

**INTERGOVERNMENTAL COOPERATION AGREEMENT
BETWEEN THE CITY OF MILWAUKEE
AND THE VILLAGE OF WEST MILWAUKEE
REGARDING FIRE SERVICES**

Agreement made this ____ day of _____, 2003, by and between the City of Milwaukee, a municipal corporation (City), and the Village of West Milwaukee, a municipal corporation (Village).

Whereas, The City and the Village entered into an agreement in 1991 whereby the City provides fire suppression and ambulance services to the Village;

Whereas, The City and Village are desirous of continuing that agreement with certain modifications; and

Whereas, The City, acting through its Fire Department, has available the necessary personnel and equipment to provide the specified level of services to the Village; and

Whereas, The Village has authorized its Village President to enter into this Agreement pursuant to Resolution Number ____ dated _____, 2003; and

Whereas, The City has authorized its proper City officials to enter into this Agreement pursuant to Common Council Resolution Number ____ dated _____, 2003; and

Whereas, Section 66.0301, Stats., authorizes metropolitan communities to contract with each other for the receipt or furnishing of services.

Now, Therefore, In consideration of the mutual promises contained herein and for other good and valuable consideration, the parties agree as follows:

I.

DEFINITIONS

For purposes of this Agreement, the following definitions shall apply:

A. “Ambulance service” means the present service provided by the Village for transporting basic life-support patients.

B. “Annual Fee” means the amount paid by the Village to the City for services rendered pursuant to this Agreement, as calculated under the provisions of Section IV. of this Agreement.

C. “Fire Department Operating Budget” means the operating budget provided in the annual City budget for the Fire Department plus projected wage and benefit settlement costs to bring salaries to a current budget level, and a 5% administrative overhead. This amount will be reduced by Fire Department revenues received by the City from sources other than this contract.

D. “Fire-suppression services” means: the commitment of all City Fire Department resources in responding to, combating, and controlling fire-related incidents, natural or man-made disasters, and personal-injury accidents; the hazardous-materials team, deep-tunnel rescue team, and dive rescue team; and basic life-support services and advanced life-support services, all in accordance with Exhibits A and B annexed hereto. Fire-suppression services do not include a response under any present in-force and reciprocal agreements between the Village and other municipalities, fire or building-inspection services, or ambulance services.

E. “Private Ambulance Network” means the ambulance network certified by the City for transporting basic life-support patients pursuant to Section 75-15, Milwaukee Code of Ordinances, and as amended from time to time. The attached Exhibits A and B (Emergency Medical Services System Handbook and Milwaukee Fire Department Emergency Medical Services Standard Guidelines Support 2.1) describe the network plan. The network plan has been amended to include the Village geographical area.

II.

AGREEMENT ON BEHALF OF THE CITY

A. The City shall provide the Village with general and adequate fire-suppression services at the same level of services as are provided by the City within its own boundaries.

B. The City shall provide the Village residents with access to its private ambulance network on the same basis as City residents have access to that network.

III.

AGREEMENT ON BEHALF OF THE VILLAGE

A. During the term of this Agreement, the Village will continue to lease to the City the premises located at 4515 West Burnham, in the Village, for the sum of \$90,000.00 per year. An amendment to the lease is annexed hereto as Exhibit C.

B. The Village shall assure that the City can continue to use the leased premises at 4515 West Burnham for the term of the lease for the provision of fire-suppression services under this Agreement, by assuring that the necessary Village authorized permits, approvals, access, and ingress and egress shall be provided to the City. The Village shall provide adequate police protection and traffic-control services in conjunction with City activities within the Village under this Agreement.

C. The Village shall continue to receive all incoming 911 calls for the Village. The Village shall relay all calls relating to services to be provided by the City under this Agreement to the City.

D. The Village agrees to continue to make improvements to the leased premises at 4515 West Burnham, other than routine maintenance, as necessary in order for such premises to meet City Fire Department standards applicable to all City fire stations. For the purpose of this

section, “routine maintenance” does not include capital repair or replacement, such as HVAC, structural elements, and fixtures. A non-exhaustive listing of the types of repairs or replacements that would be considered capital repair or replacement is appended as Exhibit D.

IV.

COMPENSATION TO THE CITY

A. For services to be provided under this Agreement, the Village shall pay the City the Annual Fee based on the following:

1. Population

Thirty-three and 33/100 percent (33.33%) of the total Annual Fee shall be calculated by dividing the Village’s population by the total population of the Village and the City combined. The resulting percentage shall be multiplied against the City Fire Department’s operating budget and capital improvements for the year in which the annual fee is due and services are rendered.

2. Equalized Valuation

Thirty-three and 33/100 percent (33.33%) of the total Annual Fee shall be calculated by determining the Village’s total equalized property valuation, excluding land, as determined by the State of Wisconsin for the prior year and as adjusted as hereinafter provided.

Total equalized property valuation, excluding land, shall be divided into residential, commercial, and industrial classifications. A multiplier of 1 for total residential valuation, 2 for total commercial valuation, and 3 for total industrial valuation shall be applied. The total of the multiplied valuations for the Village shall be divided by the total of the multiplied valuations for the City and the Village combined. The resulting percentage shall be multiplied against the city Fire Department’s operating budget and capital improvements for the year in which the Annual Fee is due and services are rendered.

3. Usage

Thirty-three and 34/100 percent (33.34%) of the total Annual Fee shall be calculated by determining the Village’s percentage share of usage. Usage shall be based upon the Village’s share of total incident runs over the preceding three-year period.

Usage shall be calculated based on the actual number of incident runs for each fire or E.M.S. run. Usage is determined without regard to where the personnel responding are stationed.

This percentage shall be multiplied against the City Fire Department's operating budget and capital improvements for the year in which the Annual Fee is due and services are rendered.

B. Each year, the Village shall receive a credit against the Annual Fee in the amount of \$90,000.00, representing payment for the leased premises.

C. The Village shall pay the City the Annual Fee for the services to be provided in 2004 on February 25, 2004, less applicable credits. The Annual Fee less credits for subsequent years shall be paid on or before February 25 of each year.

V.

LIABILITY AND INDEMNIFICATION

A. All wage and disability payments, pension and worker's compensation claims, damage to equipment and clothing, and medical expense for the services to be provided by the City under this Agreement shall be paid by the City, it being understood and agreed that members of the Milwaukee Fire Department are the employees of the city and are not agents or employees of the Village. The Village shall carry worker's compensation and employer's liability coverage on its own employees for any of their activities under this Agreement.

B. The Village agrees to indemnify, defend, and save harmless the City and its officers, directors, employees, and agents from and against any and all liability for injuries or damages to persons or property as a result of this Agreement or the provision of services under this Agreement, not arising through the fault of the City, including, but not limited to, the City's liability to the Village or third parties in contract, in tort, or under federal or state law arising or resulting from performance or failure to perform under this Agreement, and in addition, for any

and all related expenses including, but not limited to, defense costs and reasonable attorney's fees, except as provided elsewhere in this Agreement.

C. The Village shall name the City as an additional insured on its policy of general liability coverage and its automotive policy to protect risks assumed under this Agreement, as long as coverage for the City is available at cost that both parties agree is reasonable. The insurance shall provide a coverage on an occurrence basis and shall be continuously in force and effect during the terms of this Agreement. The insurance shall at all times be evidenced by a delivery to the City of a current certificate of insurance requiring 30 days notice of cancellation or nonrenewal. Such insurance shall provide coverage limits in the amount of \$1,000,000 per occurrence and \$5,000,000 in the aggregate. Should coverage at these limits become unavailable, the parties agree that the limits may be adjusted to the limits of coverage applicable to the general liability policy issued to the Village.

VI.

INDEPENDENT CONTRACTOR

The City, its officers, agents, and employees, for purposes of this Agreement, constitute an independent contractor. The City shall have complete control over its employees in the method of performing its work under this Agreement. Nothing contained in this Agreement shall be deemed to be construed to appoint such officers, agents or employees of the City as officers, agents or employees of the Village.

VII.

DURATION, TERMINATION AND LIQUIDATED DAMAGES

A. This Agreement shall become effective upon its execution by both parties and shall be in force for a period of three years thereafter. This Agreement shall be automatically

renewed for three-year periods, subject to the right of either party to provide a written notice of termination at least three years in advance of the desired termination date. This provision is subject to the City's right to reopen.

B. The City may reopen the amount and/or calculation of the Annual Fee each year after 2004 by giving the Village written notice. If the City does not reopen, the Annual Fee calculation for the previous year shall remain in force and effect for the subsequent year. If the City reopens and the parties do not reach agreement, within 90 days, the City may give the Village six months written notice of its intention to terminate the Agreement. During those six months, the City shall continue to provide services under this Agreement utilizing the same Annual Fee calculation that was in effect for the year immediately preceding the reopening date.

C. If the Village shall fail to make any payment under Article IV. of this Agreement, the Village shall pay to the City liquidated damages in the amount of \$10,000.00 for each day of violation and, in addition, the City may at its option terminate this Agreement on 30 days advance written notice.

D. If the Village shall fail to provide the current insurance certificate required by this Agreement, and the Village has not exhausted all reasonable efforts to obtain insurance, the Village shall pay the City liquidated damages in the amount of \$10,000.00 for each day of violation. The Village shall notify the City whenever the Village is unable to fulfill the insurance requirements of this Agreement. Upon receipt of such notice, the City shall have the option of terminating the Agreement on 30 days advance written notice.

E. The Village may terminate this Agreement for cause if the City reduces the level of fire-suppression service to the Village or if fire-suppression service costs decline and the City

does not reopen the Annual Fee for the previous year. Termination shall occur at the end of a year and shall be preceded by one year's advance written notice.

F. In the event of termination, the City shall have no further obligations to the Village under this Agreement.

VIII.

CONFLICT OF INTEREST AND NONDISCRIMINATION

A. Conflict of Interest

1. Interest in Contract. No officer, employee, or agent of the City or the Village exercises any functions or responsibilities in connection with the carrying out of any services or requirements to which this Contract pertains, shall have any personal interest, direct or indirect, in this Agreement.

2. Interest of Other Local Public Officials. No member of the governing body of the City or the Village and no other public official of the City or the Village who exercises any functions or responsibilities in the review or approval of the carrying out of this Agreement, shall have any personal interest, direct or indirect, in this Agreement.

B. Discrimination Prohibited

1. Both parties warrant that they are equal opportunity employers and fully support the letter and spirit of Title VII of the Civil Rights Act of 1964, as amended, and that they are in compliance with such Act and all applicable legally managed Affirmative Action Programs.

2. The parties will comply with all applicable provisions of the Americans with Disabilities Act of 1990.

3. The parties will cause the foregoing provisions to be in all subcontracts, if any, for any work covered by this Agreement so that such provisions will be binding upon each

subcontractor, provided that the foregoing provisions shall not apply to contracts or subcontracts for standard commercial supplies or raw materials.

IX.

AMENDMENT

This Agreement may be amended at any time in writing upon mutual agreement of the parties.

X.

NOTICES

A. All notices to be given by the parties shall be in writing and served by personal delivery, telefacsimile or United States mail, first class, postage prepaid, addressed as follows:

1. City of Milwaukee
Fire Chief
711 West Wells Street
Milwaukee, WI 53233

2. Village of West Milwaukee
Office of the Village Administrator
4755 West Beloit Road
West Milwaukee, WI 53214

XI.

ENTIRE AGREEMENT

This Agreement sets forth all the covenants, provisions, agreements, conditions and understandings between the parties and there are no covenants, promises, agreements, conditions or understandings either oral or written other than are herein set forth.

XII.

TERMINATION OF PRIOR AGREEMENT

The agreement of the parties of 1991 for the provision of fire-suppression services shall terminate upon execution of this Agreement.

In Witness Whereof, The parties hereto have executed this Agreement the day and year first above written.

IN THE PRESENCE OF:

CITY OF MILWAUKEE

Mayor

City Clerk

COUNTERSIGNED:

Comptroller

VILLAGE OF WEST MILWAUKEE

Village President

Village Clerk

COUNTERSIGNED:

Village Treasurer

1052-2003-870
66041
8/4/03