

ENTRY AND TESTING AGREEMENT

This Agreement ("Agreement") is made and entered into by and between the **City of Madison**, a Wisconsin municipal corporation, located in Dane County, Wisconsin ("City"), and the **Board of Regents of the University of Wisconsin System**, ("Regents"), concerning the installation of seven (7) groundwater monitoring wells on City-owned Water Utility properties located adjacent to the following described lands:

Unit Well #7: 1613 North Sherman Avenue

Lots 4 & 5, Block 1, Clyde A. Gallagher's Sherman Avenue Subdivision.

Unit Well #11: 102 Dempsey Road

Being a part of the East Half of the Northeast Quarter of the Southwest Quarter, Section 4, Town 7 North, Range 10 East.

Unit Well #13: 1201 Wheeler Road

Lot 25, Block 5, Fifth Addition to Sherman Village.

Unit Well #19: 2402 Lake Mendota Drive

Being a part of the Northeast Quarter, Section 16, Town 7 North, Range 9 East.

Unit Well #30: 1133 Moorland Road

Lot 4 and Part of Lot 3, Certified Survey Map No. 1698, recorded in the Dane County Registry in Volume 7, Page 61 of Certified Surveys.

All the aforementioned being located in the City of Madison, Dane County, Wisconsin.

WITNESSETH:

WHEREAS, Regents are the conducting a groundwater contamination study for the above described properties (the "Properties), in conjunction with the City of Madison Water Utility, in the City of Madison, Dane County, Wisconsin; and

WHEREAS, Regents have made application to City for a privilege in streets pursuant to Section 66.0425, Wisconsin Statutes and Section 10.31, Madison General Ordinances (MGO), consisting of the following:

RETURN TO: City of Madison
EDD - Office of Real Estate Services
P.O. Box 2983
Madison, WI 53701-2983

Tax Parcel No.: 251-0810-312-1501-6
251-0710-043-0912-8
251-0809-252-0101-6
251-0709-161-0099-7
251-0709-364-0095-5

To install and maintain three (3) flushmount and four (4) stick-up groundwater monitoring wells on the five City of Madison Water Utility properties described above and as identified on attached Exhibit A.

NOW, THEREFORE, City hereby grants the aforementioned privilege subject to the following obligations, which are assumed by Regents, their heirs, successors and assigns.

1. City consents and agrees that Regents their employees, agents and independent contractors may enter upon and occupy City of Madison Water Utility properties, as described above, to conduct and perform the following activities ("Permitted Activities"): environmental groundwater monitoring and such other tests and inspections which the Regents may deem necessary or advisable.
2. Regents agree to be responsible for any and all costs related to the Permitted Activities, including installation on and operation and removal of all groundwater monitoring equipment on the Properties, until such time that the contamination study is completed as determined by way of the Regents investigation.
3. Regents agree to comply with all applicable Madison General Ordinances.
4. Except as otherwise provided, City and Regents shall be responsible for the consequences of its own acts or omissions and those of its employees, boards, commissions, agencies, officers and representatives and be responsible for losses, claims, liabilities, which are attributable to such acts or omissions.
5. By acceptance of the privilege, Regents shall waive the right to contest in any manner the validity of Section 66.0425, Wis. Stats., and Sec. 10.31 MGO.
6. City agrees that Regents may terminate this Agreement at any time upon written notice to City, following removal of the subject encroachment.
7. This Agreement shall be binding upon Regents, successors and assigns, and shall be recorded in the office of the Dane County Register of Deeds. The City shall be given notice of the change of ownership in accordance with the provisions of Paragraph 18.
8. In the performance of the services under this Agreement, Regents agree not to discriminate because of race, religion, marital status, age, color, sex, disability, national origin or ancestry, income level or source of income, arrest record or conviction record, less than honorable discharge, physical appearance, sexual orientation, political beliefs, or student status. Regents further agree not to discriminate against any contractor, subcontractor or person who offers to contract or subcontract for services under this Agreement because of race, religion, color, age, disability, sex or national origin.
9. Regents agree to maintain adequate structures or signs at the well sites, so that the wells are clearly marked and visible above ground level or mounted flush with the surface so that they are not damaged by mowing or plowing operations, and insure that the monitoring wells do not become overgrown with vegetation.

10. Regents further agree that all sampling, testing and maintenance of the wells shall not impede traffic or cause any type of obstruction within City right-of-way. The siting of the monitoring wells are subject to the location of all existing public and private utilities.
11. Regents shall comply with NR141 standards of the Wisconsin Administrative Code in regards to monitoring well installation and abandonment. Monitoring wells are considered temporary structures and Regents are responsible for insuring their subsequent abandonment.
12. Drill cuttings, development water and purge water associated with the monitoring well shall not be stored within City right-of-way.
13. Regents agree that City shall not be held responsible for any damage to Regent's monitoring wells or other equipment associated with Regent's monitoring operation, that may be caused by City, its employees, contractors, or others, except where such damage is a result of the City's and/or its employee's gross negligence or willful misconduct.
14. Regents agree to be responsible for all costs for moving or damaging City property including street signs, street lights and cable. Any or all work of this type that may be necessary shall be done by the City on a time and material basis.
15. Regents shall place the monitoring well outside any sidewalk and pavement area unless existing utilities make placement in the grass areas impossible. Regents shall coordinate monitoring well installation with City of Madison Water Utility, prior to beginning installation and upon completion. The Regents shall repair any damage to the lands surrounding the monitoring well site, per the City Water Utility.
16. The Regents shall contract with a City-approved drilling contractor (such approval shall not be unreasonably withheld) and said contractor shall be liable to and hereby agrees to indemnify, defend and hold harmless the City, and its officers, officials, agents, and employees, against all loss or expense (including liability costs and attorney's fees) by reason of any claim or suit, or of liability imposed by law upon the City or its officials, officers, agents or employees for damages because of bodily injury, including death at any time resulting therefrom, sustained by any person or persons or on account of damages to property, including loss of use thereof, arising from, in connection with, caused by or resulting from the acts or omissions of the contractor and/or its officials, officers, agents, employees, assigns, guests, invitees, or subcontractors, in the performance of this Agreement, whether caused by or contributed to by the negligent acts of the City, its officers, officials, agents, and employees.
17. Additionally, Regent's drilling contractor shall carry commercial general liability insurance covering as insured the Regent's drilling contractor and naming the City as an additional insured, with no less than the following limits of liability: bodily injury, death and property damage of \$1,000,000 in the aggregate. This policy shall also be endorsed for contractual liability in the same amount. As evidence of this coverage, Regent's drilling contractor shall furnish the City a certificate of insurance on a form provided by the City.

18. All notices to be given under the terms of this agreement shall be signed by the person sending the same, and shall be sent by certified mail, return receipt requested and postage prepaid, to the address of the parties specified below:

For the City: Economic Development Division
Office of Real Estate Services
Madison Municipal Building
215 Martin Luther King, Jr. Boulevard
P. O. Box 2983
Madison, WI 53701-2983

For the Regents: Wisconsin Geological and Natural History Survey
Attention: Madeline Gotkowitz
3817 Mineral Point Road
Madison, WI 53705

Any party hereto may, by giving five (5) days written notice to the other party in the manner herein stated, designate any other address in substitution of the address shown above to which notices shall be given.

Dated this _____ day of _____, 2012.

CITY OF MADISON

By: _____
Donald S. Marx, Manager
Office of Real Estate Services

State of Wisconsin)
)ss.
County of Dane)

Personally came before me this _____ day of _____, 2012, the above named Donald S. Marx, Manager, Office of Real Estate Services of the City of Madison, and acting in said capacity and known by me to be the person who executed the foregoing instrument and acknowledged the same.

Notary Public, State of Wisconsin
My Commission: _____

Approved:

Approved as to form:

David Schmiedicke, Finance Director

Michael P. May, City Attorney

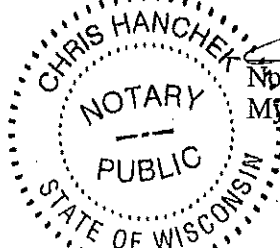
BOARD OF REGENTS OF THE UNIVERSITY OF WISCONSIN SYSTEM

By: Mark Dorn 2/2/12
(signature)

For the Regents: Mark Dorn, Controller, University of Wisconsin - Extension

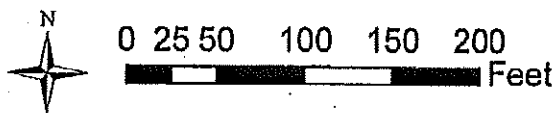
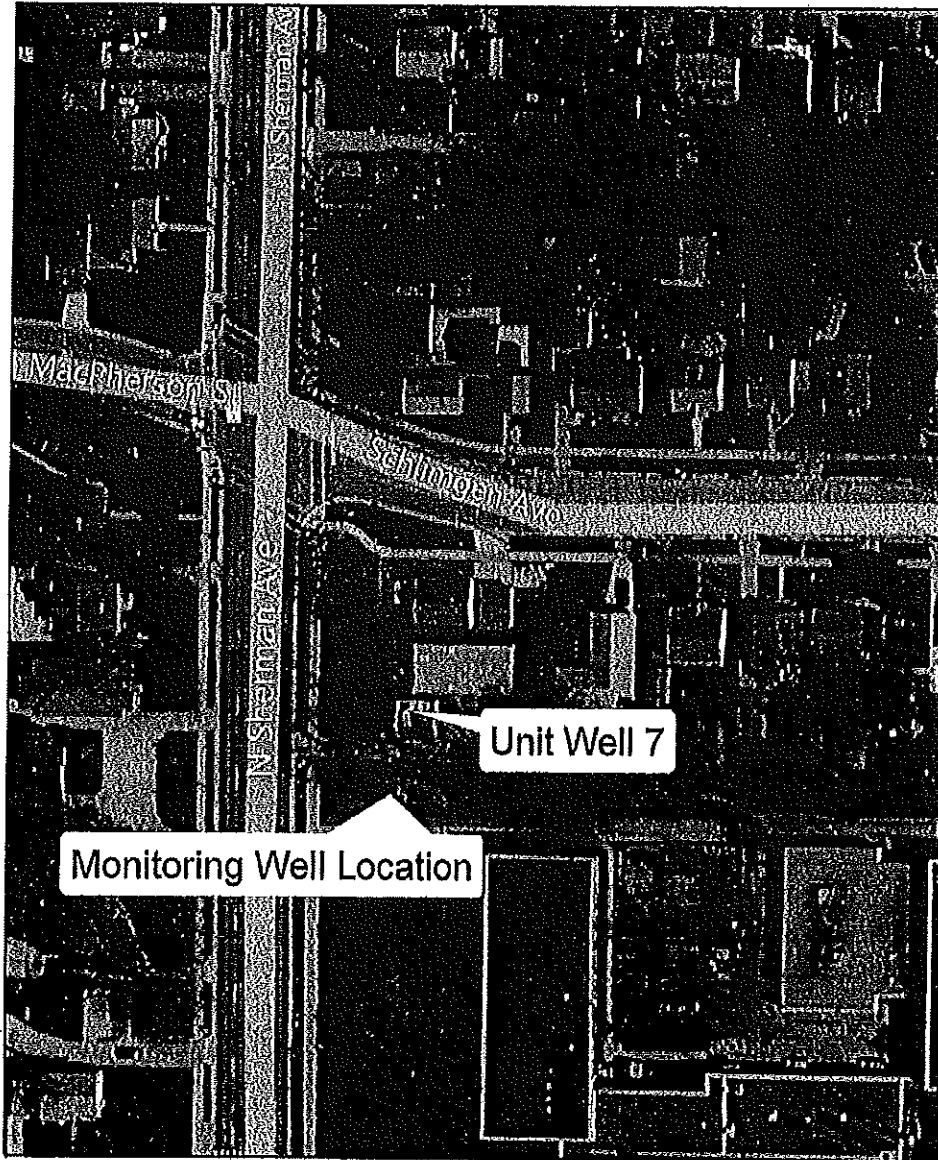
State of Wisconsin)
)ss.
County of Dane)

Personally came before me this 2 day of FEBRUARY, 2012, the above named Mark Dorn, Controller, of the University of Wisconsin - Extension, known to me to be the person who executed the above and foregoing instrument and acknowledged that he/she executed the foregoing instrument as the deed of such, by its authority.

 [Signature]
Notary Public, State of Wisconsin
My Commission: 03/16/2014

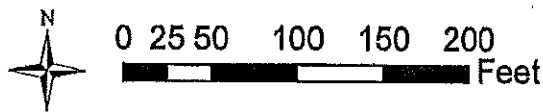
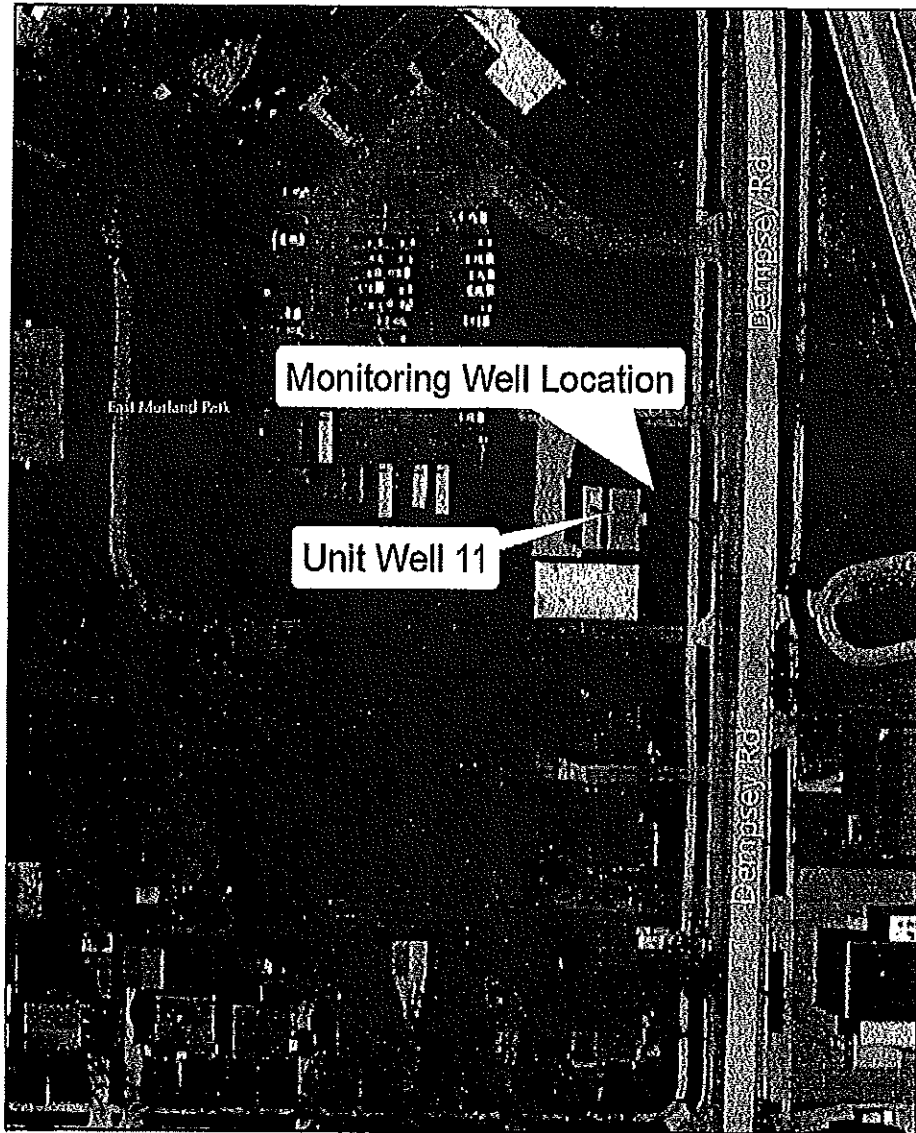
This instrument drafted by City of Madison Office of Real Estate Services Project No. 9771

EXHIBIT A (Page 1 of 5)



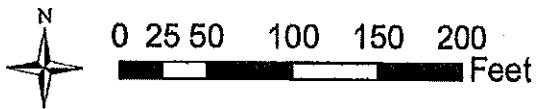
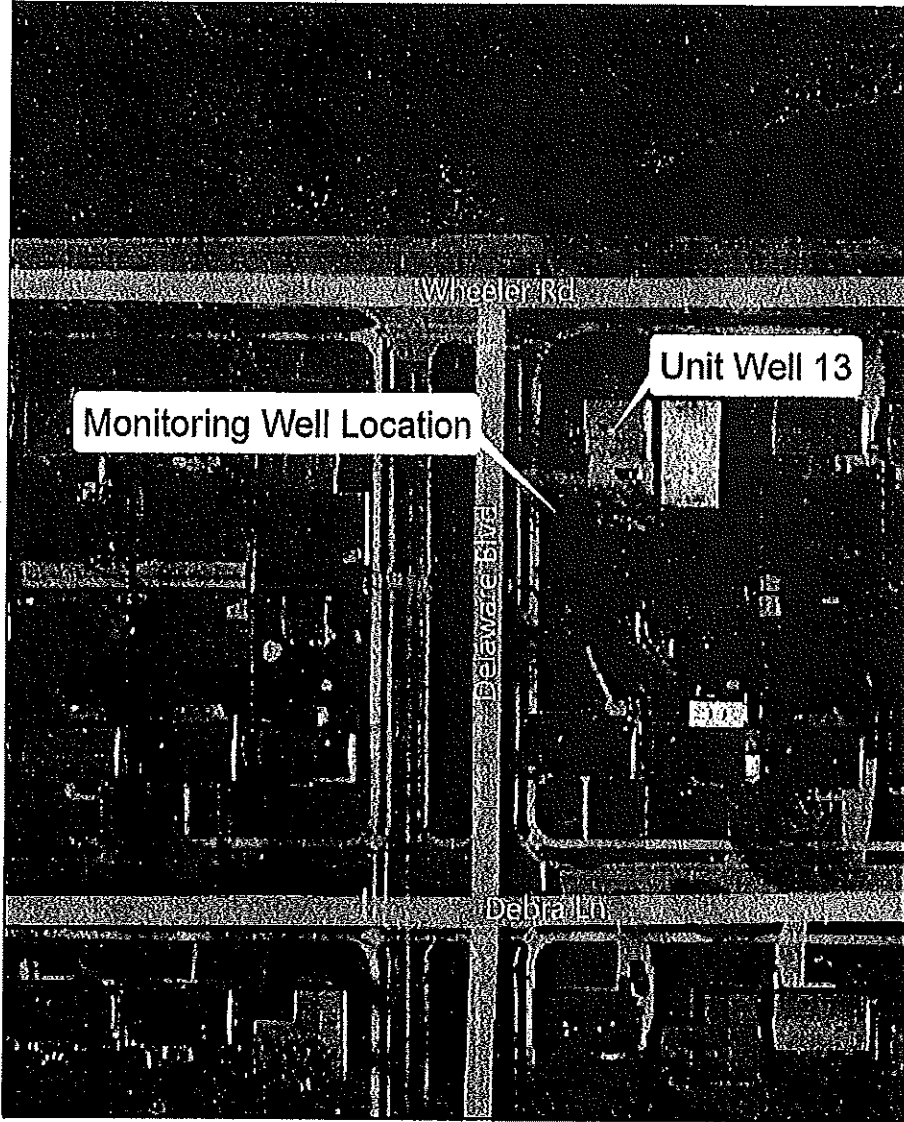
Monitoring well location at 1613 N SHERMAN AVENUE

EXHIBIT A (Page 2 of 5)



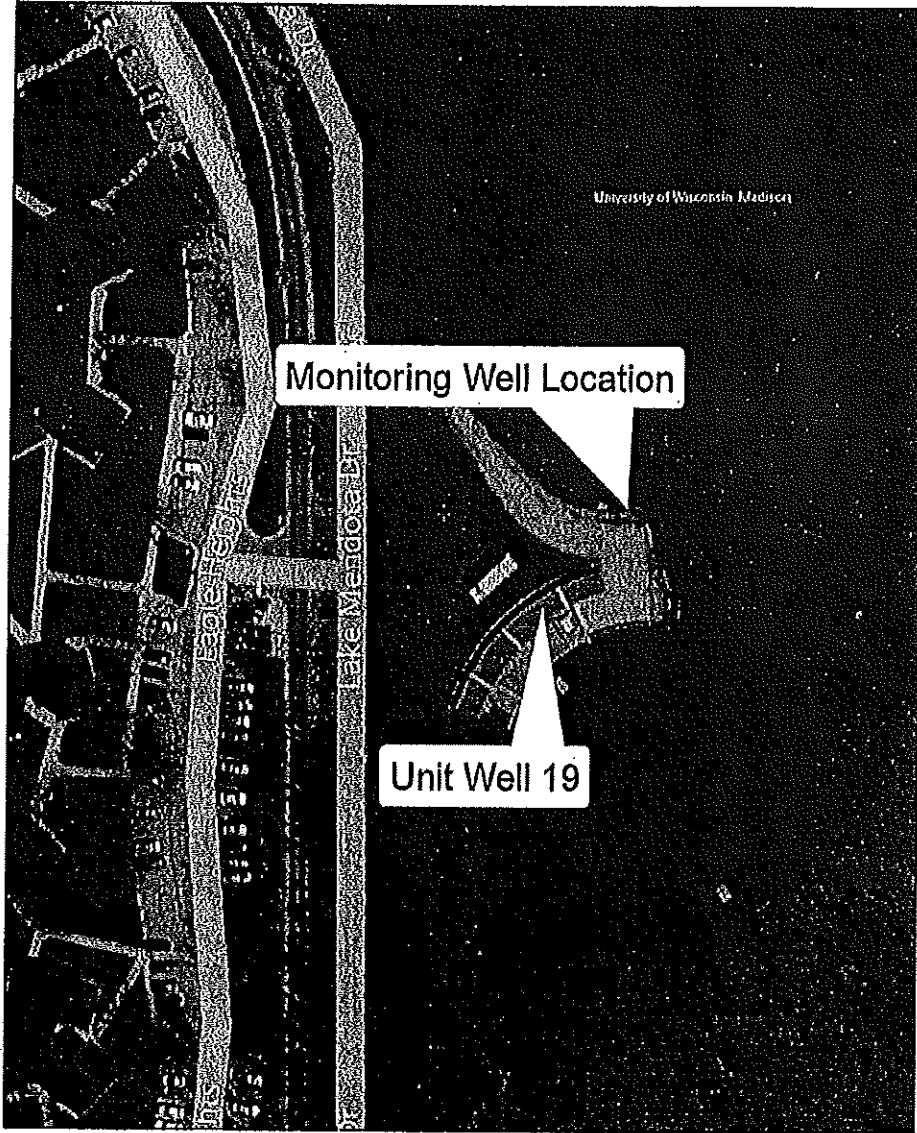
Monitoring well location at
102 Dempsey Road, 0710-043-0912-8

EXHIBIT A (Page 3 of 5)



Monitoring well location at 1201 Wheeler Road

EXHIBIT A (Page 4 of 5)



Monitoring well location at 2402 Lake Mendota Drive

EXHIBIT A (Page 5 of 5)



Monitoring well location at 1133 Moorland Road