

**129th AGREEMENT TO  
SECTION 13(c) OF THE FEDERAL TRANSIT ACT<sup>1</sup>  
AS AMENDED, BETWEEN THE  
CITY OF MADISON, WISCONSIN AND  
DRIVERS, SALESMEN, WAREHOUSEMEN, MILK PROCESSORS,  
CANNERY, DAIRY EMPLOYEES AND HELPERS UNION LOCAL 695,  
AFFILIATED WITH THE  
INTERNATIONAL BROTHERHOOD OF TEAMSTERS**

WHEREAS, the CITY OF MADISON, (the “City”), a Wisconsin Municipal Corporation, has filed an Application For Mass Transportation Section 5310 Enhanced Mobility of Seniors & Individuals with Disabilities Financial Assistance (the “Grant Application”) with the United States Department of Transportation under the Federal Transit Act, as amended (the “Act”), for a Federal Transit Administration Section 5310 Enhanced Mobility of Seniors & Individuals with Disabilities Financial Assistance Grant (the “FTA Grant”) (WI-2016-040-00), to finance the Enhanced Mobility of Seniors & Individuals with Disabilities Projects of a public mass transportation system for the transportation of persons as more fully described in that part of the Project Application dated June 2, 2016, pertaining to the City of Madison, as may be from time to time amended (the “Project”); and,

WHEREAS, the Federal Financial Assistance financed as a part of the aforesaid Project will improve the Mass Transit System operations which are owned by the City of Madison; and

WHEREAS, effective October 31, 1983, the City of Madison has agreed that it is the employer (the “Employer”) of all employees represented by the Union engaged in operating the City’s Transit Division<sup>2</sup> of the City’s Department of Transportation (the “Mass Transit System”); and

WHEREAS, said employees are employees of the City of Madison and continue to be represented by Drivers, Salesmen, Warehousemen, Milk Processors, Cannery, Dairy Employees and Helpers Union, Local No. 695, affiliated with the International Brotherhood of Teamsters, (the “Union”); and,

WHEREAS, said employees of the City represented by the Union may become employees of another entity as a result of the project; and,

WHEREAS, the parties hereto, pursuant to Section 13(c) of the Act, as amended, have negotiated one with the other and have arrived at certain agreements to protect the interests of the employees represented by the Union.

NOW, THEREFORE, it is agreed that the following terms and conditions shall apply for the protection of the employees represented by the Union in the event the Project is approved for assistance under the Act.

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<sup>1</sup>Rev. 49 USC 5333(b) of the Federal Transit Act.

<sup>2</sup>Effective July 15, 1993, the labor agreement for the Paratransit Division was merged with the one for the Transit Division forming a single bargaining unit.

Section 1.

The Project shall be carried out in such a manner and upon such terms and conditions to provide protection of individual employees represented by the Union against a worsening of their positions in any respect with regard to their employment.

Any employee represented by the Union who becomes unemployed as a result of the Project shall receive the applicable rights, privileges and benefits established pursuant to the "New Orleans Conditions" as then prescribed by the Interstate Commerce Commission under Section 5(2)(f) of the Interstate Commerce Act, 49 U.S.C. Section 5(2)(f); provided however, that in applying the "New Orleans Conditions", any such employee so affected shall have the benefit of any provisions of the "Amtrak Conditions" as certified by the Secretary of Labor under Section 405(b) of the Rail Passenger Service Act of 1970, on April 16, 1971, which are more favorable than the "New Orleans Conditions", but there will be no duplication of benefits.

Section 2.

All rights, privileges and benefits (including pension rights and benefits) of employees covered by this Agreement (including employees having already retired) under existing collective bargaining agreements, or under any revision or renewal thereof, or otherwise, shall be preserved and continued; provided, however, that such rights, privileges and benefits may be modified or revised by collective bargaining agreements between the City and the Union which provide other rights, privileges and benefits. Unless otherwise provided, nothing in this Agreement shall be deemed to restrict any rights the City may otherwise have to direct the working forces and manage its business as it deems best, in accordance with the applicable collective bargaining agreement.

Section 3.

It is recognized that the Project contemplates improvements to the Mass Transit System that is operated by employees represented by the Union who enjoy the rights and privileges of collective bargaining as employees of the City. In accordance with Section 13(c) of the Act<sup>3</sup>, the collective bargaining rights of the employees represented by the union, including the right to maintain Union security and exclusive check off, bulletin boards and grievance handling arrangements, shall be preserved and continued on the same terms that are applicable to them as employees of the City, as of the effective date of the City's Federal Transit Administration Grant Contract (the "Grant Contract") resultant from approval of the Grant Application. So long as the Union is the authorized representative of the employees represented by the Union, the City agrees to continue to negotiate and bargain collectively with the Union or otherwise arrange for the continuation of collective bargaining, and that it will reduce

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<sup>3</sup>Rev. 49 USC 5333(b).

the results of negotiations to a signed, written Agreement, or arrange that this be done, relative to all subjects which are or may be proper subjects of collective bargaining as set forth above. Nothing in this paragraph shall be construed to affect the applicability of State or Federal law relating to the legality of strikes or lockouts at the expiration of collective bargaining agreements, or relating to a Union Shop. It is the intent of the parties that the maximum form of Union security (not to exceed a Union Shop) permitted by State or Federal law, whichever may be applicable to the employment status of the workers, be maintained.

Section 4.

The City, its successors, or assigns shall employ all persons who are employees of the City, in the Mass Transit system, represented by the Union as of the effective date of the Grant Contract resultant from the Grant Application, in comparable positions without examination. Said employees should not be laid off or otherwise deprived of employment as a result of the project except in case of resignation, death, retirement, dismissal for cause, failure to obtain a position available to him/her in the exercise of his/her seniority rights, in accordance with existing agreements.

Section 5.

Any employee represented by the Union who is terminated or laid off for lack of work shall be granted priority of re-employment to fill any vacant position in the Mass Transit system for which he/she is, or by training or re-training, can become qualified. In the event training or re-training is required by such employment or re-employment with the Mass Transit System, the employee shall be provided with such training or re-training at no cost to the employee, and be paid, while training or re-training, the salary or hourly rate of this/her former job classification or that of the classification for which he/she is training, provided that the employee shall not receive an increase in salary or hourly rate other than that provide for in the Labor Agreement until he/she has successfully completed such training or re-training and provide he/she shall not suffer a reduction in pay while training or re-training.

Section 6.

Any dispute as to the application or interpretation of any provision of this Agreement that cannot be settled by the parties shall be submitted at the request of either party to an impartial Arbitrator mutually agreed upon or if no such agreement is reached within ten (10) days, to an impartial Arbitrator selected from a panel of five (5) names submitted by the Wisconsin Employment Relations Commission.

The party requesting arbitration shall strike the first name from the panel; names shall then be struck alternatively until there is one remaining who shall be the Arbitrator. The decision of the Arbitrator shall be final and binding upon the parties. The fees and expenses of the Arbitrator shall be borne equally by the parties.

Section 7.

The seniority rights of all employees represented by the Union shall be continued in accordance with the seniority rosters of the City and its predecessors. All employment benefits shall be computed for employees based upon their length of service with the City and its predecessors in accordance with employment records and Labor Agreements as supplemented by their service with the City, its successors and assigns. No employee of the City's Mass Transit System, as of the effective date of the Grant Contract resultant from approval of the Grant Application, represented by the Union shall suffer any worsening of his/her wages, seniority, sick leave, vacation, health and welfare insurance, or any other employment benefits as a result of the Project.

Section 8.

All employees represented by the Union in the Mass Transit System shall not be restricted in their right to choose their place of residency.

Section 9.

The phrase "as a result of the Project", when used in this Agreement, includes events which may occur in anticipation of, during and subsequent to the Project; provided, however, that fluctuations, rises or falls in changes in the volume or character of employment brought about solely by causes other than the Project (including any economics or efficiencies unrelated to the Project) are not within the contemplation of, or covered by or intended to be covered by this Agreement. The phrase "employee(s) represented by the Union", when used in this Agreement, shall mean all employees recognized as bargaining unit employees by the City in current applicable labor agreements between the Union and City and affected by the assistance to be granted under the Act, who are employed by the City in its Mass Transit System on the effective date of the Federal Transit Administration Grant Contract resultant from approval of the Grant Application, shall include employees hired up to the last date of the receipt of any funds included in the Project. The City and its successors or assigns shall provide for the Union to inspect any records relating to an alleged deprivation of employment or other worsening of employment positions as a result of the Project.

Section 10.

This Agreement shall be binding upon the successors or assigns of the parties hereto, and no provisions, terms or obligations herein contained shall be affected, modified, altered, or changed in any respect whatsoever by reason of the arrangements made to manage and operate the system. Any person, enterprise, body or agency which shall undertake the management of operation of this system shall agree to be bound by the terms of this Agreement and accept the responsibility for full performance of these positions.

Section 11.

The following pension provisions shall continue to apply to employees represented by the Union and who were

employed by the Madison Bus Company, a predecessor to the City at the time of acquisition pursuant to the City's First Capital Grant Contract:

- A. In the event said employees are subsequently employed by an employer which shall operate or manage the Mass Transit System or any part thereof where they are not required by law to participate in the Wisconsin Retirement System established by Chapter 41 of the Wisconsin Statutes, all rights, privileges and benefits of employees covered by the existing collective bargaining agreement in the Madison Bus Pension Trust Agreement, as from time to time amended, shall be continued by said employer. Such entities shall be substituted for the predecessor employer under said Trust and Trust Agreement. Supplemental retirement payments having been made by the predecessor employers to certain retired employees shall be continued, and supplemental retirement payments to certain employees who retire in the future presently agreed upon by the City or its predecessors will be maintained and paid by the successor employer.
- B. In the event said employees are subsequently employed by an employer which shall operate or manage the Mass Transit System or any part thereof where they are required by law to participate in the Wisconsin Retirement System established by Chapter 41 of the Wisconsin Statutes, the pension rights, privileges and benefits of said employees shall be regulated by the provisions of law regarding participation in said Wisconsin Retirement System and no other pension rights, privileges or benefits shall accrue to said employees, except that:
  - (1) The pension rights, privileges and benefits afforded to said employees who are presently receiving the same under the provisions of the Madison Bus Pension Trust and the Madison Bus Company Pension Trust Agreement, as from time to time previously amended (and as of the date of application) shall be continued for said employees; provided that in no event shall the City's level of contribution exceed the amount required to be paid by the City or its predecessors to sustain the present plan, nor shall the employee's level of benefits under said plan increase from the amount presently provided under said plan; nor shall the Union bargain for any increased level of contributions or benefits to said plan.
  - (2) The City shall pay the employees' contributions to the Wisconsin Retirement System up to the level of earnings on which employees are required to make Social Security contributions.

Section 12.

In the event any provision of the Agreement is held to be invalid or otherwise in violation of State or Federal law,

such provision shall be renegotiated for the purpose of replacement under Section 13(c) of the Act. If such negotiation shall not result in mutually satisfactory agreement, either party may invoke the jurisdiction of the Secretary of Labor to determine substitute fair and equitable employee protection arrangements which shall be incorporated in this Agreement.

Section 13.

The employees covered by this Agreement shall continue to receive coverage under Social Security, Workers Compensation and Unemployment Compensation. In no event shall these benefits be worsened as a result of the Project.

Section 14.

In the event the Project is approved for assistance under the Act, the foregoing terms and conditions shall be made part of the Contract of Assistance between the Federal Government and the Applicant for Federal funds, provided, however, that this Agreement shall not merge into the Contract of Assistance, but shall be independently binding and enforceable by and upon the parties hereto, in accordance with those terms.

Section 15.

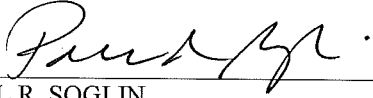
- A. In the event the City contemplates any change in the organization or operation of its system which may result in the dismissal or displacement of employees, or rearrangement of its working forces represented by the Union as a result of the Project, the City shall do so only in accordance with the provisions of subparagraph (B) hereof. Provided, however, that changes which are not a result of the Project, but which grow out of the normal exercise of seniority rights occasioned by seasonal or other normal schedule changes and regular picking procedures under the collective bargaining agreement, shall not be considered within the purview of this paragraph.
- B. The City shall give to the unions representing the employees affected thereby, at least thirty (30) days' written notice of each proposed change, which may result in the dismissal or displacement of such employees or rearrangement of the working forces as a result of the Project, by sending certified mail notice to the union representatives of such employees. Such notice shall contain a full adequate statement of the proposed changes, including an estimate of the number of employees affected by the intended changes, and the number and classifications of any jobs in the City's employment available to be filled by such affected employees. At the request of either the City or the Union, negotiations for the purpose of reaching agreement with respect to the application of the terms and conditions of this Agreement shall commence immediately. These negotiations shall include determining the selection of forces from among the employees of other Federal Transit Administration employers who may be affected as a result of the project, to establish which such employees shall be offered employment with the City for which they are qualified or can be trained; not,

however, in contravention of collective bargaining agreements related hereto. If no agreement is reached within twenty (20) days from the commencement of negotiations, any party to the dispute may submit it to arbitration in accordance with the procedures contained in Section 6 hereof. In any such arbitration, the final decision must be reached within sixty (60) days after selection or appointment of the neutral arbitrator. In any such arbitration, the terms of this Agreement are to be interpreted and applied in favor of providing employee protections and benefits no less than those established pursuant to Section 5(2)(f) of the Interstate Commerce Act.

IN WITNESS WHEREOF, the parties have hereto executed this Agreement by their respective duly authorized signatures.

Dated this 24<sup>th</sup> day of May, 2017.

CITY OF MADISON, WISCONSIN  
A Municipal Corporation



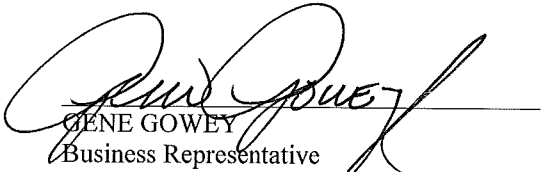
PAUL R. SOGLIN  
Mayor

Dated this 12<sup>th</sup> day of May, 2017.



City Clerk

Dated this 11 day of May, 2017.



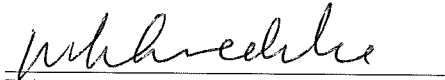
GENE GOWEY  
Business Representative  
DRIVERS, SALESMEN, WAREHOUSEMEN, MILK  
PROCESSORS, CANNERY, DAIRY EMPLOYEES AND  
HELPERS UNION, LOCAL NO. 695



WAYNE H. SCHULTZ  
Secretary-Treasurer

APPROVED:

Date: 5/18/17



DAVID SCHMIEDICKE  
City Finance Director

APPROVED AS TO FORM:

Date: 5/19/2017



MICHAEL MAY  
City Attorney