21-0163

DELAYED ASSESSMENT AGREEMENT

WHEREAS, the City of Manitowoc ("City") has completed the installation of sanitary sewer improvements on North Rapids Road for which special assessments have been made against the abutting property owners; and

WHEREAS, Debra Kapitz, Shirley Kapitz and Randall Kapitz ("Owner", whether one or more) are the owners of certain land abutting the above-named street against which said special assessments have been made for said improvements; and

WHEREAS, the Owner's property does not technically qualify for a delayed assessment under Section 7.290 of the Manitowoc Municipal Code; and

WHEREAS, the Board of Public Works met on January 6, 2021 and approved granting a delayed assessment due to the extenuating circumstances in this situation and as outlined in the Engineering Division Manager's November 24, 2020 Memorandum to the Board of Public Works attached and incorporated as if fully set forth herein.

NOW, THEREFORE in consideration of the mutual covenants contained herein, the parties hereto agree as follows:

1. Owner agrees to pay, pursuant to this Agreement, the special assessments in the amount of $7,196.25 for sanitary sewer improvements abutting the following described property in Manitowoc County, Wisconsin, to wit:

> PT GL 3 & 4 & PT SE1/4 NE1/4 COMM N LINE SE1/4 & W'LY EDGE RD NW'LY 68.5 SW'LY 949.1 SE'LY 209 NE'LY 903.1 NW'LY 171.2 TO POB SEC 14-19-23
>
> Said parcel contains 4.3281 acres of land, more or less.
>
> Tax Parcel No. 814-402-050.

2. The parties agree that the special assessments in the amount of $7,196.25 for sanitary sewer improvements shall be due on or before the first to occur of the following events or dates:

(a) Failure of the Septic System or documentation from a licensed Plumber or Manitowoc County deeming the septic system not to be in compliance with current County or State Regulations;

(b) Sale of the property for which this delayed assessment is granted;

(c) The use of the improvements for which this assessment is made by the Owner.

3. Upon expiration of the delayed period, the owner may elect to pay the balance owing pursuant to any installment plan generally available to owners of improved property in the City of Manitowoc against which special assessments have been made as if the date on which the special assessments shall have become due was the expiration date of the delay period. The

Owner may prepay all or any part of the special assessment due hereunder at any time without penalty.

4. Owner hereby agrees that in consideration of being granted the privilege of this delayed assessment, Owner shall make no objection to any want of power, illegality, or irregularity in regard to the special assessments referred to herein.

5. This agreement shall be binding upon and inure to the benefit of the parties hereto, as well as their respective transferee, successors and assigns.

IN WITNESS WHEREOF, the City has caused this agreement to be executed in duplicate in its name by its Mayor, affixed its seal hereto, and attested to by its City Clerk, and Owners have hereunto set their hands and seals this 10th day of February, 2021.

CITY OF MANITOWOC

Justin M. Nickels, Mayor

Mackenzie Reed-Kadow, City Clerk

Debra A Kapitz POA for Shirley Kapitz
Shirley Kapitz,

Debra A Kapitz
Debra Kapitz,

Randall Kapitz
Randall Kapitz

APPROVED BY:

Kathleen McDaniel, City Attorney

Shawn Alfred, Finance Director/Treasurer

STATE OF WISCONSIN)
)ss.
MANITOWOC COUNTY)

Personally came before me, this 10th day of February, 2021, the above named Shirley Kapitz, Owner, Debra Kapitz, Owner, and Randall Kapitz, Owner, to me known to be the persons who executed the foregoing instrument and acknowledged the same.

Jane M. Rhode

Jane M. Rhode

Notary Public, Manitowoc County, Wisconsin

My commission 5/1/2024

STATE OF WISCONSIN)
)ss.
MANITOWOC COUNTY)

Personally came before me, this _____ day of _____, 2021, Justin M. Nickels, Mayor and Mackenzie Reed-Kadow, City Clerk, to me known to be the persons who executed the foregoing instrument, and to me known to be such Mayor and City Clerk for the City of Manitowoc and acknowledged that they executed the foregoing instrument as such officers of said City, by its authority.

_____

_____

Notary Public, Manitowoc County, Wisconsin.

My commission_____

This instrument was drafted by
Kathleen M. McDaniel, City Attorney

This document was modified by
Greg Minikel, Engineering Division Manager

CITY OF MANITOWOC

WISCONSIN, USA

www.manitowoc.org

Date: November 24, 2020

To: Board of Public Works Committee

From: Greg Minikel, P.E., Engineering Division Manager

Re: Special Assessments for 2019 New Sanitary Sewer on N. Rapids Rd.

The City of Manitowoc installed new sanitary sewers and sanitary building sewers (laterals) on North Rapids Road from 260 feet south of Fleetwood Dr. to 560 feet south of Fleetwood Dr. in 2019. The new sanitary sewers served 2 properties along the west side of North Rapids Rd., specifically 1526 N. Rapids Rd. (Rank Property) and 1608 N. Rapids Rd. (Kapitz Property).

I will begin with a little history on the project. The City received a request in February 2015 from the property owner, Sue Rank at 1526 N. Rapids Rd. in regards to the possibility of serving their property with a sanitary sewer and how much it would cost.

The City surveyor talked to both property owners back on June 8, 2015 during surveying for the proposed sewer and in order to obtain elevations of their basements to determine if gravity sewer flow would be possible to both properties.

The property owner at 1526 N. Rapids Rd. requested the City to install this sanitary sewer due to a failing septic system and an order from Manitowoc County to do so. This proposed sewer extension was originally requested at the Public Infrastructure Committee meeting on March 1, 2018. The Committee recommended putting this project into the 2019 Program.

Both of these properties were annexed into the City of Manitowoc on August 10, 1982 according to the records from the Community Development Department.

Unfortunately, due to the request for the sewer, we never went through the proper special assessment process, but we are doing so now.

We sent a letter to both property owners in October and requested them to sign a waiver card which would waive their rights to a Public Hearing per State Statutes. Rank returned the waiver card, but Kapitz did not.

It is my understanding that Debbie Kapitz will be present at the Public Hearing to object to the assessment or will be requesting the City to grant them a delay to connect to the sanitary sewer and paying the special assessment.

Dir. of Public Infrastructure Daniel J. Koski
CITY HALL • 900 Quay Street • Manitowoc, WI 54220-4543
Phone (920) 686-6910 • Fax (920) 686-6906

According to the MMC Section 7.290, this property does not meet the requirements for a delayed special assessment.

However, I am rather torn on this issue. On one hand, this property has been annexed into the City for about 38 years and we never extended sewer to the property. I am not sure why this never happened. On the other hand, the City of Manitowoc spent money to serve these two properties. Another thought/comment is that we would not even be having this discussion if it were not for Ms. Rank bringing the sewer extension request to the City.

Another note worth mentioning is that both properties are already getting an additional year to pay for the sewer assessment due to the fact that we did not follow the correct special assessment process.

The total project cost was $72,686 and the total special assessment revenue will only be $11,319.10. See the separate sheet, Schedule C from the Engineering Report that lists the assessment cost to each property owner. The assessment revenue is about 15% of the total project cost.

On a separate side note, I believe that the City should be looking at increasing the maximum assessment rate for sanitary sewer construction, which is currently at $22.00/Lineal Foot per Side. This rate of $22/LF has been in effect since 1991.

We recommend the BPW's Committee to take the following actions regarding this request:

1. Make both properties connect to the sewer now and have the assessments billed to each property owner in winter/spring 2021 with the payment due by Nov. 1st, 2021 or it will be placed on the 5 yr. payment plan automatically. (The Rank Property has already been connected to the sanitary sewer since December 2019) **OR**

2. Defer or Delay the Special Assessment Bill for 1608 N. Rapids Rd. until 2025 or until such time that the property owner's septic system fails or when the property changes ownership, whichever comes first.

SCHEDULE C

2019 NORTH RAPIDS ROAD SANITARY SEWER CONSTRUCTION

PAR_NUM	OWNR_NM	ADDR	STA	CITY	ZIP	ST_ADDR	Frontage _Feet_1	Assessable _Frontage	Laterals	COMMERCIAL/ RESIDENTIAL	RATE	TOTAL
814402060	RANK REV. TRUST, SUE R.	1526 N. RAPIDS ROAD	WI	MANITOWOC	54220	1526 N. RAPIDS RD	425.00	100.00	1922.85	RESIDENTIAL	22.00	$4,122.85
814402050	KAPITZ, SHIRLEY M., DEBRA, RANDALL *	1608 N. RAPIDS ROAD	WI	MANITOWOC	54220	1608 N. RAPIDS RD	239.70	239.70	1922.85	RESIDENTIAL	22.00	$7,196.25

*Delayed Assessment for Board of Public Works Action on January 6, 2021

TOTAL $11,319.10