

# **FIRE PROTECTION AND EMERGENCY MEDICAL SERVICE AGREEMENT**

Between the City of Madison and the Town of Blooming Grove

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THIS AGREEMENT (“Agreement”) is entered into by and between the City of Madison, a Wisconsin municipal corporation located in Dane County, Wisconsin (the “City”) and the Town of Blooming Grove, a Wisconsin body corporate and politic located in Dane County, Wisconsin (the “Town”).

## **RECITALS**

- A. The City and the Town recognize the need to provide fire protection and emergency medical service to the residents of the City and the Town.
- B. The City and Town have determined that each will benefit from entering an intergovernmental cooperation agreement under which the City will provide fire protection and emergency medical service to the Town, and the Town will contribute to the cost of the City’s Fire and Emergency Medical Services budget.
- C. The City and the Town are authorized by Wis. Stats. § 66.0301 to contract with each other for the receipt or furnishing of services.

## **AGREEMENT**

In consideration of the mutual promises, covenants and agreements hereinafter set forth, the City and the Town make this intergovernmental agreement under Wis. Stat. § 66.0301 for the purposes described above and the benefit, health, safety and welfare of the public, and agree as follows:

- 1. Definitions. When used in this Agreement, the following terms shall have the following meanings:
  - A. *Final Attachment:* Final Attachment means the date that the final attachment to the City of all territory remaining in the Town at the end of the protected period occurs, as that process is described in Section 9.H. of the Town of Blooming Grove and City of Madison Cooperative Plan under Wis. Stats. § 66.0307.
  - B. *Fire Department:* Fire Department means the City of Madison Fire Department.
  - C. *Fire Operations:* Fire Operations means emergency response and non-emergency services for fire, emergency medical services (which for purposes of this Agreement shall include emergency medical transport), lake rescue, hazardous materials and other disaster responses, and other, similar services that may be provided by the Fire Department to provide for the protection and preservation of life and property at the same level of service and response as provided within the City.

- D. *Fire Prevention*: Fire prevention means fire safety education, fire inspections, fire protection engineering review, plan review, public information, elevator inspections, and fire/arson investigation services at the same level of service as provided within the City.
2. Effective Date and Term of this Agreement. This Agreement shall be effective beginning July 1, 2015, and, unless terminated sooner under provisions elsewhere in this Agreement, shall be in force through Final Attachment.
3. Services to be provided by the City to the Town.
- A. *Fire Operations*. The City shall provide Fire Operations services within and to all persons and premises within the Town at the same level of service that is provided within and to persons and premises within the City.
- B. *Fire Prevention*: Subject to the conditions specified in this subsection, the City shall provide Fire Prevention services within and to all persons and premises within the Town at the same level of service that is provided within and to persons and premises within the City. The City's obligations to provide Fire Prevention services is subject to the following conditions:
- (1) The City's obligation to provide fire inspections, fire protection engineering review, fire protection plan review, and elevator inspections is contingent upon the Town, to the extent the Town has the authority to do so under Wisconsin law, having fee schedules in effect that conform in kind and amount to the City's fee schedules relating to Fire Prevention, and having ordinances in effect that conform to Madison General Ordinances Chapters 34 and 40 and any other City ordinance (and all subsequent amendments and additions) relating to Fire Prevention, and upon the Town authorizing the Chief of the Fire Department or the Chief's designee to issue official notices or orders to correct violations, and to issue citations or commence other ordinance enforcement actions for violations of Town ordinances relating to fire prevention.
- (2) The City's obligation to provide elevator inspection services and fire protection plan review is further contingent upon the City and Town securing an agreement with the State of Wisconsin authorizing the City to provide elevator inspection services and fire protection plan review in the Town. The City and Town shall cooperate to secure such agreement(s) with the State of Wisconsin.
- (3) The City shall, by the effective date of this Agreement, give written notice to the Town of all City fees and ordinances that must be adopted by the Town to satisfy the conditions in this Subsection. The City shall also provide written notice to the Town of any changes to City fees and ordinances that must be adopted by the Town to satisfy the conditions in this Section.

C. *Education and Information.* The City shall provide community education, fire prevention and fire safety information for the Town when reasonably requested and when available, and through existing resources and services.

D. *Fuel Tanks.* Following the Town's designation of the City as the agent for inspecting above-ground and below-ground fuel tanks, the City shall inspect said tanks as agents of the State.

4. Town Responsibilities.

A. *Code Enforcement.* The Town shall have the responsibility and the authority to prosecute or otherwise resolve citations or other ordinance enforcement actions issued or commenced by the City for alleged violations of fire prevention ordinances listed in Section 3.B.(1) occurring in the Town.

B. *Fuel Tank Inspection Designation.* By entering into this Agreement, the Town hereby designates the City as the agent for inspecting above-ground and below-ground fuel tanks and the Town shall take all steps as may be necessary with the applicable State agency or agencies to formalize this designation.

C. *Knox Box Keys.* The Town shall change the locks on all Knox Boxes or similar key boxes to the Madison Fire Department's lock.

5. Fees and Charges for City Services.

A. *Fee Schedule.* For City services to be provided under this Agreement, the Town shall pay the City as outlined in Exhibit A.

The Town's payment for a given year shall be paid by May 15 of the given year. However, payment for 2015 shall be due on October 1, 2015. Payment shall be made to:

City Treasurer – City of Madison  
210 Martin Luther King, Jr., Blvd  
Room 107  
Madison, WI 53703

If the Town does not pay by the due date, the City shall provide the Town written notice of breach and ten (10) business days to cure. If the Town fails to cure by remitting full payment within 10 business days from the date of the notice, the City may immediately terminate this Agreement or impose a late fee of one percent (1%) of the amount owed. The Fee Schedule attached as Exhibit A may only be changed by written amendment approved and executed by the Town and the City.

B. *Service Charges.* The City shall charge recipients for services within the Town fees for emergency medical services, transports, and any other service provided by the

Fire Department for which the City charges a fee within the City, and such charges shall be at the same rate as the City charges recipients of such services within the City.

- C. *Fire Department Fees.* The Town shall collect, charge, and provide to the City all fees the Town collects on behalf of the City for fire inspection, fire protection engineering, fire-related plan review, elevator inspections and other Fire Operations and Fire Prevention related services performed by the City, at the same rates charged within the City, unless such fees were charged directly to the recipient of the service and paid directly to the City. When collected, the Town shall provide these fees to the City within thirty (30) days.
  - D. *Fire Entitlement Dues.* The Town shall provide to the City the two percent (2%) dues received by the Town from the State of Wisconsin relating to fire entitlement dues as authorized under Wis. Stats. § 101.575 (and all subsequent amendments and additions). The Town shall comply with all fire dues distribution audit reports and associated documentation required under Wis. Stats. § 101.573 (and all subsequent amendments and additions). When received, the dues shall be provided to the City within thirty (30) days.
  - E. *Ambulance Service Funds* The Town shall provide to the City the funds received by the Town from the State of Wisconsin relating to support and improvement of ambulance services as authorized under Wis. Stats. § 256.12 (and all subsequent amendments and additions). The Town shall comply with all documentation required under Wis. Stats. § 256.12 (and all subsequent amendments and additions). When received, the funds shall be provided to the City within thirty (30) days. The City shall provide the Town with reasonable assistance related to documentation under Wis. Stat. § 256.12.
6. Special Assessments and Special Charges.
- A. Special Charges. Subject to Section 5.B., in the event the City provides fire protection and/or emergency medical services, including, but not limited to, turning off alarms and hiring private security to watch over unsecured buildings, to specific real property in the Town and the cost associated with such services are not covered by the fees paid by the Town under Section 5.A., the City may impose special charges against such real property under Madison General Ordinance Sec. 4.09 and Wis. Stats. § 66.0627. Any special charges under this Section shall be apportioned to and collected from Town real property owners in the same manner as properties in the City, and shall not in any respect discriminate against Town real properties because the properties are in the Town. Town real property owners shall have all the same protections and rights as property owners in the City subject to the same type of special charges. Before imposing any special charge against any real property in the Town, the City shall notify the Town of such special charge. The Town may elect to pay any proposed special charge, and if the Town elects to pay a special charge, the special charge shall not be imposed against any real property in the Town. The Town

- hereby approves future special charges consistent with this Section under Wis. Stats. § 66.0707(2) and the Town's resolution approving this Agreement constitutes the Town's resolution required by Wis. Stats. § 66.0707(2) as it relates to these special charges. In the event that this blanket pre-approval provision is invalidated by a court of competent jurisdiction, the Town further agrees to the extent that it may lawfully do so, that it shall timely approve such special charge by separate resolution pursuant to said statute.
- B. Special Assessments. Within forty-five (45) days of notification by the City to the Town of the City's intention to levy a special assessment for public improvements under Madison General Ordinance § 4.09 and Wis. Stats. § 66.0701 or § 66.0703 (and all subsequent amendments and additions) against Town properties based upon fire protection purposes, the Town Board shall consider a resolution approving the levy pursuant to Wis. Stats. § 66.0707(1). No City special assessment may be made against properties in the Town for fire protection purposes without the approval by resolution of the Town Board.
7. Operational Policy. Operational policy for providing Fire Operations and Fire Prevention services under this Agreement shall be established by the City, and the City shall have the responsibility for implementation of all policies adopted.
8. Operational Personnel. The personnel providing Fire Operations and Fire Prevention services under this Agreement shall be employees of the City, and are not agents or employees of the Town. The City shall be solely responsible for paying all wages, benefits, disability payments, and pension and workers compensation claims for City employees providing services under this Agreement, and for damage to City equipment and clothing used in providing services under this Agreement.
9. Town Equipment and Personnel.
- A. *Equipment*. All Town equipment and facilities shall remain the property and responsibility of the Town. The City shall not assume any responsibility or ownership over said Town equipment and facilities.
- B. *Personnel*. The Town has one full-time fire fighter, who will no longer be an employee of the Town when this Agreement takes effect. If this individual qualifies as a Madison Fire Fighter, through the City's standard hiring process review, the City will recommend to the Madison Police and Fire Commission that this individual be hired as a Madison Fire Firefighter.
10. Liability. Each party shall be responsible for the consequences of its own acts, errors or omissions and for the acts, errors, or omissions of its employees, officers, officials, agents, boards, committees and commissions, and shall be responsible for any losses, claims, and liabilities that are attributable to such acts, errors or omissions including providing its own defense, arising out of this Agreement. In situations involving joint liability, each party shall be responsible only for such losses, claims, and liabilities that

are attributable to its own acts, errors, or omissions and the acts, errors, or omissions of its employees, officers, officials, agents, boards, committees, and commissions. It is not the intent of either party to waive, limit or otherwise modify the protections and limitations of liability found in Wis. Stats. § 893.80 or any other protections available to the parties by law.

11. Termination.

- A. *Termination of Agreement.* The parties may agree in writing to terminate this Agreement at any time.
- B. *Termination for Cause:* If either party shall commit a breach of, or fail to timely and properly fulfill any obligation under this Agreement, other than late payment as described in Section 5.A., the nonbreaching party shall provide the breaching party written notice thereof providing thirty (30) days from the date of receipt of the notice to cure. If the breach is not cured within the 30 days, the nonbreaching party retains all available rights at law and equity, including but not limited to the immediate termination of this Agreement and all rights of the breaching party, suit for damages, and specific performance. If due to the nature of the breach it cannot be cured within 30 days from the receipt of notice, then the breaching party shall be deemed to be complying with the notice to cure, if promptly upon receipt of such notice the breaching party takes steps to cure the breach as soon as reasonably possible and proceeds thereafter with due diligence to cure the breach within a period of time which, under all the circumstances, shall be reasonable.
- C. This Agreement will terminate in the event that the City no longer provides Fire Operations services within the City.
- D. *Effect of Termination.* If this Agreement is terminated for any reason, the Town's payment(s) due the City shall be pro-rated within the year of termination, through the effective date of termination.

12. Change in Law / Severability. If Section 3 or Section 5 of this Agreement is held by a court of competent jurisdiction to be illegal or otherwise unenforceable and there is no further right to appeal such holding, or if there is a change in state or federal law that renders Section 3 or Section 5 illegal or otherwise unenforceable, this Agreement shall terminate. If any part, term, or provision of this Agreement other than Section 3 or Section 5 is held by a court of competent jurisdiction to be illegal or otherwise unenforceable by a change in state or federal law, such illegality or unenforceability shall not affect the validity of any other part, term, or provision and the rights of the parties will be construed as if the invalid part, term or provision was never part of the Agreement.

13. Force Majeure. "Force Majeure" shall mean an event or circumstance beyond the reasonable control of and without the fault or negligence of the party claiming Force Majeure. It shall include a failure or interruption in the provision of services due to an

act of God; war; sabotage; riot; insurrection; civil unrest or disturbance; explosion; earthquake; flood or other abnormal weather condition. An event of Force Majeure that prevents the City from providing Fire Operations service or Fire Prevention service shall excuse the City from providing such service until the event of the Force Majeure no longer prevents the City from providing such service.

14. Conflict Resolution. The City and the Town pledge their good faith to resolve any concerns or disputes that arise regarding their respective obligations. Any potential misunderstandings or disputes that are not resolved by Town or City Fire Department staff shall be addressed by a group consisting of the Mayor of the City, the Town Chair, the City Fire Chief, and any staff members and legal counsel requested by either party. Either party may at any time request a meeting with the other party to discuss a concern relating to this Agreement. Nothing in this section is intended to prevent either party from seeking any remedy available to it under this Agreement from a court of competent jurisdiction in Dane County, Wisconsin as described in Section 19.
15. Non-Discrimination. In the performance of work under this Agreement, the City and Town agree to not discriminate against any employee or applicant for employment because of race, religion, marital status, age, color, sex, handicap, national origin or ancestry, income level or source of income, arrest record or conviction record, less than honorable discharge, physical appearance, sexual orientation, gender identity, political beliefs or student status. The City and Town further agree to not discriminate against any subcontractor or person who offers to subcontract on this Agreement because of race, religion, color, age, disability, sex, sexual orientation, gender identity or national origin.
16. Notices. All notices to be given shall be in writing and delivered by personal delivery or Certified United States mail, as follows:
  - To the City: Fire Chief, City of Madison  
Madison Fire Department  
325 West Johnson Street  
Madison WI 53703
  - with copy to: Madison City Attorney  
Room 401  
210 Martin Luther King Jr. Blvd  
Madison WI 53703
  - To the Town: Town Chair  
1880 S. Stoughton Road  
Madison WI 53716
  - with copy to: Blooming Grove Town Attorney  
Stafford Rosenbaum LLP  
222 West Washington Ave, Suite 900

Madison WI 53703

Either party may change the names and addresses for giving notice to such party by delivering written notice of such change or changes to the other party.

17. Entire Agreement. This Agreement, including any and all addenda, exhibits and the like attached hereto, sets forth the entire agreement between the City and the Town regarding the City's provision of Fire Operations and Fire Prevention services to the Town, and supersedes any prior discussions, agreements, or understandings, either written or oral.
18. No Waiver. No failure to exercise, and no delay in exercising, any right, power or remedy hereunder on the part of the City or Town shall operate as a waiver thereof, nor shall any single or partial exercise of any right, power or remedy preclude any other or further exercise thereof or the exercise of any other right, power or remedy. No express waiver shall affect any event or default other than the event of default specified in such waiver, and any such waiver, to be effective, must be in writing and shall be operative only for the time and to the extent expressly provided by the City or Town therein. A waiver of any covenant, term of condition contained herein shall not be construed as a waiver of any subsequent breach of the same covenant, term or condition.
19. Choice of Law and Forum Selection. This Agreement shall be governed by and construed, interpreted and enforced in accordance with the laws of the State of Wisconsin. The parties agree, for any claim or suit or other dispute relating to this Agreement that cannot be mutually resolved, the venue shall be a court of competent jurisdiction in Dane County, Wisconsin and the parties agree to submit themselves to the jurisdiction of said court, to the exclusion of any other judicial district that may have jurisdiction over such dispute according to any law.
20. No Third Party Beneficiaries. This Agreement is intended to be an agreement solely between the parties hereto and for their benefit only. No part of this Agreement shall be construed to add to, supplement, amend, abridge or repeal existing duties, rights, benefits or privileges of any person who is not a party hereto, including but not limited to employees of either party.
21. Amendment / Modification. This Agreement may be amended or modified only by written amendment approved and executed by the Town and the City. However, Exhibit B may be modified or amended by the City after providing the Town with thirty (30) days notice of said modification or amendment.
22. Binding Effect / Assignment. The parties have entered into this Agreement under the authority of Wis. Stats. § 66.0301. Neither party may assign its obligations hereunder to any third party without the prior written consent of the other party. Subject to the foregoing, the parties agree that this Agreement shall be binding upon and inure to the benefit of both parties, as well as their respective heirs, successors and assigns.



23. Construction. The parties acknowledge that this Agreement is the product of negotiations between the parties and that, prior to the execution hereof, each party has had full and adequate opportunity to have this Agreement reviewed by, and to obtain the advice of, its own legal counsel with respect hereto. Nothing in this Agreement shall be construed more strictly for or against any party because of that party's attorney drafted this Agreement or any part hereof.
24. Authority. Each party represents that it has the authority to enter into the Agreement and that all necessary procedures have been followed to secure authorization to enter into this Agreement from the party's respective governing body. Each person signing the Agreement represents and warrants that he or she has been duly authorized to do so.
25. Counterparts. The Agreement may be signed in counterparts which, when taken together, shall be effective as if all signatures appeared on the same original document.

**IN WITNESS WHEREOF**, the Parties hereto have caused this Agreement to be executed by their proper officers as of the date when all parties hereto have affixed their respective signatures.

**FOR THE CITY OF MADISON**

\_\_\_\_\_  
Paul Soglin, Mayor

\_\_\_\_\_  
Date

\_\_\_\_\_  
Maribeth Witzel-Behl, City Clerk

\_\_\_\_\_  
Date

Countersigned:

\_\_\_\_\_  
David P. Schmiedicke, Finance Director

\_\_\_\_\_  
Date

\_\_\_\_\_  
Eric Veum, Risk Manager

\_\_\_\_\_  
Date

Approved as to Form:

\_\_\_\_\_  
Michael P. May, City Attorney

\_\_\_\_\_  
Date

Execution of this Agreement by the City is authorized by Resolution Enactment No. RES \_\_-\_\_\_\_\_, ID No. \_\_\_\_\_, adopted by the Common Council of the City of Madison on \_\_\_\_\_, 2015.

**FOR THE TOWN OF BLOOMING GROVE:**

\_\_\_\_\_  
Dwight Johnson, Town Chair

\_\_\_\_\_  
Date

\_\_\_\_\_  
Michael J. Wolf, Town Clerk

\_\_\_\_\_  
Date

Approved as to Form:

\_\_\_\_\_  
Christopher Hughes, Town Attorney

\_\_\_\_\_  
Date

Execution of this Agreement by the Town is authorized by \_\_\_\_\_,  
adopted by the Town Board of the Town of Blooming Grove on \_\_\_\_\_, 2015.

**EXHIBIT A**  
Fee Schedule

<b>Payment Due Date</b>	<b>Payment Amount</b>
October 1, 2015	\$75,000
May 1, 2016	\$75,000
May 1, 2017	\$75,000
May 1, 2018	\$75,000
May 1, 2019	\$75,000
May 1, 2020	\$75,000
May 1, 2021	\$222,170.14
May 1, 2022	\$222,929.14
May 1, 2023	\$223,548.14
May 1, 2024	\$224,389.14
May 1, 2025	\$224,623.14
May 1, 2026	\$224,740.14
May 1, 2027	\$224, 746.14

**EXHIBIT B**  
**FIRE RESPONSE**

The City agrees to follow the City of Madison Fire Department Standard Operating Guidelines Sec. 5.10 (“SOG 5.10”) addressing Non-Hydrant Response, which is attached hereto and incorporated herein as Exhibit C. The parties agree that it is within the discretion of the City to amend or change SOG 5.10 as it determines it to be in the best interest of all parties. The City shall provide a copy of any changes or amendments to SOG 5.10 to the Town at least thirty (30) days before such amendment or change becomes effective. The City further agrees to designate an employee of the Madison Fire Department to act as a liaison with the Town. At the Town’s request, the liaison shall attend up to two (2) meetings of the Town Board annually and shall otherwise be available to respond to any issues or concerns raised by the Town.



## EXHIBIT C

# CITY OF MADISON FIRE DEPARTMENT STANDARD OPERATING GUIDELINES

# 5.10

SECTION:			GUIDELINE:
FIRE GROUND OPS			NON-HYDRANT RESPONSE
EFFECTIVE DATE:	LAST REVISION:	AUTHOR:	PAGES:
03-01-2015		CHIEF DAVIS	1

### Scope:

All Fire Personnel

### Objective:

Provide a systematic method for Company Officers and the Incident Commander to request Mutual Aide when it is determined to be a Non-Hydrant area.

### Topic:

1. Pre-Plan Information
  - a. All efforts will be made to identify properties prior to response and built into CAD with the 911 PSC.
  - b. Each property as identified will have a visual prompt to the Dispatcher to alert the OIC that this property does not have a municipal water system supply
  - c. Each Individual Companies notified of these properties.
2. Incident notification:
  - a. Upon notification of a Fire Response into a non-hydrant area the OIC will
    - i. Request the "Non-Hydrant" Response Card
      1. Request the closest "County Engine"
      2. Request the 3 Closest Tenders
  - b. Incident Upgrade:
    - i. If incident requires additional water to be brought in, the IC will request a MABAS response for "Tenders Only"
    - ii. If additional draft sites need to be set up, additional County Engines can/should be requested.

### Application:

1. Single Engine Attack:
  - a. Utilizing only 1 Engine and supplied with Tender supplied water as more of a as needed or small fire application
2. Multiple Engine Relay Pump:
  - a. Initial Engine lays needed amount of LDH to the incident location and begins suppression activities.
  - b. County Engine arrives and becomes the Draft Engine and will draft water from fold-a-tanks on site
  - c. A MFD Engine will be placed every 1000' to minimize any friction loss in the relay pump system.
3. Engine Supply line deployment:
  - a. Each Engine Officer needs to determine the best practice for each incident. The use of reverse lays is recommended with exception of first due Engine
4. Distance determination:
  - a. Specific locations that have excess of 600' will be identified utilizing a standardized marking system to assist for distance determination.