

**AMENDED INTERGOVERNMENTAL AGREEMENT
BETWEEN THE CITY OF SUN PRAIRIE, THE TOWN OF BRISTOL, THE TOWN OF SUN PRAIRIE,
AND THE NORTHEAST DANE COUNTY FIRE UNIT
PURSUANT TO WIS. STAT. § 66.0301**

This agreement, made and entered into by and between the City of Sun Prairie (“City”), the Town of Bristol (“Bristol”), the Town of Sun Prairie (“TSP”), and the Northeast Dane County Fire Unit (which serves the Town of Bristol and Town of Sun Prairie), is effective as of January 1, 2024.

RECITALS

WHEREAS, the City, Bristol, and TSP have worked cooperatively in the past to support the Sun Prairie Volunteer Fire Department Company, Inc. (“Volunteer Fire Department”) in providing fire protection services to their communities; and

WHEREAS, the TSP and Bristol (collectively, “Towns” or “the Towns”) have formed the Northeast Dane County Fire Unit (“NEDFU”) to provide fire protection and prevention services to their communities; and

WHEREAS, NEDFU has provided fire vehicles and apparatus to be used by the Volunteer Fire department; and

WHEREAS, NEDFU contracted with the Town of Burke to provide fire protection and fire prevention services to Burke for the first six months of 2024; and

WHEREAS, the City, the Towns, and NEDFU recognize that the Volunteer Fire Department, a fire company organized pursuant to Wis. Stat. § 213.02(1), stopped providing fire protection services on January 1, 2024, due to the City organizing a municipal fire department; and

WHEREAS, the City, Towns, and NEDFU recognize that the City began operating a municipal fire department (“Fire Department”) on January 1, 2024; and

WHEREAS, the Towns and NEDFU wish to contract with City for the provision of fire protection services from Fire Department; and

WHEREAS, the City, the Towns, and NEDFU have previously entered contracts with the Volunteer Fire Department for firefighting services, and an intergovernmental agreement with each other addressing funding; and

WHEREAS, the parties collectively wish to document all agreements related to firefighting services in one agreement.

NOW, THEREFORE, it is hereby agreed that the parties amend and revise their intergovernmental agreement to read as follows:

1. **Authorization to Act.** This Agreement incorporates the above recitals and is entered into pursuant to Wis. Stat. § 66.0301.
2. **Purpose.** The purpose of this Agreement is to set forth the terms upon which the City will provide fire protection services to the Towns and NEDFU.
3. **Effective Date and Term.** This agreement will be effective beginning January 1, 2024 at 6:00 am, and will be in full force and effect from January 1, 2024 through December 31, 2029. After December 31, 2029, this contract will automatically renew for two additional years, unless a party has provided written notice of its intent not to renew prior to June 1, 2028.
4. **NEDFU Membership.** The parties agree that NEDFU will not add any additional members without the approval of the City. If NEDFU contemplates adding additional members, they will provide the City with written notice and the parties will meet and confer to discuss whether members should be added; and if so, an equitable reallocation of the funding formula.
5. **Finances and Budgeting.**
 - 5.1. **Shared Expenses.** The parties agree that expenses to operate the Fire Department will be shared according to the McGrath Funding Formula, as previously agreed. The McGrath formula is attached to this agreement as Exhibit 1 and expected charges for 2024 are attached to this agreement as Exhibit 2. The parties are collaborating with the Wisconsin Policy Forum on a study in 2024, which will include a review of the funding formula and evaluation of shared costs.
 - 5.2. **Budgeting.** The Fire Department will propose an annual budget as part of the City's budget process. NEDFU will be provided with a copy of the City's cost to continue and any initiatives brought forth by the Fire Chief by September 15. The Mayor's Proposed Executive Budget will be provided when it is sent to the Committee of the Whole for review. The annual budget approved by the Common Council will be sent to the Towns within 10 days after approval, along with the required contributions of each Town under the funding formula for the next year.

Power to approve the Fire Department budget lies solely with the City. The cost of any service that is covered by the fee schedule referenced in section 5.4.1 below will not be included in the budget total that is allocated to the Towns. If the required contribution of either Town exceeds the prior year contribution by more than 15%, all parties shall meet and confer to discuss the need for the increase. If a resolution is not reached through such discussions, either or both Towns may, notwithstanding the provisions of section 3 above, withdraw from this Agreement upon providing 180 days notice to the other parties. Upon withdrawal any withdrawing Town shall be reimbursed for any prepaid contributions on a prorata basis.

5.3. Billing. The City will invoice the Towns through NEDFU in March for their annual share of expenses as provided in Section 4.1. Payment will be due quarterly based on the payment schedule provided by the City

5.4. Fees and Charges for City Services.

5.4.1. Service Charges. The City will charge recipients for services within the Towns and NEDFU fees for any service provided by the Fire Department for which the City charges a fee within the City, and such charges will be at the same rate as the City charges recipients of such services within the City. As of January 1, 2024, no fees are being charged to City residents for the fire portion of these services. The City will provide the Towns with a fee schedule should a fee be imposed. The City agrees not to assess a fee for the first fire inspection of any property each year.

5.4.2. Fire Department Fees. The Towns and NEDFU will 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 will provide these fees to the City within thirty (30) days.

5.4.3. Fire Entitlement Dues. The Towns will retain the two percent (2%) dues received by each Town from the State of Wisconsin relating to fire entitlement dues as authorized under Wis. Stats. § 101.575 and comply with all fire dues distribution audit reports and associated documentation required under Wis. Stats. § 101.573.

5.4.4. Financial Record Keeping. The City will keep and maintain accurate records relating to the Fire Department. In 2024, the City will provide the Towns with a copy of the Fire

Department's audit. Starting in 2025, the City will notify the Towns and NEDFU when the City's annual audit becomes available, and provide a full and complete copy of the audit and any other financial documents relating to the Fire Department upon request of either Town.

5.4.5. Highway Service Calls. Any highway service calls in the Towns will be billed out by the Fire Department and any money collected will be turned over to NEDFU.

6. Services Provided.

6.1. Fire Operations. The City will provide Fire Operations services within the Towns and NEDFU, and to all persons and premises within the Towns and NEDFU, at the same level of service provided in the City. The City will provide continuous coverage consisting of at least one fire engine staffed by four firefighters from the fire stations in the City and services including fire suppression, rescue, auto-extrication, emergency medical response to support EMS providers, community risk reduction education, and fire inspection.

6.2. Fire Prevention. The City will provide Fire Prevention services within and to all persons and premises within the Towns and NEDFU at the same level of service that is provided in the City, subject to the following conditions:

6.2.1. Ordinances and Fee Schedules. The City's obligation to provide fire inspections, fire protection engineering review, and fire protection plan review is contingent upon the Towns authorizing the Fire Chief or their designee to issue official notices and orders to correct violations, to issue citations, and to commence other ordinance enforcement actions for violations of Town ordinances relating to fire prevent.

6.2.2. Right to Burn Brush. The Towns retain the right to allow brush burning, subject to reasonable fire prevention restrictions and all applicable laws.

6.2.3. Initial Review and Notification. The City will, by the effective date of this agreement, give written notice to the Towns of all changes to Town fees and ordinances requested to be adopted by the Town to satisfy the conditions of this subsection. The City recognizes the sole authority of the Towns to change their ordinances as their Town Boards see fit.

6.3. Fire Education and Information. The City will provide community education, fire prevention and fire safety information for the Towns and the NEDFU service area when reasonably requested and when available, and through existing resources and services. This City will identify what portion of the budget is used for these services.

- 6.4. Code Enforcement.** The Towns will have the responsibility and authority to prosecute or otherwise resolve citations and enforcement actions issued or commenced by the City for alleged violations of fire prevention ordinances and will provide their own legal counsel to address these issues. NEDFU will notify the Town of Burke of their obligations. The City and its employees and officials shall reasonably cooperate with the Town in any such enforcement actions; including, but not limited to, providing testimony and documents.
- 6.5. Knox Boxes.** The Towns will change, or order private property owners to change, the locks on all Knox Boxes or similar key boxes to match the City's lock.
- 6.6. Advanced Life Support.** All parties acknowledge that the City of Sun Prairie participates in the Dane County Advance Life Support Intergovernmental Agreement, and that firefighters may be used to support Sun Prairie paramedics.
- 6.7. Operational Policy.** Operational policy for providing Fire Operations and Fire Prevention services under this Agreement will be established by the City, and the City will have the responsibility for implementation of all policies adopted. The City shall notify and consult with the Towns concerning any changes which impact a Town.
- 6.8. Fire Department Liaison.** The City agrees to designate a member of the Fire Department command staff (Chief, Deputy Chief, or Battalion Chief) to act as a liaison with the Towns and NEDFU. The liaison will attend up to two meetings of the Town Boards annually, if requested, and will be available to respond to any issues or concerns raised by the Towns or NEDFU.
- 7. Performance Standards.** The City will ensure the Fire Department maintains the following performance standards:
- 7.1. Professional Standards.** The Fire Department will provide service at or above the level of service previously provided by the Sun Prairie Volunteer Fire Department, which followed the NFPA standards for volunteer fire departments. In addition, the Fire Department will comply with all state and federal regulations applicable to its operation and maintain training records consistent with state law. The NFPA will be used as a guide in establishing future fire department standards.
- 7.2. Fire Prevention Inspections.** The Fire Department will conduct periodic inspections of all commercial buildings upon request of the Towns.
- 7.3. Personnel.** The City will comply with all state and federal regulations regarding personnel matters, including equal opportunity and non-discrimination clauses. The Fire Department will

enforce all policies and Standard Operating Guidelines and comply with the Sun Prairie Municipal Code. All personnel will be employees of the City, which has sole responsibility for hiring, firing, and discipline consistent with Wis. Stat. § 62.13 and any applicable union contracts.

- 8. Fire Station Locations.** The Fire Department will operate out of the fire stations owned by the City at 135 N. Bristol Street and 2598 W. Main Street in the City. The City is responsible for maintaining and insuring these buildings. The Towns and NEDFU will be consulted on the addition of any new fire stations and agree to reasonably work with the City to locate a station in their boundaries if deemed appropriate.
- 9. City Personnel.** The personnel providing services under this Agreement will be employees of the City and are not agents or employees of the Towns or NEDFU. The City will be solely responsible for paying all wages, benefits, disability payments, liability insurance, 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.
- 10. Vehicles and Equipment.** The City will maintain all vehicles and equipment purchased or otherwise provided by the City. Maintenance will be billed according to the terms of this Agreement. All new vehicles acquired by and for the Fire Department will be suitable for rural fire service, purchased and owned by the City and billed according to the McGrath formula. Vehicles owned by NEDFU will be maintained by NEDFU at their expense and will be utilized by the City for fire prevention purposes in the City and Towns until deemed unsuitable by the City's Fire Chief and Fleet Manager. At the time vehicles are taken out of service, NEDFU will sell the vehicles to the City for \$1 to be sold by the City to a third party for the highest reasonably feasible amount and the sale proceeds of such third party sale shall be credited to the non-lapsing fleet fund. Engine 8 will be titled to the City at the time of execution of this agreement.

Vehicles owned by the City and NEDFU will be used in both the City and the Towns for fire prevention services, as well as other jurisdictions pursuant to mutual aid agreements.

The City will provide the Towns and NEDFU a fleet replacement schedule when the cost to continue is provided. The City will also study vehicle replacement in 2024 and provide the Towns with an estimate of future costs.

11. Complaints. Complaints regarding the performance of the Fire Department must first be addressed to the Chief in writing. The Chief will provide a written response, with a copy to the City Administrator. If still aggrieved, the complainant may make a complaint to the City Administrator. The Administrator will notify the appropriate Town Chair of complaints arising from service in the towns. Where appropriate, the Administrator will notify the Mayor, Council President, Common Council, and/or the Police and Fire Commission about complaints regarding the Fire Department. Either or both Towns may, as they deem appropriate, file complaints with the City Police and Fire Commission.

12. Insurance. The City will obtain whatever insurance coverage is reasonable and necessary relating to its firefighting and related services, including but not limited to general and premises liability, auto liability and casualty, errors and omissions, directors and officers, employment practices (all of which will have a minimum of \$5,000,000 coverage) and worker's compensation (which will have \$1,000,000 coverage) and personal property insurance. The cost of such insurance will be a component of the yearly operating budget of the Fire Department. The City will insure vehicles owned by NEDFU and leased and operated by City.

13. Hold Harmless. The City will indemnify, defend, hold NEDFU and the Towns harmless for any and all claims arising out of any acts or omissions subject to this Agreement, except to the extent caused by the negligence or willful misconduct of a Town or NEDFU.

14. Assignment of Leases. The parties agree that the City assumes the role of the Volunteer Fire Department in the vehicle use agreements and arrangements with NEDFU for the duration of this agreement or until vehicles are surrendered to City for sale. The City will lease all vehicles owned by NEDFU for \$1.

15. Public Records Law Compliance. The parties acknowledge that the City, Towns, and NEDFU are all subject to Wisconsin Open Records Law and will cooperate in filling records requests.

16. Termination. Except as provided in section 5.2 above, this agreement may only be terminated for material breach of this Agreement, or failure to pay as required by Section 4 of this agreement. If a party wishes to exit the agreement prior to the term of the agreement, they will provide notice one year in advance.

17. Change of Law/Severability. If any part, term, or provision of this Agreement 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 will 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.

18. Conflict Resolution. The parties 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 Staff and the Fire Department liaison will be addressed by a group consisting of the City Administrator, 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 any party from seeking any remedy available to it under this Agreement from a court of competent jurisdiction in Dane County, Wisconsin. The parties agree that specific performance is an appropriate remedy for any breach of this Agreement and that party need not show that damages are not a sufficient remedy to obtain specific performance by the other party.

19. Notices. All notices to be given will be in writing and delivered by personal delivery or certified mail, as follows:

City of Sun Prairie	City Administrator 300 E Main Street Sun Prairie, WI 53590	City Clerk 300 E Main Street Sun Prairie, WI 53590
Town of Bristol	Town Chair 7747 County Road N Sun Prairie, WI 53590	Town Clerk/Treasurer 7747 County Road N Sun Prairie, WI 53590
Town of Sun Prairie	Town Chair 5556 Twin Lane Road Marshall, WI 53559	Town Clerk 5556 Twin Lane Road Marshall, WI 53559

Northeast Dane County Fire Unit Notice provided to the Bristol and Sun Prairie Town Chairs will suffice.

Any 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 parties.

20. Non-Discrimination. In the performance of the services under this Agreement, the parties agree not to discriminate against any employee or applicant for employment in accordance with all applicable federal, state, and local laws, including protections for race, religion, marital status, age, color, sex, handicap, national origin or ancestry, income level, physical appearance, gender identity, political beliefs, or student status.

21. No Waiver. No failure to exercise, and no delay in exercising, any right, power, or remedy on the part of a party will operate as a waiver, nor will any single or partial exercise of any right, power or remedy preclude any other or further exercise or the exercise of any other right, power or remedy. No express waiver will 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 will be operative only for the time and to the extent expressly provided by the party. A waiver of any covenant, term or condition will not be constructed as a waiver of any subsequent breach of that same covenant, term, or condition.

22. Choice of Law and Forum Selection. This Agreement will 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 will 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.

23. Enforcement. This Agreement will be governed by the laws of the State of Wisconsin. Any act by either party in violation of this Agreement will be remedied by the courts of the State of Wisconsin. This Agreement is intended to provide all parties with the right and standing to seek any available legal or equitable remedy to enforce or seek damages for the breach of this Agreement.

- 24. Binding Effect/Assignment.** The parties have entered into this Agreement under the authority of Wis. Stat. § 66.0301. The parties agree that this Agreement will be binding upon all parties. No party may assign its obligations to any third party without the prior written consent of the other party. Subject to the foregoing, the parties agree that this Agreement will be binding upon and inure to the benefit of all parties, as well as their respective successors and authorized assigns.
- 25. Construction.** The parties acknowledge that this Agreement is the product of negotiations between the parties and that, prior to execution, each party has had full and adequate opportunity to have this agreement reviewed by, and obtain the advice of, its own legal counsel. Nothing in this Agreement will be construed more strictly for or against any party because that party's attorney drafted this Agreement.
- 26. Amendment.** This contract may be amended from time to time by written agreement of the City, both Towns, and NEDFU.
- 27. Entire Agreement.** This Agreement, including any addenda and exhibits, sets forth the entire agreement between the City, the Towns, and NEDFU regarding the City's provision of fire protection and prevention services to the Towns and NEDFU, and supersedes any prior discussions, agreements, or understandings, either written or oral.
- 28. 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.
- 29. Electronic Execution.** Signatures on this Agreement may be exchanged between the parties using DocuSign and will be as valid as original ink signatures. Copies of this Agreement, fully executed, will be as valid as an original.
- 30. Nonwaiver of Governmental Immunity.** No provision of this Agreement shall be construed as a waiver of any immunity or limitation of liability granted to or conferred upon any party by applicable provisions of Wisconsin law.

IN WITNESS WHEREOF, the parties have caused the execution of this Agreement by authority of their respective governing bodies effective as of the date when all parties have affixed their respective signatures.

CITY OF SUN PRAIRIE

Paul Esser, Mayor

Elena Hilby, City Clerk

Aaron Oppenheimer, City Administrator

Christopher Garrison, Fire Chief

Approved as to form:

Caitlin Stene, Director of Administrative Services

Kathleen McDaniel, City Attorney

TOWN OF BRISTOL

Gerald Derr, Town Chair

Kim Grob, Town Clerk/Treasurer

TOWN OF SUN PRAIRIE

Lyle Updike, Town Chair

Rhonda Wiedenbeck, Clerk

NORTHEAST DANE COUNTY FIRE UNIT

Gerald Derr, Bristol Town Chair

Lyle Updike, Sun Prairie Town Chair

Date

Date

**Exhibit 1:
McGrath Funding Formula**

The McGrath Formula utilizes three factors to determine Fire Department Funding Shares:

1. Percentage of Total Equalized Value, as determined by the Wisconsin Department of Revenue
2. Percentage of Total Population, as determined by the Wisconsin Department of Administration
3. Percentage of Total Call Volume/Runs, as determined by the Sun Prairie Fire Department and averaged over the last three full years of service

The McGrath Funding Formula is as follows:

E = Percentage of Total Equalized Value

P = Percentage of Total Population

R = Percentage of Total Call Volume/Runs (Three Year Average)

$$\text{Share of Fire Department Funding} = (E+P+R)/3$$

EXHIBIT 2: 2024 Budget Allocation Under McGrath Formula**January – June***serving City of Sun Prairie, Town of Bristol, Town of Sun Prairie, and NEDFU*

		2024	McGrath Calculation			
		Total Expenses	Sun Prairie 78.46%	Town of Bristol 8.87%	Town of SP 5.37%	Town of Burke 7.30%
Fire Costs						
	Fire Chief	52,317	41,048	4,639	2,811	3,819
	Fire Deputy Chief	46,253	36,290	4,101	2,485	3,376
	Fire Admin Assist	19,541	15,332	1,733	1,050	1,426
	Firefighters	1,336,999	1,049,009	118,547	71,841	97,601
	Operating	141,834	111,283	12,576	7,621	10,354
	Contractual Services	34,768	27,279	3,083	1,868	2,538
	Prof. Development	23,500	18,438	2,084	1,263	1,716
	Insurance	1,250	981	111	67	91
	Utilities	21,000	16,477	1,862	1,128	1,533
	Operating Total (1)	1,677,461	1,316,137	148,736	90,134	122,454
Capital	Standard	10,000	7,846	887	537	730
	Fleet Replacement	210,802	165,395	18,691	11,327	15,389
	Capital Total	220,802	173,241	19,578	11,864	16,119
GRAND TOTAL		1,898,262	1,489,378	168,314	101,998	138,573

July – December*serving City of Sun Prairie, Town of Bristol, and Town of Sun Prairie*

		2024	McGrath Calculation		
		Total Expenses	Sun Prairie 84.58%	Town of Bristol 9.62%	Town of SP 5.80%
Fire Costs					
	Fire Chief	52,317	44,248	5,033	3,036
	Fire Deputy Chief	46,253	39,119	4,449	2,684
	Fire Admin Assist	19,541	16,527	1,880	1,134
	Firefighters	1,336,999	1,130,789	128,619	77,590
	Operating	141,834	119,958	13,644	8,231
	Contractual Services	34,768	29,406	3,345	2,018
	Prof. Development	23,500	19,876	2,261	1,364
	Insurance	1,250	1,057	120	73
	Utilities	21,000	17,761	2,020	1,219
	Operating Total (1)	1,677,461	1,418,741	161,371	97,349
Capital	Standard	10,000	8,458	962	580
	Fleet Replacement	210,802	178,289	20,279	12,234
	Capital Total	220,802	186,747	21,241	12,814
GRAND TOTAL		1,898,263	1,605,488	182,612	110,163
2024 GRAND TOTAL			3,094,866	350,926	212,161
Increase due to Burke leaving			116,112	14,301	8,162