

**FIRST AMENDMENT TO  
INTERGOVERNMENTAL WHOLESALE WATER SERVICE AGREEMENT  
BETWEEN THE CITY OF RACINE, RACINE WATER UTILITY, VILLAGE OF  
CALEDONIA AND CALEDONIA WATER UTILITY DISTRICT**

This First Amendment To Intergovernmental Wholesale Water Service Agreement ("Amendment") is entered into as of this 16 day of March, 2016 by and between the City of Racine, Wisconsin ("City"), a Wisconsin municipal corporation, the Racine Water Utility ("Racine Utility"), a municipal public utility, governed by the Racine Waterworks Commission, the Village of Caledonia, Wisconsin ("Village"), a Wisconsin municipal corporation, and the Caledonia Water Utility District ("Caledonia Utility") of the Village of Caledonia, a department of the Village and a municipal public utility governed by the Caledonia Utility District Commission. The City, Racine Utility, Village and Caledonia Utility are hereinafter collectively referred to in this Agreement as the "Parties" or individually as a "Party".

**Recitals**

WHEREAS, the Parties previously entered into an Intergovernmental Wholesale Water Service Agreement as of the 20<sup>th</sup> day of February, 2013 ("Wholesale Agreement");

WHEREAS, the Deer Creek Estates Subdivision, Rolling Fields Subdivision and Jamestown Subdivision are located in both the Village of Mt. Pleasant ("Mt. Pleasant") and Village of Caledonia and are collectively referred to herein as the "Multijurisdictional Subdivisions";

WHEREAS, water from the Racine Utility is provided to the Deer Creek Estates Subdivision pursuant to an Agreement for the Provision of Municipal Water to the Deer Creek Estates Subdivision dated October 3, 2002 ("Deer Creek Estates Agreement");

WHEREAS, water from the Racine Utility is provided to the Rolling Fields Subdivision pursuant to an Agreement for the Provision of Municipal Water to the Rolling Fields Subdivision dated August 10, 2004 ("Rolling Fields Agreement");

WHEREAS, water from the Racine Utility is provided to the Jamestown Subdivision pursuant to a Supplemental Agreement dated August 15, 2000 ("Jamestown Agreement");

WHEREAS, the Deer Creek Estates Agreement, Rolling Fields Agreement and Jamestown Agreement are collectively referred to herein as the "Multijurisdictional Subdivision Agreements";

WHEREAS, the Multijurisdictional Subdivision Agreements provide that the properties in the Multijurisdictional Subdivisions that are located in the Village of Caledonia are retail water customers of the Caledonia Utility, and the properties in the Multijurisdictional Subdivisions that are located in the Village of Mt. Pleasant are retail water customers of the Racine Utility;

WHEREAS, the subdivision currently named the Settlement at Hoods Creek Subdivision is located in the Village of Mt. Pleasant;

WHEREAS, the Parties recognize that a new developer has purchased property that is known as Phase II of the Settlement at Hoods Creek Subdivision and could rename or change the



plat of that portion of the Settlement at Hoods Creek Subdivision at some time in the future, and as used herein, the term "Settlement at Hoods Creek Subdivision" shall mean and apply to the entire property included in the Settlement at Hoods Creek Subdivision on the date of this Agreement even though a portion of that subdivision may be renamed or replatted in the future;

WHEREAS, water from the Racine Utility is provided to the Settlement at Hoods Creek Subdivision pursuant to a Supplemental Agreement dated May 28, 2004 ("Settlement at Hoods Creek Agreement");

WHEREAS, the Settlement at Hoods Creek Agreement provides that the properties in the Settlement at Hoods Creek Subdivision are retail water customers of the Racine Utility;

WHEREAS, the water that flows from the Racine Utility to the properties in the Multijurisdictional Subdivisions located in Mt. Pleasant and the Settlement at Hoods Creek Subdivision flow through water mains of the Caledonia Utility;

WHEREAS, Section 2(e) of the Wholesale Agreement provides that an Excessive Demand Charge will be imposed whenever the Caledonia Utility's demand at the Emmertsen Road and Highway 38 Metering Location ("Emmertsen Metering Location") exceeds the Maximum Hourly Delivery Volume for the Emmertsen Metering Location set forth in Section 2(d) of the Wholesale Agreement;

WHEREAS, as used herein, the term "Water System Infrastructure Failure" means an occurrence that involves water loss caused by a water main breakage, valve malfunction, water hydrant breakage or the failure of any other water system fixture or equipment that causes the release of water in an amount greater than the percentage of water loss typically incurred by the Racine Utility;

WHEREAS, the Village and Caledonia Utility are concerned that an Excessive Demand Charge could be imposed for an exceedance of the Maximum Hourly Delivery Volume at the Emmertsen Metering Location if a Water System Infrastructure Failure occurs in the portion of the Multijurisdictional Subdivisions located in Mt. Pleasant or Settlement at Hoods Creek Subdivision; and

WHEREAS, the Parties desire to amend the Wholesale Agreement to provide that no Excessive Demand Charge shall be imposed for an exceedance of the Maximum Hourly Delivery Volume at the Emmertsen Metering Location during the time period of a Water System Infrastructure Failure that occurs in the portion of the Multijurisdictional Subdivisions located in Mt. Pleasant or Settlement at Hoods Creek Subdivision and that are located in the retail service area of the Racine Utility but receive water via the water mains of the Caledonia Utility.

#### **Agreement**

NOW, THEREFORE, in consideration of the mutual provisions of this Amendment and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged by each of the Parties, and pursuant to Sections 61.34(1) and (2), 62.11(5), 66.0301, and 66.0813 of the Wisconsin Statutes and other applicable provisions of such statutes, the Parties hereby agree as follows:



1. Incorporation of Recitals. The above recitals are true and correct and are incorporated herein by reference.

2. Definitions. Capitalized terms used but not otherwise defined herein shall have the same meaning as set forth in the Wholesale Agreement.

3. Modification of Excessive Demand Charge. The Wholesale Agreement is hereby amended to provide that an Excessive Demand Charge shall not be imposed for an exceedance of the Maximum Hourly Delivery Volume at the Emmertsen Metering Location during the time period that a Water System Infrastructure Failure occurs in the portion of the Multijurisdictional Subdivisions located in Mt. Pleasant or Settlement at Hoods Creek Subdivision. For example, if a water main break occurs in the portion of the Multijurisdictional Subdivisions located in Mt. Pleasant or Settlement at Hoods Creek Subdivision, no Excessive Demand Charge shall be imposed for an exceedance of the Maximum Hourly Delivery Volume at the Emmertsen Metering Location during the time period beginning when the breakage occurred and ending when the breakage was repaired. The Racine Utility agrees to provide notice to the Caledonia Utility of the beginning and end of all Water System Infrastructure Failures that occur in the portion of the Multijurisdictional Subdivisions located in Mt. Pleasant or Settlement at Hoods Creek Subdivision.

4. Deer Creek Estates Agreement. The reference to the date of the Deer Creek Estates Agreement in Section 27 of the Wholesale Agreement is hereby changed from October 3, 2006 to October 3, 2002.

5. Except as amended hereby, the Wholesale Agreement shall remain in full force and effect.

Approved as to form:

  
Scott Letteney, City Attorney

CITY OF RACINE

By: 

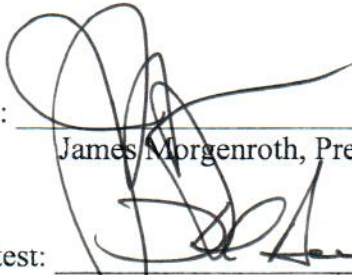
John Dickert, Mayor

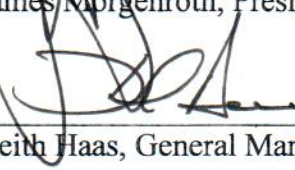
Attest: 

Janice Johnson-Martin, City Clerk

Date Signed: 3-21-2016

RACINE WATER UTILITY by the RACINE  
WATERWORKS COMMISSION

By:   
James Morgenroth, President

Attest:   
Keith Haas, General Manager

Date Signed: 3-16-16

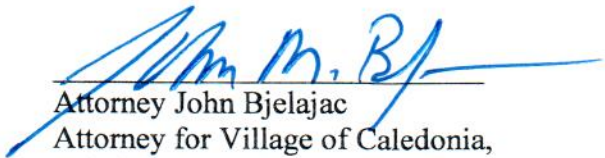
VILLAGE OF CALEDONIA

By:   
Bob Bradley, Village President


Approved as to form:

Attest:   
Karie Torkilsen, Village Clerk

Date Signed: 2-15-16

  
Attorney John Bjelajac  
Attorney for Village of Caledonia,  
Caledonia Water Utility District  
And Caledonia Utility District  
Commission

CALEDONIA WATER UTILITY DISTRICT by  
the CALEDONIA UTILITY DISTRICT  
COMMISSION

By:   
\_\_\_\_\_, President

Attest:   
\_\_\_\_\_, Secretary

Date Signed: 2/11/16