

WATER SERVICE AGREEMENT (PROTECTED AREAS)
Between the City of Madison and the Town of Blooming Grove

THIS WATER SERVICE AGREEMENT (PROTECTED AREAS) (the “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 body corporate and politic 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. Madison and Blooming Grove may be referenced individually as a “Party” or collectively as the “Parties”.

WITNESSETH:

WHEREAS, pursuant to Wis. Stat. § 66.0307, Blooming Grove and Madison entered into a Cooperative Plan (the “Cooperative Plan”) related to boundary lines and other municipal issues between themselves, which Cooperative Plan was approved on October 3, 2006, by the State of Wisconsin Department of Administration. Under the Cooperative Plan, Blooming Grove will cease to exist and all of its operations will be taken over by Madison on November 1, 2027 (“Final Attachment”); and,

WHEREAS, Blooming Grove and Madison have agreed to cooperate for more efficient delivery of municipal services within the Cooperative Plan Area (as that term is defined in the Cooperative Plan), and have pursued further opportunities for cooperative actions before Final Attachment; and,

WHEREAS, the Cooperative Plan created several “Protected Areas” (as that term is defined in the Cooperative Plan) 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 will remain in Blooming Grove until Final Attachment; and,

WHEREAS, Madison currently provides sanitary sewer services to some Blooming Grove parcels in Protected Areas, having taken over the Blooming Grove Sanitary District #10 in 2016, the Regas Road Sanitary District in 2016, and the Waunona Sanitary District No. 2 in 2017; and,

WHEREAS, Madison has been approached by property owners about providing municipal water service to certain properties in Protected Areas before Final Attachment, which water service connections are in the long-term interests of Madison, the property owners, and Blooming Grove; 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 and Blooming Grove are agreeable to allowing parcels located in the Protected Areas (the “Protected Area Parcels”) to connect to Madison’s municipal water system, as 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 Agreement is to set forth the conditions upon which Madison will provide water service to Protected Area Parcels prior to Final Attachment.
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 Authorized. Where a Protected Area Parcel is served by Madison sewer, and water service can be provided to the Protected Area Parcel, as determined by the Madison Water Utility, Madison is authorized to extend water service to the Protected Area Parcel. The Protected Area Parcel will not be required to attach to Madison in order to receive water service from Madison. An owner of a Protected Area Parcel seeking connection to Madison water service under this Agreement must contact the Madison Water Utility to initiate this process. Madison is not authorized to extend water service without a request from the owner of a Protected Area Parcel. The connection to Madison water service is subject to the Madison Water Utility's rules of service. Once a water service connection occurs, any private wells serving the site must be properly abandoned consistent with State statute. The terms and conditions upon which a Protected Area Parcel will receive water service from Madison shall be mutually agreeable to the owner of the Protected Area Parcel and Madison.
4. Responsibility of Parties. Upon connection to Madison water service, the Protected Area Parcel shall be treated as a customer of Madison Water Utility, subject to all applicable Madison Water Utility ordinances and rules. To the extent authorized by applicable laws, Blooming Grove shall levy as a tax upon the 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.
5. Special Assessments or Special Charges. If Madison determines that it needs to impose water related special assessments or special charges on Blooming Grove parcels receiving water service pursuant to this Agreement, then, pursuant to Wis. Stat. Sec. 66.0707, Blooming Grove agrees to timely consider a resolution approving the special assessments or charges, which approval shall not be unreasonably withheld. Special assessments and charges under this provision shall be apportioned to and collected from Protected Area Parcels in the same manner as properties in Madison, and Madison shall not in any respect discriminate against Protected Area Parcels. 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.

The determination of whether to allow a connection to Madison water remains that of the Madison Water Utility alone.

7. Amendment. This Agreement may be amended only by the written agreement of the Parties.
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 and the Cooperative Plan. 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 water service connections to Protected Area Parcels and, except for specific written agreements that have been entered into by the Parties regarding water service, supersedes all prior negotiations, representations or agreements, either written or oral dealing with Madison providing water service to Protected Area Parcels.
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. Authority. Each Party warrants for itself that it has complied with all applicable statutes, rules, orders, ordinances, requirements and regulations to execute this Agreement, and that the person or persons executing this Agreement on its behalf is authorized to do so.

15. 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 written below.

FOR THE TOWN OF BLOOMING GROVE

By: _____
Ron Bristol, Town Chair

Date

Attest: _____
Michael Wolf, Town Clerk/Treasurer/Administrator

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 Haas, City Attorney

Date

Execution of this Agreement by Madison is authorized by Resolution Enactment No. RES 23-_____, ID No. _____, adopted by the Common Council of the City of Madison on _____, 2023.