

**REVISED COUNTER-PROPOSAL BY THE CITY OF MIDDLETON  
REGARDING BOUNDARY PLAN AND AGREEMENT WITH THE TOWN OF  
MIDDLETON**

**Dated November \_\_\_\_\_, 2024**

The ~~Town of Middleton~~City of Middleton proposes the following as revised terms of a proposed boundary plan and agreement with the ~~City of Middleton~~Town of Middleton (revisions are noted in strike outs or underlining):

1. 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. The Town agrees to hold said lawsuit in abeyance regardless of the outcome of the Northwestern Stone lawsuit so long as the parties continue to negotiate or proceed to obtain approval of this Plan and Agreement.
  
2. Preservation of Current Boundary. Continue current boundary between the Town of Middleton and the City of Middleton without change. ~~except for the 10 acre Ziegler annexation which is now in progress and the Town does not object to.~~ There will be no future annexations or attachments by the City of Middleton in the Town of Middleton without the approval of the Town. ~~Proposals for annexation can be discussed between the parties in the future as the need arises.~~ 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. Parcels 070801185006 and 07080118001 on the Proposed Boundary Exceptions Map Dated \_\_\_\_\_, which will enter the City upon the effective date of the Boundary Plan and Agreement.
  - b. Lands shown in Proposed Boundary Exceptions Map Dated \_\_\_\_\_. Such lands would be annexed if petitioned by owners or electors pursuant to statute.
  - c. 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.

4.3. Extraterritorial Subdivision Review. City of Middleton will not exercise any extraterritorial subdivision (plat and certified survey map) review powers under Chapter 236, Wis. Stats., or under local ordinances adopted under Chapter 236, within the Town of Middleton, except within the area in which the City is authorized to exercise such authority under the parties' 1994 Agreement (amended 2001).

2.4. Extraterritorial Zoning (Under Chapter 62, Wis. Stats). City of Middleton will not exercise any extraterritorial zoning powers within the Town of Middleton under section 62.23(7a), Wis. Stats., except within the area in which the City is authorized to exercise such authority under the parties' 1994 Agreement (amended 2001)

5. City 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 an 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 the desire for better, cooperative relations between the parties is best achieved by providing the Town an opportunity for input before action on specific 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 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.
- 3. ~~Airport Zoning (Under Aeronautics Chapter 114, Wis. Stats.). City of Middleton will not modify its current airport zoning ordinance or adopt any new airport zoning provisions under Chapter 114, without the approval of the Town Board, including the adoption of any new or additional restrictions, but waivers, amendments and variances to increase height limits generally, in certain areas or for specific buildings, are allowed without requiring Town Board approval.~~
- 4. ~~Condemnation. City of Middleton will not condemn any interests in land within the Town of Middleton without the approval of the Town of Middleton. Requests for condemnation can be discussed between the parties in the future as the need arises for public works projects.~~
- 5. ~~Land Acquisition. City of Middleton will not acquire any interests in land, either directly or indirectly, within the Town of Middleton without the approval of the Town of Middleton. Requests for acquisition of interests in land within the Town can be discussed between the parties in the future as the need arises for public works projects.~~
- 6. Trail Matters. The Town may consider a conceptual engineering plan prepared by the City for a possible trail through Hickory Woods, Outlot 1, as part of a future, separate agreement. ~~The Town does not believe that the Good Neighbor Trail along US 14 is feasible.~~

7. Future Meetings. The Town Board and City Council, or their member designees, will meet every two years ~~annually~~ 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 ~~21~~ through ~~7-6~~ above.
8. Term of Agreement. The Boundary Agreement and Plan shall have a term of ~~50-30~~ 60 years.
- ~~9.~~ Adoption. This is a proposal and is not legally binding unless formally adopted by the Town of Middleton and the City of Middleton in accordance with the boundary agreement provisions of section 66.0307, Wis. Stats., 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 will put the agreement into effect by May 12, 2025 on an interim basis by adopting the agreement as an intergovernmental agreement under section 66.0301, Wis. Stats., until final approval under section 66.0307, Wis. Stats., is achieved.~~
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