

WATER SERVICE AGREEMENT (WOODBIDGE ESTATES CONDOMINIUMS)

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, the owner of certain lands, MCGN Properties LLC (“Owner”), located at 5114 N. Walbridge Ave., and more particularly described as Building B1, Units 25-32 of the Woodbridge Estates Condominiums Plat, Town of Blooming Grove, Dane County, Wisconsin (the “Property”), is currently developing the last planned multi-unit building on the site and wishes to connect the new building to municipal water service instead of the shared well currently serving the other three buildings on the condominium property; and,

WHEREAS, the Property is in a protected area under the Cooperative Plan and will not attach to Madison until Final Attachment in 2027; and,

WHEREAS, Madison already provides sanitary sewer service to the Woodbridge Estates Condominiums Plat under the terms of the January 1, 2017 intergovernmental agreement between Madison and Blooming Grove (the “Parties”) wherein Madison took over Blooming Grove Sanitary District #10; and,

WHEREAS, Madison has a water main in N. Walbridge Ave. from which the Property can take service; and,

WHEREAS, Section 13.16 of the Madison General Ordinances allows Madison to provide water service to properties outside of Madison’s corporate limits identified by an intergovernmental agreement, subject to certain conditions; and,

WHEREAS, Madison is agreeable to allowing Owner to connect the Property to Madison’s municipal water system pursuant to the requirements set forth in 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 “Water Service Agreement (Woodbridge Estates Condominiums)” (the “Agreement”) is to set forth the conditions upon which Madison will provide water service to the Property and possibly to the other three buildings making up the Woodbridge Estates Condominiums. The Property and the other three buildings making up the Woodbridge Estates Condominiums are more particularly described on Exhibit 1, and shown on Exhibit 2.
2. Term. This Agreement shall become effective upon execution of the Agreement by the Parties and shall be effective until Final Attachment under the terms of the Cooperative Plan.
3. Utility Connections. Madison agrees to allow Owner to connect the Property to the public water supply in N. Walbridge Ave., as shown on Exhibit 2. Owner’s service lateral shall be 6-inches in diameter, which is sufficiently sized to accommodate future service connections to the other three buildings and 24 units already constructed in the Woodbridge Estates Condominiums Plat. The service lateral shall route to the mechanical room of the existing northwest “Building C” of the Condominium, located at 5112-5124 N. Walbridge Ave. At this location, the plumbing shall be designed and installed such that an appropriately sized service lateral will run to the Property, and that the other three buildings currently connected to the existing private well serving the Woodbridge Estates Condominiums Plat shall be able to connect to this service lateral at this location in the future. Madison agrees that, prior to Final Attachment in 2027, any or all of the other three buildings may voluntarily connect to Madison’s water supply. If such a connection is approved by Madison and service is taken, these other buildings and the unit owners therein, will be treated the same as Owner under this Agreement. If all of the buildings voluntarily connect to Madison water service prior to Final Attachment in 2027, it shall be a condition of connection that the private well currently partially serving the site be properly abandoned consistent with State statute.
4. Responsibility of Parties. Upon connection to Madison water service, the Property, and the condominium units thereupon, shall be treated as a customer of Madison Water Utility, subject to all applicable Madison Water ordinances and rules. To the extent authorized by applicable laws, Blooming Grove shall levy as a tax upon the Property parcel(s) for which Madison Water Utility service was given any delinquent Madison Water 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. Except for the other three buildings on the Woodbridge Estates Condominium Plat, the Madison Water Utility shall have no obligation to serve or supply other Blooming Grove lands in the Protected Area other than the Property with public water service.
5. Special Assessments or Special Charges. If Madison determines that it needs to impose water related special assessments or special charges on the Property, or other units served under this Agreement, then, pursuant to Wis. Stat. Sec. 66.0707, Blooming Grove agrees to timely consider a resolution approving the special assessments or costs, which approval shall not be unreasonably withheld. Special assessments and charges under this provision shall be

apportioned to and collected from Blooming Grove properties in the same manner as properties in Madison, and shall not in any respect discriminate against Blooming Grove properties. Madison acknowledges there are no assessments or charges contemplated at this time.

6. 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.
7. Amendment. This Agreement may be amended only by the written agreement of both of the parties hereto.
8. 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.
9. 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.
10. Entire Agreement. This Agreement represents the entire agreement between the parties with regards to the service connection at the Property and the Woodbridge Estates Condominiums and supersedes all prior negotiations, representations or agreements, either written or oral dealing with Madison providing water service to the Property and the Woodbridge Estates Condominiums.
11. 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.
12. Non-discrimination. In the performance of the services under this Agreement, the Parties agree not to discriminate against any employee or applicant for employment 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 Parties 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.
13. 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.

14. Counterparts; Electronic Delivery. This Agreement may be signed in counterparts, each of which shall be taken together as a whole to comprise a single 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. 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 written below.

FOR THE TOWN OF BLOOMING GROVE

Ron Bristol, Town Chair

Date

Michael Wolf, Town Clerk

Date

FOR THE CITY OF MADISON

Satya Rhodes-Conway, Mayor

Date

Maribeth Witzel-Behl, City Clerk

Date

Countersigned:

David P. Schmiedicke, Finance Director

Date

Approved as to form:

Michael P. May, City Attorney

Date

Execution of this Agreement by Madison is authorized by Resolution Enactment No. RES 19-_____, ID No. _____, adopted by the Common Council of the City of Madison on _____, 2019.

EXHIBIT 1

The Property is more particularly described as:

Woodbridge Estates Condominiums Plat, Building B1, Units 25-32, recorded in Vol. 5-128A of Condominium Plats, on pages 1-3, on April 25, 2006, with the Dane County Register of Deeds as Document No. 4184258.

The Property has the following tax identification numbers:

Unit 25: 0710-041-4898-0
Unit 26: 0710-041-4900-0
Unit 27: 0710-041-4902-0
Unit 28: 0710-041-4904-0
Unit 29: 0710-041-4906-0
Unit 30: 0710-041-4908-0
Unit 31: 0710-041-4910-0
Unit 32: 0710-041-4912-0

The other three buildings making up the Woodbridge Estates Condominiums are described as follows:

Building A: Woodbridge Estates Condominiums Plat, Units 1-8

- Located on the northeast portion of the Plat, with the addresses of 5090-5102 N. Walbridge Ave.

Building C: Woodbridge Estates Condominiums Plat, Units 9-16

- Located on the northwest portion of the Plat, with the addresses of 5112-5124 N. Walbridge Ave.

Building B2: Woodbridge Estates Condominiums Plat, Units 17-24

- Located on the southeast portion of the Plat, with the addresses of 4144-4158 Bruns Ave.

EXHIBIT 2

