

**INTERGOVERNMENTAL AGREEMENT  
FOR OPERATION OF AN IMPAIRED DRIVING TASK FORCE**

This Intergovernmental Agreement (“Agreement”) is made by and between the City of Madison, City of Middleton, City of Stoughton, City of Verona, Village of Blue Mounds, Village of Brooklyn, Village of Cottage Grove, Village of DeForest and Village of McFarland, all municipal corporations located within Dane County, Wisconsin and the Board of Regents of the University of Wisconsin System, a body politic created by chapter 36 of the Wisconsin Statutes (hereinafter a “Party” or “Parties”);

**WHEREAS**, each of the Parties is a Wisconsin governmental entity having a law enforcement agency as defined in §165.83(1)(b), Wis. Stats.; and

**WHEREAS**, §66.0301, Wis. Stats., authorizes the Parties to enter into agreements for the provision of services and the joint exercise of governmental powers; and

**WHEREAS**, §66.0313, Wis. Stats., provides for law enforcement agencies to provide mutual assistance to one another in law enforcement efforts; and

**WHEREAS**, the Parties have each determined that it is in the public interest to periodically execute high visibility enforcement efforts to deter and detect intoxicated operation of motor vehicles within their respective jurisdictions; and

**WHEREAS**, the Parties have determined that a task force consisting of law enforcement officers from each of the Parties’ law enforcement agencies working in concert to carry out those enforcement efforts will provide the most efficient means to undertake such efforts while maintaining adequate general law enforcement services within their respective jurisdictions; and

**WHEREAS**, the Parties have reached agreement on the terms and conditions under which such a task force will be organized and operated, and intend to memorialize that agreement by this writing;

**NOW, THEREFORE**, in consideration of the mutual covenants contained herein, and for other good and valuable consideration, the receipt and sufficiency of which are hereby mutually acknowledged, the undersigned Parties agree as follows:

**1. INTENT.** The parties intend by this Agreement to create a task force consisting of one or more law enforcement officers employed by each Party to periodically operate as a single unit for purposes of providing intensive and highly visible traffic enforcement efforts at a location within the jurisdiction of one or more of the Parties for a designated period of time. The task force will generally concentrate on impaired driving offenses, but may be directed toward other types of traffic offenses if deemed necessary by the Party within whose jurisdiction the task force is operating from time to time. The task force will rotate its enforcement duties between the governmental jurisdictions of all Parties, providing approximately equal service to all participating Authorities.

**2. STATUTORY AUTHORITY.** This Agreement is entered into by the Parties pursuant to §§66.0301 and 66.0313, Wis. Stats. Except to the extent modified by the terms of this Agreement, the provisions of §66.0313, Wis. Stats. shall govern the relationship between

the task force members and the Party within whose jurisdiction the task force is operating at a given time.

**3. DEFINITIONS.** As used in this Agreement, the following terms, when capitalized, shall have the meaning assigned to them in this section:

(a) **“Agency”** shall mean a law enforcement agency, as defined by §165.83(1)(b), Wis. Stats., created and operating under the authority of a Party to this Agreement;

(b) **“Chief”** shall mean the appointed Chief of Police of each Party, the individual acting as the chief in the event of a vacancy in that position, or a supervisory law enforcement officer employed by a Party who has been delegated by the Chief of that Party with the authority to render all decisions and take all actions delegated to the Chief under this Agreement. Any such delegation shall be effective only when made in writing and delivered to the Chief of each Agency, and may be terminated in like manner by the delegating authority at any time.

(c) **“Employing Agency”** shall mean the Agency regularly employing a particular law enforcement officer who participates in the activities governed by this Agreement.

(d) **“Governing Board”** shall mean the board appointed pursuant to this Agreement to provide oversight and organizational direction for the Task Force and to coordinate activities under this Agreement.

(e) **“Host Agency”** shall mean the Agency of the Host Jurisdiction.

(f) **“Host Jurisdiction”** shall mean the Party within whose governmental jurisdiction the Task Force is operating at a given time pursuant to this Agreement. In the case of overlapping jurisdictions, the Host Jurisdiction shall be the party granted the authority by the Governing Board to determine the details of the Task Force deployment on a given day.

(g) **“Officer”** shall mean a duly qualified law enforcement officer regularly employed on a full-time or part-time basis, by an Agency, who is serving as a member of the Task Force from time to time.

(h) **“Task Force”** shall mean the multijurisdictional law enforcement team organized and operated under this Agreement.

#### **4. TASK FORCE ORGANIZATION AND OPERATION.**

(a) **Assignment of Members.** The Chief of each Agency shall assign at least one Officer to participate as a member of the Task Force for all scheduled operations. Assignments may be ongoing or may be made on a single operation basis at the discretion of the assigning Chief. All members assigned to the Task Force shall be non-probationary Officers in good standing within the assigning Agency.

(b) **Powers and Duties.** The Task Force shall be assigned to provide intensive enforcement efforts focused on impaired driving within the jurisdiction of one of the Parties from time to time, as provided in §5, below. While performing services as a member of the Task

Force, each Officer shall have full authority to make arrests, issue citations and take other actions with the same authority and legal effect as an officer employed by the Host Agency.

**(c) Command.** The Task Force shall operate under the direction and supervision of the Chief of the Host Agency, or of such supervisory officer of the police department of the Host Jurisdiction designated by the Chief, during all Task Force operations. Notwithstanding the foregoing, any matter of discipline shall be referred to the Chief of the Employing Agency. The Chief of the Host Jurisdiction shall, however, have full authority to immediately terminate the participation of any Officer in operations occurring in the Host Jurisdiction for any reason, in his or her sole discretion.

**(d) Municipal Citations.** All citations for violations of municipal ordinances shall be returnable before the municipal court having jurisdiction within the Host Jurisdiction. It shall be the responsibility of the Chief of the Host Agency to provide the necessary information concerning local ordinances and bond schedules to allow the Officer to properly prepare citations under those ordinances.

**5. Mutual Aid Requests.** The Chief of each Agency may request Task Force operations within the jurisdiction of his or her on its behalf. All Task Force operations authorized or consented to by the Chief of the Host Agency shall be deemed to be undertaken in response to a mutual aid request pursuant to §66.0313(2), Wis. Stats. Each Chief may, without further authorization from his or her governing body, provide one or more Officers in response to such a request.

**6. Governing Board.**

**(a) Membership.** The Governing Board shall be comprised of the Chiefs of three (3) of the Agencies selected by the Chiefs of all Agencies for a term of one (1) year, commencing on May 1 of each year. Members of the Board shall continue to serve until their successors are appointed. The members of the Board shall select one of the members as its chairperson. The chairperson shall schedule a meeting of the Chiefs of all Agencies during the month of April of each year for the selection of new members of the Governing Board and to discuss any other business relevant to the Task Force or this Agreement.

**(b) Powers and Duties.** The Governing Board shall have the authority to coordinate the scheduling of Task Force enforcement activities among the Agencies and shall endeavor to assure that services by the Task Force are equitably distributed to each Party. The Parties anticipate that most scheduling arrangements will be determined by mutual agreement among the Chiefs, but the decision of the Governing Board shall control in the event of a dispute. The Governing Board shall also mediate disputes concerning the interpretation of this Agreement, and make recommendations to the Chiefs on behalf of the Parties for amendments to this Agreement. The Parties acknowledge that the geographical jurisdictions of the City of Madison and the University of Wisconsin overlap, but each shall nevertheless be considered a separate jurisdiction for purposes of allocating Task Force assignments.

**(c) Meetings.** Meetings of the Governing Board shall be held at the call of the chairperson and shall be held in one of the Parties or at some other location within Dane County selected by unanimous consent by the Board members. Meetings shall be publicly noticed and open to the public, except to the extent a closed session is permitted by the Wisconsin Open

Meetings Law. Meeting notice shall be posted in all Jurisdictions by the respective clerks or other designee.

## **7. COMPENSATION OF OFFICERS.**

All Officers participating in Task Force activities in a Host Jurisdiction shall be entitled to the same wage, salary, pension, worker's compensation and all other service rights as for services rendered for the Employing Agency within its home jurisdiction. All wages and disability payments, pension and worker's compensation claims, damages to equipment and clothing, and medical expenses arising out of services rendered by an Officer on behalf of the Task Force shall be paid by the Employing Agency unless covered by an applicable insurance policy. The Employing Agency shall indemnify and hold harmless the Host Jurisdiction of and from any and all claims under §66.0513, Wis. Stats. for reimbursement of such expenditures.

## **8. CLAIMS AND DEFENSE COSTS.**

**(a) Civil Claims and Liabilities.** In the event any Officer is named as a defendant in any action or special proceeding in his or her official capacity, or in his or her individual capacity because of acts committed while carrying out his or her duties as a member of the Task Force, and the court or jury shall find that the Officer was acting within the scope of employment, then the Employing Agency shall pay any judgment for damages and costs entered against the Officer to the extent not covered by insurance, and shall indemnify and hold harmless the Host Jurisdiction from any claims or liability therefor. The Host Jurisdiction shall promptly notify the Employing Agency of the receipt of any notice of circumstances of claim or claim served pursuant to §893.80, Wis. Stats. with respect to any circumstances to which this paragraph applies, and shall cooperate with the Employing Agency in responding to the claim. Any amounts paid by or on behalf of the Host Jurisdiction in compromise or settlement of such claim prior to judgment, or in excess of the amount adjudged due, without the consent of the Employing Agency, shall be deemed a waiver of any right to reimbursement from the Employing Agency for such amounts.

**(b) Civil Defense Costs.** In any circumstances described in par. (a), regardless of the outcome of the litigation, the Host Agency shall reimburse the Officer for all reasonable attorney fees and costs incurred in defending the action unless one of the following applies:

- i. the Officer has failed to give notice of the action or special proceeding to the Chief of his or her department as soon as reasonably possible;
- ii. the court or jury shall determine that the Officer was not acting within the scope of his or her employment at the time of the acts upon which the claim of liability is based occurred;
- iii. the Host Agency has offered the Officer a legal defense and the offer was declined; or
- iv. the fees and/or costs are paid through an applicable insurance policy.

The Employing Agency, or its insurer, shall have the right to offer and provide, at its sole expense, legal counsel to the Officer on behalf of the Host Jurisdiction. If the Employing Agency shall fail to do so for any reason, it shall reimburse the Host Jurisdiction for all attorney fees and costs paid pursuant to this paragraph upon receipt of an invoice therefor. Prior to making any payment under this paragraph, the Host Jurisdiction shall provide reasonable notice to the Employing Agency of the amount claimed, and shall cooperate with the Employing Agency in any dispute over the reasonableness or necessity of such fees or costs and the obligation to pay such fees and costs under §895.35(2)(b), Wis. Stats. In any case in which the Employing Agency is responsible for providing a defense or defense costs under this paragraph, any award of costs to the Officer in the action shall be paid to the Agency that paid the costs.

**(c) Disciplinary and other Defense Costs.** In any case where, as a result of actions by an Officer while participating in Task Force operations, the Officer shall become the subject of any filed charges, or shall be named in an action in his or her official capacity or which may subject the Officer to personal liability, and the Officer shall be entitled to reimbursement of expenses incurred in responding to such charges pursuant to §895.35(1), Wis. Stats., the Employing Agency shall make such payment directly to or on behalf of the Officer, or shall reimburse the Host Jurisdiction in the event the Host Jurisdiction is required to make such payment. Prior to making any payment under this paragraph, the Host Jurisdiction shall provide reasonable notice to the Employing Agency of the amount claimed, and shall cooperate with the Employing Agency in any dispute over the reasonableness or necessity of such fees or costs and the obligation to pay such fees and costs under §895.35(1), Wis. Stats. This paragraph shall not apply to any expenses paid through applicable insurance coverage.

**(d) Criminal Defense Costs.** The Employing Agency shall promptly reimburse the Host Jurisdiction for any amounts the Host Jurisdiction is required to pay to reimburse an Officer pursuant to §895.35(2), Wis. Stats. for attorney fees in defending criminal charges arising out of services performed in the Host Jurisdiction under this Agreement. Prior to making any such payment under §895.35(2), the Host Jurisdiction shall provide reasonable notice to the Employing Agency of the amount claimed, and shall cooperate with the Employing Agency in any dispute over the reasonableness or necessity of such fees or costs and the obligation to pay such fees and costs. This paragraph shall not apply to any attorney fees paid through applicable insurance coverage.

**9. WITHDRAWAL.** Any Party may withdraw from this Agreement at any time, provided that withdrawal from further participation in the Task Force activities is consistent with the requirements of any grant funding such participation.

**10. ADDITION OF PARTIES.** Any municipality, as defined by §66.0301(1)(a), Wis. Stats. may become a party to this Agreement upon approval by the Governing Board. The governing body of such municipality shall approve and, its appropriate officers shall execute a counterpart to this Agreement and deliver a copy thereof to all Parties, and shall be deemed a Party hereto upon such delivery.

**11. MISCELLANEOUS PROVISIONS.**

**(a) Governing Law.** This Agreement shall be governed by, and construed according to, Wisconsin Law.

**(b) Entire Agreement.** This Agreement contains the entire understanding of the Parties with respect to the subject matter hereof. This Agreement supersedes all prior negotiations, agreements and undertakings relating thereto.

**(c) No Third Party Beneficiaries.** This Agreement is intended solely to regulate the obligations of the parties hereto with respect to one another. Nothing in this Agreement is intended to create, admit or imply any liability to any third-party nor to provide any benefit to any person, firm, corporation or governmental or non-governmental entity not a party to this Agreement.

**(d) Counterparts.** This Agreement may be executed in several counterparts, each of which shall be deemed an original. Facsimile and e-mail signatures shall be deemed original signatures for all purposes.

**(e) Severability.** If any one or more of the provisions contained in this Agreement is held to invalid, illegal or unenforceable, such invalidity, illegality or unenforceability shall not affect any other provision of this Agreement.

**(f) Sovereign Immunity.** This Agreement is intended to facilitate the joint exercise of police powers on behalf of the Parties hereto. Nothing in this Agreement is intended to, nor shall be construed as, a waiver of any governmental or other immunity, or any applicable limitation on damages, available to any Party in an action involving any third party.

**(g) Amendments.** This Agreement may be amended only by a written instrument executed by all Parties. Notwithstanding the foregoing, the rights and obligations as between any two or more Parties may be modified by a written agreement signed by those Parties, but no such modification shall affect any Party not a party to such modification agreement.

**(h) Neutral 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 that party's attorney drafted this Agreement or any part hereof.

**12. TERM AND TERMINATION.** This Agreement shall take effect on the date of the last signature in the signature blocks below, and shall terminate upon the effective date of withdrawal any Party, as provided in section 9 hereof of, if such withdrawal shall result in the number of Parties hereto being reduced to less than five (5), or on September 30, 2012, whichever occurs first.