

12-12-17
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WELL LEASE AGREEMENT

I. RECITALS

I-A Parties: This lease is between Woodbury County, Iowa, a political subdivision of the State of Iowa, (LESSOR), and the Climbing Hill East Water Association (Association), LESSEE.

I-B LESSOR's Subject Real Estate: LESSOR owns property (Property) in Climbing Hill, Woodbury County, Iowa, with Woodbury County parcel number, 741555, and legally described as AUD SUB DIV 16-87-45 LOT 17. LESSOR is agreeable to leasing a portion of said property to LESSOR as set forth in Exhibit B for the purposes of constructing and maintaining a well.

I-C. LESSEE'S Interest. The Climbing Hill East Water Association (Association) is an Iowa association formed by written agreement dated August 12, 2003. (copy attached as Exhibit A) The Association consists of residents of Climbing Hill who desire to access a portion of the Lessors Property (leased property) for the purpose of constructing a private drinking water system which will serve all the Association members.

I-D. LESSEE'S Need For Alternative Water Supply: The private wells of the Association members have been contaminated or threatened with contamination by ground water contamination associated with leaking petroleum underground storage tanks in Climbing Hill. The Iowa Underground Storage Tank Fund Board (UST Fund) is an agency of the State of Iowa created under Iowa Code chapter 455G. The UST Fund has agreed to pay for the construction of the private water well system that LESSEE needs to replace their existing wells.

I-E. Suitability of Subject Property: The Iowa Department of Natural Resources (DNR) and the Iowa UST Fund have jointly been involved with the unincorporated community of Climbing Hill for a number of years to find a permanent solution for the area wide groundwater contamination and the risks it poses to the residents of Climbing Hill. The DNR has determined that construction of this private well system is currently the most practicable option available to provide a safe source of drinking water to the Association members. The DNR has located a portion of the Lessor's property which meets all siting requirements and is suitable for construction of the private well system. The Lessor has agreed to lease this portion of the parcel to the Association for a term of years as provided in this agreement.

I-F. Termination of Lease and Well Closure. The intention of the parties to this lease and the UST Fund/DNR is that in the event a public water system such as rural water becomes reasonably available to all its members and they have had a reasonable period of time to connect to the system at a reasonable cost, this lease should be deemed terminated and the well properly closed. Although the DNR and the Iowa UST Fund are not parties to this lease, the expectation is that the costs of closing the well and connection to the public water system would be reimbursed through the Iowa UST Fund remedial benefit program or through a successor fund.

II. AGREEMENT

On the basis of the foregoing recitals, LESSOR grants to LESSEE the right to install and maintain a well and associated equipment and piping on a well site generally described as a 60 by 60 foot square as depicted on the attached Exhibit B and which adjoins the Woodbury County right of way to the south (leased property). This lease is subject to the following conditions:

II-A. LEASE DURATION. The lease duration shall be for a period of twenty years commencing with execution and delivery of this agreement to LESSEE.

II-B. RENEWAL. LESSEE shall have the option to renew the lease for another ten-year term if, prior to expiration of the term of the lease, the DNR, or lawful successor agency, determines that there is still a need for an alternative water supply for LESSEE.

II-C. MID-TERM TERMINATION. The parties agree that the lease shall terminate upon a written finding by the DNR that an alternative public water system is reasonably available and has been made available for a reasonable period of time at a reasonable cost to allow all Association members to connect to it. The lease shall terminate upon 60 days' notice by the DNR notifying the parties to this agreement of this finding. The parties further agree that upon such finding and termination, the wells shall be considered abandoned as defined in Iowa Code section 455B.171(1) and by this agreement they are authorizing and consenting to the closure of the wells in accordance with state law.

II-D. CONSIDERATION. In consideration for this lease, the lessee shall make a one-time payment of \$1. In the event LESSEE opts to renew the lease, the lease payment shall be \$1.

II-E. ACCESS. LESSEE, the DNR, UST Fund Board, and their authorized agents shall have reasonable access to the leased property upon advance notice to the LESSOR for the purpose of installation, maintenance, water monitoring, and any other activity necessary to keep the well and pipeline in operating condition. Lessor shall also grant reasonable access to areas of the Property adjoining the leased property as necessary to maintain and repair the well system. LESSEE shall promptly and reasonably restore the land surface after all land disturbance activities related to this lease.

II-F. MAINTENANCE OF THE LEASED PROPERTY. It shall be the responsibility of the Lessee to maintain the leased property and appurtenances in reasonable condition such as mowing the grass and maintaining the visual appearance of any structures. LESSEE may at its option choose to construct a fence around the parcel. LESSOR shall have a joint right to access the property for purposes of ground maintenance as long as access does not disturb, damage, obstruct, or in any way interfere with the normal operation of the well system.

II-G. RESTRICTION ON LESSOR'S USE OF WELL SITE. LESSOR will not apply any agricultural chemicals or fertilizers on the leased property

II-H. LESSEE RESPONSIBLE TO PLUG WELL. Upon expiration or termination of the lease due to the availability of public water, the lessee will be required to obtain contract for plugging the well, and shall plug the well in accordance with state law. LESSOR shall allow LESSEE and LESSEE's agents reasonable access to plug the well.

II-I. AGREEMENT RUNS WITH THE LAND. This lease agreement shall run with the land and bind the successors and assigns of LESSOR and LESSEE.

II-J. INSURANCE: Each Association member shall carry combined single limit (CSL) coverage property insurance or another personal liability insurance policy providing for no less than \$300,000 in personal liability coverage. As an alternative, the Association shall carry commercial general liability coverage for bodily injury in an amount no less than \$700,000. Each Association member or the Association shall provide proof of coverage annually as requested by the Lessor.

II-K. CONNECTION TO WELL. The LESSOR, its successors and assigns, future buyers and lessees of the property surrounding the leased property shall have a right to join the Association and connect to the Association well if it is determined the connection would not violate Federal, State or County laws, change the well classification to a public well and the connection would not jeopardize the quality and quantity of water necessary to serve the then existing Association members.

II-M. RECORDING. LESSEE shall be responsible for filing this lease with the Woodbury County Recorder.

