



ORIGINAL

AGENDA
OMAK CITY COUNCIL MEETING
Hybrid Meeting with Zoom
Monday, August 16, 2021 – 7:00 PM

- A. CALL TO ORDER
- B. FLAG SALUTE
- C. CITIZEN COMMENTS
- D. CORRESPONDENCE AND MAYOR'S REPORT
- E. CONSENT AGENDA:
 - 1. Approval of minutes from August 2, 2021
 - 2. Approval of Claims
- F. NEW BUSINESS:
 - 1. Res. 41-2021 – Approving Purchase Agreement with Lexipol
- H. OTHER BUSINESS:
 - 1. Council Committee Reports
 - 2. Staff Reports



 **Action by City Council**

In accordance with the "Stay Home, Stay Healthy" order from Governor Inslee, our Council Meeting will be conducted using a Hybrid Model incorporating Zoom Meetings (information on next page).
If you need support, contact the City Clerk in advance of the meeting by calling 509-826-1170 or e-mail clerk@omakcity.com for assistance.

The City of Omak is inviting you to a scheduled Zoom meeting
Monday, August 16th, 2021 @ 7:00pm

Join Zoom Meeting

<https://us02web.zoom.us/j/84037979909?pwd=TW1BdE9ya0l5U214NDB2NExteUtYQTo9>

Meeting ID: 840 3797 9909

Passcode: 213976

One tap mobile

+12532158782,,84037979909#,,,,*213976# US (Tacoma)

+16699006833,,84037979909#,,,,*213976# US (San Jose)

Dial by your location

+1 253 215 8782 US (Tacoma)

+1 669 900 6833 US (San Jose)

+1 346 248 7799 US (Houston)

+1 312 626 6799 US (Chicago)

+1 929 205 6099 US (New York)

+1 301 715 8592 US (Washington DC)

Meeting ID: 840 3797 9909

Passcode: 213976

Find your local number: <https://us02web.zoom.us/j/84037979909?pwd=TW1BdE9ya0l5U214NDB2NExteUtYQTo9>



Omak Police Department

8 N. Ash, P.O. Box 569, Omak, WA 98841 • (509) 826-0383 • FAX 826-0116

DANIEL J. CHRISTENSEN
Chief of Police

Memorandum

Date: August 16th, 2021

To: Omak City Council, Omak Mayor Gagné

From: Chief Daniel Christensen

Subject: Resolution Number 41-2021

I am requesting support and approval for the acquisition of Lexipol Policy, Procedure, Implementation and Training Program. This program suite will allow for improvement in best business practices for our Police Department. The program is currently being utilized by the Okanogan County Sheriff's Office, Brewster Police, Oroville Police, and Twisp Police. The program updates policies through review for each state. With the plethora of changes from the legislative intent of the legislature it is difficult to update all polices in a timely manner. This program allows for a trust bank of many disciplines who review best practice, law, case law, and trends in law enforcement and risk management. Due to our membership in the Cities Insurance Association of Washington and a member of Choose Clear risk management the City receives a 20 % discount of the program and a \$2500.00 discount, or 50% of the cost on Tier one implementation. Lexipol also offers a 15% discount when the Police One Learning Academy is purchased which in essence covers the cost of the program delivery program for training.

See the exhibit attached to this resolution.

This program solution will greatly improve the efficiency, effectiveness, and best business practices of the Omak Police Department.

In summary I want to thank you for your consideration for this much needed improvement in police operations.

RESOLUTION NO. 41-2021

A RESOLUTION OF THE OMAK CITY COUNCIL APPROVING A PURCHASE AGREEMENT WITH LEXIPOL

WHEREAS, the Police Chief has determined the need to improve performance process and replace an obsolete policy and procedure manual; and

WHEREAS, the Lexipol Solutions Program offers policy and procedure for best practices in law enforcement; and

WHEREAS, the capacity to update policy and procedure is limited due to staffing; and

WHEREAS, the department has evaluated different companies and surveyed local law enforcement entities within Okanogan County; and

WHEREAS, the membership in Association of Washington Cities and membership within Clear Risk Solutions, offers underwriting savings; and

WHEREAS, the Lexipol program enables the Department to continually deliver training and process improvement; and

WHEREAS, selection of a program consistent with other Okanogan County agencies will aid in the consistent delivery of services and interagency support.

NOW, THEREFORE, BE IT RESOLVED BY THE OMAK CITY COUNCIL, that the purchase agreement with LEXIPOL, attached hereto as Exhibit "A", for the purchase of a Lexipol Policy Subscription is hereby approved.

DATED this _____ day of _____, 2021.

APPROVED:

Cindy Gagné, Mayor

ATTEST:

APPROVED AS TO FORM:

Connie Thomas, City Clerk

Michael D. Howe, City Attorney



AGREEMENT FOR USE OF SUBSCRIPTION MATERIAL

Agency's Name: Omak Police Department
Agency's Address: 8 N Ash St POB 569
Omak, Washington 98841

Attention: Chief Dan Christensen

Lexipol's Address: 2611 Internet Boulevard, Suite 100
Frisco, Texas 75034

Prepared By: Rosemarie Curran

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

This Subscription Agreement (the "Agreement") is entered into by and between Lexipol, LLC, a Delaware limited liability company ("**Lexipol**"), and the Agency identified above.

This Agreement consists of: (a) this **Cover Sheet**; (b) **Exhibit A** (Subscriptions Being Purchased and Subscription Fees); (c) **Exhibit B** (Terms and Conditions Specific to this Agreement); and (d) Lexipol's General Terms and Conditions, available at: <https://www.lexipol.com/terms-and-conditions/>.

In the event of any inconsistency or conflict between Lexipol's General Terms and Conditions and those contained in **Exhibit B**, the terms and conditions contained in **Exhibit B** shall control.

Each person 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.

Omak Police Department

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

Exhibit A

SUBSCRIPTIONS BEING PURCHASED AND SUBSCRIPTION FEES

Agency is purchasing the following:

Policy Subscription Prorated
August through December

QTY	DESCRIPTION	UNIT PRICE	DISC	DISC AMT	EXTENDED
1	Annual Law Enforcement Policy Manual & Daily Training Bulletins w/Supplemental Publication Service w/ Procedures (Start: 9/1/2021 End: 12/31/2021)	USD 2,420.66	15%	USD 363.10	USD 2,057.56
	Subscription Line Items Total			USD 363.10	USD 2,057.56
				USD 363.10	USD 2,057.56
	Policy Subscription Prorated August through December Discount:				USD 363.10
	Policy Subscription Prorated August through December TOTAL:				USD 2,057.56

Implementation - Tier 1 One
Time Fee

QTY	DESCRIPTION	UNIT PRICE	DISC	DISC AMT	EXTENDED
1	Law Enforcement Tier I Implementation	USD 5,000.00		USD 0.00	USD 5,000.00
	One-Time Line Items Total			USD 0.00	USD 5,000.00
				USD 0.00	USD 5,000.00
	Implementation - Tier 1 One Time Fee TOTAL:				USD 5,000.00

Police One Learning Academy

QTY	DESCRIPTION	UNIT PRICE	DISC	DISC AMT	EXTENDED
14	PoliceOne Academy Annual Rate Per User (12 Months)	USD 90.00	15%	USD 189.00	USD 1,071.00
	Subscription Line Items Total			USD 189.00	USD 1,071.00
14	PoliceOne Academy Account Services & Setup (12 Months)	USD 300.00		USD 0.00	USD 300.00
	One-Time Line Items Total			USD 0.00	USD 300.00
				USD 189.00	USD 1,371.00
	Police One Learning Academy Discount:				USD 189.00
	Police One Learning Academy TOTAL:				USD 1,371.00

Policy and Learning Subscription
January 2022

QTY	DESCRIPTION	UNIT PRICE	DISC	DISC AMT	EXTENDED
1	Annual Law Enforcement Policy Manual & Daily Training Bulletins w/Supplemental Publication Service w/ Procedures (12 Months)	USD 7,262.00	15%	USD 1,089.30	USD 6,172.70
14	PoliceOne Academy Annual Rate Per User (12 Months)	USD 90.00	15%	USD 189.00	USD 1,071.00
	Subscription Line Items Total			USD 1,278.30	USD 7,243.70
				USD 1,278.30	USD 7,243.70
	Policy and Learning Subscription January 2022 Discount:				USD 1,278.30
	Policy and Learning Subscription January 2022 TOTAL:				USD 7,243.70

*Law Enforcement pricing is based on 10 Law Enforcement Sworn Officers.

The foregoing pricing has been prorated for the benefit of Agency and Agency therefore agrees that they will waive the right to cancel this agreement until the end of the first renewal period.

*The above subscription services, and when applicable, implementation services, shall be invoiced by Lexipol upon the execution of this Agreement.

Discount Notes

Bundled Discount

Exhibit B

Terms and Conditions Specific to this Agreement

The following terms and conditions apply to all Subscription Services purchased by Agency. Capitalized terms used but not defined herein shall have the meaning set forth in Lexipol's General Terms and Conditions, available at: <https://www.lexipol.com/terms-and-conditions/>. In the event of any inconsistency or conflict between Lexipol's General Terms and Conditions and those contained herein, the Terms and Conditions contained in this Exhibit B shall control.

1. **Term**. This Agreement becomes effective and enforceable upon signature by Agency's authorized representative, with a Program Start Date as specified on the cover sheet of this Agreement. This Agreement shall remain in effect for a minimum one (1) year period commencing on the Program Start Date unless a different time period is specified on Exhibit A (the "Initial Term"): provided, however, that the Term will be automatically extended for successive one-year periods thereafter (each a "Renewal Term") unless one party provides written notice of non-renewal to the other party at least thirty (30) days prior to expiration of the Initial Term or the then-current Renewal Term, as the case may be. The Initial Term and all subsequent Renewal Terms shall collectively comprise the "Term" of this Agreement. Notwithstanding the foregoing, this Agreement remains subject to termination as provided in Lexipol's General Terms and Conditions, available at: <https://www.lexipol.com/terms-and-conditions/>.
2. **Subscription Fee/Invoicing**. Lexipol will invoice Agency for purchased Subscription Services at the commencement of the Initial Term and thirty (30) days prior to the beginning of each Renewal Term. Agency will pay the invoiced amount to Lexipol within thirty (30) days of the invoice date. All invoices will be sent to Agency at the address for Agency specified on the first page of this Agreement to which these Terms and Conditions are attached. All payments will be made to Lexipol at the address for Lexipol specified on the invoice. Lexipol reserves the right to increase pricing for each Renewal Term.
3. **Product-Specific Terms; Ownership; Right to Use**. This Section pertains to specific products and services offered by Lexipol and its affiliates. If Agency has selected a particular product or service referenced below, the applicable Section(s) and associated supplemental terms will apply. If Agency has not selected a particular product or service referenced below, the subsection referencing such product or service shall not apply.
 - 3.1 **Policy Subscriptions and Materials**. This Section applies when Agency has subscribed to or otherwise receives access to Lexipol's Policy Subscription Materials, as defined below.
 - i **Generally**. Agency acknowledges and agrees that all policy-based Subscription Services, including but not limited to all policy manuals, supplemental policy publications, daily training bulletins, and all other materials provided by Lexipol to Agency from time to time during the term of this Agreement (such materials collectively, the "Subscription Materials") are proprietary products of Lexipol, protected under U.S. copyright, trademark, patent, and other applicable law, and that Lexipol reserves all rights not expressly granted in this Agreement. Subject to the terms, conditions and limitations in this Agreement, Lexipol hereby grants Agency the right to prepare derivative works of the Subscription Materials (each, a "Derivative Work," as defined in Section 1 of the General Terms and Conditions); provided, however, that Agency acknowledges and agrees that Lexipol will be the sole owner of all right, title and interest in and to all Derivative Works, including all copyrights and other intellectual property and proprietary rights therein or pertaining thereto, and Agency hereby assigns and transfers to Lexipol all right, title and interest in and to all Derivative Works, including all copyrights and other intellectual property and proprietary rights therein or pertaining thereto. Agency will not remove any copyright notice or other proprietary notice of Lexipol appearing on Subscription Materials or Derivative Works and shall include such notices at the appropriate place on each copy thereof.
 - ii **Right to Use; Limitations on Use**. Subject to the terms, conditions, and limitations in this Agreement, Lexipol hereby grants to Agency a perpetual, personal, fully paid-up, right to use the Subscription Materials and any Derivative Works in each case, solely for the Agency's internal purposes. Agency shall not use, copy, republish, lend, distribute, post on servers, transmit, redistribute, or display, in whole or in part, by any means or medium, whether electronic or mechanical, or by any information storage and retrieval system, any Subscription Materials or any Derivative Work other than as expressly authorized by the immediately preceding sentence. Without limiting the generality of the foregoing, Agency will not import, upload, or otherwise make available any Subscription Materials or any Derivative Work into or onto any third party, document, knowledge, or other content management system or service without Lexipol's prior written consent. The foregoing does not prohibit Agency from providing Subscription Materials or Derivative Works pursuant to an order from a court or other

Exhibit B

governmental agency or other legal process, Freedom of Information Act (FOIA) request, or Public Records Act (PRA) request, nor does it prohibit Agency from displaying the adopted/approved final policy document on a publicly accessible website for official agency purposes, so long as Agency includes the appropriate copyright and other proprietary notices on such final policy document as required by Section 3.1(i) above.

iii **Policy Adoption.** Agency hereby acknowledges and agrees that all policies and Daily Training Bulletins (DTBs) included in the Subscription Materials provided by Lexipol have been individually reviewed, customized, and adopted by Agency for use by Agency in accordance with this Agreement. Agency further acknowledges and agrees that neither Lexipol nor any of its agents, employees, or representatives shall be considered “policy makers” in any legal or other sense, and that the chief executive of Agency will, for all purposes, be considered the “policy maker” with regard to each and every such policy and DTB.

3.2 **Learning Management System.** This Section applies when Agency subscribes to Lexipol’s Learning Management System (“LMS”). The LMS is a proprietary product of Lexipol, protected under U.S. copyright, trademark, patent, and other applicable law. Lexipol and its licensors retain all rights, title, and interest in and to the LMS (including, without limitation, all intellectual property rights), including all copies, modifications, extensions, and Derivative Works thereof. Agency’s right to use the LMS is limited to the rights expressly granted in this Agreement. All rights not expressly granted to Agency are reserved and retained by Lexipol and its licensors. As between Agency and Lexipol, (a) all Agency Data, defined as data owned by Agency prior to the Program Start Date of this Agreement or data not otherwise subject to the definition of “Derivative Work” in Lexipol’s General Terms and Conditions, is Agency’s property, and (b) Agency retains all rights, title, and interest in and to Agency Data, including all copies, modifications, extensions, and derivative works thereof. Lexipol retains no right or interest in any Agency Data and shall return or destroy Agency Data following termination of this Agreement. Agency’s purchase of LMS Subscription Services is also subject to the LMS Master Service Agreement located at: <https://www.lexipol.com/lms-master-service-agreement>.

3.3 **Grant Services.** This Section applies when Agency subscribes to Lexipol’s Grant Writing, Consulting, and/or GrantFinder services, offered by Praetorian Digital. If Agency selects Grant Writing services, Agency takes full responsibility for submitting information reasonably required by Praetorian Digital in a timely manner. All Agency materials must be received 5 days prior to the grant application close date, and Agency is responsible for all submissions of final grant applications by grant deadlines. Failure to submit requested materials to write grant applications on time will result in rollover of project services and fees to next grant application cycle. Requests for cancellation of Grant Writing services will result in a 50% fee of the total value of the service. Invoices for Grant Writing services will be sent as soon as work begins for the applicable target grant. Complete payment must be received no later than thirty (30) days after receipt of invoice. In the event Agency has not made timely payment on an invoice, Lexipol/Praetorian Digital reserves the right to suspend all Grant services until payment is received in full and may terminate Agency’s access to GrantFinder, if applicable. Invoices over thirty (30) days past due shall be charged a twenty-five dollar (\$25) late fee. Agency’s purchase of the Grant services is also subject to the GrantFinder Master Subscription Agreement located at <http://www.lexipol.com/GTGF-Master-ServiceAgreement>.

3.4 **Cordico Wellness Applications.** This Section applies when Agency subscribes to Lexipol’s Wellness Applications, offered by Cordico®, including but not limited to CordicoShield, CordicoFire, and all other Cordico products and services (collectively, the “Wellness Services”). The Wellness Services are proprietary products of Lexipol, protected under U.S. copyright, trademark, patent, and other applicable law. Lexipol and its licensors retain all rights, title, and interest in and to the Wellness Services (including, without limitation, all intellectual property rights), including all copies, updates, modifications, and versions thereof. Agency’s right to access and use the Wellness Services is limited to the rights expressly granted in this Agreement. All rights not expressly granted to Agency are reserved and retained by Lexipol and its licensors. As between Agency and Lexipol, (a) all Agency Data collected through the Wellness Services remains Agency’s property, and (b) Agency retains all rights, title, and interest in and to Agency Data, including all copies, modifications, extensions, and derivative works thereof. Lexipol retains no right or interest in any Agency Data and shall return or destroy Agency Data following termination of this Agreement. In addition, upon termination of this Agreement for any reason, Agency shall lose access to all Wellness Services. Agency’s purchase of Wellness Services is also subject to Cordico’s Terms and Conditions located at <https://www.cordico.com/terms-and-conditions/> and the Terms and Conditions set forth within each Wellness Application.

Exhibit B

- 3.5 Generally; Injunctive Relief.** Except as expressly provided herein, nothing in this Agreement shall be construed as conferring any rights or license to Lexipol's trade secrets, intellectual property, Confidential Information, Subscription Materials, Wellness Services, or the software underlying such products and services, whether by estoppel, implication or otherwise. Agency may not decompile, disassemble, reverse engineer or otherwise attempt to discover any source code contained in any software-based Subscription Services. Notwithstanding any other term or condition herein, Agency grants all rights and permissions in or relating to Agency Data as are necessary or useful to Lexipol to enforce this Agreement, exercise Lexipol's rights, and perform Lexipol's obligations hereunder. Agency acknowledges that a breach or threatened breach of any portion of this Section 3 may cause irreparable harm and shall entitle Lexipol to injunctive relief in addition to any other available remedy.
4. **Warranty Disclaimer.** ALL SUBSCRIPTION SERVICES AND SUBSCRIPTION MATERIALS ARE PROVIDED "AS IS" AND LEXIPOL HEREBY DISCLAIMS ALL WARRANTIES, WHETHER EXPRESS, IMPLIED, STATUTORY, OR OTHERWISE. LEXIPOL SPECIFICALLY DISCLAIMS ALL IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, TITLE, AND NON-INFRINGEMENT, AND ALL WARRANTIES ARISING FROM COURSE OF DEALING, USAGE, OR TRADE PRACTICE.
5. **Disclaimer of Liability.** Agency acknowledges and agrees that Lexipol, its officers, agents, managers, and employees will have no liability to Agency or any other person or entity arising from or related to the Subscription Services or the Subscription Materials, or any act or omission by Agency or its personnel pursuant to, or in reliance on, any of the Subscription Materials.
6. **Limitation of Liability.** Lexipol's cumulative liability to Agency and any other person or entity for any loss or damages resulting from any claims, demands, or actions arising out of or relating to this Agreement, the Subscription Services, or the use of any Subscription Materials shall not exceed the subscription fees actually paid to Lexipol by Agency for the Purchased Subscription Services under this Agreement during the twelve-month period immediately prior to the assertion of such claim, demand, or action. In no event shall Lexipol be liable for any indirect, incidental, consequential, special, or exemplary damages or lost profits, even if Lexipol has been advised of the possibility of such damages. The limitations set forth in this Section shall apply whether Agency's claim is based on breach of contract, tort, strict liability, product liability or any other theory or cause of action.
7. **Governing Law.** This Agreement shall be construed in accordance with, and governed by, the laws of the State of Texas, without giving effect to any choice of law doctrine that would cause the law of any other jurisdiction to apply.
8. **Entire Agreement.** This Agreement embodies the entire agreement and understanding of the parties hereto and hereby expressly supersedes all prior written and oral agreements and understandings with respect to the subject matter hereof. No representation, promise, inducement, or statement of intention has been made by any party hereto that is not embodied in this Agreement. Terms and conditions set forth in any purchase order, or any other form or document of Agency, which are inconsistent with, or in addition to, the terms and conditions set forth in this Agreement, are hereby objected to and rejected in their entirety, regardless of when received, without further action or notification by Lexipol, and shall not be considered binding on Lexipol unless specifically agreed to in writing by it.
9. **Additional Terms and Conditions.** Except as set forth above, this Agreement remains subject to Lexipol's General Terms and Conditions, available at: <https://www.lexipol.com/terms-and-conditions/>.