

1 **AGREEMENT BETWEEN THE CITY OF WAUWATOSA AND THE**
2 **VILLAGE OF ELM GROVE FOR A WATER SYSTEM**

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4 This agreement (“Agreement”) is made by and between the City of Wauwatosa (“Wauwatosa”) and the
5 Village of Elm Grove (“Elm Grove”).

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7 Whereas, Wauwatosa owns and operates a municipal water utility; and

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9 Whereas, Wis. Stats. Sec. 66.0301 allows Wauwatosa and Elm Grove to contract for the furnishing and the
10 receipt of services respectively; and

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12 Whereas, Wis. Stats. Sec. 66.0813 allows a municipality that owns a municipal water utility to provide service
13 outside its municipal boundaries; and

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15 Whereas, Elm Grove desires to contract for Wauwatosa to provide retail water service in Elm Grove in
16 accordance with a phased water service plan; and

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18 Whereas, Wauwatosa is willing to supply Elm Grove Customers with retail water service as defined by the
19 terms of this Agreement; and

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21 Now therefore, in consideration of the mutual covenants expressed herein, it is agreed as follows:

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23 **I. Recital:**

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25 A. All recitals contained above are hereby incorporated and made a part of this Agreement.

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27 **II. Definitions:**

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29 A. Adequate Water Service - Water services as stated in Sections III and IV of this Agreement,
30 and unlimited, uninterrupted service of Standard Quality Water at a pressure to satisfy the
31 requirements as identified in Wisconsin Administrative Code NR 810.10 - Distribution
32 system normal pressure, and NR 810.11 - Distribution system fire flow pressure.

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34 B. Commission - the Public Service Commission of the State of Wisconsin

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36 C. Connection Mains – Those water mains to be installed within Wauwatosa in order to provide
37 connections to Elm Grove Facilities. The Initial Connection Main will extend from
38 approximately 118th Street and Watertown Plank Road to the Elm Grove Village limits. The
39 diameter of the Initial Connection Main is still to be determined but will be between sixteen-
40 inches (16”) and twenty-inches (“20”) inclusive.

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42 D. DNR the Department of Natural Resources of the State of Wisconsin.

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44 E. Elm Grove Customers – Water customers in Elm Grove who receive retail water service from
45 Wauwatosa.

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47 F. Elm Grove Facilities – Those water supply facilities and associated infrastructure (including
48 mains, valves, pumps, tanks, hydrants and other related appurtenances) to be constructed in
49 Elm Grove to provide retail water service to Elm Grove Customers.

- 51 G Emergency - A situation affecting the operation of the Wauwatosa Water Utility, caused by
52 an act of God (e.g. severe drought, flood, tornado, lightning strike and severe weather) or
53 circumstances beyond the control of the Wauwatosa Water Utility including but not limited
54 to terrorism, vandalism or loss of power, which results in Wauwatosa being incapable of
55 meeting the requirements of water service to Elm Grove Customers as specified in this
56 Agreement and using generally accepted practices and procedures for water utilities. This
57 includes circumstances leading to a loss of supply or pressure in Wauwatosa or malfunctions
58 of Wauwatosa's infrastructure, which also prevent delivery of water to Wauwatosa's
59 customers.
60
- 61 H. Future Elm Grove Facilities - Those water supply facilities and associated infrastructure
62 (including mains, valves, pumps, tanks, hydrants and other related appurtenances) to be
63 constructed in Elm Grove to provide retail water service to Elm Grove Customers located
64 beyond the Initial Service Area.
65
- 66 I. Future Service Area – Possible area to be served with retail water from Wauwatosa upon
67 construction of Future Elm Grove Facilities. This area could potentially incorporate the entire
68 area within the corporate boundaries of the Village of Elm Grove.
69
- 70 J. Initial Service Area – That area of Elm Grove to be served with retail water from Wauwatosa
71 during the initial phase of service. Generally, this includes those residences and businesses
72 adjacent to the Initial Water Mains as shown on Exhibit A.
73
- 74 K. Initial Water Mains – Water mains that are constructed to serve the Initial Service Area of
75 Elm Grove as shown as Phase 1 on Exhibit A.
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- 77 L. Parties – Wauwatosa and Elm Grove collectively.
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- 79 M. Party – Either Wauwatosa or Elm Grove individually.
80
- 81 N. Standard Quality Water - Water that meets the current quality standards of federal and state
82 agencies having authority to establish water quality standards that uniformly apply to
83 Wauwatosa and its customers and as those standards may be amended from time to time.
84

85 **III. Elm Grove Agrees That:**
86

- 87 A. This Agreement and the provision of water to Elm Grove Customers by Wauwatosa shall be
88 subject to applicable rules and regulations of the Wauwatosa Water Utility, as amended from
89 time to time, that are uniformly imposed by Wauwatosa throughout its service area including
90 prohibitions against cross connections, but specifically excluding rules and regulations which
91 relate solely to private well operation, time of connection to the municipal water system, and
92 other items that may interfere with the continued operation of private wells in Elm Grove and
93 that are not contradictory to DNR accepted standards and regulations. Elm Grove agrees that
94 it will continue to maintain a well permitting ordinance at least as restrictive as Elm Grove
95 Ordinance 283-5 going forward. When appropriate or required by law, rules and regulations
96 applicable to private well operation, connection requirements, and other items that may
97 impact the continued operation of private wells in Elm Grove shall be subject to approval by
98 any state or federal governmental agency having jurisdiction.
99

- 100 B. The rates or charges for water service to Elm Grove Customers shall be the same as those
101 established by the Commission for retail water service to customers within the City of
102 Wauwatosa, unless mutually agreed to by the Parties.
103
- 104 C. Elm Grove agrees to pay Wauwatosa for any unpaid charges imposed by Wauwatosa on Elm
105 Grove Customers that are not paid within the required time limit, in accordance with the
106 billing practices of Wauwatosa and the Commission tariffs approved by the Commission.
107 Elm Grove shall pay Wauwatosa the unpaid charges incurred by Elm Grove Customers
108 within 30 days of notification from Wauwatosa of the unpaid amounts due. Wauwatosa,
109 upon the request of Elm Grove, will shut off water service to such delinquent customers per
110 PSC regulations.
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- 112 D. Elm Grove shall limit water service as follows:
113
- 114 1. No water sold to Elm Grove Customers under this Agreement may be re-sold on a
115 wholesale or retail basis to any other municipality or to any properties in another
116 municipality with the exception of temporary water provided in the event of a crisis.
117
 - 118 2. Water service shall be initially limited to service in the Initial Service Area.
119
 - 120 3. In the event that the Initial Service Area is sought to be either extended or enlarged in
121 any manner, there shall be consultation between the Parties under this Agreement on the
122 feasibility of providing of retail water to other areas within the corporate boundaries of
123 Elm Grove.
124
- 125 E. Construction of Facilities
- 126 1. Wauwatosa shall design the Initial Connection Main commencing at 118th Street and
127 Watertown Plank Road and the Elm Grove Facilities needed to serve the Initial
128 Service Area. The Elm Grove Facilities will generally follow the route depicted on
129 Exhibit A within public easements or rights-of-way. Wauwatosa shall provide Elm
130 Grove with plans and other documents necessary for construction of the Initial
131 Connection Main and Elm Grove Facilities which plans have been stamped
132 “Construction Plans of Record”, signed by the Wauwatosa Director of Public Works.
133 Those plans and other documents shall be subject to review and approval by Elm
134 Grove. Elm Grove shall pay Wauwatosa all consulting services costs and expenses
135 incidental to designing the Initial Connection Main and Elm Grove Facilities in
136 accordance with the City of Wauwatosa’s purchasing policy. In the event Wauwatosa
137 elects not to design the Initial Connection Main and Elm Grove Facilities and prepare
138 the plans and other documents necessary for its construction, Elm Grove shall do so
139 and submit the plans and other documents to Wauwatosa for review and approval.
140
141
 - 142 2. Elm Grove, or its designee, at its cost, shall be responsible for conducting the public
143 bidding, contract award, construction, construction administration, construction staking,
144 on-site inspection and preparation of as-built drawings of the Initial Connection Main and
145 all Elm Grove Facilities. Said work will be completed by a consulting firm selected by
146 Elm Grove and confirmed by Wauwatosa. Construction management and inspection will
147 be completed by individuals having no less than 5 years of experience managing and
148 inspecting large diameter water main construction. Upon completion of construction,
149 Elm Grove shall transfer ownership of the Initial Connection Main and Elm Grove

150 Facilities to Wauwatosa along with as-built drawings in hard copy and in and electronic
151 format in accordance with Wauwatosa standards. No water service plumbing permits
152 shall be issued by the Elm Grove inspection services until the as-built drawings for
153 the Initial Connection Main and Elm Grove Facilities have been approved by
154 Wauwatosa. No permit shall be issued to a customer until Elm Grove has notified
155 Wauwatosa that all connection charges imposed by Elm Grove for the customer have
156 been paid. Elm Grove retains certain rights as described in VII.
157

158 F. Elm Grove shall obtain permits and easements as may be required to enter upon, install
159 and maintain the Initial Connection Main and Elm Grove Facilities, on state, county, or
160 municipal owned right-of-way or private property. Elm Grove shall cause any newly
161 created easements to be granted to both Parties. By this Agreement, Elm Grove shall
162 allow Wauwatosa full access to Elm Grove rights-of-way for the purposes of maintaining
163 and operating said facilities.
164

165 G. Water customers in Elm Grove shall apply to Elm Grove for water service plumbing
166 permits for water lateral installation. Water laterals on private property shall remain
167 privately owned and, as such, all installation and replacement costs shall be the sole
168 responsibility of the property owner. Water lateral material type shall be HDPE unless an
169 alternate material type is approved, in writing by Wauwatosa. After Elm Grove notifies
170 Wauwatosa that the private plumbing installation has passed Elm Grove's inspection,
171 Wauwatosa shall install the water meter. All water meter installation shall be conducted
172 by Wauwatosa.
173

174 H. Elm Grove shall not construct any Future Elm Grove Facilities without Wauwatosa's consent.
175 Prior to granting consent, Wauwatosa shall determine whether increased demands caused by
176 such Future Elm Grove Facilities would require additional capital expenditures by the either
177 Party and whether cost sharing for improvements to Wauwatosa's water system are
178 necessary. Elm Grove shall not construct or place any Future Elm Grove Facilities into
179 service until such time as Wauwatosa confirms it is able to provide service. All drawings and
180 specifications for Future Elm Grove Facilities, including but not limited to future booster
181 stations, storage facilities and all other major distribution improvements and water main
182 extensions in Elm Grove, must conform to the Wisconsin Department of Natural Resources
183 standards. Such drawings and specifications for Future Elm Grove Facilities shall be
184 submitted to both Parties for approval prior to the time construction contracts are awarded or
185 materials are purchased.
186

187 I. Wauwatosa may place restrictions upon the use of water by Elm Grove Customers as a result
188 of an occurrence that is an Emergency or is related to a failure of Wauwatosa's facilities.
189 Wauwatosa shall give Elm Grove as much prior notice as is reasonably possible of any such
190 restrictions and shall apply any restrictions upon Elm Grove Customers equally with
191 customers located in Wauwatosa.
192

193 J. Whenever, due to an Emergency, Elm Grove Customers are unable to obtain water from
194 Wauwatosa, Elm Grove may obtain temporary water service from any other source approved
195 by Wauwatosa.
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197 K. If during an Emergency water is introduced into the Elm Grove Facilities which was not
198 supplied by Wauwatosa, Elm Grove recognizes the inherent difficulties in assuring consistent
199

200 water quality, and will indemnify Wauwatosa from such liability and expenses directly
201 related to water quality issues resulting from such introduction. Elm Grove will have in place
202 the proper DNR or DSPS approved backflow prevention devices or valves necessary or
203 reasonable.
204

205 L. Elm Grove agrees to defend and hold harmless Wauwatosa from those claims or causes of
206 action arising from Elm Grove's negligence, intentional actions, or breach of the covenants
207 contained in this Agreement or liabilities which may be incurred by Wauwatosa arising from
208 the making of this Agreement except those arising from or related to the acts, omissions or
209 negligence of Wauwatosa's agents, employees, contractors or officials and officers. The
210 indemnity provisions and the limitations therein of the Agreement shall survive the
211 termination of this Agreement and shall continue in full force and effect.
212

213 M. Elm Grove shall grant permits to Wauwatosa at no fee as needed for construction, operation,
214 and maintenance of the Elm Grove Facilities and agrees it will not tax Wauwatosa for any
215 facilities owned by Wauwatosa within Elm Grove.
216

217 O. Elm Grove shall adopt the provisions of Wauwatosa's water utility ordinance and associated
218 rules and policies related thereto specific to water customers as amended from time to time
219 which will be the same as apply to water customers in Wauwatosa unless it contradicts any
220 provision of this Agreement.
221

222 P. For the purpose of providing service reliability, Elm Grove agrees, at its expense, to
223 commence construction of a second Connection Main to Wauwatosa within five years of
224 completion and dedication of the Initial Connection Main, or a mutually agreed to time
225 period. Such second Connection Main shall connect at a mutually agreed location prior to or
226 in conjunction with the construction of any Future Elm Grove Facilities, with the exception
227 of a connection to the Elm Grove Civic Center grounds. Until such time that a second
228 Connection Main to Wauwatosa is established, Elm Grove:
229

230 a. Acknowledges that water service from Wauwatosa relies solely upon a single Connection
231 Main so if a failure occurs within that single Connection Main service to Elm Grove may
232 be interrupted while repairs are made.
233

234 b. Acknowledges that the Elm Grove Facilities for the Initial Service Area are not looped
235 and as a result water quality may be affected if enough water is not utilized by Elm Grove
236 Customers. Elm Grove agrees to install and monitor an automated sampling device
237 (Hach CL17sc Colorimetric Chlorine Analyzer or approved equivalent) within the Elm
238 Grove Terrace building that will monitor chlorine levels. If chlorine levels fall below 0.5
239 micrograms/liter or if water quality complaints are received, Elm Grove will complete
240 any hydrant flushing necessary outside of usual and customary operational flushing
241 programs and procedures and reimburse Wauwatosa for the cost of water used during
242 such additional flushing. Wauwatosa will also be given access to this automated sampling
243 location to obtain periodic water quality samples.
244

245 c. Be able and prepared to provide fire protection services to Elm Grove Customers to the
246 same degree and in the same manner that they would provide to any other property in
247 Elm Grove that does not have a public water source available.
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IV. Wauwatosa Agrees as Follows:

- A. Wauwatosa agrees to provide Adequate Water Service to Elm Grove Customers, as defined by the terms of this Agreement.
- B. Wauwatosa shall design the Initial Connection Main and the Elm Grove Facilities needed to serve the Initial Service Area. The Initial Connection Main shall commence approximately at 118th Street and Watertown Plank Road. The Initial Connection Main and Elm Grove Facilities shall generally follow the route depicted on Exhibit A within public easements or rights-of-way.
- C. The Elm Grove Facilities to serve the Initial Service Area shall be designed to supply water at a quantity to meet proposed peak hourly demand, or projected maximum day demand plus needed fire flow, whichever is greater. The Parties agree that for the Initial Service Area the projected maximum day demand is 1,000 gallons per minute plus the DNR required minimum fire flow for a duration of two continuous hours. Peak hourly demand, maximum day demand and minimum fire flow shall be defined for the Initial Service Area based on calculations by Wauwatosa which have been approved by Elm Grove.
- D. Wauwatosa agrees to pay all oversizing and related costs, including, but not limited to, costs for the construction of any improvement, equipment, fixture or operational system that is determined to be necessary for providing water service to water customers in Wauwatosa and any other expenses as may be mutually agreed by both Parties.
- E. Wauwatosa warrants and represents that all water delivered under this Agreement shall meet all applicable state and federal drinking water regulations and quality standards.
- F. Wauwatosa agrees to defend and hold harmless Elm Grove from those claims or causes of action arising from Wauwatosa's negligence, intentional actions, or breach of the covenants contained in this Agreement or liabilities which may be incurred by Elm Grove arising from the making of this Agreement except those arising from or related to the acts, omissions or negligence of Elm Grove's agents, employees, contractors or officials and officers. The indemnity provisions and the limitations therein of the Agreement shall survive the termination of this Agreement and shall continue in full force and effect.
- G. Wauwatosa will provide to Elm Grove, within 10 business days of filing, a copy of any application to the Commission to adjust its water rates.
- H. Wauwatosa shall review all drawings and specifications regarding proposed Connection Mains or Elm Grove Facilities submitted by Elm Grove under this Agreement and respond in writing within 30 working days of the date submitted. The written response will indicate approval, or identify objections or concerns regarding the proposed Connection Mains or Elm Grove Facilities. Wauwatosa shall not unreasonably withhold approval. Wauwatosa agrees to discuss review comments and cost sharing of Connection Mains and Elm Grove Facilities in good faith.
- I. Wauwatosa shall grant permits to Elm Grove at no fee as needed for construction of Connection Mains or other facilities within Wauwatosa.

- J. Wauwatosa shall provide retail water services to Elm Grove Customers that it provides to customers within Wauwatosa which services include the operation and maintenance of the Elm Grove Facilities, customer billing, and any needed flushing or sampling.
- K. After the Elm Grove Facilities are constructed and transferred to Wauwatosa, Wauwatosa shall be responsible for the inspections of the Elm Grove Facilities up to and including the water shut off valve for each property served. Wauwatosa shall not be responsible for the inspection of plumbing facilities on private property, with the exception of the water meter.
- L. Interconnection by Wauwatosa through Elm Grove to other municipalities may be allowed only with Elm Grove's consent.

V. Future Expansion of Elm Grove and Wauwatosa Water Systems:

- A. If Elm Grove at any time during the term of this Agreement wishes to obtain retail water service beyond the Initial Service Area, both Parties agree to negotiate in good faith. During such negotiations, projected maximum day demand, peak hour demand, and needed fire flows will be established for additional service based on the type of development within Elm Grove planned for retail water service from Wauwatosa. Peak hourly demand, maximum day demand and needed fire flow shall be based on calculations by Wauwatosa which have been approved by Elm Grove.
- B. If Elm Grove, at any future time during the term of this Agreement, negotiates to receive Lake Michigan water directly with the City of Milwaukee, the Parties agree they shall not engage in any activity that would interfere with those negotiations and related approvals.

VI. Conditions Precedent:

- A. The Parties recognize that it is necessary for Elm Grove and Wauwatosa to accomplish certain procedural steps before this Agreement can be effective.
- B. Wauwatosa will seek to satisfy the following conditions as soon as feasible.
 1. Complete an analysis of Wauwatosa's Western Pressure Zone in order to determine (i) what corrections, if any, are necessary to place Wauwatosa's multi-leg water tower located at Water Town Plank Road and Innovation Drive in full service, and (ii) what other necessary infrastructure improvements are required. This data will further be used to finalize the size of the Initial Connection Main and Elm Grove Facilities for the Initial Service Area shown on Exhibit A.
 2. Complete field verification work necessary to simulate Wauwatosa's connection to the Initial Service Area to ensure that the previously completed desktop analysis is accurate and no unanticipated issues will occur within Wauwatosa's existing water distribution system.
 3. Receive approvals from Wauwatosa's Common Council for the funding necessary to complete any and all system improvements identified under B.1. or B.2. so that said Wauwatosa's system improvements can be made prior to the connection of Elm Grove Customers.

- 348 4. Prepare a design of the Connection Main and Elm Grove Facilities for the Initial Service Area
349 that is mutually acceptable to the Parties.
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351 5. Verify water main looping connection points at 123rd and Walnut and/or 122nd and
352 Bluemound Road to be sufficient or in the event these are found to be insufficient identify
353 connection points which are mutually agreed on by both parties for the purpose of providing
354 sufficient water service to Elm Grove, for the purpose of providing the second connection
355 referred to in section III P.
356
357 6. Obtain the necessary approvals from the Commission for extending service to Elm Grove, for
358 constructing all facilities necessary to provide service to Elm Grove Customers, and to
359 complete any needed Wauwatosa system improvements identified in B.1 and B.2; and
360
361 7. Obtain the necessary approvals from the Wisconsin Department of Natural Resources, the
362 City of Milwaukee, and Milwaukee Water Works for the extension of service into Elm
363 Grove.

364 C. After Commission approval of Wauwatosa’s extension of service into Elm Grove and
365 construction of the Initial Connection Main, Elm Grove Facilities and other Wauwatosa
366 improvements is obtained, Elm Grove will seek to satisfy the following conditions precedent as
367 soon as feasible. Wauwatosa will not be responsible for meeting its obligations to provide retail
368 water under the terms of this Agreement unless and until these conditions are satisfied. Elm
369 Grove and Wauwatosa will be released from all obligations under this Agreement if these
370 conditions are not met. Elm Grove will:
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- 372
373 1. Enact or modify a special assessment utilizing the provisions of Wis. Stats. 66.0715(2), or a
374 connection fee ordinance so as to enable property owners within the Initial Service Area who
375 do not wish to obtain water service to defer connecting and paying applicable Special
376 Assessments or connection fees without a specific deadline.
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378 2. Create Tax Incremental District #3, which shall include the Elm Grove Facilities for the
379 Initial Service Area and other infrastructure costs of the proposed water system in whole or
380 part.
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382 3. Obtain long term financing through the issuance of municipal revenue bonds or other suitable
383 financing instruments to construct the Initial Connection Main and the Elm Grove Facilities
384 required for the Initial Service Area.
385
386 4. Accept a bid and let a contract with a qualified general contractor for the installation of the
387 Initial Connection Main and Elm Grove Facilities required for the Initial Service Area.
388

389 **VII. Wauwatosa and Elm Grove Hereby Mutually Agree:**
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- 391 A. This Agreement is subject to the approval of the Common Council of Wauwatosa and Village
392 Board of Elm Grove, and after execution by the Parties, Wauwatosa shall file a copy of the
393 Agreement with the Commission. Approval of the governing bodies of both communities
394 shall be evidenced by adoption of appropriate resolutions approving this Agreement.
395
396 B. This Agreement shall be effective on the date (herein “Effective Date”) upon which the
397 Commission sanctions this Agreement as acceptable in such manner as the Commission shall
398 deem appropriate and the conditions precedent in Section VI have been satisfied.
399

- 400 C. This Agreement shall be governed by, construed, and enforced under and in accordance with
401 the laws of the State of Wisconsin.
402
- 403 D. This Agreement shall remain in full force and effect for an initial term of fifty (50) years from
404 the Effective Date, and shall automatically renew for subsequent ten-year periods. Any Party
405 wishing to not renew this Agreement at the conclusion of the initial term, or any subsequent
406 ten-year term, must submit to the other Party and the Commission a written notice of non-
407 renewal at least 12 months prior to the date the Agreement would otherwise automatically
408 renew.
409
- 410 F. Termination of this Agreement requires the mutual consent of both Parties. A Party shall
411 give or withhold its consent in writing within 90 days of being formally requested to give its
412 consent. The other terms herein notwithstanding, Elm Grove may terminate this Agreement
413 at any time with a one-year notice, without consequence upon being able to receive Lake
414 Michigan water directly from the City of Milwaukee.
415
- 416 G. The Parties agree to act in good faith and use due diligence in meeting their respective
417 obligations under this Agreement.
418
- 419 H. The Parties agree in the event a private well and community water system in Elm Grove is to
420 be acquired by Wauwatosa and based on the condition of said system does not meet
421 Wauwatosa's minimum standards both Parties agree to work toward an amenable solution
422 regarding future main replacements and the possibility of special assessments by Elm Grove
423 as allowed under Wisconsin State Statutes.
424
- 425 I. Upon termination or non-renewal of this Agreement, Wauwatosa shall transfer to Elm Grove
426 ownership of all Elm Grove Facilities, along with all documents related to those Elm Grove
427 Facilities and the operation of those Elm Grove Facilities; with reasonable compensation to
428 Wauwatosa for the costs of such Elm Grove Facilities that were paid for by Wauwatosa
429 which costs have not been recovered through water rates or other charges assessed to Elm
430 Grove Customers or Elm Grove property owners.
431
- 432 J. This Agreement may be executed in counterparts, which together shall constitute a single
433 contract.
434
- 435 K. If the Parties are unable to resolve a dispute within 90 days over the terms and conditions of
436 this Agreement, either Party may seek relief from a court of competent jurisdiction in
437 Milwaukee or Waukesha County, Wisconsin as determined by the aggrieved Party.
438
- 439 L. This Agreement and all of the provisions hereof shall be binding upon and inure to the
440 benefit of the Parties hereto, but neither this Agreement or any of the rights, interest, or
441 obligations hereunder shall be assigned by either of the Parties hereto without the prior
442 written consent of the other Party.
443
- 444 M. Except as provided herein, this Agreement (including any Schedules and Exhibits) constitutes
445 the complete agreement between the Parties related to retail water service and supersedes all
446 prior agreements relating to the subject matter hereof.
447
- 448 N. Section headings are for convenience only and shall not affect the meaning or construction of
449 any provision hereof.

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- O. Failure or delay by a Party to exercise a right, privilege or power hereunder shall not operate as a waiver thereof nor prevent the exercise of such right, privilege or power thereafter. Any wavier of any provision hereof must be in writing signed by the Party making such waiver.
- P. In the event any provision or portion of this Agreement is determined to be invalid or unenforceable for any reason, in whole or in part, the remaining provisions of this Agreement shall nevertheless be binding upon the Parties with the same effect as though the invalid or unenforceable part had been severed and deleted. The respective rights and obligations of the Parties shall survive the termination or non-renewal to the extent necessary to the intended preservation of such rights and obligations.
- Q. No changes, modifications or amendments to this agreement shall be effective or binding unless made in writing and signed on behalf of the Parties to this Agreement.
- S. All notices, requests, demands, and other communications under this Agreement shall be in writing and shall be deemed given if personally delivered or mailed, certified mail, return receipt requested to the following addresses:

City of Wauwatosa
 Director of Public Works
 7725 West North Avenue
 Wauwatosa, WI 53213

Village Manager
 Village of Elm Grove
 13600 Juneau Blvd.
 Elm Grove, WI 53123

Dated on this _____ day of _____ 2021.

VILLAGE OF ELM GROVE

CITY OF WAUWATOSA

By: _____
 Neil H. Palmer, Village President

By: _____
 Dennis McBride, Mayor

By: _____
 David De Angelis, Village Manager

By: _____
 James Archambo, City Administrator

ATTEST: _____
 Michelle Luedtke, Village Clerk

ATTEST: _____
 Steven Braatz, City Clerk

APPENDIX LISTING

Appendix A Map of Water Service Area