

**AGREEMENT FOR FIRE PROTECTION,
FIRST RESPONDER, RESCUE AND INSPECTION SERVICES**

This Agreement for Fire Protection, First Responder, Rescue and Inspection Services ("Agreement") is made by and between the **City of La Crosse**, Wisconsin ("**City**") and the **Town of Medary**, Wisconsin ("**Town**") on November 14, 2019 (collectively the "**Parties**").

WHEREAS, the City has a full-time Fire Department that provides fire protection, first responder, rescue and inspection services.

WHEREAS, the Town is adjacent to the City and desires fire protection, first responder, rescue and inspection services from the City for all Town properties, citizens and guests located within the area described in **Exhibit A**.

WHEREAS, the Parties wish to set forth their respective commitments, understandings, rights and obligations as more fully described herein.

NOW, THEREFORE, in consideration of the mutual covenants and agreements herein exchanged, and other good and valuable consideration, the Parties agree as follows:

1. Commencing on January 1, 2020 and ending on December 31, 2049 at 11:59 pm (the "Term"), the City will provide fire protection, first responder and rescue services to all alarms received from the Town, for the Service Area. Additionally, the City will also provide fire inspections services in accordance with Wis. Admin. Code § SPS 314 to the Service Area for the Term of the Agreement. During the Term of this Agreement, the Service Area shall be all Town properties described in **Exhibit A**.

2. In consideration for the fire protection, first responder and rescue services provided herein, the Town shall pay the City:

- a. Beginning in 2020 and continuing annually, an amount calculated by the following method.
 - (1) The City shall calculate the equalized assessed value of the Town (the "Town's EAV").
 - (2) The City shall calculate the equalized assessed value of the City (the "City's EAV").
 - (3) The total equalized assessed value of both municipalities (the "Total EAV") shall be calculated by adding the Town's EAV and the City's EAV.

- (4) The Town's EAV shall be divided by the Total EAV. The quotient shall be known as the Town's equalized assessed value percentage (the "Town's EAV Percentage").
 - (5) The City's annual operating budget for its Fire Department shall be multiplied by the Town's EAV Percentage. The product shall be the Town's annual cost of fire protection, first responder, and rescue services (the "Town's Annual Cost").
 - (6) For contract years 1 through 19, the Town's Annual Cost to be paid to the City shall be adjusted in five percent (5%) increments. In year 1, the Town shall only pay to the City ten percent (10%) of the Town's Annual Cost. In each subsequent year, the Town shall pay to the City an additional five (5%) until the Town has achieved paying one hundred percent (100%) of the Town's Annual Cost. Once the Town is paying one hundred percent (100%) of the Town's Annual Cost, the Town shall continue to pay one hundred percent (100%) of the Town's Annual Cost to the City for the remainder of the Agreement. The Town's Annual Cost multiplied by the applicable annual percentage shall be the Town's payment for fire protection, first responder, and rescue services (the "Payment for Fire Services").
 - (7) The Town shall pay the City the Payment for Fire Services within thirty (30) days of invoice from the City.
 - (8) Attached to this Agreement as **Exhibit B** is an illustrative calculation of the method provided in this Section 2.a., using illustrative values. These values and figures are used solely for illustrating the method of calculation provided in this section and are not intended to indicate in any way what the actual calculation for any contract year shall be. The amount of the Payment for Fire Services for any given contract year, calculated as provided in this section, shall be binding on the Parties.
- b. The City's standard inspection fees as determined in the City's fee schedule, as amended and superseded from time to time. A copy of the current fire inspection fees is attached as **Exhibit C**. Payment shall be received within thirty (30) days of invoice.
 - c. Beginning in 2020 and continuing annually, the equal amount received from the annual Wisconsin Department of Safety and Professional Services (the "DSPS") 2% fire funding payment pursuant to Wis. Stat. § 101.575, as amended or superseded. Payment to the City will be due within sixty (60) days of Town's receipt of payment from the DSPS. This amount of funds paid to the City will be applied directly to the City's Fire

Department operating budget to support eligible Fire Department needs in accordance with applicable law. The Town shall take all necessary steps to timely qualify and apply for such funding from DSPS.

- d. Beginning in 2020 and for each year thereafter, Town shall reimburse the City for the actual increase, if any, in liability insurance premiums from the City's insurance carrier as a result of this Agreement. City's insurance company shall provide Town with a written explanation and supporting evidence and calculations demonstrating the link between the rate increase and this Agreement.

3. The City agrees to make available for such services all of the equipment at its disposal, as well as adequate available staffing. The Fire Chief, or designee of the Fire Department, is vested with the discretion to determine what service and equipment is necessary, and is further vested with discretion as to responding to simultaneous fires within the City and other municipalities served. In exercising discretion, the Fire Chief, or designee, shall give equal consideration in prioritization to Town incidents compared to City incidents based upon generally accepted fire service risk management principles. The City shall in no way be liable for the exercise of such discretion and the determination by the Fire Chief not to answer any alarm provided, however, that an agent designated by the Town shall be notified by the City that the City is engaged in incident response beyond available resource capacity within its own limits or any other municipality that the City has a contract with and the Fire Chief has decided that the City cannot safely respond to the alarm of the Town. Existing mutual aid agreements with neighboring agencies will be requested, at the discretion of the Fire Chief or designee of the Fire Department, to respond to the potential of multiple simultaneous incidents that exceed available resources.

4. The City shall act as an independent contractor and shall assume liability for Worker's Compensation and public liability for personal and property damage. The City agrees to perform said services in a workmanlike manner, but shall not be considered the guarantor of the damage or the extent of damage done to a burning structure or other emergency incident.

5. The Town shall hold harmless and indemnify the City from any third-party claim or loss, against the City, arising from any incident that occurs on properties that for the reason of slope, structure setback from roadway, lack of fire hydrant water supply, grade or weight capacity of driveway, width of driveway, overhang of buildings or trees, or other property design and access features that delay, impede or prohibit access to the property by the City's Fire Department equipment or otherwise adversely affect or impede accepted Fire Department tactical procedures or policies.

6. The City shall hold the Payments for Fire Services in an interest-bearing special fund as established by the City's Director of Finance and Human Resources and as otherwise provided herein.

- a. The purpose of the fund is for the eventual acquisition and construction of a new and additional La Crosse fire station to support Town protection needs as well as and in coordination with City protection needs in the northeastern area of the City. The placement of the future fire station in the northeastern area of the City will be determined by the City based upon, without limitation: (1) incident call volume analysis based upon National Fire Protection Association 1710 standards; (2) consideration of the Town's advice and (3) future GIS analysis of emergency service protection needs for both Parties.
- b. Unless other funding or partnership opportunities arise earlier in time to support the creation of a new fire station and ongoing staffing needs, the City may begin the expenditure of funds from the special fund once the special fund reaches one million five hundred thousand dollars (\$1,500,000.00). Once expenditures are authorized by the City, the City may expend funds for the special fund's intended purpose, including, without limitation, third-party professional services, studies, acquisition of land and interests in land, and construction.
- c. One hundred percent (100%) of the first five (5) Payments for Fire Services shall be placed in the special fund. Thereafter, seventy-five percent (75%) of each Payment for Fire Services shall be placed in the special fund. The remaining twenty-five percent (25%) of each Payment for Fire Services may be spent in the sole and absolute discretion of the City in the effort to offset the ongoing operational costs of the City's Fire Department. Once the additional fire station addressed in Section 6 is substantially operational, the Payments for Fire Services may be applied or expended at the sole and absolute discretion of the City, including, without limitation for Fire Department staffing or equipment needs.

7. Commencing on January 1, 2025, the Town may terminate this Agreement at any time for convenience upon the occurrence of all the following conditions:

- a. Town shall provide one hundred eighty (180) days advanced written notice of its termination of the Agreement to the City.
- b. Prior to termination of the Agreement, the Town shall pay the City the Town's Annual Cost for the current year of the Agreement, less any Payments for Fire Services received by the City in the current year of the Agreement. Attached to this Agreement as **Exhibit D** is an illustrative calculation by the method provided in this Agreement, using illustrative values. These values and figures are used solely for illustrating the method of calculation provided in this section and are not intended to indicate in any way what the actual calculation for any contract year shall be. The amount of the payment for any given

contract year, calculated as provided in this section, shall be binding on the Parties.

c. Prior to termination of the Agreement, Town shall waive, in writing, all interests it may have in the special fund created in Section 6 of this Agreement. Upon termination of the Agreement, the City may expend monies from the special fund in its sole and absolute discretion.

8. Any references in this Agreement to any particular agency, organization or officials shall be interpreted as applying to any successor agency, organization or official or to any other agency, organization or official to which contemplated functions are transferred by statute or ordinance. Any references in this Agreement to any particular statute, ordinance, or other law shall be interpreted as applying to such statute, ordinance, or other law as recreated or amended from time to time.

9. This Agreement and any dispute arising from or related to this Agreement shall be governed by, construed, interpreted and enforced in accordance with the laws of the State of Wisconsin.

10. If any term or provision of this Agreement is reviewed by a court or other judicial or quasi-judicial entity, such entity shall treat this Agreement as having been jointly drafted by both Parties with equal bargaining strength.

11. All notices, requests, consents, demands, waivers or other communication required or permitted to be given hereunder shall be in writing and shall be deemed to have been duly given if delivered personally or mailed first class, postage prepaid, by registered or certified mail as follows:

If to the Town, to: Town of Medary
Attn: Town Clerk
N3393 Smith Valley Road
La Crosse, WI 54601

If to the City, to: City of La Crosse
Attn: City Clerk
400 La Crosse Street
La Crosse, WI 54601

With a copy to: City of La Crosse
Attn: Fire Chief
400 La Crosse Street
La Crosse, WI 54601

Notice shall be deemed given for all purposes five (5) days after deposit in the United States mail, and the date of postmark on the receipt for such article conclusively shall be deemed the date of deposit.

12. Any dispute arising out of or relating to this Agreement, including the alleged breach, termination, validity, interpretation and performance thereof (the "Dispute") shall be resolved with the following procedures:

- a. Upon written notice of any Dispute, the Parties shall attempt to resolve it promptly by negotiation between individuals who have authority to settle the Dispute on behalf of the Parties and this process should be completed within sixty (60) days (the "Negotiation").
- b. If the Dispute has not been resolved by Negotiation in accordance with Section 12.a., then the Parties shall proceed to mediation unless the Parties at the time of the Dispute agree to a different timeframe. A "Notice of Mediation" shall be served, signifying that the Negotiation was not successful and to commence the mediation process. The mediator shall be agreed on by the Parties or, if they are unable to agree, selected by the Circuit Court of La Crosse County, on application of either Party. The mediation session shall be held within thirty (30) days of the retention of the mediator, and last for at least one full mediation day, before any Party has the option to withdraw from the process. The Parties may agree to continue the mediation process beyond one day, until there is a settlement agreement, or one Party (or the mediator) states that there is no reason to continue because of an impasse that cannot be overcome and sends a notice of termination of mediation. All reasonable efforts will be made to complete the mediation within thirty (30) days of the first mediation session. During the course of mediation, no Party can assert the failure to fully comply with Section 12(a), as a reason not to proceed or to delay the mediation. The service of the Notice of Mediation shall stay the running of any applicable statute of limitation regarding the Dispute until thirty (30) days after the Parties agree that the mediation is concluded or the mediator issues a Notice of Impasse. Each Party shall bear an equal share of the mediation cost unless the Parties agree otherwise. All communications, both written and oral, during the Negotiation and Mediation phases are confidential and shall be treated as settlement negotiations for purposes of applicable rules of evidence; however, documents generated in the ordinary course of business prior to the Dispute, that would otherwise be discoverable, do not become confidential simply because they are used in the Negotiation and/or Mediation process. The process shall be confidential based on terms acceptable to the mediator and/or mediation service provider.
- c. If the Parties cannot resolve the Dispute by mediation, after reasonable efforts, the Dispute shall be fully and finally resolved by submission to the Circuit Court for La Crosse County, State of Wisconsin. The Parties hereby irrevocably consent to submit themselves exclusively to the in

personam jurisdiction of said court. The Parties hereby waive and relinquish any defense to such litigation based on improper venue or lack of jurisdiction. Any court having jurisdiction over the Parties pursuant to this Section shall retain jurisdiction to enforce the execution of any final or interlocutory judgment or decree rendered, or settlement agreement entered into, between the Parties in connection with such Dispute.

- d. In the event of a Dispute, each Party shall have all remedies available at law or in equity.

13. This Agreement is intended to be solely between the Parties. Nothing in this Agreement nor the performance of the Parties hereunder, accords any third party any legal or equitable rights whatsoever which may be enforced by any nonparty to the Agreement.

14. This Agreement may be executed in severable counterparts, each of which may be deemed an original and all such counterparts together shall constitute one and the same agreement.

15. The Preamble and Recitals to this Agreement are incorporated into, and made a part of, this Agreement by reference.

16. This Agreement and referenced Exhibits constitute the entire agreement between the Parties and shall supersede all previous communications and commitments, whether written or verbal, between the Parties regarding the subject matter of this Agreement. No agreement or understanding changing, modifying or extending this Agreement shall be binding on either Party unless memorialized in a writing signed by both Parties' authorized representatives.

EXECUTION

IN WITNESS, the Parties to this Agreement have caused this instrument to be signed and sealed by duly authorized representatives of the City and Town.

Town of Medary

By: *Linda Seidel*
Name: Linda Seidel, Chairperson

Subscribed and sworn before me
this 27th day of September, 2019

Danielle Feldon
Name: Danielle Feldon
Notary Public, State of Wisconsin
My Commission expires: 7-31-2020.



By: *Diane Elsen*
Name: Diane Elsen, Town Clerk

Subscribed and sworn before me
this 24th day of October, 2019

Danielle Feldon
Name: Danielle Feldon
Notary Public, State of Wisconsin
My Commission expires: 7-31-2020.



EXECUTION

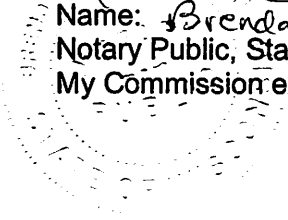
City of La Crosse

By: Timothy Kabat
Name: Timothy Kabat, Mayor

By: Teri Lehrke
Name: Teri Lehrke, City Clerk

Subscribed and sworn before me
this 18 day of ^{September} ~~November~~, 2019

Brenda B. Baudenlagan
Name: Brenda B. Baudenlagan
Notary Public, State of Wisconsin
My Commission expires: 1-2-22



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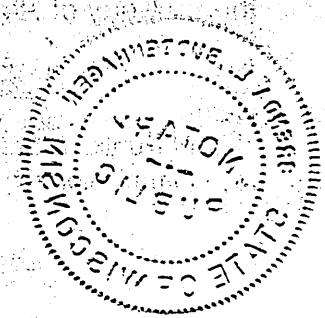
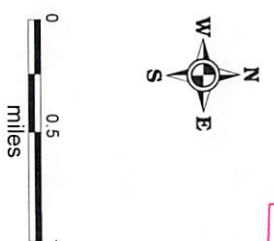
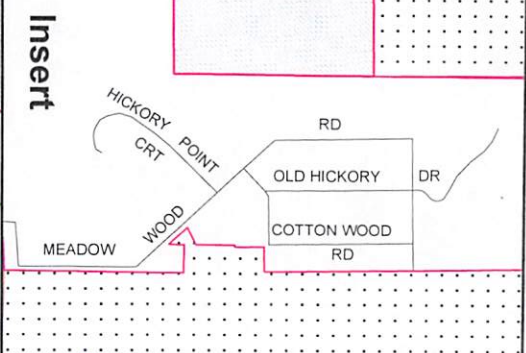
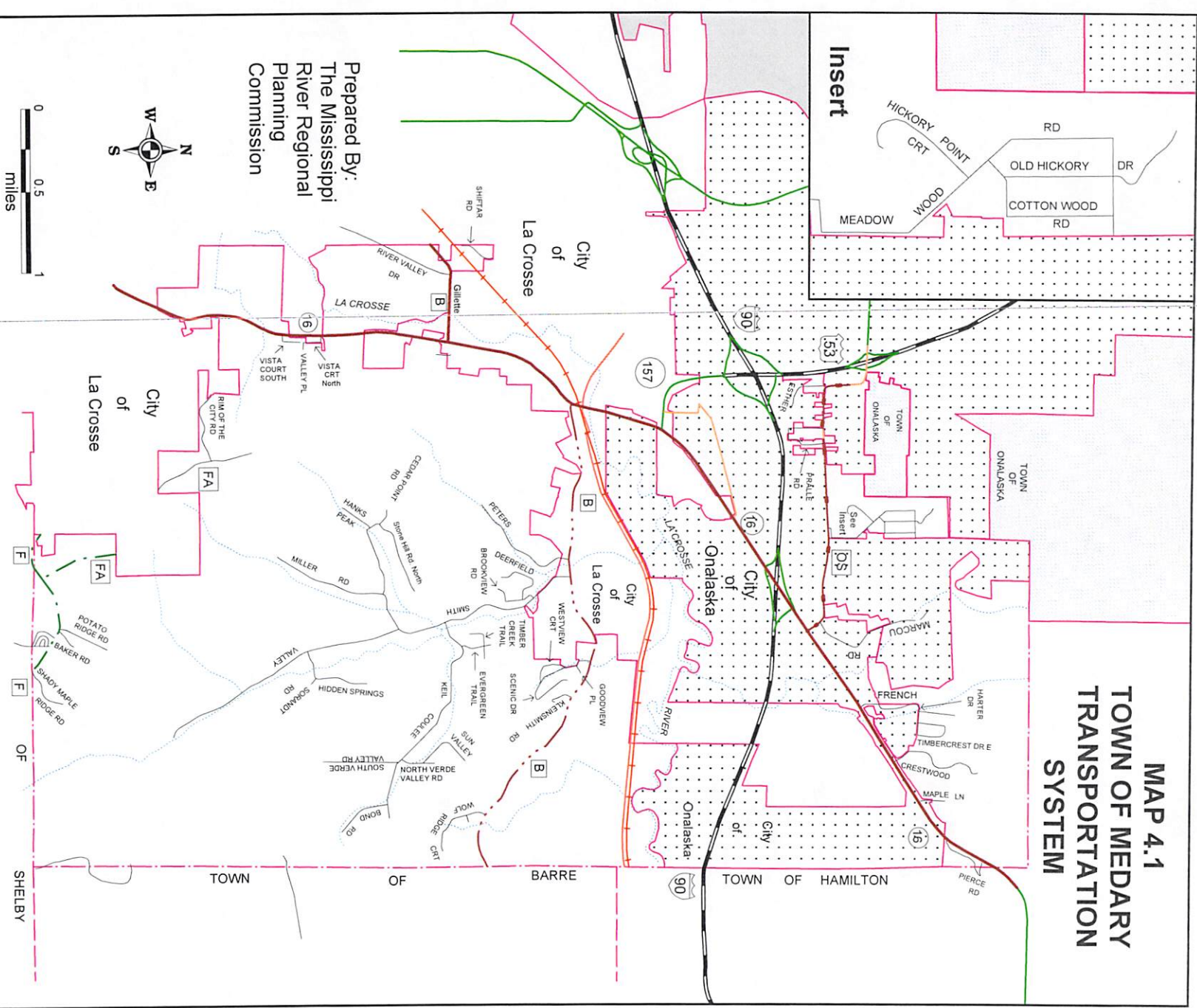


EXHIBIT A
SERVICE AREA

**MAP 4.1
TOWN OF MEDARY
TRANSPORTATION
SYSTEM**



Prepared By:
The Mississippi
River Regional
Planning
Commission



Legend

- Freeway
- Principal Arterial
- Minor Arterial
- Collector
- Rural Minor Arterial
- Rural Collector
- Local Road
- Bike Trail
- Railroad

EXHIBIT B

**ILLUSTRATIVE CALCULATION
PAYMENT FOR FIRE SERVICE**

Exhibit B

Illustrative Calculation: Payment for Fire Services

2020 Calculation (Contract Year 1)

Step 1: Calculate the Total EAV:

| | |
|---------------|-------------------|
| Town's EAV* | \$172,261,200 |
| + City's EAV* | + \$3,699,176,800 |
| Total EAV | \$3,871,438,000 |

* This example assumes that the various municipal boards of review throughout the state have completed their work and the State of Wisconsin has analyzed and determined the appropriate EAVs.

Step 2: Calculate the Town's EAV Percentage:

| | |
|--|---|
| $\frac{\text{Town's EAV}}{\text{Total EAV}}$ | $\frac{\$172,261,200}{\$3,871,438,000}$ |
| Town's EAV Percentage | 4.45% |

Step 3: Calculate the Town's Annual Cost:

| | |
|---------------------------------|-----------------|
| City's Fire Department Budget** | \$10,182,392 |
| <u>x Town's EAV Percentage</u> | <u>x 0.0445</u> |
| Town's Annual Cost | \$453,116.44 |

** The City's Fire Department Budget for 2020 is adopted in November 2019.

Step 4: Calculate the Payment for Fire Services:

| | |
|--|---------------|
| Town's Annual Cost | \$453,116.44 |
| <u>Contract Year 1 percentage***</u> | <u>x 0.10</u> |
| Payment for Fire Services (to be invoiced) | \$45,311.64 |

*** In accordance with Section 2(a)(6) of the Agreement, the contract year one percentage of 10% applies to the Town's Annual Cost.

2021 Calculation (Contract Year 2)

Step 1: Calculate the Total EAV:

| | |
|------------------|------------------------|
| Town's EAV* | \$173,000,000 |
| + City's EAV* | + \$3,705,000,000 |
| <u>Total EAV</u> | <u>\$3,878,000,000</u> |

* This example assumes that the various municipal boards of review throughout the state have completed their work and the State of Wisconsin has analyzed and determined the appropriate EAVs.

Step 2: Calculate the Town's EAV Percentage:

| | |
|-----------------------|------------------------|
| <u>Town's EAV</u> | <u>\$173,000,000</u> |
| <u>Total EAV</u> | <u>\$3,878,000,000</u> |
| Town's EAV Percentage | 4.46% |

Step 3: Calculate the Town's Annual Cost:

| | |
|--------------------------------|-----------------|
| City's Fire Department Budget | \$10,185,000 |
| <u>x Town's EAV Percentage</u> | <u>x 0.0446</u> |
| Town's Annual Cost | \$454,251 |

Step 4: Calculate the Payment for Fire Services:

| | |
|--|---------------|
| Town's Annual Cost | \$454,251 |
| <u>Contract Year 2 percentage**</u> | <u>x 0.15</u> |
| Payment for Fire Services (to be invoiced) | \$68,137.65 |

** In accordance with Section 2(a)(6) of the Agreement, the contract year two percentage of 15% applies to the Town's Annual Cost.

EXHIBIT C

INSPECTION FEE SCHEDULE

Exhibit C

| | | License/Fee | Last Date Changed | Fee |
|-------|--|--|-------------------|----------|
| | | <i>Annual Fire Prevention Fee</i> | | |
| 18-27 | | Residential multi-family - 3—4 units | 2015 | \$10.00 |
| 18-27 | | Residential multi-family - 5—12 units | 2015 | \$20.00 |
| 18-27 | | Residential multi-family - 13—18 units | 2015 | \$30.00 |
| 18-27 | | Residential multi-family - 19+ units | 2015 | \$50.00 |
| 18-27 | | Motel/hotel - per guest room | | \$5.00 |
| 18-27 | | High life safety facilities ¹ : Under 5,000 square feet ² | | \$92.75 |
| 18-27 | | High life safety facilities ¹ : 5,000 to 25,000 square feet ² | | 198.00 |
| 18-27 | | High life safety facilities ¹ : 25,001 to 50,000 square feet ² | | \$275.25 |
| 18-27 | | High life safety facilities ¹ : 50,001 to 75,000 square feet ² | | \$369.00 |
| 18-27 | | High life safety facilities ¹ : 75,001 to 100,000 square feet ² | | \$463.00 |
| 18-27 | | High life safety facilities ¹ : 100,001 to 125,000 square feet ² | | \$555.25 |
| 18-27 | | High life safety facilities ¹ : 125,001 to 150,000 square feet ² | | \$683.50 |
| 18-27 | | High life safety facilities ¹ : More than 150,000 square feet ² : Base fee | | \$683.50 |
| 18-27 | | High life safety facilities ¹ : More than 150,000 square feet ² : Per each additional 25,000 square feet | | \$98.00 |
| 18-27 | | All other buildings subject to the Wisconsin Commercial Building Code: Under 5,000 square feet ² | | \$50.00 |

| | | | |
|-------|---|--|----------|
| 18-27 | All other buildings subject to the Wisconsin Commercial Building Code: 5,000 to 25,000 square feet ² | | \$98.00 |
| 18-27 | All other buildings subject to the Wisconsin Commercial Building Code: 25,000 to 50,000 square feet ² | | \$146.25 |
| 18-27 | All other buildings subject to the Wisconsin Commercial Building Code: 50,001 to 75,000 square feet ² | | \$210.25 |
| 18-27 | All other buildings subject to the Wisconsin Commercial Building Code: 75,001 to 100,000 square feet ² | | \$245.00 |
| 18-27 | All other buildings subject to the Wisconsin Commercial Building Code: 100,001 to 125,000 square feet ² | | \$291.00 |
| 18-27 | All other buildings subject to the Wisconsin Commercial Building Code: 125,001 to 150,000 square feet ² | | \$342.00 |
| 18-27 | All other buildings subject to the Wisconsin Commercial Building Code: More than 150,000 square feet ² : Base fee | | \$342.00 |
| 18-27 | All other buildings subject to the Wisconsin Commercial Building Code: More than 150,000 square feet ² : Per each additional 25,000 square feet | | \$50.00 |
| 18-27 | Administrative fee for any fees remaining unpaid as of May 1 of each year, which fees shall be placed on annual tax roll for collection: | | \$20.00 |
| | ¹ Hospitals, nursing homes, community-based residential facilities | | |
| | ² Square footage refers to floor area of any building or structure | | |

EXHIBIT D

ILLUSTRATIVE CALCULATION
CONTRACT TERMINATION PAYMENT

Exhibit D

Illustrative Calculation: Contract Termination Payment

This illustrative calculation assumes the Town has decided to terminate the Agreement with the City pursuant to Section 7 on or before the last day of calendar year 2026. This illustrative calculation assumes the Town's Annual Cost for 2026 is \$459,000.00 and that it has already made its Payment for Fire Services in 2026, specifically, \$183,600.00. Accordingly, the Town would need to pay the City an amount as calculated below in order to terminate the Agreement prior to the expiration of its Term:

| | |
|---|-----------------------|
| Town's Annual Cost (2026) | \$459,000.00 |
| <u>- Payment for Fire Services (2026)</u> | <u>- \$183,600.00</u> |
| Amount owed (2026) | \$275,400.00 |