

MUNICIPAL REVENUE SHARING AGREEMENT (4100-4108 MILWAUKEE STREET)
Between the City of Madison and the Town of Blooming Grove

THIS AGREEMENT, 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 (“Madison”), and the Town of Blooming Grove, a Wisconsin municipal corporation with offices at 1880 South Stoughton Road, Madison, Wisconsin 53716 (“Blooming Grove”), is effective as of the date by which both parties have signed hereunder.

WITNESSETH:

WHEREAS, pursuant to Wis. Stat. § 66.0307, Blooming Grove and Madison entered into a Cooperative Plan related to boundary lines and other municipal issues between themselves, which Plan was approved on October 3, 2006, by the State of Wisconsin Department of Administration; and,

WHEREAS, Blooming Grove and Madison agreed to cooperate for more efficient delivery of municipal services within the Cooperative Plan Area, and agreed to pursue further cooperative agreements that would qualify each of them for additional shared revenue; and,

WHEREAS, the Cooperative Plan created several “Protected Areas” of lands in Blooming Grove which, although nearly surrounded by Madison at the time of Cooperative Plan negotiations, were protected from early attachment to Madison for political and economic reasons; and,

WHEREAS, PDQ Food Stores, Inc. (“PDQ”) owns property in Blooming Grove (the “PDQ Property”), located at 4100-4108 Milwaukee Street, and more particularly described as Clyde A. Gallagher Garden Subdivision, Block 1, Lots 8 & 9, except the north 150 feet thereof, along with Lot 1 of Certified Survey Map No. 11449, Town of Blooming Grove, Dane County, Wisconsin; and,

WHEREAS, Blooming Grove does not have municipal water utility services available to the Protected Area 6D which includes the PDQ Property; and,

WHEREAS, Madison has both water and sanitary sewer services available to the PDQ Property within either the Milwaukee Street or N. Walbridge Ave. right-of-ways; and,

WHEREAS, in order to facilitate PDQ’s development or redevelopment of the PDQ Property without drilling a private well, Blooming Grove and Madison wish to have Madison provide municipal water utility service to the PDQ Property; and,

WHEREAS, because the costs of water meter equipment is shared by both the Madison Water Utility and the Madison Sewer Utility, the parties agree that it is preferable if the Madison Sewer Utility serves the PDQ Property; and,

WHEREAS, as an alternative to further common boundary alterations related to the PDQ Property, Madison wishes to be compensated by Blooming Grove for providing the necessary water and sewer utility infrastructure and service to permit full development of the PDQ Property which is the subject of this Agreement; and,

WHEREAS, pursuant to Wis. Stat. §§ 66.0301 and 66.0305, Wisconsin municipalities are authorized to enter into intergovernmental revenue sharing agreements; and,

WHEREAS, it is in the best interests of Blooming Grove and Madison to enter into this Agreement.

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 “Municipal Revenue Sharing Agreement (4100-4108 Milwaukee Street)” (the “Agreement”) is to set forth the conditions upon which Madison will provide water and sanitary sewer service to the PDQ Property.
2. Term. The term of this Agreement shall be for ten (10) years (the “Term”), commencing as of the effective date of this Agreement. Each year of the Term, as measured from the effective date of this Agreement, is a “Contract Year.” On the passing of the effective date of this Agreement in the tenth Contract year, this Agreement, except Section 3 of this Agreement, shall automatically terminate. Section 3 of this Agreement shall survive the expiration or termination of this Agreement.
3. Utility Connections. Madison agrees to supply the PDQ Property, in perpetuity, with public water and sewer utility service. The PDQ Property shall be treated as a customer of Madison Water Utility and the Madison Sewer Utility, subject to all applicable Madison Water and Sewer Utility ordinances and rules, including, but not limited to, prior to connection, payment of approximately \$11,051 of outstanding costs for water and sewer main installation as well as actual costs of connection. To the extent authorized by applicable laws, Blooming Grove shall levy as a tax upon the PDQ Property parcel(s) for which Madison Water Utility and Sewer Utility service was given any delinquent Madison Water and Sewer Utility bills and penalty for collection pursuant to Sec. 66.0809, Wis. Stats., and shall pay all such revenues collected directly to the Madison Water Utility. The Madison Water and Sewer Utilities shall have no obligation to serve or supply other Blooming Grove lands in the Protected Area other than the PDQ Property with public water or sewer utility service.
4. Revenue Sharing Formula. Blooming Grove and Madison agree that, in exchange for extending water and sewer service to the PDQ Property, they will share property tax and sewer utility revenues on the PDQ Property in the following manner:
 - a. Property Tax Revenues. Blooming Grove agrees to make annual revenue sharing payments to Madison of thirty percent (30%) of the Blooming Grove local share of general property taxes related only to the improvements of the PDQ Property as a gas station, convenience store, and car wash facility (the “PDQ Improvements”).
 - b. Sewer Utility Revenues. Madison agrees to make annual sewer utility revenue payments to Blooming Grove of forty percent (40%) of the Madison Sewer Utility’s charges related to the Sewer Utility’s service to the PDQ Property.

- c. Payment Term. The revenue sharing payments under this Section shall continue for five (5) calendar years and a total of five (5) revenue sharing payments shall be made by each party. For the payments due under Subsection a., the annual property tax revenue sharing payments shall commence in the first calendar year following the completion of the said PDQ Improvements, the issuance of an occupancy permit for the PDQ Improvements on the PDQ Property, and the updated assessment of the PDQ Property that accounts for the PDQ Improvements. Blooming Grove expects the PDQ Improvements to be completed and occupied sometime during 2013. It is further expected that the assessment for the PDQ Property will be updated in 2014, making 2015 the likely first calendar year of this Agreement in which payment will be due under Subsection a. For the payments under Subsection b., the annual sewer utility revenue sharing payments shall commence following the first full calendar year of sewer service to the PDQ Property. With the above noted projections, it is expected that 2014 will be the first full calendar year of sewer service to the PDQ Property, making 2015 the likely first calendar year of this Agreement in which payment will be due under Subsection b.
 - d. Payment Due. The revenue sharing payments under this Section shall be due to each party on the first day of August in each of the five years payments are to be made under this Agreement.
5. No Third Party Beneficiary. This Agreement is intended to be solely between Blooming Grove and Madison. Nothing in this Agreement accords any third party any legal or equitable rights whatsoever which may be enforced by any nonparty to this Agreement.
6. Amendment. This Agreement may be amended only by the written agreement of both of the parties hereto.
7. 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.
8. Binding Effect. The parties have entered into this Agreement under the authority of Wis. Stat. §§ 66.0301 and 66.0305. The parties agree that this Agreement shall be binding upon all parties, as well as their respective heirs, successors and assigns.
9. Entire Agreement. This Agreement represents the entire integrated agreement between the parties with regards to revenue sharing for the PDQ Property and supersedes all prior negotiations, representations or agreements, either written or oral dealing with revenue sharing related to the PDQ Property.
10. 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. However, in the event that Section 3 of this Agreement is

invalidated or held unenforceable by a court of competent jurisdiction, this Agreement shall automatically terminate and be of no further force or effect.

11. 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.
12. Construction. The Parties acknowledge that this Agreement is the product of negotiations between the Parties and that, prior to the execution hereof, each Party has had full and adequate opportunity to have this Agreement reviewed by, and to obtain the advice of, its own legal counsel with respect hereto. Nothing in this Agreement shall be construed more strictly for or against, any Party because that Party's attorney drafted this Agreement or any part hereof.

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

FOR THE CITY OF MADISON

Paul Soglin, Mayor

Date

Maribeth Witzel-Behl, City Clerk

Date

Countersigned:

Approved as to form:

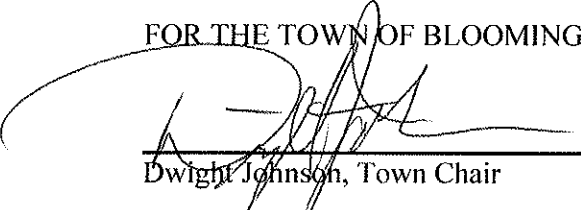
David P. Schmiedicke, Finance Director

Date

Michael P. May, City Attorney

Date

FOR THE TOWN OF BLOOMING GROVE



Dwight Johnson, Town Chair

5/14/13

Date



Michael Wolf, Town Clerk

5/14/13

Date