

# AGREEMENT FOR PROVISION OF CERTAIN CITY AND UTILITY SERVICES AND WAIVER AND RELEASE OF CLAIMS

Agreement entered into as of this \_\_\_\_ day of \_\_\_\_\_, 2024, by and between the City of Two Rivers, Wisconsin a municipal corporation ("CITY") and the Blue Heron Condominium, An Expandable Condominium Owners Association, LTD., with its principal place of business at P.O. Box 144, Two Rivers, WI 54241 and 1527 Deer Brook Drive, Two Rivers, Wisconsin 54241 ("ASSOCIATION").

WHEREAS, the City Council of the City has promulgated a policy under which the City provides certain maintenance services to privately owned water and sewer facilities of condominiums and other developments, subject to certain terms and conditions, including a waiver and release of liability against the City; and

WHEREAS, the Association desires to enter into an agreement for provision of such services by the City, and for Fall leaf collection along the private roadways within the Association, subject to the terms and conditions of this Agreement;

NOW, THEREFORE, it is hereby agreed by and between the parties hereto as follows:

1. The Association has requested, and the City hereby agrees to provide at no charge to the Association, routine flushing services to water mains and sanitary sewer mains owned by the Association, at the Blue Heron Condominium Development, described in Exhibit A attached hereto and made a part hereof, on the same terms and in the same manner as the City provides such service for publicly owned water and sanitary sewer mains in other areas of the City.
2. In addition, the City shall provide at no charge emergency services in the event the sewer mains in the Blue Heron Condominium Development become blocked. Such emergency services shall consist of using City's personnel and equipment to make a reasonable effort to clear such blockage. In the event that the blockage cannot be cleared by the City, the Association will be required to make arrangements with outside resources to address such blockage.
3. The City accepted responsibility for the sanitary sewer lift station that serves the Blue Heron Condominium Development in 1992, upon recommendation of its Plan Commission. The City shall be responsible for all maintenance, operational and capital costs associated with said lift station.
4. The City shall have the sanitary sewer system within the Development inspected by means of closed circuit televising (CCTV) equipment or other method that will provide documentation as to the condition of the sanitary sewer system. Such inspection shall be completed within eighteen months following the date of execution of this Agreement. Additional such inspections may be completed by

the City in the future, at its discretion. A copy of the inspection report resulting from such inspection shall be provided to the Association.

5. The Association will be responsible for repairing all watermain and sanitary sewer main defects, including but not limited to: leaks, breaks, inoperable equipment / valves, access structures, adjustment and covers, etc. that is identified during routine flushing service, inspections, or during emergency service responses.
6. In addition, the City shall at no charge collect leaves from along the edges of the private roadways (identified as Blue Heron Drive and Deerbrook Drive) within the development, on the same schedule, terms and manner as Fall leaf collection services are provided to properties abutting public streets in other areas of the City.
7. The Association hereby grants to the City an easement providing the City with access to the private roadways identified herein and extending for a distance of six feet past the edge of pavement on those roadways as necessary for the City to provide the services identified above.
8. If the services identified herein are provided by the City, the Association, for itself, its heirs, personal and legal representatives, successors and assigns, including any condominium unit owners, waives and releases any and all claims, damages, causes of action, or liabilities of any natures whatsoever, known or unknown, ("CLAIMS") against the City, its officers, officials, agents and employees arising therefrom, relating to or arising from the provision of such services, except only such claims as arise from the reckless, negligent or intentional act of a City employee or the City.

This provision shall not be deemed a waiver of the limitation of amounts recoverable against the City, its officers, officials, agents and employees provided under §893.80(3) of the Wisconsin Statutes or other applicable law, nor shall it be deemed a waiver of the City's ability to claim immunity as provided in §893.80(4) of the Wisconsin Statutes, or other applicable law. In addition, this provision does not constitute a waiver of the requirements imposed by §893.80 of the Wisconsin Statutes, or any other applicable law, for bringing claims against the City, its officers, officials, agents or employees.

9. The Association agrees to obtain and maintain in full force and effect at all times insurance providing coverage against any claims of the kind described in Section 8 hereof, if available, on terms and with policy limits and insurers acceptable to the City. The City shall not be liable under this Agreement for any damages covered by such insurance.
10. The invalidity of any provision of this Agreement or portion of a provision shall not affect the validity of any other portion of this Agreement, or the remaining portion of the applicable provision.
11. The Association agrees that it shall comply with all applicable state, federal and local laws, rules and regulations in the construction, operation and maintenance of its sewer and water facilities.

12. Except as specifically set forth herein, nothing herein expressed or implied is intended or shall be construed to confer upon or give to any other person or entity other than the parties hereto and their successors and assigns any rights or remedies under or by reason of this Agreement. Neither party to this Agreement shall be deemed to be the agent of the other, except as expressly stated herein.
13. The Association may not assign its rights or obligation under this Agreement without the written consent of the City.
14. This Agreement shall bind and inure to the benefit of the parties hereto, their heirs, personal and legal representatives, successors and assigns.
15. This Agreement shall remain in full force and effect for a term of 10 years following signature by the City and the Association, except that either the City or the Association may terminate this Agreement, without cause, upon 120 days written notice to the other party.

CITY OF TWO RIVERS

Dated: \_\_\_\_\_ BY: \_\_\_\_\_  
 GREGORY E. BUCKLEY, CITY MANAGER

Dated: \_\_\_\_\_ BY: \_\_\_\_\_  
 AMANDA BARYENBRUCH, CITY CLERK

BLUE HERON CONDOMINIUM,  
 AN EXPANDABLE CONDOMINIUM  
 OWNERS ASSOCIATION, LTD.

Dated: \_\_\_\_\_ BY: \_\_\_\_\_  
 Print name below signature:  
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Dated: \_\_\_\_\_ BY: \_\_\_\_\_  
 Print name below signature:  
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