

**ANNEXATION AGREEMENT
KALTENBERG PROPERTY**

This Agreement is made and entered into this ____ day of _____, 2023, by and among the Village of Waunakee, a Wisconsin municipal corporation (the “Village”), and the Kaltenberg Farm Partnership and the Viola G Kaltenberg Rev. Trust of 2007.

RECITALS

A. On December 14, 2022, a petition to annex (the “Annexation Petition”) the property described in and shown on Exhibit A (the “Property”) to the Village of Waunakee was filed with the Village Clerk by the Kaltenberg Farm Partnership and Viola G Kaltenberg Rev. Trust of 2007, being the owners of all of the real property described in the Annexation Petition (the “Owners”), and Garret Kaltenberg and Lindsey Morgan-Kaltenberg, being all of the electors residing in the real property described in the Annexation Petition (the “Electors”).

B. On December 14, 2022, the Owners owned all of the real property within the Property, and the Electors were the only electors residing within the Property.

C. The Annexation Petition was voluntarily filed with the Village, and the Village has not initiated or required the annexation.

D. The annexation and development of the Property are consistent with the Boundary Stipulation and Intergovernmental Cooperation Agreement between the Village of Waunakee and the Town of Westport (the “Boundary Agreement”), the Village of Waunakee-Town of Westport Joint Comprehensive Plan (the “Comprehensive Plan”), and are necessary to provide urban services to the proposed development and to enhance the value of the land for future development.

E. The annexation and development of the Property are beneficial to the Village if accomplished in accordance with the terms of this Agreement in that such annexation and development will increase the Village’s tax base; provide lands for

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P.I.N. See Exhibit A

needed growth of the Village; permit the sound planning and development of the Property; and otherwise promote the general welfare of the Village.

- F. The parties desire that the Property be annexed into the Village in a manner that minimizes the cost of development to Village taxpayers and that complies with the Boundary Agreement, the Comprehensive Plan, and all Village ordinances, rules, regulations and policies.
- G. To induce the Village to annex the Property and take other actions contemplated by this Agreement, the Owners agree to dedicate land and pay certain costs for on-site and off-site improvements.
- H. The Owners recognize the many advantages and benefits of annexation, particularly in regard to the Village's ability to provide the full range of urban services to the Property.
- I. The Owners recognize that they and any successor owners of the Property will receive the benefits of Village services, including but not limited to, snow removal, garbage removal, street cleaning, emergency services protection, and other necessary or expected services received by Village property owners.
- J. The annexation and development of the Property will require that certain public improvements be planned and made which will serve the Property.
- K. The annexation of the Property, including temporarily zoning the Property as A-1 Agricultural/Holding District pursuant to Section 133-128(b) of the Village Zoning Code, was considered by the Waunakee Plan Commission at a public meeting on January 9, 2023, and by the Waunakee/Westport Joint Plan Commission at a public meeting on January 10, 2023.
- L. The parties acknowledge that they enter into this Agreement for their mutual benefit and in order to specify certain rights, obligations, conditions and liabilities which will arise in the event the annexation proceeds.

NOW, THEREFORE, for and in consideration of the mutual covenants and agreements hereinafter set forth, the parties, on behalf of themselves, their heirs, successors and assigns, agree as follows in connection with the annexation of the and development of the Property:

1. **Recitals.**

The representations and recitations set forth in the foregoing paragraphs are material to this Agreement and are hereby incorporated into and made a part of this Agreement as though they were fully set forth in this paragraph, subject to all of the terms and conditions in the balance of this Agreement.

2. **Annexation and Land Ownership for Development.**

- a. The Annexation Petition was voluntarily filed with the Village Clerk and requests annexation of the Property to the Village.
- b. This Agreement is made pursuant to and in accordance with the provisions of Wis. Stat. §§ 61.34, 61.35, and 66.0217.
- c. The Owners anticipate conveying the Property to a third party or third parties for development of the Property. Nothing in this Agreement shall bind the Owners to incur any costs related to the development of the Property, assuming the Owners do not develop the Property themselves. However, the Owners agree and acknowledge that, no matter what party or parties develop the Property, the Property, including the development of the Property, shall be subject to the terms and conditions of this Agreement.
- d. The Owners shall reimburse the Village for any amounts the Village is required by law to pay the Town of Westport as a result of the annexation of the Property. Any such reimbursements shall be paid within 30 days after the Village requests payment, as and when due to the Town.

3. **Zoning.**

- a. Temporary Zoning. When the annexation becomes effective, the Property will be temporarily zoned A-1 Agricultural/Holding District pursuant to Section 133-128(b) of the Village Zoning Code.
- b. Final Zoning of Development. The Owners agree that prior to consideration for approval of a final plat or certified survey map for any portion of the Property, the Owners shall request that the Property be rezoned to be consistent with the uses identified in the Comprehensive Plan, or any approved amendments thereto.

4. **Development of the Property.** At the time that any portion of the Property is developed, the Owners, or a subsequent owner or owners of the Property, shall be responsible for the items set forth in this Section 4, unless another agreement is reached by the Owners, or a subsequent owner or owners of the Property, and the Village.
- a. Land Division by Plat or Certified Survey Map. The Property shall be developed consistent with this Agreement, the Comprehensive Plan, and the Village's land division, zoning, storm water, floodplain, building and other applicable regulations.
 - b. Development Agreements. Development of the Property shall not occur until one or more development agreements satisfactory to the Village and the Owners, in the exercise of their judgment and discretion, is/are executed that, among other things, incorporate the terms and conditions of this Agreement.
 - c. Plan Submittals. Preliminary and final plats or certified survey maps and rezoning requests shall be submitted to the Village at such time as is determined by the Owners in their sole discretion, but in no event shall the final plat or certified survey map applications be submitted prior to the submission of the rezoning request. The Village expressly reserves the right to conditionally approve a rezoning request on the condition that the final plat submitted by the Owners conforms to the preliminary plat.
 - d. Phased Development for Residential Development. Any residential development of the Property shall be completed in phases. The start of the first phase, and any further phases thereafter, shall be as specified in the first and any subsequent development agreements between the Owners and the Village, which shall be mutually agreed upon by the Owners and the Village in their judgment and discretion. The nature of the public improvements to be constructed in Phase 1, and in any future phases, shall be specified in the development agreements. Once phasing commences, the Owners shall not develop more than 60 detached single-family residential lots during a rolling 2-year period, except that the Owners may bank unsold detached single-family residential lots from prior years and sell the banked lots in subsequent years in addition to the 60 detached single-family residential lots otherwise permitted to be sold during a rolling 2-year period. Lots which are designated by the Madison Area Builders Association as Parade of Homes sites in the annual Parade of Homes will not count against the phasing limitations of this paragraph.

- e. Trail and Park Improvements. In addition to complying with Village ordinances applicable to trail and/or park improvements, dedications or fees, All parkland shall be graded in such a way as to ensure proper drainage and suitability for park use, pursuant to plans approved by the Village and provided for in one or more development agreements between the Village and the Owners. The development of all parks shall be pursuant to plans approved by the Village. All private parks identified on outlots within the preliminary plat or final plats shall be open for use by the public as if the land were dedicated to the Village for park purposes.
- f. Street Improvements. In addition to street improvements internal to the Property, the costs of which shall be paid by whatever party develops the Property, financial contributions may need to be made, on a percentage basis, to off-site street improvements needed to serve the Property, including, but not limited to, improvements to the intersection of State Highway 113 and Hogan Road. Further, to the extent the Village determines that improvements are needed to County Highway I due to the development of the Property, the party that develops the Property shall pay all costs associated with the improvements to County Highway I.
- g. Utilities.
- (1) The costs to extend utilities to the Property, including any necessary off-site utility improvements identified by the Village, shall be paid by the party that develops the Property. At this time, the parties anticipate that a public water main would be extended from Hogan Road, starting at the future intersection of Hogan Road and Frank H. Street. At this time, the route for extending public sanitary sewer to the Property is not yet known, and the parties agree to work in good faith to determine the appropriate extension (or extensions).
 - (2) A boosted water station will need to be constructed on the Property to serve land within the Property that is above a 960-foot elevation. Land for the boosted water station shall be dedicated to the Village, and the party who develops the Property shall pay costs associated with constructing the water station. To the extent lands outside the Property utilize the boosted water station, the parties agree to work in good faith to try to recapture certain costs from other benefited property owners, subject to all applicable Wisconsin Statutes and other rules and regulations, including, but not limited to, the water rules contained in the tariffs for Waunakee Utilities a/k/a Waunakee Water and Light Commission.

- h. Storm water. Storm water improvements shall meet all Village requirements at time of development.
- i. Floodplain. To the extent required by law, applicable floodplain studies and necessary improvements to satisfy all local, state, and federal requirements shall be prepared, submitted, and validated.
- j. Urban Service Area Amendment. Development of the Property shall not occur until the property is brought into the Village of Waunakee Urban Service Area. All costs of amending the Urban Service Area boundary, consistent with the procedures as specified by the Wisconsin Department of Natural Resources and the Capital Area Regional Planning Commission, shall be paid by the party on whose behalf the application is submitted.
- k. Miscellaneous. Other requirements include:
 - (1) Install and utilize a looped system providing acceptable water pressure and capacity, with a minimum of two access points in each pressure zone, for municipal water to the Property upon the completion of the development of the Property.
 - (2) Install all water and sewer facilities in the street right-of-way or applicable easements or outlots within the Property, per engineering plans approved by the Village, as specified in the applicable development agreements between the Village and the Owners, on terms and conditions mutually agreed to between them, subject to applicable Village Code provisions.
 - (3) Take reasonable measures to ensure that retaining walls, fences, decks and other similar structures associated with the residential homes in the Property do not encroach upon easement rights granted for the operation and maintenance of municipal utilities.
 - (4) Install mountable curbs on traffic islands within the Property, so that the curbs may withstand snow removal, maintenance, and emergency vehicle use.
 - (5) To the extent blasting operations are required for the construction of public improvements or the development of the Property:

- (a) Comply with all applicable federal, state, and local rules, regulations, and specifications applicable to blasting.
 - (b) Install and maintain fencing around all material piles and operations related to blasting.
 - (c) Inform Village Public Works Department staff of scheduled blasting at least 7 days before the blasting.
 - (d) Work with Village Public Works Department staff to reasonably expand the area for which pre-blasting notifications will be provided to Village and Town of Westport residences, including, but not limited to, offering pre-blasting surveys to residences falling within the scope of the expanded area.
- (6) For avoidance of doubt, pay all costs associated with providing electric service to the development.

5. Future Development Activities, Procedures and Agreements.

- a. This Agreement pertains to annexation only. Nothing in this Agreement is intended to relieve, nor should it be construed as relieving, or in any way satisfying other obligations, procedures or requirements pertaining to the future development or division of the Property. The obligations and responsibilities undertaken by the Owners in Section 4 are in addition to all other obligations, procedures and requirements that will pertain to future development or division of the Property pursuant to applicable provisions of the Village Code.
- b. The entering of this Agreement does not bind the Village to approve any land division, rezoning request, or other development activity for the Property that is not in compliance with Village ordinances and plans, or state or federal law.
- c. At the time of any subsequent land division, rezoning or development requests, the Owners agree to comply with all applicable procedures then required by the Village Code, including, but not limited to, entering into a separate agreement for land division improvements acceptable to the Village pursuant to the Village Code. Among other things, the agreement for land division improvements shall set forth the required dedications and improvements, shall identify the specifications and construction standards