

SHARED WELL WATER AGREEMENT

Document Number

Document Title

Document #: **2190764**
Date: **05-04-2020** Time: **9:38 AM**
Pages: **6** Fee: **\$30.00**
County: **OUTAGAMIE COUNTY** State: **WI**



SARAH R VAN CAMP, REGISTER OF DEEDS

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SHARED WELL WATER AGREEMENT

This Agreement, made and entered into this 26 day of March, 2019, by and between Johnston Apple Creek LLC, part of the first part and hereinafter referred to as the "supplying party", and Robert Daniel Johnston, part of the second part and hereinafter referred to as the "supplied party":

WITNESSETH:

THAT WHEREAS, the supplying party is now the owner of property known as 1903/1905 East Apple Creek Road, Appleton, County of Outagamie, State of Wisconsin, which property is more fully described as follows:

Lot Two (2) of Certified Survey Map No. 6787 as filed in the office of the Register of Deeds for Outagamie County, Wisconsin, recorded in Volume 40 of Certified Survey Maps, Page 6787 as Document No. 2011874; said map being part of the Southeast Quarter of the Fractional Northeast Quarter (SE $\frac{1}{4}$ of the Fractional NE $\frac{1}{4}$) and part of the Northeast Quarter of the Southeast Quarter (NE $\frac{1}{4}$ of the SE $\frac{1}{4}$), all in Section One (1), Township Twenty-one (21) North, Range Seventeen (17) East, Town of Grand Chute, Outagamie County, Wisconsin;

and

WHEREAS, the supplied party is the owner of 1911 East Apple Creek Road, Appleton, County of Outagamie, State of Wisconsin, which property is more fully described as follows:

Lot One (1) of Certified Survey Map No. 6787 as filed in the office of the Register of Deeds for Outagamie County, Wisconsin, recorded in Volume 40 of Certified Survey Maps, Page 6787 as Document No. 2011874; said map being part of the Southeast Quarter of the Fractional Northeast Quarter (SE $\frac{1}{4}$ of the Fractional NE $\frac{1}{4}$) and part of the Northeast Quarter of the Southeast Quarter (NE $\frac{1}{4}$ of the SE $\frac{1}{4}$), all in Section One (1), Township Twenty-one (21) North, Range Seventeen (17) East, Town of Grand Chute, Outagamie County, Wisconsin;

and

WHEREAS, the undersigned parties deem it necessary to provide a well system to service the parcels described herein, and an Agreement has been reached relative to supplying water from the well and the cost of supplying said water; and

WHEREAS, there is located a well upon 1903/1905 East Apple Creek Road, Appleton, County of Outagamie, State of Wisconsin, together with water distribution facilities, hereinafter referred to as "water distribution system", for the purpose of supplying water to both properties connected to the said water distribution system; and

WHEREAS, it is the intention and purpose of the undersigned parties that the well and water distribution system shall be used and operated to provide an adequate supply of water for each of the properties connected thereto, for the domestic consumption of the occupants of said properties, and to assure the continuous and satisfactory operation and maintenance of the well and water distribution system for the benefit of the present and future owners, their heirs, successors and assigns of the properties connected thereto; and

WHEREAS, the said well is deemed by the parties hereto to be of adequate capacity to supply the existing dwellings on each of the parcels described herein with water from the well; and

WHEREAS, the water from the well has undergone a water quality analysis from the State of Wisconsin health authority and has been determined by the authority to supply safe and potable water; and

WHEREAS, the parties hereto desire to enter this Agreement for the purpose of reducing to writing their respective rights and obligations pertaining to said well and water distribution system.

NOW, THEREFORE, in consideration of the promises and covenants herein contained, it is agreed that the well and water distribution system situated on 1903/1905 East Apple Creek Road, Appleton, County of Outagamie, State of Wisconsin, shall be used by the parties to this Agreement, as well as by all future owners and occupants of said parcels, upon the following terms and conditions:

1. That until this Agreement is terminated, as hereinafter provided, the parties hereto, their heirs, successors and assigns, for the exclusive benefit of the respective parcels of real estate, and for the exclusive use of the existing dwellings thereon, are hereby granted the right in common to draw water from the well located on 1903/1905 East Apple Creek Road, Appleton, County of Outagamie, State of Wisconsin for quotidian domestic use excluding the right to draw water to fill swimming pools of any type.
2. That the owners or residents of the dwellings located on 1911 East Apple Creek Road, Appleton, County of Outagamie, State of Wisconsin, as of the date of this Agreement shall pay or cause to be paid promptly, a proportionate share of all expenses for the operation and maintenance of the well and water distribution system that may become necessary. Each respective share shall be determined by dividing the amount of each expense by two, it being understood that the supplying party and the supplied party shall pay an amount equal to one-half of the total of such necessary repair or replacement.
3. That the cost of any removal or replacement of pre-existing site improvements on an individual parcel necessary for system operation, maintenance, replacement, improvements, inspection or testing, damaged as a result of repair of the well or water distribution system maintenance will be borne by the owner of the affected parcel,

except that costs to remove and replace common boundary fencing or walls damaged as a result of repair shall be shared equally between or among parties so damaged.

4. That each of the parties hereby agrees that they will promptly repair, maintain and replace all water pipes or mains serving their respective dwellings.
5. That the consent of all parties to pay a proportionate share of costs shall be obtained prior to embarking upon expenditures for system maintenance, replacement or improvement, except in emergency situations.
6. That each of the parties to this Agreement does hereby grant to the other, his heirs, successors and assigns, such easements over, across and through the respective parcels hereinabove described as shall be reasonably necessary for the construction of the well, maintenance of water pipes, pumping equipment, mains, electrical wiring and conduit consistent with the purposes of this Agreement, as well as gaining access to the respective parcels for the purposes identified in this paragraph.
7. That no party may install landscaping, improvements, or other obstacles that will impair the use of said easements.
8. That each party shall have the right to act to correct an emergency situation and shall have access to the pertinent parcel in the absence of the other. An emergency situation shall be defined as the failure of any shared portion of the system to deliver water upon demand.
9. That only those parcels of real estate hereinabove described and the existing dwellings located thereon shall be permitted to receive water from said well and pumping equipment; and each of the parties hereto does hereby covenant and agree that he/she will not allow or permit other persons, other than household guests, to take, draw, use or receive water from the well, nor permit other persons to connect to the pipes or mains serving his/her respective parcel.
10. That in the event the referenced well shall become contaminated and shall no longer supply water suitable for domestic consumption, or shall no longer supply water adequate for the needs of all relevant parties, or in the event that another source of water shall become available to the respective parcels, then the rights and obligations of the parties created by this Agreement shall cease and terminate in accordance with the terms and conditions hereinafter described.
11. That upon the availability of such other source of water, it is contemplated that a reasonable time shall be allowed to effectuate the necessary connections to the new source.
12. That the respective rights and obligations of the parties shall continue until all parties have executed and filed a written statement of termination at the Office of the

Register of Deeds of the County of Outagamie, State of Wisconsin. Upon termination of participation in this Agreement, the owner and occupant of each dwelling shall have no further right to the use of the well. The parties shall have no further obligation to pay or collect for maintenance and related expenses incurred thereafter. The costs of disconnection from the well and water system shall be borne by the owner of the pertinent parcel.

13. That the undersigned parties shall permit periodic well water sampling and testing by a responsible authority at the request of either party.
14. That the parties may amend this Agreement to assure equitable distribution of shared costs and responsibilities.
15. That the term of this Agreement is perpetual, except as herein limited.
16. That the benefits and burdens of this Agreement shall constitute a covenant running with the parcels of land herein described and shall be binding upon the heirs, successors in title and assigns of the parties hereto.

IN WITNESS WHEREOF, the parties have hereunto set their hands and seal the day and year first above written.

JOHNSTON APPLE CREEK LLC

By:

Robert Daniel Johnston

Robert Daniel Johnston

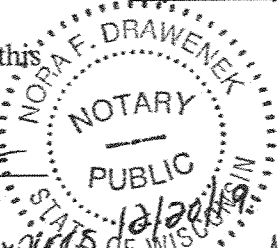
Title: Member

Sworn and subscribed before me this 20th day of March, 2019.

Nora F. Drawenek

~~Patrick G. Soubert~~, Notary Public
Winnebago County, Wisconsin.

My commission is ~~permanent~~ expires 12/20/19.



Robert Daniel Johnston

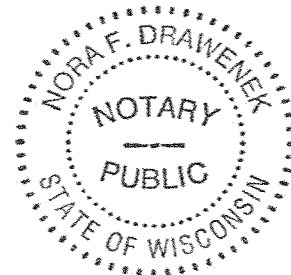
Robert Daniel Johnston

Sworn and subscribed before me this 20th day of March, 2019.

Nora F. Drawenek

Notary Public
Winnebago County, Wisconsin.

My commission is ~~permanent~~ expires 12/20/19.

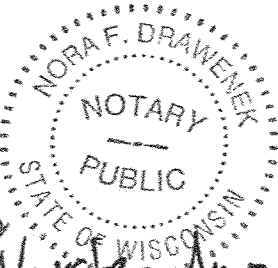


JOHNSTON APPLE CREEK LLC

By: Kirsten Ann Johnston
Kirsten Ann Johnston
Title: Member

Sworn and subscribed before me this
3rd day of April, 2019.

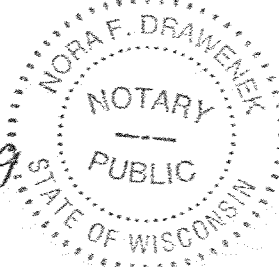
Nora F. Drawnek
Notary Public
Winnebago County, Wisconsin.
My commission expires 12/20/19



Kirsten Ann Johnston
Kirsten Ann Johnston

Sworn and subscribed before me this
3rd day of April, 2019.

Nora F. Drawnek
Notary Public
Winnebago County, Wisconsin.
My commission expires 12/20/19



This Document Was Drafted By:
Attorney Patrick G. Seubert
State Bar No. 1005711
SEUBERT LAW, LLC
618 South Green Bay Road
Neenah, Wisconsin 54956
(920) 725-3096