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CRANBERRY CAPITAL
OF THE WORLD



Town of Middleborough
Massachusetts

Town Manager

508-947-0928
FAX 508-946-2320

TOWN MANAGER'S REPORT
JULY 23, 2012

Attached please find correspondence from the office of the Town Manager for your review. Thank you.

Charles J. Cristello
Town Manager

**INTERMUNICIPAL WATER AGREEMENT
BETWEEN
THE TOWN OF MIDDLEBOROUGH
AND
THE TOWN OF LAKEVILLE**

THIS AGREEMENT made and entered into this _____ day of _____, 2012, (“Agreement”), by and between the Town of Middleborough, a municipal corporation in the Commonwealth of Massachusetts, acting by its Board of Selectmen (“Middleborough”), and the Town of Lakeville, a municipal corporation in the Commonwealth of Massachusetts, acting by its Board of Selectmen, (“Lakeville”).

WITNESSETH:

WHEREAS, Middleborough is willing to deliver drinking water to Existing Water Customers (hereafter defined) in Lakeville; and

WHEREAS, Lakeville agrees with Middleborough that Middleborough may deliver drinking water to Existing Water Customers in Lakeville on terms and conditions set forth in this Agreement; and

WHEREAS, Lakeville agrees that it is in the interests of public health, safety and welfare of its residents for Lakeville to enter into this Agreement to permit Middleborough to provide water service to the Existing Water Customers.

WHEREAS, the parties enter this Agreement pursuant to the provisions of Massachusetts General Laws, Chapter 40, Section 4A.

NOW THEREFORE, in consideration of the mutual promises and covenants herein set forth, the sufficiency of which is hereby acknowledged, and in order to secure the services described below, the parties hereto agree as follows:

ARTICLE I

Section 101. **Obligations of Middleborough.** Middleborough shall supply water to “Existing Water Customers” as follows:

- A. The terms Existing Water Customers and Existing Water Customer for purposes of this Agreement shall mean those parties identified as Existing Water Customers in the Schedule attached hereto. The terms Existing Water Customers and Existing Water Customer shall include those persons who are the record owner(s) of a property identified in the Schedule at the time of this agreement and their successor(s) in title to the property.
- B. Middleborough is hereby authorized to supply water to Existing Water Customers.
- C. Sale or conveyance or other change of record ownership of a property identified in the attached Schedule by an Existing Water Customer shall not prevent Middleborough from continuing water service, as the case may be, to the successor owner(s) of the property.
- D. Middleborough may in its sole discretion terminate water service to an Existing Water Customer in the event that the use of the property of such customer being served changes to a use other than the Property Use of the property which is identified in the attached Schedule. Examples of use changes without limitation are: (1) a single family dwelling use is changed to a multiple dwelling use; (2) a single family dwelling use is changed to a business or commercial use; or (3) a single family dwelling use is changed to more than one single family dwelling use.

- E. Middleborough may in its sole discretion discontinue and terminate water service to an Existing Water Customer if the annual calendar year water consumption for a particular property of an Existing Water Customer exceeds the water consumption for the property being served for the immediately preceding calendar year by one hundred percent (100%) or more than one hundred percent (100%).
- F. Middleborough may terminate water service to an Existing Water Customer in the event the customer fails to pay Middleborough for the water as billed by Middleborough.

ARTICLE II

Section 201. **Obligations of Lakeville.** Lakeville understands and agrees to the following obligations, limitations, and commitments, in return for Middleborough's agreement to supply water to Existing Water Customers.

- A. **Limitation of Rights.** Nothing in this Agreement shall be construed as a grant by Middleborough of any exclusive right or privilege, or any waiver of any existing rights. Lakeville and all Existing Water Customers shall comply in all respects with the Rules and Regulations and rates of the Middleborough Water Department as in force from time to time, unless otherwise specified herein.
- B. The term of this Agreement shall be for twenty years and shall commence on October 1, 2012 and end on September 30, 2032 or upon termination by Middleborough of water supply to all Existing Water Customers in accordance with the terms of this Agreement, whichever is earlier,

provided that this Agreement is approved by the Middleborough Town Meeting as required by the Town of Middleborough by-laws.

- C. Lakeville and all Existing Water Customers shall do everything in their power to minimize wasteful use of water supplied by Middleborough.
- D. Middleborough may from time to time impose restrictions on the use of water by Existing Water Customers pursuant to Middleborough's Water Use Restriction By-law and as the same may be amended. Such restrictions may include but are not limited to outside watering bans, odd/even outside sprinkler use prohibition, day outside watering prohibition and other limitations. All Existing Water Customers shall comply with any such restrictions imposed by Middleborough.
- E. **Conformance to Law.** Middleborough, Lakeville, and all Existing Water Customers shall abide by all applicable laws of the United States and the Commonwealth of Massachusetts, together with such Rules and Regulations and rates as Middleborough may promulgate from time to time with regard to its water system. Middleborough shall provide Existing Water Customers with a thirty (30) day advance written notice of any proposed changes in its regulations that would impact such Existing Water Customers. Failure of such notice shall not relieve Lakeville or any Existing Water Customers from being subject to such changes.
- F. Lakeville shall take reasonable action to encourage payment of delinquent water bills of Existing Water Customers upon receipt of written notice from Middleborough.

Section 202. **Impairment of Supply.**

- A. **Responsibility.** Middleborough may not be compelled to furnish water to Existing Water Customers continuously in the case of accident, or in the event that the water mains or their appurtenances or the source upon which the water supply is dependent are impaired. For purposes of this subsection, the word “accident” shall mean, among other things, any occurrence occasioned by the consequences of any act of God, act of public enemy, wars, blockades, riots, natural disasters, civil disturbances, labor strikes, power failures, explosions, or any cause which is not within the control of Middleborough, or which Middleborough is reasonably unable to overcome by the exercise of due diligence. None of the above-referenced causes or contingencies affecting performance shall relieve the Existing Water Customers from any obligation to make payments of amounts then due in respect to water theretofore delivered. Middleborough shall be the sole judge in all these matters, and its decision shall be final and binding upon Lakeville and the Existing Water Customers.

Section 203. **Correspondence.** Correspondence by Lakeville to Middleborough concerning any matter under this Agreement shall be sent to:

Board of Selectmen
Town of Middleborough
Town Hall
10 Nickerson Avenue
Middleboro, MA 02346

Correspondence by Middleborough to Lakeville concerning any matter under this Agreement shall be sent to:

Board of Selectmen
Town of Lakeville
Town Hall
346 Bedford Street
Lakeville, MA 02347

ARTICLE III PAYMENTS FOR SERVICES

Section 301. **Rates.** The rates charged for water delivered to Existing Water Customers shall be the same as the rates charged to comparable Middleborough customers located within Middleborough. Middleborough shall have the right and discretion to change water rates for customers in Middleborough at any time during the term of this Agreement which change(s) will impact rates payable by Existing Water Customers. The record owner(s) of a property being served pursuant to this Agreement shall be responsible to pay the rates charged for water service.

ARTICLE IV MISCELLANEOUS PROVISIONS

Section 401. This Agreement constitutes the entire Agreement between the parties.

Section 402. Each party hereto shall each indemnify, defend and hold harmless the other, its officers, boards, agents and employees from and against any and all claims, demand,

liabilities, actions, causes of actions, cost and expenses, including attorney's fees, caused by or arising out of any act, omission or default on the part of the indemnifying party, or any of its agents or employees in connection with the terms of this Agreement or any breach thereof.

Section 403. **Severability.** If any clause or provision of this Agreement or application thereof shall be held unlawful or invalid, no other clause or provision of this Agreement or its application shall be affected, and this Agreement shall be construed and enforced as if such unlawful or invalid clause or provision had not been contained herein.

Section 404. This Agreement shall be for the benefit of and be binding upon the parties and their respective agents and legal representatives.

Section 405. **Amendment.** Except where otherwise provided for herein, the provisions, terms and conditions of this Agreement shall be modified only by written amendment(s) to this Agreement, executed with the same formality as this Agreement.

Section 406. Lakeville shall not assign its rights and obligations under this Agreement unless Middleborough consents to such assignment in writing. Middleborough shall not be required to consent to any assignment.

Section 407. **Waiver.** Failure of Middleborough to exercise any right hereunder shall not be deemed to prevent the exercise of such right at some future time.

Section 408. This Agreement shall be governed by, construed and enforced in accordance with the laws of the Commonwealth of Massachusetts and the parties hereto submit to the jurisdiction of any of its appropriate courts for the adjudication of disputes arising out of this Agreement.

IN WITNESS WHEREOF, this instrument is executed in five (5) counterparts,
each of which shall be deemed an original on the date first set forth above.

Town of Lakeville Board of Selectmen

Town of Middleborough Board of Selectmen

**INTERMUNICIPAL WATER AGREEMENT
BETWEEN
THE TOWN OF MIDDLEBOROUGH
AND
THE TOWN OF LAKEVILLE**

THIS AGREEMENT made and entered into this ____ day of _____, 2012,
("Agreement"), by and between the Town of Middleborough, a municipal corporation in the
Commonwealth of Massachusetts, acting by its Board of Selectmen ("Middleborough"), and the
Town of Lakeville, a municipal corporation in the Commonwealth of Massachusetts, acting by its
Board of Selectmen, ("Lakeville").

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WITNESSETH:

WHEREAS, Lakeville is willing to deliver drinking water to the Edgeway Mobile Home
Park in Middleborough; and

WHEREAS, Middleborough agrees with Lakeville that Lakeville may deliver drinking
water to the Edgeway Mobile Home Park in Middleborough on terms and conditions set forth in
this Agreement; and

WHEREAS, Middleborough agrees that it is in the interests of public health, safety and
welfare of its residents for Middleborough to enter into this Agreement to permit Lakeville to
provide water service to the Edgeway Mobile Home Park; and

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WHEREAS, the parties enter this Agreement pursuant to the provisions of Massachusetts
General Laws, Chapter 40, Section 4A,

Deleted: ; and

NOW THEREFORE, in consideration of the mutual promises and covenants herein set
forth, the sufficiency of which is hereby acknowledged, and in order to secure the services
described below, the parties hereto agree as follows:

ARTICLE I

Section 201. **Obligations of Lakeville.** Lakeville shall supply water to that section

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of Middleborough known as "Edgeway Mobile Home Park" as follows:

- A. Lakeville shall supply water to the Edgeway Mobile Home Park in Middleborough of a quality that will meet all state and federal regulations. A listing of addresses in the Edgeway Mobile Home Park are in the Schedule attached hereto.
- B. The water to be supplied to Edgeway Mobile Home Park by Lakeville shall be provided through a connection point as determined by Lakeville.
- C. Sale or conveyance or other change of record ownership of the Edgeway Mobile Home Park shall not allow Lakeville to discontinue or terminate water service to the Edgeway Mobile Home Park provided that the property continues to be used as a mobile home park.
- D. Lakeville may in its sole discretion terminate water service to the Edgeway Mobile Home Park in the event that the use of the property changes to a use other than that of a mobile home park.
- E. Lakeville may in its sole discretion discontinue and terminate water service to the Edgeway Mobile Home Park if the annual calendar year water consumption of the Edgeway Mobile Home Park exceeds the water consumption for the immediately preceding calendar year by one hundred percent (100%) or more than one hundred percent (100%).
- F. Lakeville may terminate water service to the Edgeway Mobile Home Park in the event the Edgeway Mobile Home Park fails to pay Lakeville for the water as billed by Lakeville.
- G. In the case of an emergency creating a threat to the public health or safety as determined by Lakeville, Lakeville may suspend or terminate water service to the Edgeway Mobile

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Home Park immediately and without prior written notice. Written notice shall be provided as soon as practicable thereafter.

ARTICLE II

Deleted: <#> Middleborough shall take reasonable action to encourage payment of delinquent water bills of the Edgeway Mobile Home Park upon receipt of written notice from Lakeville.¶

Section 201. **Obligations of Middleborough.** Middleborough understands and agrees to the following obligations, limitations, and commitments, in return for Lakeville's agreement to supply water to the Edgeway Mobile Home Park.

A. **Limitation of Rights.** Nothing in this Agreement shall be construed as a grant by Lakeville of any exclusive right or privilege, or any waiver of any existing rights. The Edgeway Mobile Home Park shall comply in all respects with the Rules and Regulations and rates of the Lakeville Water Department as in force from time to time, unless otherwise specified herein.

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B. The term of this Agreement shall be for twenty years and shall commence on July 1, 2012 and end on June 30, 2032 or upon termination by Lakeville of water supply to the Edgeway Mobile Home Park in accordance with the terms of this Agreement, whichever is earlier.

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C. The Edgeway Mobile Home Park shall do everything in its power to minimize wasteful use of water supplied by Lakeville.

D. Lakeville may from time to time impose restrictions on the use of water by the Edgeway Mobile Home Park pursuant to Lakeville's Water Use Restriction By-law, and as the same may be amended. Such restrictions may include but are not limited to outside watering bans, odd/even outside sprinkler use prohibition, day outside watering prohibition and other limitations. The Edgeway Mobile Home Park shall comply with any such restrictions imposed by Lakeville.

E. **Conformance to Law.** Middleborough, Lakeville, and the Edgeway Mobile Home Park shall abide by all applicable laws of the United States and the Commonwealth of Massachusetts, together with such Rules and Regulations and rates as Lakeville may promulgate from time to time with regard to its water system. Lakeville shall provide the Edgeway Mobile Home Park with a thirty (30) day advance written notice of any proposed changes in its regulations that would impact the Edgeway Mobile Home Park. Failure of such notice shall not relieve the Edgeway Mobile Home Park from being subject to such changes.

F. **Middleborough shall assist Lakeville in the collection of all charges to the Edgeway Mobile Home Park associated with this connection to and use of the Lakeville water system.**

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Section 202. **Impairment of Supply.**

A. **Responsibility.** Lakeville may not be compelled to furnish water to the Edgeway Mobile Home Park continuously in the case of accident, or in the event that the water mains or their appurtenances or the source upon which the water supply is dependent is impaired. For purposes of this subsection, the word "accident" shall mean any occurrence occasioned by the consequences of any act of God, act of public enemy, wars, blockades, riots, natural disasters, civil disturbances, labor strikes, power failures, explosions, or any cause which is not within the control of Lakeville, or which Lakeville is reasonably unable to overcome by the exercise of due diligence. None of the above-referenced causes or contingencies affecting performance shall relieve the Edgeway Mobile Home Park from any obligation to make payments of amounts then due in respect to water theretofore delivered. Lakeville shall be the sole judge in all these

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matters, and its decision shall be final and binding upon the Edgeway Mobile Home
Park.

Section 203. **Correspondence.** Correspondence by Lakeville to Middleborough concerning any matter under this Agreement shall be sent to:

Board of Selectmen
Town of Middleborough
Town Hall
10 Nickerson Avenue
Middleboro, MA 02346

Correspondence by Middleborough to Lakeville concerning any matter under this Agreement shall be sent to:

Board of Selectmen
Town of Lakeville
Town Hall
346 Bedford Street
Lakeville, MA 02347

ARTICLE III PAYMENTS FOR SERVICES

Section 301. **Rates.**

A. The rates charged for water delivered to the Edgeway Mobile Home Park shall be the same as the rates charged to comparable Lakeville customers located within Lakeville. Lakeville shall have the right and discretion to change water rates for customers in Lakeville at any time during the term of this Agreement which change(s) will impact rates payable by the Edgeway Mobile Home Park. The Edgeway Mobile Home Park shall be responsible to pay the rates charged for water service.

B. The cost of service to residents of the Edgeway Mobile Home Park shall be determined by a meters for the Edgeway Mobile Home Park property served by the proposed water connection, in such location as shall be determined by Lakeville.

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ARTICLE IV MISCELLANEOUS PROVISIONS

Section 401. This Agreement constitutes the entire Agreement between the parties.

Section 402. Each party hereto shall each indemnify, defend and hold harmless the other, its officers, boards, agents and employees from and against any and all claims, demand, liabilities, actions, causes of actions, cost and expenses, including attorney's fees, caused by or arising out of any act, omission or default on the part of the indemnifying party, or any of its agents or employees in connection with the terms of this Agreement or any breach thereof.

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Section 403. **Severability.** If any clause or provision of this Agreement or application thereof shall be held unlawful or invalid, no other clause or provision of this Agreement or its application shall be affected, and this Agreement shall be construed and enforced as if such unlawful or invalid clause or provision had not been contained herein.

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Section 404. This Agreement shall be for the benefit of and be binding upon the parties and their respective agents and legal representatives.

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Section 405. **Amendment.** Except where otherwise provided for herein, the provisions, terms and conditions of this Agreement shall be modified only by written amendment(s) to this Agreement, executed with the same formality as this Agreement.

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Section 406. Middleborough shall not assign its rights and obligations under this Agreement unless Lakeville consents to such assignment in writing. Lakeville shall not be required to consent to any assignment.

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Section 407. **Waiver.** Failure of Lakeville to exercise any right hereunder shall not be deemed to prevent the exercise of such right at some future time.

Section 408. This Agreement shall be governed by, construed and enforced in accordance with the laws of the Commonwealth of Massachusetts and the parties hereto submit to the jurisdiction of any of its appropriate courts for the adjudication of disputes arising out of this Agreement.

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IN WITNESS WHEREOF, this instrument is executed in five (5) counterparts, each of which shall be deemed an original on the date first set forth above.

Town of Lakeville Board of Selectmen

Town of Middleborough Board of Selectmen

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EDGEWAY MOBILE HOME PARK ADDRESSES

<u>10 Lyn Lane</u>	<u>69 Lyn Lane</u>	<u>81 Wesley Circle</u>	<u>143 Wesley Circle</u>
<u>11 Lyn Lane</u>	<u>74 Lyn Lane</u>	<u>83 Wesley Circle</u>	<u>144 Wesley Circle</u>
<u>12 Lyn Lane</u>	<u>75 Lyn Lane</u>	<u>87 Wesley Circle</u>	<u>145 Wesley Circle</u>
<u>17 Lyn Lane</u>	<u>24 Wesley Circle</u>	<u>88 Wesley Circle</u>	<u>147 Wesley Circle</u>
<u>18 Lyn Lane</u>	<u>27 Wesley Circle</u>	<u>92 Wesley Circle</u>	<u>151 Wesley Circle</u>
<u>23 Lyn Lane</u>	<u>35 Wesley Circle</u>	<u>95 Wesley Circle</u>	<u>153 Wesley Circle</u>
<u>24 Lyn Lane</u>	<u>36 Wesley Circle</u>	<u>100 Wesley Circle</u>	<u>162 Wesley Circle</u>
<u>29 Lyn Lane</u>	<u>39 Wesley Circle</u>	<u>101 Wesley Circle</u>	<u>174 Wesley Circle</u>
<u>30 Lyn Lane</u>	<u>43 Wesley Circle</u>	<u>103 Wesley Circle</u>	
<u>35 Lyn Lane</u>	<u>45 Wesley Circle</u>	<u>107 Wesley Circle</u>	
<u>38 Lyn Lane</u>	<u>47 Wesley Circle</u>	<u>108 Wesley Circle</u>	
<u>40 Lyn Lane</u>	<u>49 Wesley Circle</u>	<u>112 Wesley Circle</u>	
<u>41 Lyn Lane</u>	<u>51 Wesley Circle</u>	<u>115 Wesley Circle</u>	
<u>46 Lyn Lane</u>	<u>55 Wesley Circle</u>	<u>118 Wesley Circle</u>	
<u>47 Lyn Lane</u>	<u>60 Wesley Circle</u>	<u>121 Wesley Circle</u>	
<u>51 Lyn Lane</u>	<u>61 Wesley Circle</u>	<u>123 Wesley Circle</u>	
<u>52 Lyn Lane</u>	<u>63 Wesley Circle</u>	<u>126 Wesley Circle</u>	
<u>57 Lyn Lane</u>	<u>67 Wesley Circle</u>	<u>127 Wesley Circle</u>	
<u>58 Lyn Lane</u>	<u>68 Wesley Circle</u>	<u>132 Wesley Circle</u>	
<u>63 Lyn Lane</u>	<u>72 Wesley Circle</u>	<u>133 Wesley Circle</u>	
<u>64 Lyn Lane</u>	<u>75 Wesley Circle</u>	<u>135 Wesley Circle</u>	
<u>68 Lyn Lane</u>	<u>80 Wesley Circle</u>	<u>139 Wesley Circle</u>	

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