

## WATER SUPPLY AGREEMENT

THIS WATER SUPPLY AGREEMENT is executed this \_\_\_\_ day of \_\_\_\_\_, 2022, by and between **Millie's 40 Bren-Burk, LLC**, an Idaho limited liability company (hereinafter referred to as "**Millie's**"), and **Golf Club Estates Water Association, Inc**, an Idaho Non-Profit Corporation (hereinafter referred to as "**GCEWA**").

### RECITALS

WHEREAS, Golf Club Estates Water Association, Inc. ("GCEWA") owns and operates a water system with the mission to provide water to its Members; Priest Lake Golf Club Estates, Priest Lake Golf Club Estates First Addition, Priest Lake Golf Club Estates Second Addition, and any subsequent addition to Priest Lake Golf Club Estates by maintaining, repairing, improving, expanding, and preserving the existing water system located at the Priest Lake Golf Course, Bonner County Idaho; and

WHEREAS, GCEWA desires to expand its service area while fulfilling its mission of provide Water to its Members and maintain its Tax-Exempt 501(c)(4) status; and

WHEREAS, Millie's desires to connect two phases of development called Eagle Ridge and Eagle Terrace to the GCEWA system and incorporate its water infrastructure into the GCEWA water system while turning over the ongoing management and maintenance of the water system to the governance and jurisdiction of GCEWA; and

WHEREAS, both parties have a mutual goal to upgrade the current GCEWA water system to provide additional capacity for the service of water and enhancement of fire suppression to the current and future Members served by the GCEWA water system; and

WHEREAS, the current GCEWA water system does not have the adequate capacity to serve an additional One Hundred and Fifty (150) Equivalent Residential Units (ERU's) proposed by Millie's to be connected to the GCEWA water system; and

WHEREAS, an Equivalent Residential Unit (ERU) shall be defined as a lot, parcel, property, or dwelling consuming water utilized by an average single family residential dwelling whether attached or detached. By way of example, a single-family residential dwelling, vacant lot, or vacant parcel shall be considered one (1) ERU, a duplex shall be considered two (2) ERU's, and a fourplex shall be considered four (4) ERU's, etc.; and

WHEREAS, the real property subject to this Agreement is currently owned by MILLIE'S 1943 JESS/BURK, LLC, an Idaho limited liability company and L.T. PARTNERSHIP, LTD, a Texas limited partnership, (together Millie's Affiliates") both of which have consented to the terms of this Agreement to the extent that the terms of this Agreement effect the real property owned by each; and

WHEREAS, both parties acknowledge that the spirit and intent of this agreement is to provide funding by Millie's to GCEWA to develop the GCEWA water system for the purpose of improving the current GCEWA water system to adequately provide water service to all of its current Members and future Members of Eagle Ridge and Eagle Terrace.

THEREFORE, based upon good and valuable consideration and the mutual promises and covenants made by the parties herein, the parties hereby agree as follows:

1. Purpose. The purpose of this agreement is to provide water service by GCEWA to One Hundred and Fifty (150) Equivalent Residential Units (ERUs) in the developments of Eagle Ridge and Eagle Terrace ("Millie's Developments) identified and legally described on Exhibit "A" attached hereto and made part hereof while maintaining the Tax-Exempt status of GCEWA.

2. Schedule of Payments. Millie's shall remit to GCEWA the following scheduled amounts totaling approximately Eight Hundred Sixty-Four Thousand and No/100 Dollars (\$864,000.00\*):

a. Three Hundred Fifty Thousand and No/100 Dollars (\$350,000.00) upon execution of this agreement.

b. Three Hundred Thousand and No/100 Dollars (\$300,000.00) on July 1, 2023; and

c. Two Hundred Fourteen Thousand and No/100 Dollars (\$214,000.00) on July 1, 2024.

i. The payment above represents the 2022 base connection fee of One Hundred and Fourteen (114) ERU's at a cost of One Thousand and No/100 Dollars (1,000.00) each and increasing annually pursuant to paragraph 3.a below; and

ii. The sum of One Hundred Thousand and No/100 Dollars (\$100,000.00) toward the cost to install a 3<sup>rd</sup> Water Well per paragraph 5.c below.

*\*The total scheduled payments in consideration of this contract may be greater than the stated amount in paragraph two (2) to due to the increase in the hookup fees pursuant to paragraph 3.a below and administrative costs in paragraph 5.a below.*

d. Right to Connect. The payments 2.a and 2.b above are made for the right to connect One Hundred and Fifty (150) ERUs to the GCEWA water system upon completion of the necessary upgrades to the GCEWA system to adequately provide water supply to its current Members of Golf Club Estates, and any additions thereto, and future Members of Millie's Developments and any additions thereto.

e. 36 ERU Hookup Fees Included. The one-time payments listed above in paragraphs 2.a and 2.b shall include the cost of Thirty-Six (36) hookup fees that are typically charged by GCEWA at a rate of One Thousand Dollars (\$1,000.00) per ERU prior to the commencement of water service by GCEWA. Upon connection of the Thirty-Six (36) ERU's to the GCEWA water system, GCEWA shall bill the Lot or Unit owner of each of the Thirty-Six (36) ERUs in the same manner as any Member of GCEWA.

3. Future connection to the Water System. It is understood between the parties that although Millie's does not plan to connect all 150 ERUs to the water system in 2022, such connection to the water system is dependent upon substantial upgrade of the water system prior to connection Millie's Developments ERUs. The parties believe that an initial connection of the 36 ERUs will not overburden the current water system and all immediate upgrades to the water system can be adequately made to accommodate the added 36 ERUs to the GCEWA water system. However, the

parties mutually agree that future connection of the remaining 114 ERUs shall not take place until GCEWA has adequately upgraded the water system to accommodate such additional service burden. All upgrades described in this contract shall take place within approximately 4 years of the execution of this Agreement. Any variations in schedule shall be agreed to prior to any changes taking place.

a. Additional and Increase in Connection Fee. The remaining (114) ERUs to be connected to the water system shall be charged a hook-up fee of no less than One Thousand and No/100 Dollars (\$1,000.00) each prior to receiving water service if connected to the water system in 2022. If the primary connections are requested after 2022, the hook-up fee shall increase in cost by Ten Percent (10%) each year until fully connected to the water system. In contemplation of this paragraph the payment amount listed above in paragraph 2.c shall increase annually based upon the timing of the connections of the remaining 114 ERUs to the water system.

b. Lump Sum Connection Payment. Conditioned upon the expansion contemplated above in paragraph 3, in the event that Millie's requests all remaining 114 ERUs to be connected to the system in 2022, then a lump sum payment of One Hundred and Fourteen Thousand Dollars (\$114,000.00) shall be made by Millie's to GCEWA regardless of whether any or all of Millie's lots, parcels, properties, units, or ERUs have been sold or are held by Millie's. Each connection shall be charged on a yearly basis pursuant to the terms of the Amended Revised Master Water Services Agreement of GCEWA.

c. After primary connections are made to the water system, undeveloped lots, parcels, properties, or ERU's not connected to the water system shall be charged a fee equal to the fee collected by GCEWA vacant lots in the Priest Lake Golf Club Estates developments and shall be billed to Millie's until such time notice is given by Millie's of a new lot owner or ERU owner. Any such notice shall be given in writing by Millie's to GCEWA no less than Ten (10) days post-closing of any such lot, parcel, property, or ERU.

d. After primary connections are made to the water system, lots, parcels, properties, dwellings, or ERU's permanently hooked to the system shall be charged equal to the fee collected by GCEWA lots in the Priest Lake Golf Club Estates developments and shall be billed to Millie's until such time notice is given by Millie's of a new lot owner. Any such notice shall be given in writing by Millie's to GCEWA no less than Ten (10) days post-closing of any such lot, parcel, property, or ERU.

4. Use of Funds By GCEWA. GCEWA agrees to earmark the funds received under this agreement to increase water service and to improve the GCEWA water system by:

a. Developing road(s) and infrastructure to a building site location of a 2<sup>nd</sup> water tank that will increase the service capacity of the GCEWA water system; and

b. Repairing the existing GCEWA water tank or building a 2<sup>nd</sup> water tank to increase GCEWA storage capacity to 250,000 gallons.

5. Additional System Upgrade. In addition to the lump sum payment herein, Millie's shall also pay for additional improvements to the GCEWA water system as follows:

a. Pay, any and all costs to amend the Facility Plan of CGEWA to accommodate the expansion of the GCEWA water system, including, but not limited to the costs of

engineering, surveying, site plan approval, permits, fees, costs, or expenses, including Sewell Engineering and HMM Engineering, or any other Engineering firm chosen, fees and costs.

b. Pursuant to paragraph 2.c.ii. above, Millie's shall pay up to \$100,000.00 toward the cost to install a new water well and pump to serve the GCEWA water system, including, but not limited to locating, drilling, permitting, testing, integrating the well electronics into the GCEWA water system, providing all additional piping, infrastructure, hardware and labor to connect a new water well to the GCEWA water system. The location and construction of said water well shall be determined by the Board of Directors of GCEWA according to all local, state, federal laws and industry standard practices. Such water well and pump shall be sized by not only all local, state and federal laws and regulations but to the best engineering standards and practices available to support a sufficient water supply and pressure to adequately serve the Members of GCEWA and Millie's Developments and operate the fire suppression systems of GCEWA and Millie's Developments.

c. GCEWA will supply all administrative and project management to include planning, purchasing, contracting, licensing, drilling and setup of the new well. Millie's will be limited to supplying funds to pay for the well and accessories required to operate the well in conjunction with the existing GCEWA system. Any cost of the well and accessories in excess of \$100,000.00 shall be paid by GCEWA.

6. Millie's Water Infrastructure and Development of Eagle Ridge and Eagle Terrace.

a. Engineering and Costs. Millie's shall develop, construct and pay for all necessary water infrastructure of Millie's Developments, including but not limited to all mains, pipes, and structures through which water is obtained, conveyed, and distributed, including wells and well structures, intakes and cribs, pumping stations, treatment plants, reservoirs, storage tanks and appurtenances, in accordance with all local, state, federal laws or requirements for the developments of Eagle Ridge and Eagle Terrace ("Millie's Water Infrastructure"). Such developed Infrastructure shall be designed to be incorporated into the current GCEWA water system as upgraded to provide water service to the additional 150 ERUs of Millie's Developments. The intent of this provision is that GCEWA and Millie's shall work together to design, plan, and implement a strategy to connect the developments of Eagle Ridge and Eagle Terrace to the GCEWA water system while deferring the costs of installation and engineering to Millie's.

b. Control of Millie's Water Infrastructure. Prior to connection to the GCEWA water system. Millie's shall be liable for all permitting, repairs, maintenance, and upkeep of the Millie's Water Infrastructure.

c. Connection to GCEWA Water System. Within 3 years of the date of this Agreement or upon connection of Millie's Water Infrastructure to the GCEWA water system, Millie's and Millie's Affiliates shall grant and convey to GCEWA all Millie's Water Infrastructure, including but not limited to, permitting, piping, electronics, metering, easements, rights of way, real and personal property and any other component of Millie's Water Infrastructure and improvements necessary to convey control and ownership of the Millie's Water Infrastructure to GCEWA so that GCEWA may legally own, maintain, and operate the water system and all Millie's Water Infrastructure.

d. Millie's Easements. Within 3 years of the date of this Agreement or upon connection of Millie's Water Infrastructure to the GCEWA water system, Millie's and Millie's Affiliates shall grant and convey to GCEWA perpetual easements over, under, and across Millie's developed land sufficient for GCEWA to control, maintain, and repair all components of the Millie's Water Infrastructure that is conveyed to GCEWA.

e. Minimum Installation Requirements. Millie's shall install Millie's Water Infrastructure in accordance with all local, state, and federal law and shall at a minimum if local, state, or federal law does not so provide, install water meters accessible by GCEWA for every ERU and install a cut off valve to be controlled and owned by GCEWA for every ERU.

7. GCEWA Corporate Governance and Enforceability.

a. GCEWA Contingencies. This agreement is contingent upon GCEWA amending the formation documents of GCEWA to reflect the expanded Member base of the association including:

- i. Articles of Incorporation
- ii. Bylaws
- iii. Master Water Services Agreement

*Note: All amended documents shall be updated and approved prior to permanent hookup of the main service line to the final 114 ERUs.*

b. Purpose and Effect of Changes. The purpose of the above-mentioned changes and revisions to the formation documents of GCEWA shall have the effect to expand the definition of the GCEWA Membership base and set out the terms and conditions of providing water service to all Members of the association including all Members added as a result of Millie's Developments.

c. Non-Voting Membership. Millie's and Millie's Affiliates agree that although its lot, parcel, property, ERU and/or unit owners in the Eagle Ridge and Eagle Crest developments shall be included into the Membership base of GCEWA, all lot, parcel, property, ERU and/or unit owners joining the association by way of ownership in Eagle Ridge and Eagle Crest Developments will only be entitled to a Non-Voting Membership Interest in GCEWA.

d. Added Board of Directors Position. GCEWA shall in connection with the amendment to the Articles and Bylaws create a non-voting Board of Director position for a representative of Millie's to serve on the GCEWA Board and interact with the voting Board of Directors of GCEWA. This Director position shall be a temporary Director position that shall terminate upon conveyance by Millie's of Millie's Water Infrastructure and improvements.

e. Enforceability of GCEWA. To allow GCEWA to enforce the provisions of payment for water service by its Members, Millie's and Millie's Affiliates shall execute and record an Amended Revised Master Water Service Agreement (RMWSA) as amended, in a similar form as attached hereto as Exhibit B. Such Amended Revised Master Water Agreement shall be drafted by GCEWA and delivered to Millie's and Millie's Affiliates for execution at a later date.

f. Recording of Master Water Service Agreement. The RMWSA shall be recorded against all property owned by Millie's and Millie's Affiliates that are intended to receive water service from GCEWA prior to sale by Millie's or Millie's Affiliates of any such lot, parcel, property, ERU and/or unit. The recording of the RMWSA shall create an encumbrance against said real property to allow GCEWA to enforce the terms and conditions of water service to the Lot or Unit holders of each ERU of Millie's Developments such real property in Eagle Ridge and Eagle Terrace. This requirement to record the Revised Master Water Service Agreement shall be completed as soon as possible after the execution of this Agreement and shall encumber any and all real property that will be subject to the jurisdiction of GCEWA.

8. Casualty Loss. If, prior to conveyance of any of Millie's Water Infrastructure to GCEWA, and the property or infrastructure owned by Millie's is destroyed or materially damaged by fire or other casualty, Millie's shall be liable for all casualty loss suffered and shall indemnify and hold GCEWA harmless from any and loss suffered by GCEWA as a result of damage to Millie's Water Infrastructure.

9. IDEO Approval. This agreement shall be contingent upon approval and permitting of all local, state, or federal governing entities, including the Idaho Department of Environmental Quality for all aspects of the proposed water system improvement and expansion subject to said governing authorities.

10. Adequacy of Water and Mediation. The parties mutually acknowledge and agree that the necessary upgrades to the GCEWA water system will require substantial improvement and upgrade to the GCEWA water system prior to such time as GCEWA will be able to service all 150 ERUs of Millie's. The parties agree to work together to coordinate their efforts, planning, and schedule of completion the expanded provision of water to Millie's Developments. In the event a dispute arises out of or relates to this Agreement, or the breach thereof, and if the dispute cannot be settled through reasonable negotiation, the parties hereby agree first to attempt in good faith to settle the dispute by mediation administered by a licensed attorney or mediator before resorting to litigation or some other dispute resolution procedure.

11. GCEWA Development Timeline for Infrastructure Upgrades. The parties propose the following timeline for development of infrastructure upgrades:

- a. Purchase and install new 80 KW generator and automatic control: Jun-Jul-Aug 2022;
- b. Upgrade road to tank area and level new tank site: Aug-Sep-Oct 2022;
- c. Order new 250,000-gallon tank: December 2022;
- d. Install new tank: Jun-Jul-Aug 2023;
- e. Certify and bring on-line new tank: October 2023;
- f. Drill and bring on-line the 3<sup>rd</sup> well and automatic controls: Jun-Jul 2024.

The time frames listed above are approximate only. GCEWA will not be liable for any delay or change of schedule. GCEWA will make reasonable efforts to develop the infrastructure per the proposed schedule above, however, the parties agree that the above schedule is approximate and may be delayed for any reason. In no event shall GCEWA be responsible or liable for any failure or delay in the performance of its obligations hereunder arising out of or caused by, directly or indirectly, forces beyond its control, including, but not limited to, strikes, work stoppages, supply chain delays or shortages, environmental issues, governmental shut down, accidents, acts of war or

terrorism, civil or military disturbances, nuclear or natural catastrophes or acts of God, and interruptions, loss or malfunctions of utilities or equipment, communications or computer (software and hardware) services; it being understood that GCEWA shall use reasonable efforts which are consistent with accepted practices in the industry to resume performance as soon as practicable under the circumstances.

12. Notices. All notices sent to the parties pursuant to this Water Supply Agreement may be sent by email and followed by certified mail, return receipt requested, to the following addresses unless either party notifies the other in writing of a change of address:

For GCEWA: 30 Fairway Dr.  
Priest Lake, ID 83856  
Email: mgpatneade2@gmail.com

For Millie's: 2450 Fondren Rd., Ste 210  
Houston, TX 77063  
Email: \_\_\_\_\_

13. Time of Essence. Time is of the essence of this Water Supply Agreement.

14. Heirs and Assigns. This Water Supply Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective successors, assigns, heirs and legal representatives.

15. Attorney Fees. In the event that GCEWA or Millie's shall institute an action to enforce any rights pursuant to this Agreement the successful party shall be entitled to, in addition to those costs and disbursements provided by statute, a reasonable sum as attorney fees and costs of litigation, arbitration or mediation, including reasonable attorney fees and costs incurred in any appeal thereof.

16. Governing Law and Venue. This Agreement shall be governed by and interpreted in accordance with Idaho law. Any litigation arising out of or in connection with this Agreement shall be conducted in Bonner County, Idaho.

17. Headings. The headings of the paragraphs of this Agreement are inserted solely for the convenience of the parties, and are not a part of and are not intended to govern, limit or aid in the construction of any term or provision hereof.

18. Entire Agreement. There are no verbal or other agreements which modify or affect this Agreement, and Purchaser and Seller agree that this Water Supply Agreement constitutes the full and complete understanding between the Purchaser and Seller.

19. Counterparts. This Agreement may be executed in duplicate.

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**GOLF CLUB ESTATES WATER ASSOCIATION, INC**  
An Idaho nonprofit corporation

\_\_\_\_\_  
By: \_\_\_\_\_  
Its: \_\_\_\_\_

**MILLIE'S 40 BREN-BURK, LLC**  
An Idaho limited liability company

\_\_\_\_\_  
By: \_\_\_\_\_  
Its: \_\_\_\_\_

**CONSENTED TO BY:**

**MILLIE'S 1943 JESS/BURK, LLC**  
An Idaho limited liability company

\_\_\_\_\_  
By: \_\_\_\_\_  
Its: \_\_\_\_\_

**L.T. PARTNERSHIP, LTD**  
A Texas limited partnership

\_\_\_\_\_  
By: \_\_\_\_\_  
Its: \_\_\_\_\_