

AGREEMENT BETWEEN THE CITY OF MILWAUKEE AND THE VILLAGE OF SHOREWOOD FOR THE PURCHASE OF WATER AT WHOLESALE

This Agreement is made as of the ____ day of _____, 2024 (“Effective Date”) pursuant to Wis. Stat. §§ 66.0813(3)(b) and 66.0301 by and between the City of Milwaukee, operating as a water public utility (“Milwaukee”) and the Village of Shorewood, operating as a water public utility (“Shorewood”).

Whereas, effective June 3, 1997, Milwaukee and Shorewood executed an Agreement between the City of Milwaukee and the Village of Shorewood for the Purchase of Water at Wholesale (“1997 Agreement”); and

Whereas, the 1997 Agreement expired with no provision for automatic renewal; and

Whereas, Shorewood desires to continue to purchase water from Milwaukee at wholesale; and

Whereas, under current law, Milwaukee has an obligation to provide adequate water supply to Shorewood at rates approved by the Public Service Commission of Wisconsin (“Commission”); and

Whereas, in the absence of a contract, under current law, Milwaukee has a right to establish the terms and conditions of service through the filing of rates with the Commission; and

Whereas, Milwaukee has constructed facilities to ensure that Shorewood and other wholesale customers receive an adequate supply of water and continues to incur the obligation to maintain those facilities; and

Whereas, Milwaukee must be assured that purchasers of large quantities of water will continue to obtain their supply from Milwaukee so that it may prudently plan the expansion of its facilities and that the facilities when constructed will not be rendered either functionless or partially functionless; and

Whereas, Shorewood desires to be assured that Milwaukee continues to have the facilities necessary to provide Shorewood with adequate water service; and

Whereas, Shorewood has authorized its proper Village officials to enter into this Agreement pursuant to Resolution Number _____, dated _____, 2024; and

Whereas, Milwaukee has authorized its proper City officials to enter into this Agreement pursuant to Common Council Resolution Number _____, dated _____, 2024.

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

I. DEFINITIONS

A. Adequate Water Service – Except as otherwise provided in sec. III.B., unlimited, uninterrupted service of Standard Quality Water as set forth in Table 1:

Table 1: Adequate Water Service

Connection	Elevation (NGVD) (Center of Intersection)	Minimum Hydraulic Grade (NGVD)	Calculated Pounds per Square Inch (“psi”)
North Oakland Avenue and East Edgewood Avenue	635	790	67 at the surface; 70 at the center of the outlet flange of the meter.
North Downer Avenue and East Edgewood Avenue	667	822	67 at the surface; 70 at the center of the outlet flange of the meter.

B. Annual Average Day Demand – The total volume of water delivered to the Shorewood system over a year divided by 365 days. The average use in a single day expressed in gallons per day.

C. Ccf– 100 cubic feet of water (748 gallons).

D. Commission – Public Service Commission of Wisconsin.

E. Commissioner – City of Milwaukee Commissioner of Public Works.

F. Emergency – A situation caused by an act of God or circumstances beyond the control of the Milwaukee Water Works which results in the Milwaukee Water Works not meeting the requirements of service as contained in this Agreement.

G. Maximum Day Demand – The largest volume of water delivered to the system in a single day expressed in million gallons per day. The water supply, treatment plant, and transmission lines should be designed to handle the maximum day demand.

H. Milwaukee Water Works (MWW) – Water public utility owned by the City of Milwaukee.

I. Service Area – Area to be served with water. The boundary of the Service Area is set out in the map attached as Exhibit A.

- J. Standard Quality Water - Water that meets the standards of federal and state agencies having authority to establish water quality standards that uniformly apply to Milwaukee and its customers and as those standards may be amended from time to time.

II. SERVICE AREA

- A. Milwaukee agrees to provide Adequate Water Service to Shorewood on a wholesale basis for distribution to the Service Area. Milwaukee makes no profession of service beyond the Service Area, which shall not be adjusted except by an amendment of this Agreement pursuant to sec. VI.A.
- B. Shorewood shall obtain all of its water from Milwaukee, except as provided in sec. III.C.
- C. Shorewood shall not sell or exchange water on a wholesale or retail basis outside the Service Area without the permission of Milwaukee, with the exception of the following properties already served by Shorewood: 4524-26 North Oakland Avenue; 4528-32 North Oakland Avenue; 4536 N. Oakland Avenue; 4544 North Oakland Avenue; 4606 North Oakland Avenue; 1810 East Glendale Avenue; and 1811 East Glendale Avenue.
- D. In the event that prudent management and good operation require a readjustment of the boundaries of the Service Area as distinct from the municipal corporate boundaries, the mutual consent of both parties to this Agreement shall be obtained as a condition precedent to effecting a readjustment of Service Area boundaries, subject however to such action as the Commission might take in the exercise of its regulatory powers.
- E. In the event that Shorewood shall be either extended or enlarged in any manner whatsoever as a consequence of any consolidation or merger of Shorewood with any other municipal entity or political subdivision; then, and except as may otherwise be provided by law, there shall be no duty or obligation under this Agreement on the part of Milwaukee to provide water to any area other than that delineated in Exhibit A. However, Milwaukee reserves the option of providing water service to the enlarged area of Shorewood.

III. ADEQUATE WATER SERVICE

- A. Milwaukee shall provide Adequate Water Service to Shorewood.
- B. Milwaukee may place restrictions upon the use of water by Shorewood as a result of an occurrence that is an Emergency or DNR-required maintenance activities. Any restriction so placed will be done in a manner consistent with the restrictions placed upon similarly situated customers. Milwaukee shall give Shorewood as much prior notice as is reasonably possible of any such restrictions.

- C. Whenever Milwaukee does not supply Adequate Water Service, Shorewood may obtain emergency water service from any other source but only for the specific period of time that Milwaukee is unable to provide Adequate Water Service. Shorewood shall be permitted to immediately make an emergency connection when the connection point to be used has been previously approved for emergency use by Milwaukee in writing, provided that Shorewood shall, after making the connection, promptly notify Milwaukee of such event.
- D. Alternatively, whenever Milwaukee does not supply Adequate Water Service, Shorewood may use an existing emergency connection located in the vicinity of North Lake Drive and East Edgewood Avenue ("Milwaukee Emergency Connection"). Shorewood shall contact the Milwaukee Water Works Control Center at (414-286-3710), which shall be staffed 24-hours per day, every day, to inform Milwaukee of an emergency situation that requires Shorewood to use the Milwaukee Emergency Connection. Emergency condition(s) requiring connection to the Milwaukee Emergency Connection include reduced supply pressure (below the psi defined in Table 1). In a non-emergency situation requiring use of the Milwaukee Emergency Connection, such as maintenance of the wholesale meter pit(s), Shorewood shall coordinate the operation of the interconnection with Milwaukee engineering and operations staff. Milwaukee reserves the right to disapprove connection to the Milwaukee Emergency Connection in non-emergency situations. Milwaukee shall bill Shorewood for use of the Milwaukee Emergency Connection by estimating Shorewood's usage based on Shorewood's average usage for the same month during the previous two years, minus known usage from all other subaccount meters serving Shorewood. If Milwaukee determines that the method of estimating described in this paragraph will not yield an accurate estimate, then Milwaukee shall bill Shorewood by estimating Shorewood's usage based on the best available information mutually agreed upon by Shorewood and Milwaukee.
- E. Whether proceeding under sec. III.C. or III.D., when Adequate Water Service has been restored, the emergency connection must be severed as soon as practicable. Milwaukee shall approve, in writing, the continuation of any emergency connection that is required for longer than seven calendar days. If an approved emergency connection continues for more than seven calendar days after Adequate Water Service has been restored, Shorewood must provide Milwaukee with weekly updates and a schedule for the discontinuation of the emergency connection that must be approved by Milwaukee in writing.
- F. Milwaukee warrants that all water purchased or delivered under this Agreement has been treated in accordance with and meets all applicable state and federal regulations and local standards. There are no warranties provided that extend beyond the above description.

IV. WATER SUPPLY INFRASTRUCTURE

- A. Shorewood shall furnish and install meter pits complete with meter setting but

without meters. Meters shall be supplied by Milwaukee and paid for at cost by Shorewood.

- B. Shorewood shall pay all costs, charges, fees and all expenses incidental to construction, maintenance and operation of its own water distribution system located within the corporate limits of Shorewood, and all costs, charges, fees and expenses which may be entailed or incurred in providing any mains or any other distribution facilities from the corporate limits of Milwaukee to the Shorewood water distribution system.
- C. All plans and specifications for metering stations, re-pumping stations, storage facilities, and all other major improvements or extensions 16 inches or larger to the Shorewood distribution system must conform to the standards prescribed by the Wisconsin Department of Natural Resources and shall be reviewed by Milwaukee prior to the time contracts are awarded or materials are purchased, to determine whether increased demands caused by the improvements would require capital improvements by Milwaukee and whether cost sharing for Milwaukee's improvements is appropriate. Milwaukee shall review all plans and specifications submitted by Shorewood under this paragraph and respond in writing within 30 days of the date the plans and specifications are submitted. The written response will indicate approval or identify objections or concerns regarding the proposed improvements.
- D. Shorewood shall grant permits at standard fees within the boundaries of the Service Area that are necessary to effectuate Milwaukee's construction, maintenance, alteration or operation with respect to service under this Agreement.
- E. Neither party may tax water utility facilities owned by the other party within the taxing party's jurisdiction.
- F. Milwaukee shall pay the costs, charges, fees and expenses which relate to the construction, maintenance, operation and expansion of its own water system which may be devoted in whole or in part to service of Shorewood as provided for herein, except as to meter pits.
- G. Milwaukee shall use good faith efforts to provide advance notice to Shorewood for planned work on Milwaukee's water system that will impact Shorewood's service. The parties shall assist each other in developing a protocol for providing such notice and shall provide contact information for their designated contact persons.
- H. Milwaukee shall pay all costs and expenses incurred as a result of testing metering devices and appurtenances with respect thereto.
- I. Except as otherwise provided in this Agreement, Milwaukee grants to Shorewood authority to install flow control, security, SCADA, and flow monitoring equipment at interconnection points between the Shorewood and Milwaukee systems.

V. RATES

- A. The rates or charges for service at wholesale for water supplied to Shorewood shall be those approved by the Commission.
- B. Shorewood shall pay to Milwaukee in accordance with the billings of Milwaukee, the full and correct amount of such billings to be computed upon the prevailing rates, charges and rentals as established by the Commission.

VI. GENERAL TERMS

- A. The parties agree that this Agreement is subject to the approval of the Common Council of Milwaukee and Shorewood Village Board, and after execution by both parties, Milwaukee shall file a copy of the Agreement with the Commission. Approval of the Common Council of Milwaukee and the Shorewood Village Board shall be evidenced by adoption of appropriate resolutions approving this Agreement. Any modifications to this Agreement must be made in writing subject to the approval of the Common Council of Milwaukee and the Shorewood Village Board.
- B. This Agreement shall be governed by, construed, and enforced under and in accordance with the laws of the State of Wisconsin.
- C. This Agreement shall be subject to applicable rules and regulations of the Milwaukee Water Works which are on file with the Commission and as such rules and regulations may be amended from time to time.
- D. This Agreement shall remain in full force and effect for a period of ten (10) years from and after the Effective Date and shall automatically renew for subsequent ten-year periods. Any party wishing to not renew this Agreement at the conclusion of the initial term, or any ten-year term, shall submit a written notice of non-renewal at least 48 months prior to the date that the Agreement would otherwise automatically renew. The party to whom a notice of non-renewal is submitted shall acknowledge receipt of the notice in writing within 30 days of the date of the notice.
- E. Termination of this Agreement at any time other than renewal requires the mutual consent of both parties. A party shall give or withhold its consent in writing within 90 days of being formally requested to give its consent.
- F. In the event Shorewood breaches this Agreement by termination at any time other than at the conclusion of the initial term or a renewal term pursuant to sec. VI.D. without the consent of Milwaukee, Shorewood shall pay to Milwaukee, within 30 days of the termination, compensation in an amount equal to the sum of the total revenues from the sale of water to Shorewood in the two years of highest total revenues, including volume and general service charges, as reported in Milwaukee's annual report to the Commission, plus the charge for public fire protection for the period remaining under the contract, but in no case less than one (1) year.

- G. The parties agree to act in good faith and use due diligence in meeting their respective obligations under this Agreement.
- H. This Agreement may be executed in counterparts, which together shall constitute a single contract.
- I. Each party agrees to defend and hold harmless the other party from any claims or causes of action of whatever nature arising from each party's own negligence, intentional actions, or breach of the expressed warranties and covenants contained in this Agreement or any liabilities which may be incurred by each party arising from the making of this Agreement. The indemnity provisions of this Agreement shall survive its termination and shall continue in full force and effect.
- J. If the parties are unable to resolve a dispute over the terms and conditions of this Agreement, either party may submit the disputed matter to the Commission, a circuit court of competent jurisdiction or, upon mutual agreement, to an alternative dispute resolution method.
- K. This Agreement and all of the provisions hereof shall be binding upon and inure to the benefit of the parties hereto, but neither this Agreement nor any of the rights, interest, or obligations hereunder shall be assigned by either of the parties hereto without the prior written consent of the other party. Moreover, it is not intended by the parties hereto that this Agreement in any way inures to the benefit of any third party.
- L. All notices, requests, demands, and other communications under this Agreement, other than those provided pursuant to secs. III.B., III.C., III.D., and IV.G., shall be in writing and shall be deemed given if personally delivered or mailed, certified mail, return receipt requested to the following addresses:

If to Shorewood: Director of Public Works Village of Shorewood 3801 N. Morris Blvd Shorewood, WI 53211	If to Milwaukee: Superintendent Milwaukee Water Works 841 N. Broadway, Room 409 Milwaukee, WI 53202
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- M. Shorewood and Milwaukee agree that they are obligated to assist each other in retaining and producing records relating to the subject matter of this Agreement that are subject to the Public Records Law, to the extent that disclosure of records is required under Wis. Stat. § 19.36(3).
- N. The failure of either party to insist on strict performance of any of the terms or conditions of this Agreement shall not be construed as a waiver or relinquishment of any right granted under this Agreement.

- O. In the event that any portion of this Agreement is held invalid or unenforceable, such invalidity or unenforceability shall not affect the other portions of this Agreement.
- P. This Agreement, and all of its terms and provisions, including, but not limited to its Effective Date, is and are subject to and contingent upon the grant of all necessary and required governmental approvals applicable thereto, including, but not limited to as may be necessary and required from the Commission.

Dated as of the Effective Date.

**CITY OF MILWAUKEE, operating
as a Water Public Utility**


**VILLAGE OF SHOREWOOD, operating as
a Water Public Utility**

Mayor Cavalier Johnson



Village President, Ann McCullough McKaig

City Clerk, James R. Owczarski

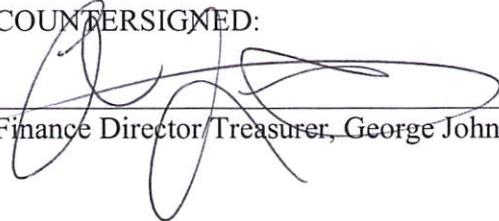


Village Clerk, Toya Harrell

COUNTERSIGNED:

COUNTERSIGNED:

City Comptroller, Aycha Sawa



Finance Director/Treasurer, George Johnson

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