

PUBLIC WATER SYSTEM TRANSITION AGREEMENT
Between the City of Madison and Lake Forest Water Cooperative Association

THIS AGREEMENT, entered into by and between the City of Madison, a municipal corporation (hereinafter referred to as "City"), and the Lake Forest Water Cooperative Association, a Wisconsin cooperative organized under Wis. Stat. Ch. 185 (hereinafter referred to as the "Co-Op"), is effective as of the date by which both parties have signed hereunder.

WITNESSETH:

WHEREAS, under Wis. Stat. § 62.11(5), the City's Common Council has the power to act for the health, safety, and welfare of the public, and may carry out its powers by necessary means; and,

WHEREAS, the Co-Op was created in 1943 to own and operate a public water distribution system serving the Lake Forest neighborhood ("Lake Forest"), an area generally lying between Carver and Martin Streets to the west of Fish Hatchery Road and adjacent to the UW Arboretum; and,

WHEREAS, the Co-Op serves 102 parcels through an Other-Than-Municipal (OTM) Community Water System (hereinafter referred to as the "Co-Op Water System") consisting of two wells and two 3,000-gallon water tanks, service mains and service laterals, with some of the system dating back to 1919 and the original development of the neighborhood. Many of the mains and laterals are located on the backside of the properties, and some of the service laterals are known to contain lead. The Co-Op's members and customers are responsible for a proportionate share of the Co-Op's operating costs; and,

WHEREAS, Lake Forest was attached to the City of Madison in 2022 upon the dissolution of the Town of Madison. Upon attachment of Lake Forest to the City, the City began providing municipal services to the neighborhood and is responsible for maintaining the streets as well as providing sanitary sewer service to the neighborhood. While Lake Forest is within the Madison Water Utility's (the "Utility") service territory, water service continues to be provided by the Co-Op (DNR - PWS ID # 11302324); and,

WHEREAS, the Co-Op's two wells and its water distribution system need repairs and the system would benefit from relocating the current laterals from the backside of the properties to the adjoining roads, along with the replacement of lead piping within the system; and,

WHEREAS, the Co-Op's Board of Directors has evaluated the long-term viability of the Co-Op and its decades-old water infrastructure and has concluded that it cannot continue to operate sustainably for much longer. This evaluation considered the Co-Op's finances, the age and deterioration of the Co-Op's water infrastructure (pipes, pumps, wells), the presence of lead in some service laterals, the absence of fire protection capacity in the neighborhood, and the strain of continuing the volunteer workforce that administers and maintains the Co-Op's services. The Co-Op has concluded that it is not feasible for the Co-Op to secure sufficient funds through borrowing

or by imposing additional charges on its members to undertake a major upgrade of the Co-Op's lines and equipment. In the absence of such an upgrade, the Co-Op cannot guarantee to continue to provide safe water to the residents of Lake Forest; and,

WHEREAS, the users of the Co-Op's water are all City residents, and a failure of the Co-Op Water System would present an immediate public health emergency while endangering the welfare of its residents; and,

WHEREAS, the City's Engineering Division has evaluated the public infrastructure within Lake Forest and has determined that it will be necessary to reconstruct the public streets within the neighborhood, as well as make stormwater and sanitary sewer improvements to better serve the area. As part of that planning, City staff and the Co-Op have been in discussions about including municipal water main improvements as part of the future municipal improvement project, which, when installed, would allow the Co-Op's members to transition to municipal water main service and for the Co-Op to eventually wind down its operations; and,

WHEREAS, in April 2025, the Co-Op's membership voted in favor of undertaking a transition to municipal water service and the eventual dissolution of the Co-Op, and the Co-Op has requested the City to extend the Madison Water Utility's public mains into Lake Forest to supply water to the Co-Op-served properties, which the City is agreeable to doing, provided certain conditions are met as set forth herein.

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

1. Purpose. The purpose of this Public Water System Transition Agreement ("Agreement") is to set forth the terms and conditions upon which water service for the properties served by the Co-Op Water System will be transitioned from that system to the Madison Water Utility's public water system by approximately 2030. In addition, this Agreement will establish the procedures that will follow the transition of water service, including specifically the winding down and possible dissolution of the Co-Op. This Agreement also includes an emergency intertie agreement that would allow for the provision of City water to the Co-Op in the event of an emergency prior to the final transition of water service.
2. Term. This Agreement shall be effective upon execution by the parties hereto, and extends through Dec. 31, 2030, or such sooner time as the Co-Op is dissolved as provided for in Section 10.
3. Project Details. Due to the age and condition of the infrastructure, the City intends to reconstruct the public infrastructure within Lake Forest through a public improvement project, likely in three phases in each of the calendar years 2027, 2028, and 2029, with approximately one-third of the area involved each year progressing east to west from Fish Hatchery Road. This work will include sanitary sewer, stormwater, and street improvements. In addition, as part of the Lake Forest public improvement project, and consistent with the terms of this Agreement, the City will include the installation of public water infrastructure to eventually replace the Co-Op Water System (the "Project"). The

Project will include the installation of approximately 11,000 linear feet of water main (primarily through Martin Street, Carver Street, and the streets connecting between them), 16 fire hydrants, and water service laterals from these mains to a curb stop for each property currently served by the Co-Op.

4. Project Costs. The Utility has estimated the preliminary cost of the Project to be approximately \$3.5 million. This estimate is made at the time of this Agreement and excludes the non-water infrastructure improvements. It includes the cost to install water main, hydrants, and service laterals to extend City water service to each property served by the Co-Op. The Parties both understand and acknowledge that actual Project costs may vary and make no representations to third parties, including the Co-Op members and customers who will be benefited by the improvements, what the actual costs will be.
5. Project Funding. The City agrees that the Utility will apply for Project funding from the Safe Drinking Water Loan Program administered by the Wisconsin Department of Natural Resources (DNR), separately for one-third of the Project costs in each of the three Project years. This Program offers a lower borrowing rate that would otherwise be available to the City. If such funding is not available, Utility will arrange funding through the City using General Obligation Bonds.
6. Special Assessments. Pursuant to City ordinances and approved policies, the costs of the Project will be specially assessed to benefited properties. Under the City's special assessment policy, to present the most equitable distribution of costs among benefiting property owners, a combined frontage/area assessment rate (50% based on frontage and 50% based on lot area) will be established, and the benefiting properties will be specially assessed following the procedures outlined in Madison General Ordinances (MGO) Sections 13.16 and/or 4.09. Actual costs will be specially assessed, and will be payable in up to 30 annual installments pursuant to MGO Section 4.08(1)(d), with interest on unpaid balances calculated pursuant to MGO Section 4.08(2). The Parties recognize that the rest of the Lake Forest infrastructure project (roadway, sanitary sewer, storm sewer) will be separately assessed consistent with City ordinances and policies.
7. Private Connections to New Water Mains. As part of the Project, the City will install a service lateral from the new water main to a curb stop located in the terrace area adjacent to each property served by the Co-Op. It is the property owner's responsibility to install the private service lateral connecting the curb stop with the property and the new water meter provided by the Utility, and to arrange for the connection. The costs of installing the private service lateral, as well as the costs to reconfigure any internal plumbing, along with utility connection fees, are the costs of the property owner, and are not costs of either the City or the Co-Op. No connections shall be authorized by the Utility if cross-connections with the Co-Op Water System will occur.
8. Water Service Transition. As each phase of the Project is completed the Utility will inform the Co-Op and the Co-Op served properties of that completion when Project completion has occurred. The Co-Op served properties will be allowed to connect to the municipal water system once water service is available to the adjoining curb stop, even if that occurs before completion of the phase. The Utility will coordinate the connections of properties

served by the Co-Op to the Utility's water system, keeping the Co-Op informed of the progress. For each phase, the properties served by the Co-Op shall have up to six months to effectuate a connection to the municipal water system, subject only to the Co-Op's ability to continue providing water service. Once the final phase of the Project is complete and municipal water service is available to all properties in Lake Forest, and subject to the foregoing provision, the Co-Op agrees that it will cease to provide water service, taking the wells off-line.

9. Co-Op Facilities. The Co-Op will retain ownership, maintenance and repair responsibilities of the Co-Op Water System until water service has been transitioned to the municipal water system. Following water service transition as outlined above, the Co-Op will abandon the existing water service laterals, currently located in backyards, and the Co-Op water infrastructure will be decommissioned, removed, and/or abandoned. The Co-Op will be responsible for properly abandoning the Co-Op wells, consistent with WDNR and Utility requirements.
10. Dissolution of the Co-Op. Following the completion of the Project, the Co-Op shall consider dissolution as provided for under Wis. Stat. § 185.71. The Co-Op shall undertake a vote of the membership to wind up its affairs and dissolve. Before finalizing a dissolution, the Co-Op shall pay any bills issued by the Utility to the Co-Op under Section 11.
11. Emergency Intertie Agreement. The Project is anticipated to be completed by the end of 2029 at which time all properties in Lake Forest are expected to be served by the Utility within six months. However, given the extended nature of the Project completion period, and to account for possible failure of the Co-Op's infrastructure, the Co-Op and the Utility desire to undertake an emergency intertie agreement whereby, prior to the final transition of water service, the Utility will make available municipal water to the Co-Op, when requested by the Co-Op. This emergency intertie agreement will ensure that adequate water supply is available to the properties served by the Co-Op Water System in the event of a system failure before municipal water service can be fully implemented.

In the event of a failure of either the Co-Op's well or some other public health emergency which necessitates the Co-Op's use of municipal water, the Co-Op will coordinate with the Utility to connect its water system to the City's municipal water supply. To facilitate the connection, the Utility will temporarily loan out a 3-inch diameter wholesale water meter and install that meter at the nearest point between the water systems of the Co-Op and the Utility, which is generally understood to be along the Martin Street frontage of 2050 Fish Hatchery Road. The Co-Op will be charged \$3.11 per 1,000 gallons for the volumetric charge, and a \$111.70 as monthly general service charge based on a 3-inch meter per the Utility's most current fee schedule. Billing will be monthly. These charges will be adjusted based on actual annual water demand, or pursuant to approved tariffs as established by the Public Service Commission. After the completion of the Project and the transition to municipal service, the 3-inch water meter will be returned to the Utility.

12. Notices. All notices to be given under the terms of this Agreement shall be in writing and signed by the person serving the notice and shall be sent registered or certified mail, return receipt requested, postage prepaid, or hand delivered to the addresses of the parties listed below:

City: Madison Water Utility
General Manager
119 E. Olin Ave.
Madison, WI 53713

Co-Op: Lake Forest Water Cooperative Association
c/o Gary Davis, President
2018 Dickson Place
Madison, WI 53713

13. Non-Discrimination. During the term of this Agreement, the Co-Op agrees not to discriminate against any employee or applicant because of race, religion, marital status, age, color, sex, handicap, national origin or ancestry, income level or source of income, arrest record or conviction record, less than honorable discharge, physical appearance, sexual orientation, gender identity, political beliefs, or student status. The Co-Op further agrees not to discriminate against any subcontractor or person who offers to subcontract on this Agreement because of race, religion, color, age, disability, sex, sexual orientation, gender identity or national origin.

14. Default/Termination. Except where otherwise noted in this Agreement, in the event the Co-Op shall default in any of the covenants, agreements, commitments, or conditions herein contained, or fails to fully perform and carry out any term or condition of this Agreement to the satisfaction of the City, and any such default shall continue unremedied for a period of ten (10) days after written notice thereof to the Co-Op, the City may, at its option and in addition to all other rights and remedies which it may have at law or in equity against the Co-Op, including expressly the specific enforcement hereof, forthwith have the cumulative right to immediately terminate this Agreement and all rights of the Co-Op under this Agreement.

15. Status of Parties. It is agreed that the Co-Op is not an employee or representative of the City, and that any persons who the Co-Op utilizes and provides for services under this Agreement are employees or volunteers of the Co-Op and are not employees or volunteers of the City of Madison. In addition, it is agreed that the City is not granting the Co-Op the right to sell or distribute any City goods or services nor is there a community of interest, as that term is defined at Wis. Stat. Sec. 135.02(1), between the City and the Co-Op arising from this Agreement. The Parties both acknowledge that this Agreement does not create a dealership under Wis. Stat. Ch. 135.

16. Third Party Rights. This Agreement is intended to be solely between the parties hereto. No part of this Agreement shall be construed to add, supplement, amend, abridge or repeal existing rights, benefits or privileges of any third party or parties, including but not limited to employees of either of the parties or the Co-Op members or customers.

17. Assignability and Subcontracting. The Co-Op shall not assign or subcontract any interest or obligation under this Agreement without the City's prior written approval. All of the services provided for hereunder shall be performed by the Co-Op and employees or volunteers of the Co-Op.
18. Amendments. This Agreement shall be binding on the parties hereto, their respective heirs, devisees, and successors, and cannot be varied or waived by any oral representations or promise of any agent or other person of the parties hereto. Any change in any provision of this Agreement may only be made by a written amendment, signed by the duly authorized agent or agents of the Co-Op and the Water Utility General Manager, or their designee.
19. No Waiver. No failure to exercise, and no delay in exercising, any right, power or remedy hereunder on the part of the City or the Co-Op shall operate as a waiver thereof, nor shall any single or partial exercise of any right, power or remedy preclude any other or further exercise thereof or the exercise of any other right, power or remedy. No express waiver shall affect any event or default other than the event or default specified in such waiver, and any such waiver, to be effective, must be in writing and shall be operative only for the time and to the extent expressly provided by the City or the Co-Op therein. A waiver of any covenant, term or condition contained herein shall not be construed as a waiver of any subsequent breach of the same covenant, term or condition.
20. Severability. It is mutually agreed that in case any provision of this Agreement is determined by any court of law to be unconstitutional, illegal or unenforceable, it is the intention of the parties that all other provisions of this Agreement remain in full force and effect.
21. Joint Preparation. Each Party and its counsel have participated fully in the review and revision of this Agreement and acknowledge that the preparation of this Agreement has been their joint effort. The language agreed to expresses their mutual intent and the resulting document shall not, solely as a matter of judicial construction, be construed more severely against one of the Parties than the other. The language in this Agreement shall be interpreted as to its fair meaning and not strictly for or against any party.
22. Choice of Law and Forum Selection. This Agreement shall be governed by and construed, interpreted and enforced in accordance with the laws of the State of Wisconsin. The parties agree, for any claim or suit or other dispute relating to this Agreement that cannot be mutually resolved, the venue shall be a court of competent jurisdiction within Dane County, State of Wisconsin and the parties agree to submit themselves to the jurisdiction of said court, to the exclusion of any other judicial district that may have jurisdiction over such a dispute according to any law.
23. Compliance with Applicable Laws. The Co-Op shall become familiar with, and shall at all times comply with and observe all federal, state, and local laws, ordinances, and regulations which in any manner affect the services or conduct of the Co-Op and its agents and employees. The Co-Op's failure to comply with any such laws, ordinances or regulations shall be a default subject to Section 14 of this Agreement.

24. Authority. The Co-Op represents that it has the authority to enter into this Agreement and the person signing on behalf of the Co-Op represents and warrants that he or she has been duly authorized to bind the Co-Op and sign this Agreement on the Co-Op's behalf.
25. Entire Agreement. The entire agreement of the Parties is contained herein and this Agreement supersedes any and all oral contracts and negotiations between the Parties.
26. Counterparts; Electronic Delivery. This Agreement and any document executed in connection herewith may be executed in counterparts, each of which shall be deemed an original, but all of which together shall constitute the same document. Signatures on this Agreement may be exchanged between the Parties by facsimile, electronic scanned copy (.pdf) or similar technology and shall be as valid as original; and this Agreement may be converted into electronic format and signed or given effect with one or more electronic signature(s) if the electronic signature(s) meets all requirements of Wis. Stat. ch. 137 or other applicable Wisconsin or Federal law. Executed copies or counterparts of this Agreement may be delivered by facsimile or email and upon receipt will be deemed original and binding upon the Parties hereto, whether or not a hard copy is also delivered. Copies of this Agreement, fully executed, shall be as valid as an original.

IN WITNESS WHEREOF, the Parties hereto have caused this Agreement to be executed by their proper officers on the day and year first above written.

FOR THE LAKE FOREST WATER COOPERATIVE ASSOCIATION

Gary Davis, President

Date

FOR THE CITY OF MADISON

Satya Rhodes-Conway, Mayor

Date

Lydia A. McComas, City Clerk

Date

Approved:

David P. Schmiedicke, Finance Director

Date

Approved as to form:

Michael Haas, City Attorney

Date

Execution of this Agreement by City is authorized by Resolution Enactment No. RES-26-_____, ID No. _____, adopted by the Common Council of the City of Madison on _____, 2026.