

Tom P.

EARLY ATTACHMENT AGREEMENT AND MUNICIPAL REVENUE SHARING AGREEMENT BETWEEN THE CITY OF MADISON AND THE TOWN OF MADISON (CROWNE PLAZA HOTEL PROJECT)

THIS AGREEMENT, made and entered into by and between the City of Madison, a Wisconsin municipal corporation with offices at 210 Martin Luther King, Jr. Blvd., Madison, Wisconsin 53703 ("City"), and the Town of Madison ("Town"), a Wisconsin municipal corporation with offices at 2120 Fish Hatchery Rd., Madison, Wisconsin 53713, is effective as of the date by which both parties have signed hereunder.

RECITALS

WHEREAS, pursuant to Wis. Stat. § 66.0307, City, Town and the City of Fitchburg entered into a Cooperative Plan related to boundary lines and other municipal issues among themselves, which Plan was approved on October 10, 2003, by the State of Wisconsin Department of Administration; and

WHEREAS, City and Town agreed as a general rule that no attachments or annexations of Town lands would occur to the City prior to final attachment at the end of the Protected Period on October 31, 2022, or such earlier time when the Town ceases to exist as a separate entity, except as expressly provided in the Cooperative Plan; and

WHEREAS, under the "Early Attachment" provisions of Section 8.A.1 of the Cooperative Plan, all property owners affected may petition the City for early attachment following approval by the Town Board; and

WHEREAS, all property owners of six parcels located at the intersection of the West Beltline Highway and Rimrock Rd. wish to assemble the parcels and construct a hotel and conference facility (the "Crowne Plaza Hotel") at the location; and

WHEREAS, of the six parcels in question, four are in the Town and two are in the City, such that the completed Crowne Plaza Hotel would straddle jurisdictional lines; and

WHEREAS, to efficiently provide municipal services and to effectively regulate the proposed development, City and Town agree that the development should occur entirely within one jurisdiction, the City; and

WHEREAS, in return for allowing early attachment of the Town Parcels into the City to allow for the Crowne Plaza Hotel development to proceed, the City and Town agree that municipal revenue sharing of the local share of real and personal property tax revenue and room tax revenue from the Hotel Project is appropriate; and

WHEREAS, pursuant to Wis. Stat. § 66.0301, Wisconsin municipalities are authorized to enter into intergovernmental agreements; and

WHEREAS, it is in the best interests of the City and the Town to enter into this Agreement.

NOW THEREFORE, in consideration of the mutual promises and agreements of the City and the Town, the receipt and sufficiency of which is mutually acknowledged, the parties do hereby covenant and agree as follows:

1. Definitions. For the purposes of this Agreement, the following definitions shall apply:
 - (a) Agreement. This Early Attachment Agreement and Municipal Revenue Sharing Agreement.
 - (b) City Parcels. The two City parcels identified by the following Parcel Addresses and Tax Parcel Numbers:
 - i. 2201 & 2205 Rimrock Rd., No. 251-0709-362-0093-3.
 - ii. 2139 Rimrock Rd. and 76 W. Beltline Hwy., No. 251-0709-362-0099-1.
 - (c) Cooperative Plan. The City of Madison, City of Fitchburg and Town of Madison Cooperative Plan.
 - (d) Hotel Project. The assembled City and Town Parcels, either existing as six separate parcels, or in some combination thereof, and any improvements, whether for the anticipated hotel and conference center or otherwise.
 - (e) Protected Period. Defined in Section 5 of the Cooperative Plan as the period between October 10, 2003 and October 31, 2022, or such earlier time when the Town ceases to exist as a separate entity.
 - (f) Town Parcels. The four Town parcels lots identified by the following Parcel Addresses and Tax Parcel Numbers:
 - i. 2165 Rimrock Rd., No. 032-0709-362-8300-2.
 - ii. 2165 Rimrock Rd., No. 032-0709-362-8320-8.
 - iii. 2155 Rimrock Rd., No. 032-0709-362-8310-0.
 - iv. 250 W. Beltline Hwy., No. 032-0709-362-8340-4.
2. Early Attachment. Upon submittal to the Town of a petition for attachment by all owners of the Town Parcels requesting early attachment of the Town Parcels to the City, and approval of the petition for attachment by the Town Board, the

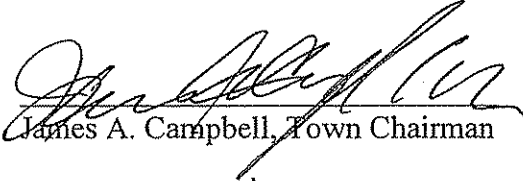
owners, the City and the Town shall then follow the procedures set forth in Sec. 8.A.1 of the Cooperative Plan to cause the Town Parcels to attach to the City.

3. Revenue Sharing. Upon attachment of the Town Parcels to the City, and during the Protected Period, City agrees to make payments to the Town according to the provisions set forth below. Except as provided below, the City shall be solely entitled to all fees, assessments and revenues attributable to the Hotel Project and shall be responsible for providing all services to the Hotel Project. This revenue sharing agreement expires upon the end of the Protected Period.
4. Payment by City to Town. Within thirty (30) days following the end of each quarter (March 31, June 30, September 30 and December 31), the City shall pay to the Town:
 - (a) One-half of the room tax revenues from the Hotel Project received by the City during the quarter.
 - (b) One-half of the real and personal property taxes from the Hotel Project received by the City during the quarter.
5. Commencement of Construction. Construction of the proposed Crowne Plaza Hotel is planned to commence within twelve (12) months. However, if physical construction of the proposed Crowne Plaza Hotel has not commenced within twelve (12) months of attachment of the Town Parcels to the City, the City shall either detach the Town Parcels back to the Town or make payments to the Town under paragraph 4(b) consisting of one-half of the real and personal property taxes received by the City during the quarter and attributable to City Parcels and Town Parcels (including improvements on any of the six parcels) whether or not they have been combined. If improvements on any of the parcels eventually yield room tax revenues, those shall be shared per paragraph 4(a), above. Upon the City receiving a quarterly room tax report relating to improvements on any of the parcels, it shall promptly provide a copy to the Town.
6. Effect of City Action or Forbearance. If the City deliberately acts (or forbears to act) so as to reduce the revenues it would receive that are subject to sharing under this agreement, then the amount due to the Town is one-half of what the City would have received (timely payments shall be assumed) if the City had not taken such deliberate action or forbearance.
7. No Third Party Beneficiary. This Agreement is intended to be solely between the City and the Town. Nothing in this Agreement accords any third party, including specifically the City of Fitchburg, any legal or equitable rights whatsoever which may be enforced by any nonparty to this Agreement.
8. Amendment. This Agreement may be amended only by the written agreement of both of the parties hereto.

9. Enforcement. This Agreement shall be governed by the laws of the State of Wisconsin. Any act by either party in violation of this Agreement shall be remedied by the courts of the State of Wisconsin. This Agreement is intended to provide both parties with the right and standing to seek any available legal or equitable remedy to enforce or seek damages for the breach of this Agreement.
10. Binding Effect. The parties have entered into this Agreement under the authority of Wis. Stat. § 66.0301. The parties agree that this Agreement shall be binding upon both parties.
11. Entire Agreement. This Agreement represents the entire integrated agreement between the parties with regards to the early attachment of Town Parcels to the City and revenue sharing for the Hotel Project, and supersedes all prior negotiations, representations or agreements, either written or oral dealing with early attachment and revenue sharing related to the Town Parcels and the Hotel Project.
12. Severability. In the event that any portion of this Agreement is invalidated or held unenforceable by a court of competent jurisdiction, the other provisions of this Agreement will remain in full force and effect. Any provision of this Agreement held invalid or unenforceable only in part or degree will remain in full force and effect to the extent not held invalid or unenforceable.
13. Non-discrimination. In the performance of the obligations under this Agreement, 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 under this Agreement because of race, religion, color, age, disability, sex, or national origin.

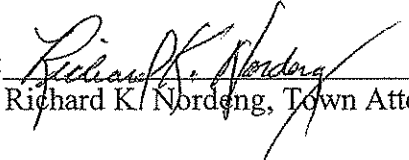
IN WITNESS WHEREOF, the parties hereto have caused the execution of this Agreement by authority of their respective governing bodies effective as of the date when all parties hereto have affixed their respective signatures.

TOWN OF MADISON

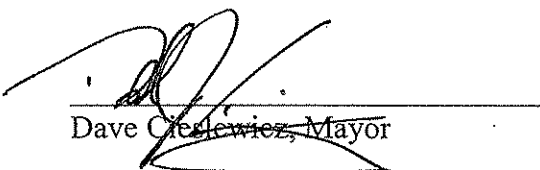

James A. Campbell, Town Chairman

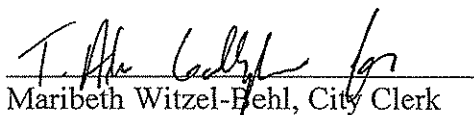

Renee Schwass, Town Clerk

APPROVED AS TO FORM:

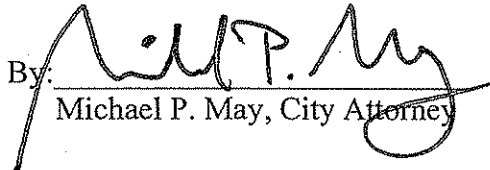
By: 
Richard K. Nordeng, Town Attorney

CITY OF MADISON

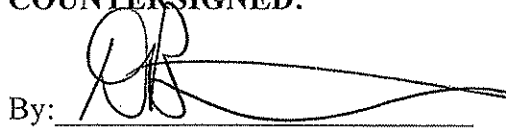

Dave Cieslewicz, Mayor


Maribeth Witzel-Dehl, City Clerk

APPROVED AS TO FORM:

By: 
Michael P. May, City Attorney

COUNTERSIGNED:

By: 
Dean Brasser, City Comptroller