

2/12/07

**FINAL**

**CITY OF MADISON, CITY OF FITCHBURG AND TOWN OF  
MADISON COOPERATIVE PLAN**

**CITY OF MADISON, CITY OF FITCHBURG AND TOWN OF MADISON  
COOPERATIVE PLAN**

The **CITY OF MADISON (“Madison”)**, a Wisconsin municipal corporation with offices at 210 Martin Luther King, Jr. Blvd., Madison, Wisconsin 53703, the **CITY OF FITCHBURG (“Fitchburg”)**, a Wisconsin municipal corporation with offices at 5520 Lacy Road, Fitchburg, Wisconsin 53711, and the **TOWN OF MADISON (“the Town”)**, a Wisconsin municipal corporation with offices at 2120 Fish Hatchery Road, Madison, Wisconsin 53713, enter into this Cooperative Plan, (hereinafter “**Plan**”), subject to approval of the State Department of Administration, under authority of Section 66.0307, Wisconsin Statutes (the “Statute”).

**RECITALS**

- A. Section 66.0307, Wisconsin Statutes, authorizes municipalities to determine the boundary lines between themselves upon approval of a cooperative plan by the State Department of Administration.
- B. The purpose of a cooperative plan is cited in Section 66.0307(3)(b), Wisconsin Statutes, as follows:

*Purpose of plan.* The cooperative plan shall be made with the general purpose of guiding and accomplishing a coordinated, adjusted and harmonious development of the territory covered by the plan which will, in accordance with existing and future needs, best promote public health, safety, morals, order, convenience, prosperity or the general welfare, as well as efficiency and economy in the process of development.

- C. Section 66.0307(2)(a. through d.) of the Wisconsin Statutes requires that cooperative plans be organized around “options” for future boundary changes. These options, listed below, specify how boundary changes will occur over the “boundary plan” term:
  - (a) That specified boundary line changes shall occur during the planning period and the approximate dates by which such changes shall occur.
  - (b) That specified boundary line changes may occur during the planning period and the approximate dates by which the changes may occur.
  - (c) That required boundary line change under par. (a) or an optional boundary line change under par. (b) shall be subject to the occurrence of conditions set forth in the plan.
  - (d) That specified boundary lines may not be changed during the planning period.

The Plan between Madison, Fitchburg, and the Town is organized around all of the options above.

- D. On October 22, 2002, November 4, 2002, and November 5, 2002, Fitchburg, the Town and Madison, respectively, adopted resolutions authorizing participation in the

preparation of a cooperative plan pursuant to Sec. 66.0307, Wisconsin Statutes and approved an Intergovernmental Agreement pursuant to Sec. 66.0301, Wisconsin Statutes, to provide the basic foundation of this Plan.

- E. On November 8, 2002, Madison, Fitchburg, and the Town executed the “Intergovernmental Agreement Among the Town of Madison, the City of Madison, and the City of Fitchburg” (“Intergovernmental Agreement”) under authority of Section 66.0301, Wisconsin Statutes, to provide the basic foundation for this Plan. The Intergovernmental Agreement is attached hereto as **Exhibit 1**.
- F. The Town and Madison have a long history of boundary disputes, including a dispute over whether the Town should continue to exist as a separate governmental entity.
- G. Recent developments in this history of disputes include a State budget bill proposal for Madison to annex the Town in its entirety and a petition by Fitchburg (presented at the Town’s request) to annex those portions of the Town contiguous to Fitchburg. Fitchburg’s petition is pending in Dane County circuit court and has been stayed pursuant to the terms of the Intergovernmental Agreement. These developments and others render the Town’s long-term future uncertain.
- H. While facing the prospect of further disputes and protracted litigation, the parties have explored a boundary agreement that would determine the Town’s future with certainty, put an end to disputes and litigation over Town territory, and establish a basis for future intergovernmental cooperation.
- I. The Town and the Cities desire to provide for an orderly transition of Town territory from town to city government, preserve the Town’s financial integrity while it remains a town, and establish long-term rational boundaries between Fitchburg and Madison that reasonably satisfy each city’s goals.
- J. To attain the objectives of the Town and the Cities, and to provide for their mutual peace and cooperation that will be beneficial to citizens in all three communities, the Town, Fitchburg, and Madison desire to enter into this Plan.
- K. The Cities and the Town have entered into said Intergovernmental Agreement for the purposes of establishing a long-term boundary, assuring orderly growth and development, and providing services efficiently to residents of all three municipalities.
- L. This Plan is intended to implement the Intergovernmental Agreement.
- M. This final Plan was developed following a joint public hearing on a proposed Plan that was noticed under Sec. 66.0307(4)(b), Wisconsin Statutes and held on March 5, 2003.
- N. It is the intention of the Cities and the Town that this Plan be a binding and enforceable contract.

## **THE PLAN**

### **SECTION 1 PARTICIPATING MUNICIPALITIES**

Madison, Fitchburg and the Town (“Parties”) petition the State of Wisconsin Department of Administration for approval of this Plan in accordance with the requirements of the Statute.

### **SECTION 2 CONTACT PERSONS**

This Plan shall be administered on behalf of Madison, Fitchburg, and the Town by the following persons, unless otherwise designated by the respective Common Council or Town Board: For Madison, Bradley J. Murphy, Planning Unit Director, Room LL-100, Madison Municipal Building, Madison, WI 53703, (608) 266-4635, FAX (608) 267-8739; For Fitchburg, Thomas D. Hovel, Planning and Zoning Administrator, 5520 Lacy Road, Fitchburg, WI 53711, (608) 270-4255, FAX (608) 270-4212; For the Town, D. Richard Rose, Director of Public Works, 2120 Fish Hatchery Road, Madison, WI 53713, (608) 210-7264, FAX (608) 210 7236.

### **SECTION 3 TERRITORY SUBJECT TO THE COOPERATIVE PLAN**

The territory subject to this Plan is shown on **Map 1** and includes the following:

1. All of the Town.
2. The Genesis Parcel – Former Town land annexed by Madison in November, 2002.
3. The McCoy Road Area – Conservancy land in the Nine Springs E-Way Area in Madison.
4. The Rimrock Road Neighborhood – Fitchburg land currently receiving public water service from Madison Water Utility.
5. Seminole Highway Right of Way – those portions of the Seminole Highway right of way from the Fitchburg/Town boundary south to the Fitchburg/Madison boundary.

## SECTION 4 ISSUES, PROBLEMS, OPPORTUNITIES

This Plan will address issues and problems and create opportunities as noted in the subsections below:

Establish Long-Term Boundaries and Eliminate Annexation Disputes. Like many urban towns located next to incorporated municipalities throughout Wisconsin, the Town has been involved in a number of annexation disputes with Madison. These annexation disputes have absorbed the Town's and Madison's fiscal resources without significant long-term public benefit. If the Town wins, landowners have routinely corrected errors within the petitions and have successfully re-petitioned to annex their lands to Madison. When the Town loses, the annexation is declared valid. Current Wisconsin annexation statutes and many decades of annexations within south Madison have resulted in the Town being fragmented into several discontinuous geographic areas and irregular peninsulas. The boundaries of the Town, Madison, and Fitchburg are not well defined by built or natural features which has resulted in service inefficiencies and challenges which can be addressed by the Plan.

The term and implementation phases within the Plan recognize and attempt to balance the competing desires of the Cities, the Town and existing Town property owners and residents. The Plan provides for the eventual dissolution of the Town after a protected period of up to 20 years, and regularizes boundaries between Fitchburg and Madison, but allows early annexations within several areas to address near-term problems and opportunities. The final boundary between Madison and Fitchburg and the interim planning provisions within the Plan will enable both municipalities to engage in more orderly land use planning and development, without wasting public resources on divisive boundary disputes.

Assure Orderly Development Within the Planning Area. The Plan provides a mechanism for joint land use decision making during the protected period. While, historically, the three communities have independently planned for the development of land within their communities, this Plan establishes extraterritorial zoning and the use of extraterritorial plat review authority by the Cities of Fitchburg and Madison in cooperation with the Town to manage land use and land development. This cooperative approach of land use decision making will help to reduce situations where developers seek timing and infrastructure concessions from one community by attempting to pit the Cities against the Town or against each other.

Provide for Revenue Sharing to the Town to Compensate the Town for the Loss of Tax Revenue from Certain lands Attached to the City. The Plan allows several Early Attachments to occur and provides a revenue sharing procedure to partially compensate the Town for lost local tax revenues.

## SECTION 5 DEFINITIONS

For the purposes of this Plan:

**Attachment:** The formal boundary adjustment process whether by means of annexation, detachment of lands from one municipality that are attached to another, or by a state-approved cooperative boundary plan..

**Beltline:** That portion of U.S. Highway 12 that runs through the City of Madison and the Town of Madison and lies north of the City of Fitchburg.

**Early Attachment:** A boundary adjustment that takes place during the Protected Period.

**Fitchburg:** The City of Fitchburg, Wisconsin, a municipal corporation with offices at 5520 Lacy Road, Fitchburg, Wisconsin 53711.

**Genesis Parcel:** Former town land located south of the Beltline and annexed by Madison on November 12, 2002, by Substitute Ordinance No.13193.

**Intergovernmental Agreement:** The “Intergovernmental Agreement Among the Town of Madison, the City of Madison and City of Fitchburg” executed on November 8, 2002, under authority of Wis. Stat. § 66.0301.

**Line:** The boundary between Fitchburg and Madison at the end of the Protected Period, as described in **Exhibit 2**, wherein all territory in the Town currently south of the boundary will become part of Fitchburg at the end of the protected period and all territory north of the boundary will become part of Madison.

**Madison:** The City of Madison, Wisconsin, a municipal corporation with offices at 210 Martin Luther King Jr. Blvd., Madison, Wisconsin 53703.

**McCoy Road Area:** Conservancy land in the Nine Springs E-Way area in Madison.

**Parties:** Madison, Fitchburg and the Town.

**Plan:** This Cooperative Boundary Plan, under Wis. Stat. § 66.0307.

**Protected Period:** The time between state-approval of this Plan under Wis. Stat. §66.0307 until 11:59 p.m., October 30, 2022, or such earlier time when the Town ceases to exist as a separate entity.

**Rimrock Road Neighborhood:** Land currently receiving public water service from the Madison Water Utility that is located in Fitchburg along Rimrock Road, north of McCoy Road.

**Seminole Highway Right-of-Way:** That eastern portion of Seminole Highway right-of-way from the Fitchburg/Town boundary south to the Fitchburg/Madison boundary.

**Southdale Area:** That territory of the Town located south of the Beltline, west of Rimrock Road and east of U.S. Highway 14 and designated to become part of Fitchburg at the end of the Protected Period.

**State Approval:** State approval of the Plan under Wis. Stat. § 66.0307, at the conclusion of any judicial appeal.

**Territory:** Geographical area or land.

**Town:** The Town of Madison, Wisconsin, a municipal corporation with offices at 2120 Fish Hatchery Road, Madison, Wisconsin 53713

**Zimbrick Area:** That territory of the Town located south of the Beltline and west of Fish Hatchery Road that is designated to become part of Fitchburg at the end of the Protected Period.

## **SECTION 6 TERM OF THE PLAN**

The term of this Plan shall commence upon the date of its approval by the Wisconsin Department of Administration and shall terminate at 11:59 p.m. on October 30, 2022, or at such earlier time as the Town may cease to exist as a separate entity in accordance with the terms of this Plan. This term shall be known as the “Protected Period.” The term of the Plan is in excess of 10 years because the additional time is needed to permit the Cities of Madison and Fitchburg to assimilate the territory in an orderly and cost effective manner, to protect existing Town property owners and residents from immediate annexations against their will, and to allow the Parties, property owners, and residents to adequately protect their interests and plan for the boundary changes provided for in this Plan. Certain specified obligations, including but not limited to those in Sections 14, 15, 16, 21, 22, 23, and 24 shall continue beyond the term of the Plan.

## **SECTION 7 ESTABLISHMENT OF LONG-TERM BOUNDARY BETWEEN MADISON AND FITCHBURG**

The original congressional Town covered approximately 36 square miles of land and water extending 6 miles north and south between County Trunk Highway K (now in the Town of Westport) and just south of the West Beltline Highway, and 6 miles east and west between Sherman Avenue and just west of Whitney Way. Most of the original Town has been annexed by Madison, or incorporated into the Village of Shorewood Hills and Village of Maple Bluff. Lands north of Lake Mendota, originally in the Town were transferred to the Town of Westport. Since the 1860s, there have been continual individual annexations of relatively small tracts of land from the Town to adjoining incorporated entities. Today, the Town comprises less than 3.9 square miles of land, including right-of-way and bodies of water. **Maps 2 and 3** show the current

boundaries of the Town in relationship to Fitchburg, Madison and other adjoining and nearby municipalities. The land acreage is spread out in nine discontinuous areas. Six of these areas contain the core territory of the Town and are located on Madison's south side adjacent to Fitchburg. Another separate Town area of approximately 25 acres lies north of downtown Madison adjacent to the Village of Maple Bluff, and two small town islands consisting of a couple of acres are located on Madison's west side off Schroeder Road.

This Plan will establish a new permanent boundary between Fitchburg and Madison and will result in the eventual dissolution of the Town at the end of the Protected Period. This future boundary is described in **Exhibit 2** and referred to herein as the "Line." **Maps 4 and 5** show the ultimate boundaries of Fitchburg and Madison following the Protected Period. Several portions of the Line are different than the final boundary in the Intergovernmental Agreement. Those portions are shown in **Map 6** and have been incorporated into the Line as shown in **Maps 4 and 5**.

As is clear from **Maps 2 and 3**, the current boundaries of the Town as they relate to Fitchburg, Madison, and other nearby municipalities are very irregular. The boundaries proposed in the Plan were agreed upon after considerable discussion, negotiation and compromise on the part of each Party. Slightly over 90% of the land in the Town ultimately will be attached to Madison and represents approximately the same percentage of Town lands that currently are bordered by lands in Madison. The ultimate boundaries will reduce several very irregular peninsulas and islands of Town land that are surrounded completely by other municipalities. These new boundaries also will reduce the confusion over jurisdictional boundaries on the south side of Madison and will make it easier to provide cost-effective and efficient services. While the resulting boundary between Fitchburg and Madison is not a straight line, it is a boundary that is much more regular than what exists currently and will address several problems and opportunities of great importance to the Cities.

Certain existing irregularities in the boundaries will not be resolved by this Plan and in fact, there are a number of economic, legal and political reasons why such other irregularities cannot be resolved. For example, in the Allied Drive-Dunn's Marsh area where it might have made sense from a planning and municipal service delivery standpoint to detach the Allied Drive peninsula from Madison and attach it to Fitchburg, some existing strategies would have been negatively affected. Madison's Tax Incremental District No. 29 includes the Allied Drive neighborhood and other nearby commercial development. The District's recent commercial development is generating revenue to be spent on project costs in the Allied Drive neighborhood, but will only work if the entire District remains in Madison. Nevertheless, the Cities are cooperating in joint planning efforts to address outstanding neighborhood issues, such as the need for more neighborhood services and facilities.

**Map 7** shows how the current Town lands will be divided between the Cities of Madison and Fitchburg at the end of the Protected Period. Although the majority of Town lands will be attached to Madison, two distinct areas of the Town will be attached to Fitchburg. These are the Zimbrick Area and the Southdale Area. In addition, two areas currently in Madison that are located south of the Beltline will be detached from Madison and attached to Fitchburg. These are the Genesis Area and the McCoy Road Area. The following paragraphs describe these areas in more detail.

### Zimbrick Area

These lands are located adjacent to and south of the West Beltline and west of Fish Hatchery Road. One of the predominant land uses within this area is the Zimbrick auto dealerships. At the present time there are no lands along the West Beltline that are located in Fitchburg. However, the Beltline and its intersection with Fish Hatchery Road is one of the primary gateways to Fitchburg. The attachment of this portion of the Town to Fitchburg will provide partial Beltline frontage and a key gateway opportunity to Fitchburg. Fish Hatchery Road is a major north-south corridor running through Fitchburg and Madison. The attachment of this portion of the Town to Fitchburg will allow Fitchburg to regulate and control the use of land and possible redevelopment of lands at a key Fitchburg entryway. This portion of the Town is cut off from the remainder of the Town by the West Beltline Highway. The attachment of this portion of the Town to Fitchburg will create a stronger and more unified neighborhood connection between Fitchburg and this portion of the Town.

### Southdale Area

The Southdale neighborhood and adjoining commercial redevelopment areas within the Town will be attached to Fitchburg. This neighborhood is wedged between Fitchburg's Rimrock Road Neighborhood, the Beltline, Highway 14, and several Madison neighborhoods located east of Rimrock Road. The mix of uses in this area between the three jurisdictions and within the Town itself is challenging. The area lacks adequate interconnections and neighborhood cohesion, but also provides opportunity for redevelopment. The Novation project, currently under development on a Brownfield site, can serve as a long-term catalyst for the area. The Southdale residential area currently is isolated from other neighborhoods within the Town and is more closely linked with Fitchburg's existing Rimrock Road Neighborhood. If attached to Madison, this neighborhood would always be isolated from other Madison neighborhoods. Attaching this neighborhood to Fitchburg's Rimrock Road Neighborhood, which is adjacent to and immediately south of Southdale, will allow for a stronger sense of community among the Southdale and Rimrock Road Neighborhood residents. **Map 8** shows the location of neighborhoods on the south side of Madison in Madison, Fitchburg and the Town. This map shows the proximity of the Southdale Neighborhood that is proposed to be attached to Fitchburg and the Rimrock Road neighborhood currently located within Fitchburg south of the Southdale neighborhood. The Novation project has a strong relationship to Fitchburg's Nine Springs neighborhood plan and Green Tech Village plan which both emphasize high technology uses. Fitchburg, however, looks to create balanced neighborhoods, therefore the residential components in the Nine Springs Neighborhood (including the Green-Tech Village), the Rimrock Road Neighborhood, and the Southdale Neighborhood are crucial to a successful, healthy, and balanced neighborhood. Rimrock Road and US Highway 14 provide important transportation linkages from the Beltline to Fitchburg. The existing rail corridor provides possible long-term commuter rail connections as well. The attachment of these lands to Fitchburg will provide additional frontage along the Beltline for Fitchburg, which will allow the City to develop a gateway corridor from the Beltline. Fitchburg will utilize its extra territorial zoning and plat review jurisdiction by working with the Town to guide the development and redevelopment of properties along this corridor to insure that this development occurs in a planned and orderly fashion.

### McCoy Road Area

Approximately 206 acres of land currently located in Madison west and south of U.S. Highway 14 will be detached from Madison and attached to Fitchburg. Thirty one of these 206 acres are owned by Madison, and the remainder is owned by Dane County. This land is a Madison peninsula bordered on three sides by Fitchburg. The land is undeveloped and is mainly, although not fully, comprised of wetland environmental corridor. Much of it is part of the Nine Springs E-Way environmental corridor. The attachment of these lands to Fitchburg will bring into one jurisdiction much of the land within the E-way west of US Highway 14. This attachment allows Fitchburg to more comprehensively plan for lands within this area by working with the Nevin Fish Hatchery, Dane County, and the State of Wisconsin relative to this critical resource. These lands also serve as an entry corridor to Fitchburg's Nine Springs neighborhood and Greenway Tech Village. The addition of this area will assist in providing clearer lines of emergency vehicle response on US Highway 14, particularly at the McCoy Road interchange.

### Genesis Parcel

The Genesis parcel was annexed to Madison from the Town in November of 2002. The Plan provides for the detachment of the Genesis lands from Madison and attachment to Fitchburg at the end of the Protected Period. The attachment of this parcel to Fitchburg at the end of the Protected Period will result in elimination of a parcel of land in Madison isolated from other lands in Madison by the Beltline Highway.

## **SECTION 8 BOUNDARY ADJUSTMENTS AND PROCEDURE**

- A. The general rule is that no attachments or annexations of Town lands prior to the end of the Protected Period ("Early Attachments") to either Madison or Fitchburg shall take place. The exceptions to the general rule are as follows:
1. Following approval of the Town Board, a written petition for attachment shall be filed with the City Clerk on City forms signed by all the owners of all the land, exclusive of Town roads abutting such land. With ten (10) days advance, written notice to the Town Clerk, Madison or Fitchburg shall, without further review and approval of the Town and without mandatory review and recommendation by a city Plan Commission or any other sub-unit of Madison or Fitchburg, adopt an ordinance by a majority of the elected members of its Common Council attaching the territory constituting the Early Attachment. The ordinance may designate a temporary or permanent zoning for each parcel as prescribed in Sec. 62.23(7)(d), Wisconsin Statutes. Following adoption of the ordinance, the City Clerk shall immediately file, record and send copies of the same, in accordance with Sec. 66.0217(9)(a), Wisconsin Statutes, as incorporated by Sec. 66.0307(10). Failure to file, record, or send shall not invalidate the Early Attachment and the duty to file, record, or send shall be a continuing one. The information filed with the Secretary of State shall be utilized in making adjustments to entitlements under

the federal revenue sharing program and distribution of funds under Chapter 79, Wisconsin Statutes, and to any successor or other federal or state entitlement or revenue-sharing program.

2. The University of Wisconsin Arboretum lands currently in the Town and owned by the University of Wisconsin Board of Regents, together with certain highway right of way segments and Lake Wingra shall be attached to Madison by adoption of an ordinance by a majority of the elected members of Madison's Common Council attaching the above lands to Madison. Such ordinance shall become effective upon State approval of this Plan. This attachment shall not include the Beltline right-of-way except for that portion under the Seminole Highway Bridge, but it shall include the east half of Seminole Highway from Warwick Way south (including the Bridge) to the Town/Fitchburg boundary, the Beltline Frontage Road from Seminole Highway to Todd Drive, the west half of Fish Hatchery Road from Carver Street to West Wingra Drive, Arboretum Drive/McCaffery Drive, except for the southeastern half of Arboretum Drive/McCaffery Drive from Covall Street southwesterly to the boundary between the private lands and Arboretum lands owned by the Regents of the University of Wisconsin. This attachment will create several Town islands, and will reduce the size of the Town peninsula that is east and west of Todd Drive, and north and south of the Beltline. When the ordinance attaching the above lands becomes effective following State approval of this Plan, the City Clerk shall immediately file, record and send copies of the same, in accordance with Sec. 66.0217(9)(a), Wisconsin Statutes, as incorporated by Sec. 66.0307(10). Failure to file, record, or send shall not invalidate the Early Attachment and the duty to file, record, or send shall be a continuing one. The information filed with the Secretary of State shall be utilized in making adjustments to entitlements under the federal revenue sharing program and distribution of funds under Chapter 79, Wisconsin Statutes, and to any successor or other federal or state entitlement or revenue-sharing program.
3. The potential creation of a tax incremental district ("TID") or redevelopment district ("RD"), or both shall entitle either Madison or Fitchburg to an Early Attachment if the following conditions are met:
  - a) Madison or Fitchburg has conducted the necessary blight studies and prepared a complete TID or RD plan that includes some territory in the Town. The Early Attachment may consist of multiple parcels, which need not be contiguous, and shall include no more Town territory than is included in the prepared plan which is consistent with applicable law. Madison or Fitchburg shall proceed expeditiously with the statutory plan approval process and implementation of the TID or RD upon attachment of the Town territory
  - b) Madison or Fitchburg agrees to provide revenue sharing payments to the Town to compensate the Town for lost local tax revenues. The Town shall keep 100% of the local government share of tax revenues for the year of the Early Attachment ("base year revenue sharing amount"). Madison or Fitchburg shall pay the Town that base year revenue sharing amount

annually for nine subsequent years, but not beyond the Protected Period. Payments are due in two equal installments: the first due on February 15, and the second due on August 15. The amount and schedule of revenue sharing payments may be modified by mutual agreement.

- c) If Madison or Fitchburg and the Town do not agree on whether these conditions have been met, the affected city or the Town may submit the matter to binding arbitration. In that case, the attachment shall not occur unless and until the arbitrator determines that the conditions have been met. The arbitrator shall be directed to decide the matter expeditiously.
- d) Madison may employ an Early Attachment no more than twice, and Fitchburg no more than once, during the Protected Period.

Upon meeting the above conditions, with ten (10) days advance, written notice to the Town Clerk, Madison or Fitchburg shall, without mandatory review and recommendation by a city Plan Commission or any other sub-unit of Madison or Fitchburg, adopt an ordinance by a majority of the elected members of its Common Council attaching the territory that will comprise the TID or RD.

- B. In addition to the above Early Attachments, the McCoy Road Area, which is the 206 acres of E-Way conservancy land in the Nine Springs Area, shall be detached from Madison by an ordinance adopted by a majority of the elected members of Madison's Common Council detaching the McCoy Road Area. This ordinance shall become effective upon State approval of this Plan, adoption of an ordinance by a majority of the members of Fitchburg's Common Council attaching the McCoy Road Area to Fitchburg, and the recording of a warranty deed conveying the 31 acres in the McCoy Road Area owned by the City of Madison to the City of Fitchburg. Such deed shall contain the restriction that during the Protected Period, the land be used only for conservancy purposes; governmental purposes, such as a fire station; or for use by a non-profit entity for the benefit of the whole community.
- C. If there are any such Early Attachments, lands north of the Line may be attached only to Madison and lands south of the Line may be attached only to Fitchburg. Early Attachments need not be contiguous to the attaching City; contiguity will be established when the final boundary changes go into effect at the end of the Protected Period.
- D. Territory may be attached to Madison or Fitchburg under this Plan irrespective of the size, shape, or contiguity of the territory covered by the petition, subject to the limitations for TIDs and RDs. Such Early Attachments may create town islands. Such Early Attachments may be made contiguous by the inclusion of road right-of-way. Madison and Fitchburg may reject any petition to attach territory that is not configured or located in a manner that will enable the city to provide adequate and timely service. Madison and Fitchburg are authorized to confer with landowners interested in attachment to recommend the size, shape and contiguity of the territory to be covered by the petition.
- E. Final attachment of territory remaining in the Town at the end of the Protected Period shall be effective upon the ending of the Protected Period, pursuant to ordinances adopted

by the majority of the elected members of the Cities' Common Councils attaching the remaining lands to either Madison or Fitchburg, as set forth in this Plan.

- F. The Town shall not oppose any attachments permitted by this Plan or provide support, financial or otherwise, to those who do.

## **SECTION 9 CURRENT LAND USE AND PHYSICAL DEVELOPMENT OF THE TERRITORY**

The Town is generally located on the south side of Madison metropolitan area. The core of the Town is located approximately 3 miles south of downtown Madison. The Town stretches along the northern and southern sides of U.S. Highway 12/18 (the West Beltline Highway). This section of the Plan describes existing land uses within the Town, the socio-economic characteristics of the population, and other aspects of the physical development of the area.

### Existing Land Use and Physical Development Summary

The Town consists of a mix of diverse residential neighborhoods comprised of single-family, owner-occupied housing, duplex units, and affordable mobile homes and apartments. The Town has a variety of commercial service, retail and industrial businesses located primarily along the major arterial thoroughfares serving the Town, including Rimrock Road, Park Street, Fish Hatchery Road and the West Beltline Highway. The University of Wisconsin's Arboretum and the Dane County Veterans Memorial Coliseum/Alliant Energy Center are the two largest land holdings in the Town.

**Exhibit 3** provides a summary of land uses in the Town in 2000. The Town contains approximately 2,431 acres, of which approximately 44%, or 1,072 acres are developed. The remaining acreage, represented primarily by the University of Wisconsin Arboretum and Lake Wingra, consists of woodlands, open lands, water and agricultural or undeveloped lands. It is estimated that there are approximately 35 acres of vacant developable land remaining in the Town. **Map 9** shows existing land uses within the Town and in adjoining areas in Madison and Fitchburg.

Of the 1,072 acres of developed land, approximately one-third are developed with residential land uses, approximately one-half of which is single-family housing. The next largest land use category is transportation facilities, including street rights-of-way and railroad rights-of-way which account for 27% of all developed lands within the township. Commercial retail uses and service uses comprise 15% of the developed lands, while institutional and governmental uses, most notably the Alliant Energy Center, comprise another 15% of developed lands.

Most of the lands within the Town are located adjacent to the Beltline stretching from Seminole Highway on the west to Nob Hill on the east and from Lake Wingra on the north to Fitchburg city limits on the south. The most significant land uses in the Town are the University of Wisconsin Arboretum and the Dane County Veterans Memorial Coliseum and Alliant Energy Center. These two properties comprise over 50% of all lands in the Town. Commercial development spreads out along both sides of the Beltline and South Park Street, and to a more limited extent, along Fish Hatchery Road and Rimrock Road. Residential development is located

primarily in the Arbor Hills neighborhood, Arboretum neighborhood (Lake Forest/Forest Park), Oakridge neighborhood, Southdale neighborhood, and the Moorland/Rimrock neighborhood.

#### Physical Development of the Area

The Town has its Town Hall along with its maintenance garage, and police and fire stations at 2120 Fish Hatchery Road. The Town owns and operates the Mayflower Wastewater Lift Station at 802 Badger Road, the Badger Wastewater Lift Station at the intersection of Badger Lane and Nob Hill Road and a Wastewater Lift Station at Dickson Place. The Town has interest in two bridges: Bridge B360 spans Wingra Creek at the east entrance to the University Arboretum. Bridge B306 spans the railroad right of way on West Badger Road. Madison has jurisdiction over the south half of Bridge 306. The Town does not maintain viaducts, parking areas, underpasses/tunnels. Parks maintained by the Town within the area encompassed by the cooperative plan include the Harvey Schmidt Park, Fraust Park, Heifetz Park, and the Southdale Park, the latter three of which have shelters.

The sanitary sewers of the Town are connected with those of Madison in some locations. In some instances, wastewater will flow into a Madison sewer, then to a Town sewer and then back to a Madison sewer. The Lake Forest Water Cooperative is a water system serving the residents of the Martin/Carver Street neighborhood west of Fish Hatchery Road.

The Wisconsin and Southern Railway Company operates and maintains two railroad right-of-ways in or adjacent to the Town. Madison Metro Transit Utility provides bus service in the Town. There are no designated historic districts in the Town.

#### Socio-Economic Characteristics of the Town

Based on the 2000 Decennial Census, 7,005 people reside in the Town. **Exhibits 4 and 5** provide summaries of the demographic characteristics of the Town, Madison, and Fitchburg. Many of the households and families living in the Town are classified as low to moderate income. The average household income in 1999 (provided by the 2000 Census) was \$29,766, compared to an average household income in Fitchburg of \$50,433 and in Madison of \$41,941. According to the 2000 Census, rental housing accounts for 76% of the total occupied dwelling units in the Town. The minority population within the Town is 3,126, which is 44.6% of the total population. The minority population in Fitchburg and Madison account for 20% and 18% of the total populations, respectively. The population of the Town is relatively young in comparison to Fitchburg and Madison. Forty-eight percent of the Town population is between 18-34 years of age, compared to 32% and 39% in Fitchburg and Madison, respectively. School aged children account for approximately 18% of the population compared to 23% in Fitchburg and 17% in Madison.

**Exhibit 4** also summarizes the changes that would occur in the composition of the population of each community based on 2000 census data. Of the 7,005 people residing in the Town, 5,557 would become part of Madison compared to 1,448 who would become residents of Fitchburg.

Of the total occupied housing units within the Town, 66% of the housing units that would become part of Madison are renter occupied, while 83% of the units that would be attached to Fitchburg are renter occupied. Twenty two hundred of the 3,126 minority residents in the Town would come into Madison, and 926 would become Fitchburg residents. The average household annual income in the areas that would be attached to Madison is estimated at \$30,000, while the

average household annual income in the areas to be attached to Fitchburg is estimated at \$22,500.

### Land Values

The proposed boundary changes will affect 1,513 individual parcels of land, not including street rights-of-way. Of the total parcels, 93% will be attached to Madison and 7% will be attached to Fitchburg. **Exhibit 6** shows the assessed values of lands in the Town. The parcels to be attached to Madison have a 2002 assessed value of \$214.6 million, which is 87% of the total assessed valuation of the Town. The assessed value of parcels to be attached to Fitchburg is \$31.8 million. Lands being detached from Madison and attached to Fitchburg total 206 acres. All are under public ownership and therefore have no assessed value.

### Existing Development Plans

Madison, the Town and Fitchburg have each prepared a number of plans which will provide guidance on the use and development of properties covered by the Plan. In addition, each community is embarking on a process to prepare a comprehensive plan under the State of Wisconsin's Comprehensive Planning (Smart Growth) legislation. The Town will be working cooperatively with Madison and Fitchburg on the preparation of comprehensive plans for each community. In the interim, the existing plans adopted by Fitchburg, Madison and the Town will remain in place. The following section provides a summary of the plans currently in place for the area affected by this Plan.

#### A. Town Plans.

Plans prepared by the Town which will guide land use decision-making and physical improvement projects within the Town include the following.

1. The Town Community Development Plan prepared in 1994 identifies goals and policies for residential development, retail and other commercial development, parks, open space and environmental protection, urban service areas and transportation. The plan also provides a development strategy.
2. In 2001, the Town developed a Neighborhood Revitalization Strategy Area Plan (NRSA) which produced a strategy and plan for neighborhood revitalization within census tracts 14.01 and 15.02. The plan describes assets and opportunities within these two census tracts, which contain most of the Town lands east of Fish Hatchery Road and, when combined, comprise over 60% of the population within the Town. The plan assesses needs within the areas of economic development, housing, infrastructure improvements and social programs. It identifies community planning goals and objectives and finally sets forth an action plan for the Southdale neighborhood, Nygard neighborhood and Novation technology campus. The objectives for the plan include the following:
  - a. Provide a safe and diverse community for people to live and work.
  - b. Increase homeownership opportunities in the Town.
  - c. Provide increased services to youth in the Town.
  - d. Establish cooperative planning with surrounding communities.
  - e. Provide opportunities for job creation.

- f. Establish empowerment tools to assist people in obtaining work.
- g. Increase the tax base of the Town.
- 3. In 2002, the Town prepared a Site Redevelopment Strategy and Concept Plan to guide the redevelopment of several priority sites in the Town. This study analyzed and provides specific recommendations for the redevelopment of eight sites within the Town. The study evaluates opportunities within most of the areas which are likely to see development or redevelopment in the near term. The implementation strategy offers recommendations for catalytic projects that will stimulate investment and bring new energy to the area.
- 4. In 2002, the Town successfully competed for and was awarded an Economic Development Administration Grant for \$1.5 Million to assist in making infrastructure improvements south of the Beltline between Rimrock Road and US Highway 14. These improvements focus primarily on improving transportation linkages and access to support redevelopment within this area.
- 5. In 1999, the Town adopted a Comprehensive Outdoor Recreation Plan that identifies existing and proposed park and recreation resources.
- 6. The Town Report on Land Use, 1978 analyses existing land use and makes recommendations.

#### B. Madison Plans

Madison has prepared a number of citywide master plan elements that cover the Plan territory. These include Madison's Peripheral Area Development Plan, the Parks and Open Space Plan, the Pedestrian Plan, the Bicycle Plan, the Climate Protection Plan, and the Land Use Plan.

Madison is also working on several planning initiatives in South Madison that will provide additional, more specific recommendations for lands within the area. These planning initiatives are highlighted in **Exhibit 7**, titled "South Madison Planning Activities", and are summarized as follows:

- 1. In 2002, Madison completed a study which identifies improvement opportunities for the Park Street corridor north of the Beltline entitled "Park Street Revitalization: Possibilities to Reality."
- 2. In April of 2002, Madison identified a series of capital improvement projects along Park Street to provide guidance for the City's Capital Improvement Program and capital budgeting process.
- 3. In the summer of 2002, Madison completed a master plan for Penn Park.
- 4. In 2003, Madison will complete a planning process which began in 2002 to prepare a midrange South Madison Neighborhood Plan focusing on Census Tracts 13 and 14.01.
- 5. In 2003, Madison will complete a set of Urban Design Guidelines for the Park Street Corridor from Lake Mendota to the Beltline including specific guidelines for key development and redevelopment properties.
- 6. In 2003, Madison will complete a better urban infill development(BUILD) project focusing on the intersection of South Park Street and West Wingra Drive. It will

include detailed concept plans, market and financial feasibility studies to guide the possible redevelopment of this area.

7. In 2003, Madison will undertake a study of the Badger Road, Anne Street and Park Street area to identify redevelopment and revitalization areas and to develop a strategy to implement specific recommendations. A similar process will be undertaken for the Todd Drive frontage road and its intersection with the Beltline.

#### C. Fitchburg Plans

1. In 1998, Fitchburg prepared the Nine Springs Neighborhood Development Plan for the area extending from the Nine Springs Creek south to Lacy Road.
2. Fitchburg prepared their General Land Use Plan in 1995.
3. In 2003, Fitchburg adopted the Nine Springs Green-Tech Village Plan.

#### D. Regional Plans

In addition to the plans prepared and adopted by Fitchburg, the Town, and Madison, several plans prepared by the Dane County Regional Planning Commission and Madison Area Metropolitan Planning Organization cover the Town. These are described as follows.

1. In 1997, the Dane County Regional Planning Commission completed the Dane County Land Use and Transportation Plan (Vision 2020).
2. In 2000, Madison Area Metropolitan Planning Organization (MPO) completed a Bicycle Transportation Plan for Madison Urban Area and Dane County.
3. In 1999 the Dane County Regional Planning Commission completed work on the Transit Development Program for Madison Urbanized Area which outlines near term (five year) recommendations for the transit system. The TDP is updated every five years.
4. Every year Madison Area MPO prepares a 5 year Transportation Improvements Program which contains recommended transportation improvements in the Metropolitan area.

#### Redevelopment Focus

As evident from the foregoing listing of current Madison planning activities for the south Madison area, which includes the core of the Town territory, redevelopment and revitalization is a principal focus. The vast majority of south Madison is already developed with urban uses. However, there are several areas that are blighted and have a number of underutilized properties. In the past, the irregular boundaries and City/Town jurisdictional patchwork, together with the dissimilar development and redevelopment tools of towns and cities, have frustrated comprehensive planning and revitalization efforts in the area. As a result, the south Madison area has suffered economically and socially and is in need of more planning and development attention to catch up to other, more vibrant and vital metropolitan areas.

The Town and Cities believe that the eventual attachment of Town lands to the Cities will allow the Cities to more easily and thoroughly prepare land use plans, neighborhood development plans, tax incremental and redevelopment district project plans, and corridor plans. The Cities,

especially Madison, have a more complete arsenal of tools to promote and direct development and redevelopment efforts than the Town. Attachment of Town lands to the Cities will enable the Cities to implement their respective adopted plans to comprehensively address the problems facing this area and to take full advantage of the opportunities which exist. Although Madison already included lands located within the Town in its land use planning efforts, the lack of jurisdiction often frustrated implementation of resulting plans, unless annexation of key parcels occurred.

Several general areas have been identified within the Town where focused revitalization and redevelopment strategies will be implemented. These include the area south of the Beltline between Rimrock Road and U.S. Highway 14; the Park Street gateway corridor, located generally north of the Beltline and along Badger Road and Ann Street; and the Todd Drive interchange area. Fitchburg and the Town will be pursuing the implementation of recommendations from the Town's Site Redevelopment Strategy and Concept Plan and the Neighborhood Revitalization Strategy Area Plan for the area south of the Beltline between Rimrock road and U.S. Highway 14. Madison and the Town will be working cooperatively to implement recommendations from these plans as well as other current Madison planning initiatives in the other focus areas, outlined in **Exhibit 7**. In particular, the Plan anticipates additional, more detailed work by Madison to identify redevelopment and revitalization strategies for the Park Street, Badger Road and Ann Street area, as well as the Todd Drive and Beltline area. Madison anticipates establishing TIDs or RDs in these two areas. Within each area, revitalization strategies will focus on the elimination of blight, the redevelopment of underutilized properties, infrastructure and streetscape improvements, selected infill development, renovation of housing stock, and improved pedestrian and vehicular circulation.

This Plan allows two recent annexations of the Mortenson and Genesis commercial properties to be implemented and developed in Madison without legal challenge. Once approved by the Department of Administration, the Plan will also allow the early annexation/attachment to Madison of the Arboretum lands in the Town owned by the UW Regents. The Arboretum is and will remain permanent open space--an outdoor educational facility of the University. Other early attachments from the Town to the Cities would be tied to the creation of redevelopment or tax incremental districts--two by Madison and one by Fitchburg. Thus, redevelopment and revitalization of such areas including Town lands to be designated by the Cities may also be implemented in and by the Cities without legal challenge. Finally, at the conclusion of the Protected Period, the Town will be dissolved and all remaining Town lands will be attached to the respective City on either side of the Line.

## **SECTION 10 RELATIONSHIP OF THE COOPERATIVE PLAN TO NON-PARTICIPATING ENTITIES**

**Map 3** shows all of the municipalities within Dane County and their relationship to the territory included in the Plan. There are 61 municipalities shown on the map. The territory included in the Plan is in or adjacent to Fitchburg and Madison, and adjacent to the Village of Maple Bluff and is included in Madison Metropolitan Sewerage District and Madison Metropolitan School District.

Wisconsin Statutes Section 66.0307 requires that any boundary maintained or changed under the Plan must be reasonably compatible with the characteristics of the surrounding community. In preparing the Plan, Madison, Fitchburg and the Town have taken into consideration the location of services that must be provided to the areas being transferred to Fitchburg and Madison, the transportation infrastructure and services needed to serve these areas, including Madison Metro transit service, the fiscal capacity of the three communities to provide the services needed, the existing and ultimate political boundaries, the current boundaries of school districts, and shopping and social customs. For the purposes of this section, the “surrounding community” includes a 5 mile radius outside of the boundaries of the area included in the agreement.

The proposed Plan will result in the eventual dissolution of the Town and the attachment of its lands to either Madison or Fitchburg. The boundaries of Madison, on its south side, and Fitchburg, on its north side, will become more regular as a result of the implementation of the cooperative plan. Taking into consideration the transportation infrastructure, sewer, water and stormwater drainage facilities serving the areas covered by the plan, it is important to understand that much of the existing infrastructure and utility services serving this area are shared among the three communities. The sanitary sewer, stormwater management and transportation infrastructure, and to a lesser extent water service are all inter-connected within this area. Madison Metropolitan School District serves the entire area included in the Plan. Town residents attend several schools in the area but there are no public schools in the Town. No changes in the provision of school services are anticipated as a result of the implementation of the Plan. The area covered by the Plan is considered part of the greater south Madison metropolitan area. Residents within the area covered by the Plan, as well as those in neighborhoods in Madison and Fitchburg adjacent to the area covered by the Plan utilize the retail, recreation, social and religious services located within the south Madison metropolitan area regardless of jurisdiction and boundaries.

While the Town provides municipal services to its residents, the residents rely on commercial, personal service, and other business services provided by adjacent communities to meet many of their daily employment, health care, school, recreation and shopping needs. The provision of services by local units of government, however, is fragmented and made more difficult by the confusing boundaries and overlapping jurisdictions. The implementation of the Plan should improve the ability of local units of government to serve residents in the area covered by the Plan.

One of the incentives for Fitchburg, Madison, and the Town to prepare a Plan was the recognition of overlap and duplication in some services provided by each community in the area covered by the Plan. The Parties are interested in providing cost effective services to the areas that each serves and minimizing inefficiencies to the extent possible. The result of current boundaries between Madison, Fitchburg, and the Town has been some inefficiencies and service delivery problems, including street maintenance and improvements, social services, police and fire protection, street sweeping, snow plowing, provision of recreational facilities and services, business improvement services, and housing assistance. For example, on certain arterial streets in the Town there are two or three police departments covering the same street segments because of fragmented boundaries.

## **SECTION 11 SERVICES**

### **A. Water**

Approximately 90% of the developed parcels in the Town currently are connected to Madison municipal water. At the end of the Protected Period, these Town parcels will remain retail customers of Madison Water Utility, which includes all properties that are currently located in the Town and become part of Fitchburg until Fitchburg, at its option, decides to connect any or all customers located within Fitchburg's jurisdiction, directly to Fitchburg's Utility District. During the Protected Period, Madison, Fitchburg and the Town will cooperate to determine the most efficient means for extension of service to new customers.

Town residential parcels not currently customers of the Madison Water Utility are located in the areas known as Lake Forest and Forest Park adjacent to the University of Wisconsin Arboretum and in the areas of the Town west of Fish Hatchery near the Town Hall. Many of the residential properties are part of the Lake Forest Water Cooperative ("cooperative") and receive water from two wells on the Cooperative property. Others in the Forest Park area have individual private wells. Before the end of the Protected Period, the service to the members of the Cooperative may, at the owners' request, be provided by Madison Water Utility. The cost of the upgrade shall be assessable to the benefited properties and the Town hereby approves the imposition of all such special assessments and charges against Town parcels benefited by Madison Water Utility pursuant to Sec. 66.0707, Wisconsin Statutes. If individual property owners desire Madison water service before the end of the Protected Period, the Madison Water Utility shall provide such service, provided the Town approves the imposition of all such special assessments and charges against Town parcels benefited by Madison Water Utility pursuant to Sec. 66.0707, Wisconsin Statutes.

Madison Water Utility will continue to provide water, on a wholesale basis, to the Rimrock Road Neighborhood located in Fitchburg as set forth in the Amendment to "An Agreement Between Madison and Fitchburg to provide Temporary Public Water Service to the Rimrock Road Neighborhood", which was executed on November 8, 2002. Upon State approval of this Plan, Madison Ordinance No. 11,291 shall be void. Madison also amended Madison General Ordinance Section 13.16 to include the Rimrock Road Neighborhood in Madison municipal water service area, effective upon State approval of this Plan.

### **B. Sanitary Sewer**

Town parcels are primarily served by facilities that are part of the Oakridge Sanitary Sewer District, with a few parcels served by the Madison Sewer Utility, or some combination of the two. At the end of the Protected Period, all Oakridge Sanitary Sewer District customers likely will become customers of the Madison Sewer Utility, including any parcels in Fitchburg that are also customers of the Oakridge Sanitary Sewer District. Specifically, all properties that become part of Fitchburg will continue to be served by Madison Sewer Utility on a retail basis until Fitchburg, at its option, decides to connect any or all customers directly to Fitchburg's Utility District.

During the Protected Period, Madison, Fitchburg, and the Town agree to explore ways to make the operation and administration of two separate sewer providers more efficient and economical. They will cooperate to determine the most efficient means for extension of service to new customers. During the Protected Period, Town residents in the Forest Park area who have septic systems may hook up to either the Oakridge Sanitary District or Madison Sewer Utility. The cost of providing the connection, including connection charges to downstream facilities and the wastewater treatment plant shall be assessed to the benefited properties. The Town hereby approves the imposition of all special assessments and charges against Town parcels benefited by the Madison Sewer Utility extensions pursuant to Sec. 66.0707, Wisconsin Statutes.

#### C. Stormwater

Madison and the Town agree to continue their current cost participation policy for improvements, such as pipes or detention ponds, that drain areas in both municipalities. This policy will be based on cost sharing determined by the percentage of the relevant drainage basin in each municipality unless another method of cost sharing is agreed upon. Maintenance of existing facilities shall be determined by agreement of the parties. At the end of the Protected Period, all properties that will become part of Madison will be served by Madison Stormwater Utility and subject to Madison stormwater ordinance. Should the Town wish to set up its own stormwater utility during the Protected Period, Madison and Fitchburg will assist in setting up a program.

#### D. Streets

Madison, Fitchburg, and the Town agree to continue working together on road improvements in those areas where their jurisdictions abut. The current policy is to split the costs based on street frontage or some other mutually agreed upon method by the affected municipalities. Specific areas that may be improved under this policy during the Protected Plan period include Hughes Place. In addition, the Parties may work with the Wisconsin Department of Transportation on the improvement of the major interchanges at Todd Drive and the Beltline, Fish Hatchery and the Beltline, and Park Street and the Beltline.

#### E. Transit

During the Protected Period, the Town and Cities agree to continue equitable financial support for transit services provided by Madison Metro(politan) Transit System, as are provided on November 8, 2002, or for such altered services as are approved by the parties during the Protected Period. "Equitable" shall mean according to the formula for distribution of revenues and expenses incorporated in existing Transit Service Agreements among the parties, as may be amended from time-to-time by mutual consent of the parties during the Protected Period.

#### F. Health

The Town and Fitchburg currently are served by the Dane County Health Department. Dane County and Madison are currently in discussions regarding a merging of their Health Departments. Resolutions to move forward recently have been adopted by the County Board and Madison Common Council. At this time, there are some significant differences in the resolutions

regarding the details of the merger, all of which will have to be addressed before any final action is taken. It is the desire of both governmental entities to have a joint Health Department functioning by January, 2004.

#### G. Cable Television

The Town currently is party to a Franchise Agreement with Charter Cable Partners, L.L.C., d/b/a/ Charter Communications. The Franchise Agreement expires on October 30, 2013. At any time during the Protected Period that a new or amended Franchise Agreement is negotiated between the Town and Charter Communications or any other cable television provider, such Franchise Agreement shall include a provision that at the end of the Protected Period, the Franchise Agreement shall terminate. Customers being served by such Franchise Agreement shall be covered by any Franchise Agreements in existence in the City in which those customers now reside.

#### H. Police, Fire, and Emergency Services

The Town and Cities each have full-time police departments. Madison has full-time, paid fire and emergency medical services, and Fitchburg and the Town have a combination of some paid and volunteer fire departments. The Town has its own full-time and one back-up ambulance staffed with paid paramedics and volunteers. Fitchburg participates with the City and Town of Verona (Fitchrona EMS) which provides one full-time and one twelve-hour (7a.m.-7p.m.) ambulance also staffed with paid paramedics and volunteers. Upon early attachment or at the conclusion of the Protected Period, the Town lands will be fully served by the respective City on either side of the Line.

The Plan provides that McCoy Road and US Highway 14 right-of-way south of the West Beltline Highway ramps will be detached from Madison and attached to Fitchburg. The Plan also modifies the Intergovernmental Agreement to slightly alter the eventual Madison-Fitchburg boundary rights-of-way to clarify jurisdiction for purposes of emergency response of police, fire and emergency medical services. First, upon the approval of the Plan by the State Department of Administration, the eastern portion of Seminole Highway from the Town of Madison line south to the Madison-Fitchburg boundary just south of Clover Court will be detached from Fitchburg and attached to Madison. Second, upon the conclusion of the Protected Period, all West Beltline Highway right-of-way and ramps that are currently in the Town will be attached to Madison.

The recent increase in the use of cellular phones, especially in the reporting of traffic accidents and problems, has highlighted problems in identifying precise locations of such incidents for the purpose of dispatching emergency response from the appropriate jurisdiction. The Plan provides that at the end of the Protected Period, the current Madison-Town patchwork of Beltline jurisdiction from Seminole Highway to John Nolen Drive will end, and all of the Beltline between the City of Middleton on the far west side to the City of Monona on the southeast side will be in Madison. Madison is well-suited to provide such emergency services from its South Police District and Fire Station No. 6 locations on West Badger Road near Park Street and the Beltline.

The Plan also provides a framework for other potential initiatives to cooperate in the provision and transition of emergency services prior to the end of the Protected Period. The Parties agree that the public interest, service efficiencies, and equitable distribution of costs should be principal goals in exploring the service delivery alternatives.

Madison is currently negotiating with Dane County on the subjects of Medical Priority Dispatch, Mutual Aid and Advanced Life Support Intercepts. The Town and Fitchburg are represented by Dane County in these negotiations. Mutual Aid is a form of assistance communities provide to each other when a need for additional vehicles or personnel becomes necessary. This can occur when a municipality's vehicles are committed to another emergency event or when an emergency incident is so large there is a need for additional assistance. There is no charge to any municipality for mutual aid service.

Advanced Life Support Intercept (ALS) is a service the Madison Fire Department has provided to the County for the past two decades. County ambulance crews (EMTs) who feel that a patient's condition is serious enough to warrant paramedic assistance ask the 911 Center to send the closest Madison Fire Department ambulance. The County has been charged for the ALS intercept service since its initiation, with the most recent annual cost at \$78,000.

Emergency Medical Dispatch or EMD is a system whereby the most appropriate emergency medical providers are sent to the medical emergency based on the information received by the 911 Center. If a community served by basic life support EMTs is in need of an advanced life support paramedic service, the nearest available paramedic ambulance will be dispatched from a community that has agreed to the EMD program.

EMD will change the current definition of Mutual Aid since municipalities with paramedic services occasionally could find themselves without appropriate care because their paramedic ambulance has been sent into another municipality. EMD will create a tiered system that will precipitate "forced mutual aid" from adjoining communities to cover other communities whose paramedics have responded to other communities.

#### I. Other Services

Madison and Fitchburg are full service municipalities. At the end of the Protected Period, the cities will continue to provide services to the former Town residents and property owners at the same level as all other areas within their respective communities.

## **SECTION 12 TOWN GOVERNMENT DURING THE PROTECTED PERIOD**

Except as otherwise mutually agreed, the Town retains full and independent governmental authority throughout the Protected Period. The Town shall exercise that authority in good faith to protect the Town's interests and to assure that the Town's finances and property are in reasonable condition for transfer to the Cities at the end of the Protected Period. In general, the Town shall continue to adopt and enforce ordinances during the Protected Period, pursuant to its police power. Nonetheless, due to the urban nature of the Town and the substantial impact land

use decisions can have on nearby lands in the Cities, some land use decisions in the Town will be shared with the Cities, as set forth below.

Extraterritorial Zoning shall be established within the Town as provided in Sec. 62.23(7a), Wisconsin Statutes. Two separate joint extraterritorial zoning committees shall be established pursuant to Sec. 62.23(7a)(c), one for the area north of the Line, which shall be made up of Town and Madison members and one for the area south of the Line, which shall be made up of Town and Fitchburg members. Madison and Fitchburg shall each adopt, administer, and enforce an interim zoning ordinance for that area in each city's specified extraterritorial zoning jurisdiction that will freeze existing zoning. Pursuant to Sec. 62.23(7a)(c), the Plan Commissions of Madison and Fitchburg, along with the above extraterritorial zoning committees shall prepare comprehensive zoning ordinances that will succeed the above interim zoning ordinances. The Extraterritorial Zoning shall take effect as soon as possible upon State approval of this Plan.

During the Protected Period, land division authority shall be exercised jointly by the Town and the Cities through their extraterritorial plat approval jurisdiction. This process is the same as currently exists for land divisions in Madison's or Fitchburg's extraterritorial plat approval jurisdictions. Madison's extraterritorial plat approval jurisdiction shall be restricted to the Town territory north of the Line and Fitchburg's extraterritorial plat approval jurisdiction shall be restricted to the Town territory south of the Line.

### **SECTION 13 PUBLIC IMPROVEMENTS**

The Town and the Cities agree that in levying special assessments for public improvements caused by a new development or redevelopment, they may credit benefited properties for special assessments previously levied against such properties for improvement components of the same type.

The Town and the Cities agree that for any street lying partly in two or three of their jurisdictions, or for any street that under the Plan shall eventually be within another jurisdiction, they shall not rename such street if the renaming is opposed in writing by three-fourths or more of the owners of property abutting on the street segment proposed for renaming.

**SECTION 14**  
**JOB CONTINUITY FOR TOWN EMPLOYEES**

The Town and the Cities shall cooperate to provide job security and job continuity for Town employees. In the absence of some other mutual agreement, Town employees shall have job security in the form of a severance benefit. Any person who is a Town employee at the end of the Protected Period, and who is not offered suitable employment by either of the Cities on terms at least equivalent to those provided by the Town job, shall be entitled to a lump sum severance payment according to the following schedule:

Duration of Town Employment	Amount of Severance Payment
Less than 6 months	none
More than 6 months, less than 5 years	3 months' pay
More than 5 years, less than 10 years	6 months' pay
More than 10 years, less than 15 years	9 months' pay
15 years or more	1 year's pay

The amount of pay for the above purpose shall not exceed the level of pay for comparable positions in either City.

If a Town employee is employed by a City on a probationary basis and dismissed during the probationary period, but not for cause, the severance payment is due, less a credit for wage or salary payments from the City to the employee during the period of City employment.

This severance benefit is the joint obligation of both Cities, and shall be paid by one or both Cities, not the Town. The Cities may share the cost between them as they mutually agree. Such cost sharing shall be taken into account in the division of assets and liabilities under Section 15 below.

**SECTION 15**  
**ULTIMATE DIVISION OF TOWN ASSETS AND LIABILITIES**

Town assets and liabilities shall be divided between the Cities at the end of the Protected Period as they mutually agree. If they do not agree, the assets and liabilities shall be divided consistent with the provisions of Wis. Stat. § 66.0235, as may be equitably adjusted to take account of Early Attachments and revenue sharing. Notwithstanding the foregoing, the Cities agree that the division of assets and liabilities shall, upon Fitchburg's election, assign to Fitchburg ownership of the current Town Hall property and all assets integral to fire protection and EMS operations.

**SECTION 16**  
**TAXES AND REVENUE SHARING**

- A. In recognition of the loss of tax revenue from the Mortenson Property, which was located in the Town until November, 2002, when it was annexed by Madison, the City shall make a revenue sharing payment to the Town annually, beginning in the year when local taxes are first paid to the City, and continuing through and including 2017, but not beyond the Protected Period. The annual amount shall be equal to the local taxes on the property in 2002. Payments are due in two equal installments: the first due on February 15, and the second due on August 15.
- B. As noted in Section 7 of this Plan, the Genesis Area will be attached to Fitchburg at the end of the Protected Period. Beginning August 15 after the end of the Protected Period, and for twenty years thereafter, Fitchburg shall pay Madison a Property Tax Payment in the following amount:

The outstanding and remaining portion of the \$575,000 CDBG Loan, divided by 1,000 and then multiplied by 8.78.

This obligation shall survive the term of the Plan and be binding for an additional twenty year term.

- C. Should Early Attachments occur due to the creation of a Tax Incremental Development District or Redevelopment District, revenue sharing shall be according to Section 8 of this Plan.
- D. The Parties agree that, at the end of the Protected Period, the Cities shall automatically and without further formal action be assigned and shall assume all of the Town's statutory rights and responsibilities for the levy, billing, and collection of personal property taxes and real estate taxes on all taxable property located in the Town on January 1 of the final calendar year of the Protected Period that is attached to either city. This authority shall include, but not be limited to, completing any unfinished assessment and/or Board of Review responsibilities for the January 1 assessments of that final calendar year of the Protected Period, including the cost of local municipal services for such parcels in the respective City budgets for the next calendar year, and levying, billing and collecting that budgeted local property tax share for each parcel in the said final year of the Protected Period. The Cities shall also without further formal action automatically and immediately succeed to the respective proportional interest of the Town to any outstanding entitlement of county, state, or federal revenue sharing or grants for the balance of the calendar and fiscal years upon the termination of the Protected Period. If such revenue and/or grant entitlements cannot be proportionally disbursed to the respective Cities by the responsible county, state, or federal agency, the funds shall be collected by the Cities on behalf of the Town and allocated between the Cities in the final distribution of assets and liabilities under Section 15 of this Plan.

## **SECTION 17**

### **ENVIRONMENTAL EVALUATION OF THE COOPERATIVE PLAN**

Madison, Fitchburg, and the Town have evaluated the environmental consequences of the Plan including air and water pollution impacts, energy use, and the protection of environmentally sensitive lands. The Plan identifies areas which will ultimately become part of Madison and Fitchburg. The Plan calls for these lands to be served with the full range of urban services consistent with the ordinances and service delivery policies of the unit of government with jurisdiction over the lands at the time they develop. The Town is located close to downtown Madison on the City's southern edge along Highway 12 and 18. In addition to the West Beltline, several north/south arterials serve the Town, including Rimrock Road, John Nolen Drive, Park Street, and Fish Hatchery Road. As has been stated earlier, the vast majority of the Town is already developed or is permanently preserved open space.

The Town has identified eight development and redevelopment sites with significant potential. All of these remaining development sites can be described as infill development sites. The sites provide additional opportunities for employment growth and to serve residents within the area and to meet their commercial service, health care, and shopping needs.

#### Air Quality Impacts

The existing adopted plans covering the area do not recommend a significant change in the type of development which currently exists within the Town. The eight remaining redevelopment sites recommend primarily commercial development and some research, high technology, and manufacturing uses. Smokestack type industrial uses are not recommended. The primary air quality impacts associated with the Plan relate to transportation related impacts and impacts associated with additional electric generating capacity needed to serve development as it occurs. Given the location of the Town, the communities preparing this plan believe that the Plan should have lower air quality impacts than comparable development which would occur further from the urban core and which would result in additional vehicle miles traveled and additional pollutants related to additional vehicular use. The Town area can be well served by Madison Metro Transit Service which will further reduce the reliance on low occupancy motor vehicles.

#### Water Quality Impacts.

The area subject to the Plan can be served by Madison's and Fitchburg's water utilities. Within the Arboretum Neighborhood, the Lake Forest area is served by the Lake Forest Water Cooperative. In addition, the Forest Park area is served by private wells and septic systems. Madison prepares and maintains a five-year master plan to guide the extension of water to serve the City as it grows. This master plan includes an evaluation of the adequacy of current facilities serving existing development. Few water quality impacts are anticipated related to the provision of water service to the Plan territory. Approximately 90% of the Town dwelling units are connected to the Madison Water Utility. It is anticipated that at the end of the Protected Period, the service to the members of the private cooperative may be provided by the Madison Water Utility. Madison and the Town share stormwater management facilities such as pipes or detention basins that drain areas in both municipalities. At the end of the Protected Period, all properties that will become part of Madison will be subject to Madison's stormwater ordinances. All three communities will also comply with applicable Dane County Stormwater Management

Requirements. Madison and Fitchburg prepare stormwater management plans as part of specific development projects.

With the exception of a few isolated properties and properties within the Forest Park area west of Fish Hatchery Road, the Town is served by sanitary sewer service from the Oakridge Sanitary District or Madison Sewer Utility. During the Protected Period, Town property owners who continue to be served by private septic systems may connect to either the Oakridge Sanitary District or Madison Sewer Utility.

#### Energy Use.

Given the proximity of the Town to Madison metropolitan core, the Cities and the Town believe that energy use impacts associated with the implementation of the Plan will become comparatively lower than energy use impacts associated with development which may be occurring further removed from the urban core. Energy use can be measured by the energy consumed by various sectors including residential, commercial, institutional, industrial, agricultural and transportation. In 2000, Madison prepared a Climate Protection Plan which includes a greenhouse gas analysis, emission reduction targets, resource usage patterns, an inventory of existing environmental programs and a local action plan which describes measures which can be taken to reduce negative climatic impacts including: waste and recycling, climate change education and tree planting, energy use, and transportation.

#### Environmentally Sensitive Lands.

All of the lands included in the Plan are located within the Central Urban Service Area as defined by the Dane County Water Quality Plan. The Water Quality Plan identifies environmentally sensitive areas through the delineation and mapping of environmental corridors. Fitchburg, Madison, and the Town agree to work cooperatively with each other and with the Dane County Regional Planning Commission to protect environmentally sensitive lands identified in the Water Quality Plan or as it may be amended. The development of infill sites within the Town which can be efficiently served by alternatives to the single occupant automobile should reduce the impacts associated with urban development which otherwise would occur at the edge of a metropolitan area. This infill development should concentrate development in areas which could be served by the full range of urban services. This development should take place in conformance with the adopted plans of the units of governments that have jurisdiction. Extraterritorial zoning and extraterritorial plat review will be utilized to implement these recommendations. Environmentally sensitive lands will be identified and preserved as part of the development review and approval process. The environmentally sensitive lands that will be identified include parks and open spaces, wetlands, stormwater drainage corridors, flood plain lands, navigable streams, natural areas, significant woodlands, and steep slopes. These environmental corridors also provide opportunities to develop interconnected off-road pedestrian and bicycle trails to serve residential and employment neighborhoods. The preservation of open spaces also aids in the preservation of wildlife habitat within urbanizing areas.

In summary, the Plan has evaluated the potential environmental consequences associated with the implementation of the Plan and has found no significant adverse environmental consequences to the natural environment including air and water pollution, energy use, development outside compact urban areas and contribution to urban sprawl. To the contrary, in preparing the Plan, the

Cities and the Town have considered alternatives to minimize or avoid significant adverse environmental consequences. The three communities will be working cooperatively on the preparation of a comprehensive plan for each community under the State of Wisconsin's Comprehensive Planning (Smart Growth) legislation. Additional development anticipated within the area covered by the Plan can best be described as either infill development or redevelopment opportunities. As such, none of the development associated with the implementation of the Plan would be described as urban sprawl nor would it include impacts typically associated with urban sprawl. Consequently, the communities believe that sufficient efforts have been taken to minimize or avoid significant adverse environmental consequences.

## **SECTION 18 HOUSING NEEDS**

### Town housing stock.

According to the 2000 census figures, the Town contained 3,466 dwelling units, of which 76.1% were rental, 23.9% were owner-occupied; 9.1% of the units were vacant. The units to be attached to Madison house approximately 5,557 people. Sixty six percent of those dwelling units are renter occupied and 34% are owner-occupied. A higher percentage of the units to be attached to Fitchburg and which currently house 1,448 individuals are renter occupied (83%). The quality and maintenance of these units and efforts to facilitate new housing choices within the former Town areas should become a central focus of any redevelopment plan for Town areas as they become part of Madison or Fitchburg.

The 2001 Town Neighborhood Revitalization Strategy Area Plan (Planning and Design Institute) identified several issues related to housing in the Town that should be addressed in the context of future development. Much of the housing dates back to the 1940's and 1950's. There are few remaining options for providing new infill single-family and/or owner-occupied housing. Some apartment buildings, however, have been converted to condominiums and there may be opportunities to convert more. Some of the housing units appear to be of low value and a relatively high percentage of residents live in manufactured housing (8% in 1990), some of which face issues of overcrowding, aging conditions, and site problems.

### Madison Housing Issues and Strategies.

Madison has adopted several major strategies to address the goals of housing preservation, housing affordability, and neighborhood viability. Madison recognizes that much of its own housing stock was built before 1980 and hence must be maintained in order to extend its useful life and contribute to the overall quality of life within the older neighborhoods within the city. Madison has an extensive building inspection program that conducts systematic inspections of older rental housing stock and responds to complaints about housing from tenants and neighbors. Madison also works extensively with property owners and managers to help them improve their management techniques or maintain safe environments through neighborhood watches and anti-drug and beautification efforts.

Madison administers several housing rehabilitation loan programs to facilitate owner renovation and property maintenance, including adaptation of older properties for accessibility and energy conservation improvements. Over 50 rehabilitation loans were provided in the year 2002 to help owners make these improvements to maintain the quality of their housing. Madison funds Project Home to help homeowners with minor repairs and assists Independent Living to make modifications for older people or people with disabilities, and served over 450 households in 2002.

Madison has worked extensively over the last decade to foster a range of housing production efforts and programs of housing assistance in order to increase affordability on both the supply and demand sides of the housing equation. On the demand side, Madison, through its Community Development Authority provides over 1500 rental vouchers to eligible low-income families. State Housing Cost Reduction Initiative and Federal Emergency Shelter Grant resources fund several community-based agencies such as the Community Action Coalition Rent-Able program to provide rent assistance, eviction prevention help and application/first month's rent to over 400 very low income households each year.

To help families become homeowners, Madison uses State Housing Cost Reduction Initiative resources to administer HOME-BUY that helps families with down payment /closing cost assistance. Madison also uses Federal CDBG and HOME program resources through groups like Movin' Out and Madison Development Corporation to provide down payments for special need populations or to accomplish specific policy goals, such as downtown homeownership. Madison provides a modest level of assistance to potential landlords who wish to purchase rental property and also use a unit within that property as their primary residence through the Project Home Neighborhood Owned Affordable Housing program (NOAH).

On the supply side, Madison operates an extensive public housing program with 840 units of low income housing and over two hundred units of other affordable housing, including an award-winning Monona Shores rental complex redeveloped as part of a neighborhood improvement strategy on Madison's south side and The Avenue, a central city mixed income complex. Madison has used its Federal CDBG and HOME resources to fund a wide and effective range of programs to provide renovated or newly built housing for resale to income eligible families. Groups like Operation Fresh Start, Common Wealth, Urban League of Greater Madison, Madison Area Community Land Trust, Movin' Out, the Wisconsin Partnership, Madison Development Corporation, C-CAP, and Habitat have all participated in projects aimed at expanding the supply of good affordable housing available to lower income buyers. Madison has also used its Federal CDBG and HOME resources to fund a wide and effective range of program to provide renovated or newly built housing for rent to income eligible families. Groups like Independent Living, Community Housing and Services, the YMCA, Transitional Housing, Common Wealth, Madison Development Corporation, and others have all participated in projects aimed at expanding or improving the supply of good affordable housing available to lower income renters. Madison's bonding authority and statutory Tax Incremental Financing powers are used to assist larger-scale projects to construct or renovate housing, some of which is designed to be affordable, like the Alexander developments on West Washington Avenue or in the Old Market area.

In its goal for continuing neighborhood and community vitality, Madison views the quality, range and diversity of housing as critical factors in strategies to improve neighborhoods and the general quality of life for all of its residents. Madison recognizes the importance of creating an environment that promotes housing choice, non-discrimination, and responsible behavior by tenant, owner/manager, broker, and financial service agents. Madison also recognizes that some populations have special needs in seeking and retaining their housing or in integrating their housing into the broader range of neighborhood and community activities.

Madison administers an equal opportunity program that promotes housing choice and non-discrimination in rental and sale practices. The EOC handles housing discrimination complaints and works with property owners and other groups to inform them of fair housing laws and responsibilities. Madison funds community-based groups such as the Tenant Resource Center, the Fair Housing Council, and United Refugee Services to help particular population groups become better informed about their rights and fair housing practices. Also funded are community-based groups like the YWCA and Transitional Housing Inc. to work with homeless families to help improve their choice and retention of housing. Madison has shaped several programs to improve the coordination of services within neighborhoods, or intended to redevelop or revitalize particular neighborhoods undergoing extensive pressure or transition. As part of this effort, Madison has organized 8 inter-agency Neighborhood Resource Teams to monitor neighborhood trends, exchange information on these trends and services and identify ways to improve those services. Housing is often a major focus of these efforts. Madison also has led or funded major redevelopment efforts in areas with a high level of crime or turnover of residents, including Vera Court, the Worthington and Broadway areas, and the Wexford Ridge complex.

#### Housing Issues in the Context of the Plan

Many of the daily life activities of current Town residents already involve them in the lives of Madison residents, be it markets and employment located in Madison, or the institutional services of groups located in Madison. As the Plan is implemented, and certainly by the end of the Protected Period, Madison expects to be able to provide the full range of housing related and neighborhood based services to Town residents that it currently provides to Madison residents.

During the Protected Period, there are several critical issues related to housing that should be the focus of the Town, Madison, and Fitchburg. These issues include improving the preservation and maintenance of housing in the Town, broadening and increasing housing options for Town residents, and developing or redeveloping current housing sites. Madison is able to offer an immediate but modest level of assistance to the Town to help initiate a systematic inspection program for existing housing that eventually would be attached to Madison. In addition, Madison could begin to negotiate with the Town to integrate the Town's current rehab loan program into Madison's rehab loan programs, and conduct targeted marketing efforts to Town residents to fully utilize the available rehab funds for home improvement projects.

Over two-thirds of the housing within the Town is rental, and 8% is manufactured housing. To broaden housing options for Town residents, Madison would work with the Town to help expand the range of homeownership options within the Town and for Town residents through its extensive array of program options and existing partnerships with community based groups.

Regarding the development or redevelopment of current sites to better fit the changing housing needs of the population and to build a better sense of community across economic and racial lines, there are opportunities for Madison and the Town to work together. The Town Plan lists some of the challenges related to the age and site conditions of Madison Mobile Home Park located on Badger Road. The Madison-funded Project Home “Home Repair” program or a similarly focused effort on the Park could provide some additional impetus and resources for site and dwelling improvements. In addition, Madison has displayed interest in working with the residents of the Badger Road area to develop a revitalization strategy and program to broaden the range of housing options, especially for elderly and for ownership, for residents. These housing efforts would need to be coordinated and linked to concurrent business development efforts (such as the Genesis Incubator project) to strengthen the area’s businesses and employment and training opportunities for Town residents.

Cooperative efforts by all three Parties to address housing issues can begin as soon as State approval of the Plan. Initially, efforts are expected to focus on development and revitalization strategies for the Badger-Ann-Park Street area and the Todd Drive-Landmark Place area. Following those efforts, the focus will shift to developing a revitalization strategy for the housing east of Park Street, including the Madison Mobile Home Park and Capitol View Heights. In addition, efforts can be directed to arranging for inclusion of the Town in the calculation of Federal Entitlement fund programs, and the inclusion of the Town in the service areas of Madison-funded service and projects related to housing. The Plan also provides a framework within which discussion among the Parties about combining or transferring housing related services can proceed. Progress will be monitored and assessed by the Cities so that a smooth transfer of responsibility for housing-related services and functions can be completed at the end of the Protected Period.

#### Fitchburg Housing Issues and Strategies

Fitchburg has adopted, through its 1995 General Land Use Plan, varied strategies to guide the city in the development of its housing stock. Fitchburg meets the housing needs of a diverse population within the spectrum of the socio-economic range. Census figures from 2000 indicate that of Fitchburg’s 8,262 dwelling units, 55% are renter occupied and 45% are owner occupied. A similar ratio exists for multi-family and single-family units.

Fitchburg is a participant in the Dane County Community Development Block Grant (CDBG) program. A variety of multi-family projects in Fitchburg utilize WHEDA tax credits or provide Section 8 housing vouchers. WHEDA tax credits have allowed improvements to be made to both the New Fountains and Nakoma Heights apartment projects, while meeting the needs of less advantaged families and individuals.

In response to challenges posed by an aging housing stock, particularly in some of its large multi-family developments in the northern part of the community, Fitchburg has created a neighborhood response team that coordinates police, fire, public works and building inspection efforts in the more troubled areas of Fitchburg. Neighborhood policing, with precincts in two of the most densely populated and aging multi-family housing stock areas is crucial to the overall neighborhood response effort. A main part of the strategy involves the application and enforcement of property maintenance and landlord/tenant codes structures to upgrade and provide minimally acceptable housing standards and fair and equitable treatment of tenants.

Fitchburg is committed to a diverse housing stock to provide a range of housing opportunities in the community as an effort to maintain and further promote neighborhood and community vitality. The Rimrock Road Neighborhood contains predominantly single-family residences, and yet provides some of the more affordable and older housing stock in Fitchburg (2000 Census data indicate the median home value in the Rimrock Road Neighborhood is \$103,611, compared to a value of \$220,355 for all of Fitchburg). The addition of the Southdale neighborhood is intended to strengthen the sense of community for both the Rimrock Road and Southdale neighborhoods and create one unified neighborhood.

## **SECTION 19 COMPREHENSIVE/MASTER PLANNING**

The territory subject to this Plan is covered by adopted plans of the Town, the Cities, and the Dane County Regional Planning Commission, as described in Section 9 above. With a few minor exceptions, the territory is already developed. The Town is essentially an urban town which is completely surrounded by urban development of the Cities. The existing adopted plans and the future Comprehensive Plans of the Town and Cities shall govern any new infill development or redevelopment within the Plan territory.

The Plan recognizes a permanent boundary between the Cities. The Plan will allow the Town and the Cities to move forward with confidence over the next two decades in planning for the delivery of municipal services to this territory knowing that there will not be a competition between units of government, property owners and developers. The Plan identifies prospective cooperation in the areas of extraterritorial zoning and plat approvals, the provision of sanitary sewer and municipal water service, and public transit service funding. It provides a foundation for further cooperation among the Town and Cities in other areas of mutual public interest.

Areas of probable infill development or redevelopment that would receive greater planning scrutiny from the Parties within the next several years include, but are not limited to: a) the Badger Road, Ann Street and South Park Street area of Madison and the Town; b) the Todd Drive, West Beltline frontage road area of Madison and the Town; c) the East Badger and Rimrock Road (including Southdale) area of Fitchburg and the Town; and d) Madison's 31 acre parcel to be deeded to Fitchburg. As to the latter, Fitchburg and Madison have agreed that the parcel is to be deed restricted during the term of the Plan for conservancy uses, for governmental uses such as a fire station, or for use by a non-profit agency for the benefit of the community as a whole during the Protected Period.

This Plan is consistent and compatible with existing local, County, State and Federal plans, ordinances, codes and statutes. The Plan was developed in recognition of the multiple jurisdictions with an interest in the planning area. The Plan recognizes the presence of local districts, including the Madison Metropolitan Sewerage District, the Town's Oakridge Sanitary District, the public utilities of the Cities, the Madison Metropolitan School District, as well as the location of major employment centers, and shopping, recreational and cultural centers serving the area.

**SECTION 20**  
**AUTHORIZING RESOLUTIONS, NOTICE, PUBLIC HEARING, AND COMMENTS**

- A. The Resolutions of the Town and the Cities that authorize participation in the preparation of a cooperative plan are attached as **Exhibit 8**.
- B. The Affidavits of the Town and Cities attesting to the mailing of the authorizing resolutions as required pursuant to Sec. 66.0307(4)(a), Wisconsin Statutes are attached as **Exhibit 9**.
- C. The Affidavits of publication of the Public Hearing Notice are attached as **Exhibit 10**.
- D. The public comments received are included in **Exhibit 11**.
- E. The Resolutions of the Town and the Cities that approved the Cooperative Plan are attached as **Exhibit 12**.
- F. The ordinances detaching the McCoy Road Area from the City of Madison and attaching it to the City of Fitchburg are attached as **Exhibit 13**.

**SECTION 21**  
**BINDING EFFECT OF COOPERATIVE PLAN**

The Plan shall bind, and accrue to the benefit of, all successors of the parties, whether one or more. Except as to the rights of Town employees and owners of land currently in the Town as expressly set forth herein, the Plan is for the exclusive benefit of the Parties and their successors and assigns and shall not be deemed to give any legal or equitable right, remedy, or claim to any other person or entity.

**SECTION 22**  
**IMPLEMENTATION**

The Town, Madison, and Fitchburg shall each take such actions as may be necessary or desirable to implement and effectuate the provisions and intent of this Plan. The Parties agree to pursue further cooperative agreements that will qualify each of them for additional shared revenue.

**SECTION 23**  
**ENFORCEMENT/REMEDIES**

- A. In the event of a breach of this Plan or a dispute involving the application, interpretation or enforcement of this Plan, the Parties shall meet to seek a resolution within 10 days following written notice by one Party to the others of the breach or dispute. If the issue is

not resolved at such meeting or at an extension thereof mutually agreed to by the Parties, it may be subject to mediation upon agreement of all interested Parties. In the event the issue is not resolved as a result of the above meeting or mediation, the matter shall be submitted to binding arbitration upon written demand by either Party to the others with notice to the Municipal Boundary Review Director of the Office of Land Information Services of the State of Wisconsin Department of Administration of such demand. The arbitration shall be performed by a person designated by the Director in accordance with such rules and procedures such person may specify, subject to the terms of this Plan. In the event the Director does not appoint an arbitrator within 30 days of the Director's receipt of a written request to do so, then:

1. The arbitration must be conducted in accordance with the Commercial Arbitration Rules of the American Arbitration Association ("AAA") in effect at the time of the arbitration ("Rules"), except as such Rules may be modified by this Plan. A Party desiring to submit a dispute to arbitration hereunder must file a Demand for Arbitration ("Demand") with the AAA at its office in Chicago, Illinois. A copy of such Demand must be sent to the other Parties at the same time. The AAA shall appoint an arbitrator with the necessary expertise and competency to pass on the matters presented for arbitration, but said arbitrator may have no interest in or prior connection with any Party.
2. Following the appointment of the arbitrator, each Party has the right to mail to any other Parties (with a copy to the arbitrator) a written request for the production of certain identified documents or of all documents in possession of the other Parties relevant to any claims or counterclaims in the arbitration. Within ten (10) days of receipt of any such request, the receiving Party must respond to such request but may object to all or part of said request (with a copy to the arbitrator), on the ground that it is unduly burdensome, that the documents requested are irrelevant or privileged, or that such documents are equally available to the requesting Party. The arbitrator will rule on the validity of any such objection and the Parties must produce documents in accordance with the ruling.
3. The site of the arbitration shall be in Dane County, Wisconsin, unless otherwise agreed by the Parties. The Parties must diligently and expeditiously proceed with arbitration. Upon the conclusion of any hearing, the Parties shall have twenty (20) days to submit written briefs in support of their respective positions. The arbitrator must make an award within thirty (30) days after the filing of the briefs, subject to any reasonable delay due to unforeseen circumstances.
4. Except to the extent the Parties' remedies may be limited by the terms of this Plan, the arbitrator is empowered to award any remedy available under the laws of the State of Wisconsin including, but not limited to, monetary damages and specific performance. The arbitrator has no authority to award punitive or other damages not measured by the prevailing Party's actual damages and may not, in any event, make any ruling, finding, or award that does not conform to the terms and conditions of this Plan. The award of the arbitrator must be in writing with a

statement of reasons for such award and signed by the arbitrator. An award rendered by the arbitrator in an individual or consolidated arbitration may be entered in any court having jurisdiction thereof.

5. The arbitrator's authority is limited solely to resolving disputes under this Plan.
  6. The pendency of any arbitration hereunder does not relieve any Party of any of its obligations under this Plan.
  7. The Parties involved shall share equally the fees and expenses of the arbitrator as well as all fees imposed by the AAA including, but not limited to, transcripts, hearing room rentals and administrative costs. Each party to the arbitration proceeding is responsible for its own costs and legal fees, if any, except that the arbitrator is empowered to award such costs and fees against a Party who prosecutes or defends an arbitration hereunder in bad faith or as otherwise provided in this Plan.
- B. Subsection A above shall be the exclusive method of resolving the issues specified in the introduction to this section and the Parties waive their rights under Sec. 893.80, Wis. Stats., and their rights to seek remedies in court as to such issues except that the prohibition on court actions shall not apply to
1. Actions to enforce an arbitration award under Subsection A1;
  2. Actions for injunctive relief necessary to protect the public health, safety or welfare during the dispute resolution process;
  3. Disputes involving a necessary third party who refuses to consent to arbitration as provided above; or
  4. Disputes involving a necessary third party when the Municipal Boundary Review Director fails to appoint an arbitrator.
- C. In addition to other remedies provided in this Plan, any party may seek specific performance of the Plan in addition to any other remedies available at law or in equity. The breaching party shall pay the other's attorney fees reasonably incurred in seeking remedies for the breach.
- D. Employees may arbitrate disputes about severance pay under this section as provided in Subsection A above. Solely for the purposes of Subsection A above, the term "Parties" shall include Town employees who demand arbitration under this paragraph.

## **SECTION 24 CHALLENGES TO THE PLAN**

- A. All parties waive all rights to challenge the validity or enforceability of the Plan or any of its provisions or to challenge any actions taken pursuant to or in accordance with the Plan.

- B. In the event of a court action by a third party challenging the validity or enforceability of the Plan or any of its provisions, all parties shall fully cooperate to vigorously defend the Plan.
1. If only one party is named as a party to the action, the others shall seek to intervene and the named party shall support such intervention.
  2. No settlement of such an action shall be permitted without the approval of the governing bodies of all parties.
  3. The workload to defend the Plan shall be shared equally.
- C. A challenge to the Plan by one of the parties or a failure to vigorously defend the Plan constitutes a breach of the Plan.

## **SECTION 25 AMENDMENT**

The procedure for amendment of this Plan is found in Sec. 66.0307(8), Wisconsin Statutes.

## **SECTION 26 MISCELLANEOUS INTERPRETATION**

- A. References. Any references in this Plan 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 Plan to any particular statute or ordinance shall be interpreted as applying to such statute or ordinance as recreated or amended from time to time.
- B. Section Titles. Section and subsection titles in this Plan are provided for convenience only and shall not be used in interpreting this Plan.
- C. Governing Law. This Plan shall be governed by, construed, interpreted and enforced in accordance with the laws of the State of Wisconsin.
- D. Interpretation. If any term, section or other portion of this Plan is reviewed by an administrative agency, court, mediator, arbitrator or other judicial or *quasi*-judicial entity, such entity shall treat this Plan as having been jointly drafted by Parties. By the terms of this Plan, no Party shall benefit from not having drafted this document.
- E. Entire Agreement. The Plan contains the entire agreement of the parties with respect to the subject matter hereof, and all prior discussions, drafts, agreements, and writings are specifically superseded by the Plan, with the exception of the Memorandum of Understanding executed on November 8, 2002, related to Section 4 of the

Intergovernmental Agreement, which shall continue to be applicable to the first paragraph of Section 12 of this Plan. The Plan represents the mutual intent of the parties and the fact that one or more of its provisions was drafted by one party or another shall not be construed to the benefit or detriment of any party.

- F. Authority. Each party represents that it has the authority to enter into the Plan and that all necessary procedures have been followed to authorize the Plan. Attached are copies of the resolutions of the governing bodies of all parties, authorizing the Plan. Each person signing the Plan represents and warrants that he or she has been duly authorized to do so.
- G. Counterparts. The Plan may be signed in counterparts which, when taken together, shall be effective as if all signatures appeared on the same original.
- H. Non-Discrimination. In the performance of the services under the Plan, the Parties agree not to discriminate against any employee or applicant because of race, religion, marital status, age, color, sex, handicap, national origin, ancestry, income level, source of income, arrest record, conviction record, less than honorable discharge, physical appearance, sexual orientation, political beliefs, or student status. The Parties further agree not to discriminate against any subcontractor or person who offers to subcontract on the Plan because of race, religion, color, age, disability, sex, or national origin.