

**CITY OF MIDDLETON COUNTER-PROPOSAL REGARDING
BOUNDARY PLAN AND AGREEMENT BETWEEN THE CITY AND TOWN OF
MIDDLETON**

SEPTEMBER 23, 2024

- (1) Boundary. No annexations or attachments by the City of Middleton in the Town of Middleton without the approval of the Town. It is understood that the City will not extend sewer or water service outside of its corporate boundary. The restriction on annexation or attachment shall not apply to the following:
 - a. Any property owned by the City of Middleton.
 - b. Lands shown in Proposed Boundary Exceptions Map. Such lands would be annexed if petitioned by owners or electors pursuant to statute. Right of way under section of Evergreen Road and Twin Sunset Road would enter City upon the effective date of the Boundary Plan and Agreement.

- (2) Extraterritorial Subdivision Review. The City of Middleton will not exercise any extraterritorial subdivision (plat and certified survey map) review powers under Wis. Stats. Chap. 236 or under local ordinances adopted under Wis. Stats. Chap. 236 within the Town of Middleton except within the area in which it has exercised such authority under the parties' 1994 Agreement (amended 2001).

- (3) Extraterritorial Zoning (Under Wis. Stats. §62.23(7a)). The City of Middleton will not exercise any extraterritorial zoning powers within the Town of Middleton under Wis. Stats. §62.23(7a) except within the area in which it has exercised Extraterritorial Subdivision review authority under the parties' 1994 Agreement (amended 2001).

- (4) Consultation with the Town of Middleton:
 - a. Consultation: For purposes of this proposal;
 - i. "consult" means that the City of Middleton will, in good faith provide direct notice to the Town of Middleton and opportunity to be heard by the City, up to and including holding a joint meeting between the governing bodies (should such meeting be requested by either party) prior to taking any action. Such notice shall be outside of and in addition to any required legal notices or hearing processes that may be

required by statutes or ordinances (without waiver of the Town's rights under such statutes or ordinances).

- ii. The obligation to consult hereunder shall not be construed as a condition prerequisite to the City exercising any lawful power, but rather is established as a general understanding between the parties that certain powers exercised within the Town are of particular concern to the Town and that the desire for better, cooperative relations between the parties is best achieved by providing the Town and opportunity for input before action on such issues are taken. The parties agree to endeavor to engage in the consultation process in the spirit of mutual understanding and cooperation, but also understand that exigencies of particular circumstances may affect the nature and quality of the consultation process.

- b. Matters upon which the City shall consult with the Town prior to taking action.
The City shall consult with the Town on the following matters only:

- i. Property Acquisition. The acquisition of real property interests located in the Town of Middleton. Real property interests hereunder shall include both easement and ownership interests but shall not include leasehold or temporary interests. An acquisition shall be deemed to have occurred whether by the exercise of eminent domain or voluntary transaction but shall not include donations.
- ii. Airport Zoning. The enactment or amendment of any airport zoning regulations authorized under Wis. Stats. Chap. 114 that apply to any property within the Town of Middleton except for those provisions that relate to height restrictions in the airport height limit overlay zone or restrictions within runway protection zones.

- (5) Trail Development. Cooperation on trail development for:

- a. Good neighbor trail; and
- b. Trail through Hickory Woods, Outlot 1. See trail map.

- (6) Dismiss Litigation. Within five (5) days of the effective date of the Boundary Agreement and Plan, the Town agrees to dismiss its lawsuit in Dane County Circuit Court Case No. 22 CV 2229.

- (7) Future Meetings. The Town Board and City Council, or their member designees, will meet every two (2) years to discuss issues of mutual interest that are impacted by the Boundary Plan and Agreement and to consider possible amendments to the Plan and Agreement, which discussions may include items in paragraphs (1) through (4) above.
- (8) Term of Agreement. The Boundary Agreement and Plan shall have a term of 20 years.
- (9) Adoption. This is a proposal and is not legal binding unless formally adopted by the Town of Middleton and the City of Middleton in accordance with the boundary agreement provisions of Wis. Stats. §66.0307 and approved by the Wisconsin Department of Administration. To the extent that the procedures for formal adoption of the Boundary Agreement and Plan cannot be completed by May 12, 2025 for any reason, the parties' 1994 Agreement (amended 2001) shall be extended until the earlier of: (a) completion of the procedures for formal adoption of the Boundary Agreement and Plan; or (b) one year.