitution who will actively participate on the Special Operations Group These Fire Fighters shall be detailed as employees of a Party and shall continue in the Party's benefit system including wages, pension, seniority, sick leave, vacation, health and welfare, longevity and other benefits, if applicable.

Section 8.02. Fire Apparatus. Each Party shall provide without cost to the Association or any other Party such Fire Apparatus as set forth in the Bylaws.

ARTICLE IX FIRE SERVICES

Section 9.01. 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. When initiating requests for Fire Services, each Fire Department shall attempt to keep response distances for all Parties as short as possible. The request for aid should generally be made to the Fire Department of the Party with Fire Fighters and Fire Apparatus nearest the Incident provided such Party has

the ability to furnish the necessary Fire Services requested and is in a position to provide assistance

Section 9.02. 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 assistance of the requesting Party. A Party shall provide Fire Services to any other Party upon request provided that the Fire Fighters and Fire Apparatus of the requested Party are not already engaged in providing Fire Services within the geographic boundaries of the requested Party precluding the extension of Fire Services to another Party.

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 Party requesting Fire Services for a period longer than is necessary. Additional response guidelines may be established by the Association Board or by the Bylaws.

Section 9.03. Mutual Aid box Alarm System. 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 9.04. Incident Management System. Command, control, and coordination at the Incident, shall be based on a nationally recognized Incident Management System, as set forth in writing by a Party to the Association. The Fire Chief, the ranking officer on duty or other officer of the requesting Party shall be the officer in charge of the operations at the Incident. All Fire Fighters, other personnel and Fire Apparatus of the responding Party(s) shall be under the command and control of the highest commanding officer attached to such responding Party(s). 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 attached to the responding Party(s).

Section 9.05. Obligations to non-Parties. This Agreement shall not release any Party from any other obligations or agreements such Party may have with any individual or legal entity relating to Fire Services who is not a Party to this Agreement.

ARTICLE X ADMISSION AND REMOVAL OF PARTIES

Section 10.01. Admission. A political subdivision may become a Party upon approval of two-thirds of the total Association Board and subsequent amendment of the Agreement.

Section 10.02. Removal A Party may be removed from the Association upon a vote of two-thirds of the Association Board and subsequent amendment to the Agreement.

ARTICLE XI BOOKS AND REPORTS

Section 11.01. Accrual Basis. The Association shall maintain its books of account on an accrual basis of accounting.

Section 11.02. Association Records. The Association shall keep and maintain all documents and records of the Association at the Principal Office. The records of the Association shall include a copy of this Agreement. Records and documents other than this Agreement shall be maintained for a minimum of two (2) years, or as required by law. A copy of this Agreement shall be maintained at the Principal Office until termination of the Association.

Section 11.03. Financial Statements and Reports. The Association shall cause financial statements (i.e. balance sheet, statement of revenue and expenses, statement of cash flows, and statement tracking changes in fund balance) to be prepared at least annually at Association expense. A copy of the various financial statements shall be provided to each Party.

Section 11.04. Freedom of Information Act. The Association shall comply with the disclosure requirements of the Freedom of Information Act, including any exceptions from disclosure provided for under the Freedom of Information Act or other relevant State law.

ARTICLE XII FINANCES

Section 12.01. Assessment. The Association Board shall determine a dues, fees and assessments to each Party the amount of which and payment procedure shall be set forth in the Bylaws or SOG Constitution. .

Section 12.02. 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 consistent with laws regarding investment of public funds.

ARTICLE XIII MISCELLANEOUS

Section 13.01. 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 13.02. Entire Agreement. This Agreement sets forth the entire agreement between the Parties and supersedes any and all prior agreements or understandings between them in any way related to the subject matter hereof. It is further understood and agreed that the terms and conditions herein are contractual and that there are no other agreements, understandings,

contracts, or representations between the Parties in any way related to the subject matter hereof, except as expressly stated herein.

Section 13.03. Severability of Provisions. If any provision of this Agreement, or its application to any person or circumstance, is invalid or unenforceable, the remainder of this Agreement and the application of that provision to other persons or circumstances is not affected but will be enforced to the extent permitted by law.

Section 13.04. Governing Law. 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 without regard to the doctrines of conflict of laws. The language of all parts of this Agreement shall in all cases be construed as a whole according to its fair meaning, and not construed strictly for or against any Party.

Section 13.05. 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 13.06. 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 13.07. Cross-References. References in this Agreement to any Article include all Sections, subsections, and paragraphs in the Article; references in this Agreement to any Section include all subsections and paragraphs in the Section.

Section 13.08. Jurisdiction and Venue. In the event of any disputes between the Parties over the meaning, interpretation or implementation of the terms, covenants or conditions of this Agreement, the matter under dispute, unless resolved between the parties, shall be submitted to the courts of the State of Michigan, with original jurisdiction and venue vested in the Wayne County Circuit Court.

Section 13.09. Recitals. The Recitals shall be considered an integral part of this Agreement.

Section 13.10. Amendment. The Agreement may be amended or an alternative form of the Agreement adopted only upon written agreement of the Parties.

Section 13.11. Counterpart Signatures. This Agreement may be signed in counterpart. The counterparts taken together shall constitute one (1) agreement.

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

CITY OF FARMINGTON HILLS

Address: _31555 W. Eleven Mile _
 _Farmington Hills, MI 48382____

WITNESSES:

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

Redlined Version
Agreement

AMENDED AND RESTATED INTERLOCAL AGREEMENT

Effective: ~~March 24~~, 201~~43~~09

BETWEEN

PARTICIPATING POLITICAL SUBDIVISIONS AS SIGNATORIES TO THIS INTERLOCAL AGREEMENT

CREATING THE

WESTERN WAYNE COUNTY FIRE DEPARTMENT MUTUAL AID ASSOCIATION AND MABAS DIVISION

A Michigan Public Body Corporate

THIS AMENDED AND RESTATED INTERLOCAL AGREEMENT (this “Agreement”) is entered into by ~~and between~~ _____ ~~and the other political subdivisions that approve and sign this Agreement the Charter Township of Canton, Charter Township of Huron, Charter Township of Northville, Charter Township of Plymouth (Plymouth Community Fire Department), Charter Township of Redford, Charter Township of Superior, Charter Township of Van Buren, Charter Township of Ypsilanti, Sumpter Township, City of Belleville, City of Dearborn, City of Dearborn Heights, City of Farmington Hills, City of Garden City, City of Inkster, City of Livonia, City of Northville, City of Novi, City of Plymouth (Plymouth Community Fire Department), City of Romulus, City of Taylor, City of Wayne, the City of Westland and Wayne County Airport Authority, individually~~ referred to in this Agreement as a “Party” and collectively ~~referred to~~ as the “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, and special operations (“Fire Services”); and

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

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. of the Michigan Compiled Laws (the “Cooperation 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; and

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

WHEREAS, as a result of entering into an interlocal agreement to further improve Fire Services, the Parties are creating the Western Wayne County Fire Department Mutual Aid Association, as a separate legal entity and as a public body corporate (the “Association”), pursuant to the Cooperation Act; and

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.

NOW, THEREFORE, in consideration of the mutual covenants, undertakings, understandings and agreements set forth in this Agreement, and the background facts presented above, it is hereby agreed as follows:

ARTICLE I 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:

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Section 1.02. Bylaws. “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 by the Association Board.

Section 1.03. Days. “Days” means calendar days.

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Section 1.09. Fire Services. “Fire Services” means providing fire protection, fire suppression, emergency medical services, special operations, and such other services as may be set forth in the Bylaws for an Incident.

Section 1.10. Fiscal Year. “Fiscal Year” means the fiscal year of the Association ending on September 30th of each year.

Section 1.11. Freedom of Information Act. “Freedom of Information Act” means Act No. 442 of the Public Acts of 1976, as amended, being MCL 15.231 et seq.

Section 1.12. Incident. “Incident” means a public emergency, conflagration, or disaster.

Section 1.13 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

Section 1.14. Open Meetings Act. “Open Meetings Act” means Act No. 267 of the Public Acts of 1976, as amended, being MCL 15.261 et seq.

Section 1.15. Party. “Party” means a political subdivision which has entered into this Agreement as a signatory.

Section 1.16. Special Operations Group or SOG. “Special Operations Group” or “SOG” means a team which includes Fire Fighters qualified and trained to provide an emergency response to an Incident.

Section 1.17. SOG Constitution. “SOG Constitution” means such rules and procedures for the operation of the Special Operations Group as established by the Association Board and as may from time to time be amended by the Association Board.

Section 1.18. State. “State” means the State of Michigan.

ARTICLE II ESTABLISHMENT OF THE ASSOCIATION

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

Section 2.02. Name of Association. The name of the Association is “Western Wayne County Fire Department 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 nominees, as determined by the Parties.

Section 2.06. Compliance with Law. The Association shall comply with all federal and State laws, rules, regulations, and orders applicable to this Agreement.

Section 2.07. 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. Each Party will be solely responsible for the acts of its own employees, agents, and servants. 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.

Section 2.08. 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 2.09. 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. Purpose. The purpose of the Association shall include joint exercise of the shared and essential governmental power, privilege or authority of the Parties for the mutual protection of persons and property without regard to boundary lines between the Parties during times of public emergency, conflagration or disaster.

Section 3.02. Major Activities. The major activities of the Association in the exercise of this shared power shall be the cooperative efforts of the Parties in lending personnel and equipment for Fire Services.

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 is authorized to perform the following, either independently or with any individual or legal entity, subject to the limitations contained in this Agreement:

- (a). Sue and be sued;
- (b). Make, execute, and deliver contracts, conveyances, and other instruments that are necessary or convenient;
- (c). Make and amend bylaws;
- (d). Solicit and accept gifts, grants, loans and other aids from any individual or legal entity or to participate in any other way in any federal, State or local government program;
- (e). Procure insurance against any loss in connection with the Association's property or activities;
- (f). Engage personnel as is necessary and engage the services of private consultants, managers, counsel, auditors, and others for rendering professional management and technical assistance and advice;
- (g). Charge, impose, and collect fees and charges in connection with any transactions or services as approved by the Association Board;
- (h). To the extent allowed by law, indemnify and procure insurance indemnifying any members of the Association Board, officers or employees for personal loss or accountability from liability asserted by any individual or legal entity for any acts or omissions of the Association;
- (i). Borrow money, incur debts, liabilities or obligations. The debts, liabilities or obligations of the Association shall not constitute debts, liabilities or obligations of any Party; and
- (j). Exercise any and all other necessary and proper powers to effectuate the purposes and intent of this Agreement.

Section 4.02 Limitation on Shared Powers. In the event that the exercise of any of the above shared powers will result in a charge to one or more of the Parties exceeding \$10,000, the Association Board will provide each such Party with notice sixty (60) Days prior to the expected date of the expenditure, giving the Party the opportunity to withdraw, in accordance with Section 6.02 hereof.

ARTICLE V
ADDITIONAL POWERS; LIMITATION ON POWERS; NO WAIVER
OF GOVERNMENTAL IMMUNITY

Section 5.01. Additional Powers. In addition to the powers set forth in Article IV of this Agreement, the Association is authorized to:

- (a). Form and own other legal entities to further the purposes of this Agreement; and

(b). Cooperate with a political subdivision, an instrumentality of that political subdivision, or other legal or administrative entity created under the Cooperation Act.

Section 5.02. Limitation of Powers. The Association may not:

(a). Levy any type of tax; or

(b). Incur debts, liabilities or obligations that constitute debts, liabilities or obligations of any Party.

Section 5.03. No Waiver of Governmental Immunity. The Parties agree that no provision of the Agreement is intended, nor shall be construed, as a waiver by any Party of any governmental immunity as provided by the Cooperation Act or otherwise under law.

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 from the Agreement at any time upon thirty (30) Days notice to the Association. The withdrawal of any Party shall not terminate nor have any effect upon the provisions of the Agreement so long as the Association remains composed of at least two (2) Parties.

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). Unanimous vote of termination by 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). The remaining assets, if any, shall be distributed to the Parties on an equitable basis as determined by the Association Board.

**ARTICLE VII
ASSOCIATION BOARD**

Section 7.01. Association Board Composition. The governing body of each Party shall appoint one (1) member to the Association Board who shall serve at the pleasure of the governing body of the appointing Party.

Section 7.02. Association Board Authority. The Association Board shall have the powers of the Association. The Association Board shall elect a President, Vice-President, Secretary and Treasurer and such other officers as it deems necessary from the membership and the duties of the officers may be set forth in the Bylaws. The Association Board may establish such committees it deems necessary. The Association Board shall elect a member and an alternate to serve as the voting representative on the Michigan MABAS Executive Board.

Section 7.03. Meetings. The Association Board shall hold at least one (1) annual meeting at the place, date, and time as the Association Board shall determine. Meetings shall comply with the Open Meetings Act and the Bylaws.

Section 7.04. Quorum and Voting. Members constituting a majority of the Association Board shall be required to constitute a quorum for the transaction of business and a majority vote at a meeting at which a quorum is present shall be necessary for the transaction of business. Presence in person shall be required for both quorum and voting.

Section 7.05. Fiduciary Duty. The members of the Association Board are under a fiduciary duty to conduct the activities and affairs of the Association in the best interests of the Association, including the safekeeping and use of all Association monies and assets for the benefit of the Association. The members of the Association Board shall discharge this duty in good faith with the care an ordinarily prudent individual in a like position would exercise under similar circumstances.

Section 7.06. Compensation. The members of the Association Board shall receive no compensation for the performance of their duties, but each member shall be reimbursed for his or her reasonable expenses in carrying out those duties. A member of the Association Board may engage in private or public employment or in a profession or business.

**ARTICLE VIII
PARTY CONTRIBUTION**

Section 8.01. Fire Fighters. Each Party shall provide without cost to the Association or any other Party such Fire Fighters as set forth in the SOG Constitution who will actively participate on the Special Operations Group These Fire Fighters shall be detailed as employees of a Party and shall continue in the Party's benefit system including wages, pension, seniority, sick leave, vacation, health and welfare, longevity and other benefits, if applicable.

Section 8.02. Fire Apparatus. Each Party shall provide without cost to the Association or any other Party such Fire Apparatus as set forth in the Bylaws.

ARTICLE IX FIRE SERVICES

Section 9.01. 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. When initiating requests for Fire Services, each Fire Department shall attempt to keep response distances for all Parties as short as possible. The request for aid should generally be made to the Fire Department of the Party with Fire Fighters and Fire Apparatus nearest the Incident provided such Party has the ability to furnish the necessary Fire Services requested and is in a position to provide assistance

Section 9.02. 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 assistance of the requesting Party. A Party shall provide Fire Services to any other Party upon request provided that the Fire Fighters and Fire Apparatus of the requested Party are not already engaged in providing Fire Services within the geographic boundaries of the requested Party precluding the extension of Fire Services to another Party.

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 Party requesting Fire Services for a period longer than is necessary. Additional response guidelines may be established by the Association Board or by the Bylaws.

Section 9.03. Mutual Aid box Alarm System. 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 9.04. Incident Management System. Command, control, and coordination at the Incident, shall be based on a nationally recognized Incident Management System, as set forth in writing by a Party to the Association. The Fire Chief, the ranking officer on duty or other officer of the requesting Party shall be the officer in charge of the operations at the Incident. All Fire Fighters, other personnel and Fire Apparatus of the responding Party(s) shall be under the command and control of the highest commanding officer attached to such responding Party(s). 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 attached to the responding Party(s).

Section 9.05. Obligations to non-Parties. This Agreement shall not release any Party from any other obligations or agreements such Party may have with any individual or legal entity relating to Fire Services who is not a Party to this Agreement.

**ARTICLE X
ADMISSION AND REMOVAL OF PARTIES**

Section 10.01. Admission. A political subdivision may become a Party upon approval of two-thirds of the total Association Board and subsequent amendment of the Agreement.

Section 10.02. Removal A Party may be removed from the Association upon a vote of two-thirds of the Association Board and subsequent amendment to the Agreement.

~~Section 10.03. Amendment to Agreement. The admission or removal of Parties after the Effective Date shall constitute an amendment to this Agreement which will need to be approved by all Parties, except the Party being removed. The Amendment shall be filed with the Department of State, the Office of the Great Seal and each county of the State where a Party is located.~~

**ARTICLE XI
BOOKS AND REPORTS**

Section 11.01. Accrual Basis. The Association shall maintain its books of account on an accrual basis of accounting.

Section 11.02. Association Records. The Association shall keep and maintain all documents and records of the Association at the Principal Office. The records of the Association shall include a copy of this Agreement. Records and documents other than this Agreement shall be maintained for a minimum of two (2) years, or as required by law. A copy of this Agreement shall be maintained at the Principal Office until termination of the Association.

Section 11.03. Financial Statements and Reports. The Association shall cause financial statements (i.e. balance sheet, statement of revenue and expenses, statement of cash flows, and statement tracking changes in fund balance) to be prepared at least annually at Association expense. A copy of the various financial statements shall be provided to each Party.

Section 11.04. Freedom of Information Act. The Association shall comply with the disclosure requirements of the Freedom of Information Act, including any exceptions from disclosure provided for under the Freedom of Information Act or other relevant State law.

**ARTICLE XII
FINANCES**

Section 12.01. Assessment. The Association Board shall determine a dues, fees and assessments to each Party the amount of which and payment procedure shall be set forth in the Bylaws or SOG Constitution. .

Section 12.02. 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 consistent with laws regarding investment of public funds.

ARTICLE XIII MISCELLANEOUS

Section 13.01. 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 13.02. Entire Agreement. This Agreement sets forth the entire agreement between the Parties and supersedes any and all prior agreements or understandings between them in any way related to the subject matter hereof. It is further understood and agreed that the terms and conditions herein are contractual and that there are no other agreements, understandings, contracts, or representations between the Parties in any way related to the subject matter hereof, except as expressly stated herein.

Section 13.03. Severability of Provisions. If any provision of this Agreement, or its application to any person or circumstance, is invalid or unenforceable, the remainder of this Agreement and the application of that provision to other persons or circumstances is not affected but will be enforced to the extent permitted by law.

Section 13.04. Governing Law. 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 without regard to the doctrines of conflict of laws. The language of all parts of this Agreement shall in all cases be construed as a whole according to its fair meaning, and not construed strictly for or against any Party.

Section 13.05. 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 13.06. 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 13.07. Cross-References. References in this Agreement to any Article include all Sections, subsections, and paragraphs in the Article; references in this Agreement to any Section include all subsections and paragraphs in the Section.

Section 13.08. Jurisdiction and Venue. In the event of any disputes between the Parties over the meaning, interpretation or implementation of the terms, covenants or conditions of this Agreement, the matter under dispute, unless resolved between the parties, shall be submitted to the courts of the State of Michigan, with original jurisdiction and venue vested in the Wayne County Circuit Court.

Section 13.09. Recitals. The Recitals shall be considered an integral part of this Agreement.

Section 13.10. Amendment. The Agreement may be amended or an alternative form of the Agreement adopted only upon written agreement of the Parties.

Section 13.11. Counterpart Signatures. This Agreement may be signed in counterpart. The counterparts taken together shall constitute one (1) agreement.

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

~~(CITY OF FARMINGTON HILLS YOUR COMMUNITY NAME HERE)~~

Address: 31555 W. Eleven Mile

Farmington Hills, MI

48382

WITNESSES:

BY: _____

ITS: _____

DATE: _____

BY: _____

ITS: _____

DATE: _____