



City Council Memorandum

To: Mayor Fasbender & City Council Members
From: Ryan Stempski – Public Works Director/City Engineer
Date: May 15, 2023
Item: Water Service Repair Assessment Request – 1218 East 3rd Street

COUNCIL ACTION REQUESTED

Enclosed for Council approval is a request from Michael Frank for the City to pay the cost to repair the water service line at his property located at 1218 East 3rd Street and to assess the costs back to the property. The cost of the work in this case was \$5,500.

BACKGROUND

The City Attorney has prepared an agreement and waiver of assessment appeal detailing out the conditions and terms of the assessment and protecting the City from an assessment appeal.

The Council is requested to approve Mr. Frank's request for the City to fund the water service repair and assess the cost back to the property under the condition that he first enters into an assessment agreement with the City.

ATTACHMENTS

- Resident Request
- Assessment Agreement



VIII-09

Bauer Services of Welch, LLC
Aaron Bauer
26469 130th Ave
Welch, MN 55089
651-246-9153
bauerservices@hotmail.com

DATE: April 26, 2023
FOR: Michael Frank
INVOICE# 04262023-4044

Michael Frank
1218 East 3rd
Hastings, MN 55033
Attn: Joe Spagnoletti
651-480-6185
jspagnoletti@hastingsmn.gov

<i>DESCRIPTION</i>	<i>AMOUNT</i>
<u>Replace water service from curbstop to meter at 1218 East 3rd St.</u>	
~ Material and Labor	\$5,500.00
Total due	\$5,500.00

Thank You For Your Business!

Please make check payable to Bauer Services.
Please feel free to contact Aaron Bauer with any questions regarding this invoice at 651-246-9153 or at bauerservices@hotmail.com.

**City of Hastings
Acknowledgment of Compliance with
Minnesota Government Data Practices Act**

Every city in Minnesota must comply with the Minnesota Government Data Practices Act (MGDPA), which, in conjunction with other state and federal laws, classifies all government data. Government data are classified in different categories depending on whether they are accessible by the public

Government data means all data collected, created, received, maintained or disseminated by the city regardless of its physical form, storage media or conditions of use. There is a presumption that government data are public and are accessible by the public for inspection and copying unless there is a federal law, state statute or temporary classification of data that provides differently.

Utility Service Assessment Request

When a property owner requests a utility service repair be assessed, it is the policy of the City of Hastings to obtain a written request from the property owner for such request and the City Attorney to prepare an agreement and waiver of assessment appeal, spelling out the conditions and terms of the assessment and protecting the City from an assessment appeal. This written request, and any additional information obtained from a property owner related to the request, may be included in supporting documentation presented to the City Council as background information for acting on the request. The request, and supporting documentation, whether included in the City Council packet or other City documentation, is classified as public data under MGDPA.

I have read and understand that documentation submitted to the City Council may be available and/or released in compliance with MGDPA.

Michael Frank
Name

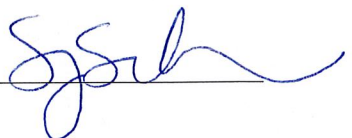
Michael Frank
Signature

4/25/23
Date

Name

Signature

Date

City Staff: 

Date: 4-25-23

Hi my name is Michael Frank
I live at 1218 East 3rd ST Hastings.
I have a water leak out side I
was Told By Bauer Services it
would cost \$5,500. Im on a fixed
income I only Get \$1,269.00 a month.
I Don't Have money on hand if
the city of Hastings can help me
I would appreciate it thank you

Michael Frank

4/25/23

PRIVATE WATER SERVICE REPAIR SPECIAL ASSESSMENT AGREEMENT

THIS AGREEMENT is made this _____ day of _____, 2023, by and between the City of Hastings, a Minnesota municipal corporation (“City”), and Michael A. Frank, a single person (the “Owner”).

RECITALS

- A. Owner is the fee owner of real property located at 1218 3rd Street East, in the City of Hastings, Dakota County, Minnesota, legally described as follows:

Lot 1, Block 12, Barker’s Addition, Dakota County, Minnesota.

Abstract Property

PID: 19-13300-12-010

(“Subject Property”).

- B. The City has found that certain repairs to the private water service are required.
- C. The Owner will cause the construction of the required private water service repairs.
- D. The Owner has requested that the City assess the costs of construction of the required private water service repairs to serve the Subject Property.
- E. The Owner acknowledges that the required private water service repairs will benefit the Subject Property.

NOW, THEREFORE, IN CONSIDERATION OF THEIR MUTUAL COVENANTS THE PARTIES AGREE AS FOLLOWS:

1. **PRIVATE WATER SERVICE REPAIRS.** The Owner will hire and approve a contractor of their choice to construct private water service repairs (“Improvements”) that serve the Subject Property.

2. **SPECIAL ASSESSMENTS.** The City agrees to advance the funds necessary for the water line repairs in return for Owner's agreement to have the costs assessed against the Subject Property as provided for in this Agreement. The Owner agrees to pay one hundred percent (100%) of the cost of the Repairs through the assessment process. The City will assess the Subject Property the following principal amount for the Repairs: \$5,500.00 ("Assessment Amount"). The Assessment Amount shall be deemed adopted on the date this Agreement is signed by the City. The Assessment Amount shall be paid over a 5-year period without deferment, together at a rate of 4.75% interest on the unpaid balance. Interest shall begin accruing thirty (30) days after the City Council's approval of this Agreement. The Owner further agrees that the Assessment Amount may be exceeded if the increases are a result of requests made by the Owner or otherwise approved by the Owner in a subsequent written document. The first installment shall be due and payable with the first half of property taxes in 2024. Owner further agrees that the City can assess an additional \$50.00 which represents \$5.00 per year for the term of the assessment to offset the fees imposed by Dakota County for this assessment, plus the City's administrative fee.

3. **WAIVER OF APPEAL.** Owner hereby authorizes the City to certify to the Dakota County Auditor/Property Tax Assessor a special assessment against the Subject Property up to the Assessment Amount. The Owner hereby waives all rights to assessment notices, hearings, appeals, and procedural and substantive objections and all other rights pursuant to Minn. Stat. §429.061, §429.071 and §429.081 for the special assessment against the Subject Property up to the Assessment Amount, including, but not limited to, any claim that the Assessment Amount against the Subject Property exceeds the benefit to the Subject Property for the Improvement. The Owner acknowledges and agrees that the benefit of the Improvement to the Subject Property does in fact equal or exceed the Assessment Amount. The Owner also acknowledges and agrees that the Subject Property receives a special benefit equal to or exceeding the Assessment Amount.

4. **BINDING EFFECT; RECORDING.** This Agreement shall be binding upon the Owner and the Owner's successors and assigns. This Agreement may be recorded against the title to the subject property.

[remainder of page intentionally blank]

**CITY:
CITY OF HASTINGS**

By: _____
Mary Fasbender
Mayor

By: _____
Kelly Murtaugh
City Clerk

STATE OF MINNESOTA)
) ss.
COUNTY OF DAKOTA)

On this ____ day of _____, 2023, before me a Notary Public within and for said County, personally appeared Mary Fasbender and Kelly Murtaugh, to me personally known, who being each by me duly sworn, each did say that they are respectively the Mayor and City Clerk of the City of Hastings, the municipality named in the foregoing instrument, and that the seal affixed to said instrument was signed and sealed on behalf of said municipality by authority of its City Council and said Mayor and City Clerk acknowledged said instrument to be the free act and deed of said municipality.

Notary Public

OWNER:

By: Michael A Frank
Michael A. Frank

STATE OF MINNESOTA)
) ss.
COUNTY OF DAKOTA)



The foregoing instrument was acknowledged before me this 5th day of May, 2023, by Michael A. Frank, a single person.

Natalie Anne Judge
Notary Public

**THIS DOCUMENT WAS DRAFTED BY
AND AFTER RECORDING, RETURN TO:**

Korine L. Land (#262432)
LeVander, Gillen & Miller, P.A.
1305 Corporate Center Drive, Suite 300
Eagan, MN 55121
651-451-1831