

MUNICIPAL WATER INSTALLATION AGREEMENT

This agreement is made and entered into this 1ST day of October, 2023, by and between Thomas Vogel, the property owner(s) of the real property located at 2706 CTH CR, Manitowoc, WI 54220 (Owner(s)), and the City of Manitowoc (City), a Wisconsin municipal corporation located at 900 Quay Street, Manitowoc, WI 54220.

RECITALS

WHEREAS, groundwater contamination was discovered in the City of Manitowoc, Town of Manitowoc and the Town of Newton and has affected properties which rely on groundwater as the primary source for drinking water; and

WHEREAS, the City has responded to detections of contaminated groundwater by offering and providing replacement water to affected households; and

WHEREAS, the City has further responded to these detections in groundwater by implementing significant efforts to install a new water main to extend municipal water to affected areas (these efforts include: designing the water main; obtaining Public Service Commission approval; obtaining financing for construction by applying for and receiving funding, with collaboration with Manitowoc County, through the American Rescue Plan Act; reaching agreements with the Town of Manitowoc and Town of Newton; obtaining approval of installation of the water main as a remedial action with Wisconsin Department of Natural Resources (WDNR); and obtaining all local approvals); and

WHEREAS, the City, through its water utility, Manitowoc Public Utilities (MPU), intends to install the municipal water service to certain households within an area where there are detections of certain contaminants in potable groundwater wells as a permanent solution to the groundwater concern; and

NOW, THEREFORE, in consideration of the mutual covenants and representations of the parties hereinafter set forth, the undersigned parties hereby agree as follows:

1. Recitals. The above recitals are deemed to be true and correct.
2. Installation and Connection of Municipal Water Service by City. The City agrees to install municipal water service at Owners' property. Owner(s) shall in no way be obligated to pay for the installation of the municipal water service. Except as described in the limited circumstances discussed in Section 5, the City shall connect, at no expense to the Owner(s), water service within the Owners' home by installation and connection of a lateral from the new water main to Owners' residence.
3. Abandonment of Potable Well by City. In accordance with applicable laws which prohibit continued use of existing potable wells when municipal lines are installed, the City will also abandon, at no expense to the Owner(s), the previously existing drinking water well.
4. Property Restoration by City. The City and its contractors will restore Owners' property to the best approximate condition it was in prior to the municipal water service being installed. The property will be restored to grade and will include landscaping and reseeded Owners' property. It will be the responsibility of the Owner(s) to water and maintain newly seeded landscaping. If Owner(s) choose to

decline City restoration and self-implement their landscape, the City will contribute to the Owner(s) up to the cost of restoring the landscaping to the condition it was in prior to installing new water service.

5. Owners' Cost Share for Plumbing Code Corrections. As described in Section 2 above, the City agrees to bear the costs associated with installing municipal water service at Owners' property. The City will remove, dispose, and take ownership of existing potable well water supply equipment (e.g. water pump, pressure tank pipe). There shall be no cost to Owner(s) for the installation, unless Owner(s) choose to make unilateral modifications to plumbing within the home or if there is a pre-existing plumbing code problem or violation within the home that must be mitigated before installation of the new water service. The City will not remove treatment equipment (e.g. iron filter, water softener). If Owner(s) choose to remove treatment equipment it will be at their expense.
6. Owners' Assumption of Municipal Water Service. After installation of municipal water service, the Owner(s) will be customers of the MPU water utility and will be sent monthly bills at rates as determined and approved by the Public Service Commission for the use of water.
7. Schedule. The City will coordinate the work at the property to minimize delay and disruption of normal activities and prevent damage to the property. The City will provide Owner(s) with an installation schedule upon execution of this contract. The City will endeavor to have the water service installed as soon as practicable.
8. Access to Property. Owner(s) grant the City, MPU, and their contractors' access to Owners' property for the purposes of installing municipal water service. The City, MPU, and its contractors will endeavor to keep one lane of the driveway open whenever possible. Contractors will provide notice prior to blocking the driveway, which will be necessary for short time spans due to the equipment being used and the placement of the water lateral.
9. Water Service Placement. The City and its contractors will work with Property Owner(s) to locate the water service apparatus within the home with minimal disruption to the interior of the home and landscaping.
10. Notice to Tenants. If the Owner(s) property is occupied by tenants, Owner(s) shall provide a copy of this Agreement to its tenants within 30 days of execution of this Agreement.
11. Insurance and Bonding. The City and Manitowoc Public Utilities require all contractors to provide a Certificate of Insurance showing proof of General Liability Insurance in amounts not less \$1,000,000.00 per person per occurrence, \$2,000,000.00 in the aggregate; property damage limits of not less than \$500,000.00 per occurrence; and carrying the statutory amounts for worker's compensation insurance. Owner(s) will be responsible for carrying insurance on the home.
12. Warranty. The standard warranties for any new equipment installed shall apply. The Owner(s) understand that they will be the owner of the water lateral upon installation and connection.

13. **Applicable Statutes.** Any provisions of the Wisconsin Statutes, Federal Law or local ordinances applicable to the work performed hereunder are deemed to be incorporated by reference and made a part of this contract.
14. **Indemnification.** The City shall defend, indemnify and hold harmless Owner(s) against any and all liability, claims, costs, demands, losses, damages, expenses and attorney fees of any kind on account of any injury, damage, or death to any person or property that may arise directly or indirectly caused by or resulting from the work performed by contractors hired by the City or Manitowoc Public Utilities to perform the installation of municipal water service at Owners' property.
15. **Release of Claims.** Owner(s) agree, in consideration of this agreement, to fully and forever release and discharge the City, its City Council, Council members, officials, employees, agents and representatives from any and all claims, demands, liabilities, grievances, rights of action and damages whatsoever in law or equity that now exist, whether known or unknown, anticipated or unanticipated, arising out of, based upon, or in any way connected with any contamination of the groundwater or the water supply, including at Owners' property, arising up to and including the date Owner(s) execute this Agreement. This release includes any rights or claims that Owner(s) may have under federal, state, or local law. This release includes both claims about which Owner(s) may be aware, and those which Owner(s) do not know about or could not know about.
16. **No Admission of Liability.** The City and Owner(s) expressly acknowledge and agree that the City is installing municipal water service pursuant to this Agreement solely as an accommodation to Owner(s). The City and Owner(s) further expressly acknowledge and agree that nothing in this Agreement is to be construed as an admission of liability or wrongdoing of any sort, including in connection with any contamination of the groundwater, by the City towards the Owner(s) or any other person, and the City expressly does not admit to any such liability or wrongdoing. The City and Owner(s) further agree that neither the existence or terms of this Agreement, nor the City's performance of its obligations hereunder, shall be offered or received as evidence of a presumption, concession or admission with respect to any liability, negligence, fault or wrongdoing, or in any way referred to for any other reason in any civil, criminal or administrative action or proceeding, other than such proceedings as may be necessary to effectuate the provisions of this Agreement.
17. **No Third-Party Beneficiaries.** This Agreement is intended for the exclusive benefit of the parties hereto and their respective successors and assigns, and is not for the benefit of, nor may any provision hereof be enforced by, any other person. By providing for the installation of municipal water service for the Owner(s) pursuant to this Agreement, the City shall not become obligated to and does not agree to provide the same for any other parties or households.
18. **Permits.** The City shall require all contractors to obtain required state or local permits and will not charge Owner(s) for the cost of the permits.
19. **Severability.** If any provision of this Contract is deemed by a court of competent jurisdiction to be invalid or unenforceable, the remainder of this Contract shall not be affected thereby, and such remainder would then continue to conform to the requirements of applicable laws.

20. Amendments. This Contract can only be amended or modified in writing and signed by the parties involved.
21. Integration. This Contract represents the entire understanding of the parties as to those matters contained herein. No prior oral or written understanding shall be of any force or effect with respect to matters covered hereunder.
22. Survival of Provisions. All indemnification and hold harmless obligations shall survive the expiration or termination of this Contract.
23. Choice of Law. This Contract shall be governed by and construed in accordance with the laws of the State of Wisconsin. All actions or proceedings relating directly or indirectly, to this Contract, whether sounding in contract or tort, shall be litigated only in the circuit court located in Manitowoc County, Wisconsin. All parties to this Contract hereby subject themselves to the jurisdiction of the circuit court for Manitowoc County, Wisconsin.
24. Heading. The section titles have been inserted in this Contract primarily for convenience, and do not define, limit or construe the contents of such paragraphs. If headings conflict with the text, the text shall control.
25. Remedies Cumulative. All rights and remedies hereunder are cumulative, and not exclusive, and shall be in addition to all other rights and remedies provided by applicable law. Failure to exercise or delay in exercising any right or remedy hereunder shall not operate as a waiver thereof, nor excuse future performance. No waiver discharge or renunciation of any claim or right arising out of a breach of these terms and conditions shall be effective unless in writing signed by the party so waiving. Any waiver of any breach shall be a waiver of that breach only and not of any other breach, whether prior to subsequent thereto.
26. Construction. All parties have contributed to the drafting of this Contract. In the event of a controversy, dispute or contest over the meaning, interpretation, validity of enforcement of this document or any of its terms or conditions, there shall be no inferences, presumption or conclusion drawn whatsoever against any party whatsoever by virtue of that party having drafted the document or any portion thereof.

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IN WITNESS WHEREOF, the parties hereto have made and executed this Contract as of the day and year first above written. The signatories warrant that they have authority to execute this agreement on behalf of the parties.

City of Manitowoc

Owner(s)

By: _____
Mayor Justin M. Nickels

Thomas Vogel
Thomas Vogel

By: _____
City Clerk/Deputy Treasurer Mackenzie Reed-Kadow

STATE OF WISCONSIN)
) ss.
MANITOWOC COUNTY)

Personally came before me, this 1ST day of October, 2023, the above named Thomas Vogel and acknowledge they executed the foregoing instrument.



Peggy A. Armstrong
Peggy A. Armstrong
Notary Public Manitowoc County, WI
My commission (expires)(is) 10-21-23

STATE OF WISCONSIN)
) ss.
MANITOWOC COUNTY)

Personally came before me this _____ day of _____, 2023, the above Justin M. Nickels, Mayor, Mackenzie Reed-Kadow, City Clerk/Deputy Treasurer, of the City of Manitowoc, Wisconsin and acknowledged that they executed the foregoing instrument as such Officers of said City, by its authority and the authority granted to them by resolution of the Manitowoc Common Council.

Notary Public
Manitowoc County, Wisconsin
My commission (expires) (is): _____

