

**AGENDA PACKET FOR CITY OF MARINETTE COMMON COUNCIL SPECIAL MEETING AT MARINETTE CITY HALL COMMON COUNCIL CHAMBERS, 1905 HALL AVENUE FOR WEDNESDAY, JULY 21, 2021.**

**12:00 PM CITY OF MARINETTE SPECIAL COMMON COUNCIL MEETING AGENDA**

- 1. PLEDGE OF ALLEGIANCE**
- 2. ROLL CALL**
- 3. CITIZEN COMMENTS (Limited to five (5) minutes per person per Municipal code on agenda items only)**
- 4. DISCUSSION AND POSSIBLE ACTION REGARDING JCI/TYCO GETS SYSTEM AND SITE ACCESS AGREEMENT**
- 5. ADJOURNMENT.**

**Steve Genisot, Mayor**

Note: Requests from individuals with disabilities who need special accommodations to participate in this meeting or hearing should be made to the City Clerk's office at 1-715-732-5140 with as much advance notice as possible.

## SITE ACCESS AGREEMENT

This SITE ACCESS AGREEMENT (“Agreement”) made and entered into on this \_\_\_\_ day of \_\_\_\_\_, 2021, by and among TYCO FIRE PRODUCTS LP, a Delaware limited partnership (“Tyco”) and the City of Marinette (“City”).

### I. Recitals

Tyco owns property commonly known as 2700 Industrial Parkway South, Marinette, Wisconsin, that is comprised of several parcels of property, known for tax purposes as Parcel Numbers 024-01020.000, 251-00614.001, 251-00615.000, 251-00616.000, 251-00617.000, 251-00618.000, 251-00619.000, 251-01004.000, 251-01005.003, 251-01442.000, 251-01443.000 (together, the “Tyco Property”).

Tyco, in coordination with its environmental consultant and consultant’s contractor(s) (collectively, “Consultant”), is in the process of designing a groundwater remedy for certain environmental issues that originated on Tyco Property.

Tyco desires to construct a groundwater extraction and treatment system (“GETS”) to treat per- and polyfluoroalkyl substances (“PFAS”) that have migrated with groundwater off Tyco Property. This system will include construction and installation of wells, pipes, outfalls and other permanent infrastructure.

Tyco desires to construct and install sections of the groundwater extraction and treatment system on the rights-of-way commonly known as Pierce Avenue, Oakview Road, Edwin Street, James Street, Todd Street, Richard Street, and Florence Street, and on the parcel commonly known as 2501 Pierce Avenue, known for tax purposes as parcel number 251-01005.011 and an additional parcel known for tax purposes as parcel number 251-01439.000 (“City Property”) according to a work plan (including narrative description and map of proposed boring and extraction locations) prepared by Consultant and approved by the City or its designee (the “Work Plan”), with such approval not to be unreasonably withheld, and has requested permission to enter and allow Consultant to enter upon the City Property for such purposes.

NOW, THEREFORE, for good and valuable consideration, the parties agree as follows:

### II. Term and Conditions

- A. **Site Access.** Subject to the terms and conditions of this Agreement, the City hereby grants to Tyco and Consultant a license to enter upon the City Property to conduct the Activities specified in Exhibit A.
- B. **Use of the Site.** Tyco shall:
1. Conduct the Activities in a manner to minimize interference with City’s use and enjoyment of the Site.
  2. Ensure that the Activities are performed in a good and workmanlike manner in full compliance with all applicable laws, regulations and ordinances

and obtain any state, federal, or local permitting necessary for completion of the Activities.

3. Upon completion of the Activities, promptly restore the Site to a condition substantially similar to its condition at the time the Activities started, except as otherwise noted in Exhibit A.

4. Promptly remove all wastes generated by the Activities and dispose of any such wastes in accordance with all applicable laws and regulations.

5. Comply with Wis. Stat. § 182.0175 and ensure that all telephone lines and/or other ground utility lines are clearly marked before drilling or excavation activities are conducted on the Property. Tyco is solely responsible for the location and identification of any underground utilities and obstructions and performing the Activities in a manner that prevents and avoids damage to or disruption of any such utilities or obstructions. Tyco is responsible for marking their facilities when locate requests come through Digger's Hotline.

6. Properly abandon any borings or monitoring wells in accordance with applicable laws and regulations after the Activities are completed. Abandonment includes well control boxes and electrical control panels. Underground piping and wells will be filled and capped.

7. Cease Activities if such Activities result in flooding downstream of the Activities. Tyco shall be responsible for repair of damage caused by downstream flooding due to the Activities.

C. **Cost of Activities.** Tyco shall pay all costs related to the Activities.

D. **Notices.** Tyco or its Consultant shall give City prior verbal or written notice twenty-four (24) hours prior to entry onto the Site to complete Activities, except in cases of emergency that require immediate access.

E. **Insurance.** Before Tyco shall have access to the ROW to perform the Activities it shall provide to the City:

(a) before Consultant may enter upon the Property in relation to doing any of the Activities, Tyco and/or Consultant shall provide to the City a certificate of insurance naming the City as insured and demonstrating Consultant has general liability insurance and professional liability insurance, each naming Consultant and the City as insureds and having limits of not less than \$2,000,000.00 per occurrence and \$5,000,000.00 aggregate each, and worker compensation insurance in amounts as required by law. Tyco and/or Consultant shall further provide to City four standard endorsements for: additional insured, primary insurance, waiver of subrogation, and notice of cancellation. Certificates of Insurance and endorsements must list as additional insureds: "The City of Marinette and the City of Marinette Water and Wastewater Utility, its elected and appointed officials, agents, representatives and employees".

All policies of insurance shall be underwritten by insurance companies licensed to do business in the State of Wisconsin, shall in all respects be acceptable to the City and shall contain a provision requiring 30 days' notice to the City before such policies may be cancelled.

- F. **Indemnification.** Tyco shall indemnify and hold City harmless from and against any and all liabilities, losses, claims, suits, actions, damages, costs and expenses (including reasonable attorneys' fees) and exacerbation of existing conditions as a result of any act, error, omission, or conduct of Tyco and/or Tyco consultant incurred or sustained by City and arising out of or resulting from: (a) the negligent acts or omissions of Tyco or Consultant, their employees, consultants or contractors while on the Site in connection with the performance of the Activities, (b) the actions of Tyco or Consultant, their employees, consultants or contractors pursuant to the terms of this Agreement, or (c) any breach of this Agreement, provided, however, in each case, such injuries damages, claims, losses, demands, penalties, expenses or liabilities are not due to misconduct, actions, or negligence of City and/or their agents, employees, representatives or consultants. Tyco shall be solely responsible for any and all aspects of the high capacity well system associated with the GETS, including but not limited to the maintenance, compliance with applicable ordinances, regulations, and statutes, and decommissioning requirements. The provisions of this paragraph will survive the termination of this Agreement.
- G. **Bond.** Tyco shall secure a surety bond for \$5 million that will be accessible to the City in the event that the surety company verifies that Tyco defaulted on its obligations under this Agreement. The bond will renew annually upon mutual agreement of the parties as long as the Agreement is in force. If Tyco chooses to cancel the bond while the Agreement is in force, Tyco will be obligated to replace the bond with security that is acceptable to the City.
- H. **Term.** This Agreement shall terminate upon completion of Activities, which will be determined upon mutual agreement of the parties, and the entering of the maintenance and operation access agreement referenced in H(1).
1. It is understood by both parties that ongoing access will be needed to perform routine maintenance and testing of the groundwater extraction and treatment system. At the completion of the Activities, the parties will mutually agree upon an Access Agreement for ongoing maintenance and operation of the groundwater extraction and treatment system. The parties shall meet in January of each year to address any maintenance or operation concerns related to the GETS system or concerns related to Terms B(1) or B(2) of this Agreement if requested by either party.
- I. **Successors.** This Agreement may not be assigned by any of the parties. The foregoing notwithstanding, however, this Agreement shall be binding on all successors and permitted assigns of the parties.

**J. Miscellaneous.**

1. Tyco is in the process of purchasing Tax Parcel Number 251-08149.001 for the GETS project. Tyco agrees to allow the City access to Tax Parcel Number 251-08149.001 for purposes of ditch cleaning when the purchase is complete. Ditch cleaning consists of removing brush, vegetation, and sediment from the waterway. The City will provide 24-hour advance notice to Tyco prior to conducting routine ditch cleaning along this parcel of property. If the City needs to access Tax Parcel Number 251-08149.001 for emergency actions related to the ditch, the city will access the property and inform TYCO of the event after the emergency.
2. If any provision in this Agreement is determined to be unenforceable by a court in the proper exercise of its jurisdiction, the remaining provisions shall be unaffected by such determination.
3. This Agreement is entered into and shall be governed in accordance with the laws of the State of Wisconsin.
4. Except to the extent federal law provides exclusive jurisdiction for a matter in dispute, exclusive venue for any legal proceeding involving the negotiation, drafting, interpretation or enforcement of this Agreement, shall be the circuit court for Marinette County, Wisconsin. Any argument that any other venues are more appropriate or that the exclusive venue is inconvenient being waived.
5. The persons signing this Agreement have each been duly authorized to execute and deliver this Agreement and bind the party they purport to represent to its terms.
6. All notices under this Agreement shall be in writing and shall be served on the parties at the following addresses:

If to Tyco:

Tyco Fire Products LP  
Attn: Michael Epstein, Legal Director Tyco Fire Products LP  
1400 Pennbrook Pkwy  
Lansdale, PA 1944

If to the City:

City of Marinette  
Attn: Clerk  
1905 Hall Avenue  
Marinette, WI 54143

Notices given to the foregoing addresses shall be deemed received upon the earlier of actual receipt or two business days after deposit in the United States Mail, first class delivery, postage prepaid. The foregoing addresses shall be presumed correct until notice of a different address is given to the other party.

7. This Agreement represents the entire agreement between the parties with respect to the subject matter hereof. This Agreement may be amended or changed only by written agreement of the parties hereto.

8. This Agreement may be signed in counterparts. Electronic, facsimile and photocopy signatures shall have the same effect as original signatures.

In Witness Whereof, the parties have executed this Access Agreement as of the date first written above.

City of Marinette ("City")

Tyco Fire Products LP ("Tyco")

By: \_\_\_\_\_  
\_\_\_\_\_

By: \_\_\_\_\_  
Its: \_\_\_\_\_

Date: \_\_\_\_\_

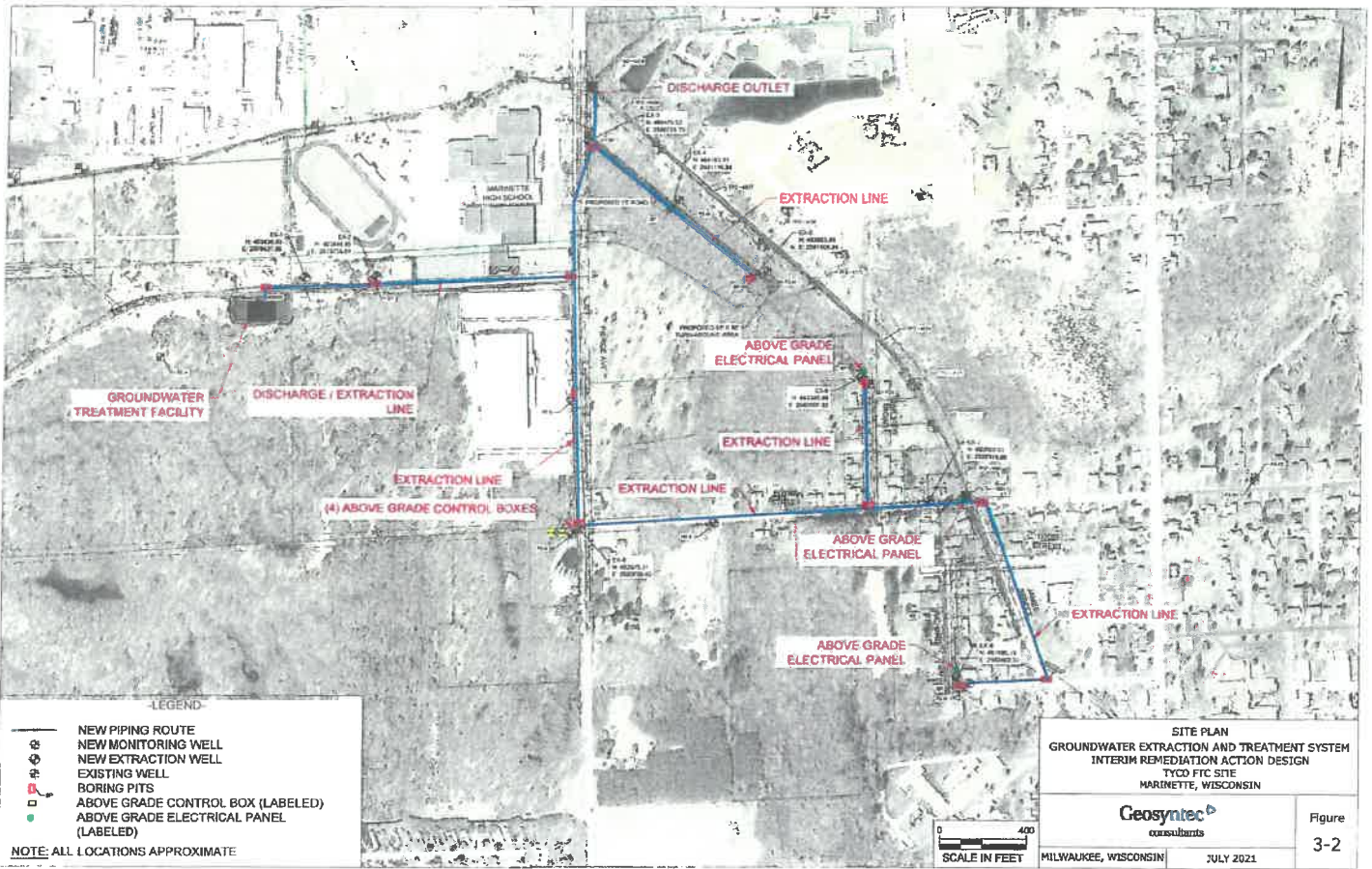
Date: \_\_\_\_\_

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## EXHIBIT A

No Activities will be conducted without prior notice to the City. The Activities will consist of some or all of the following:

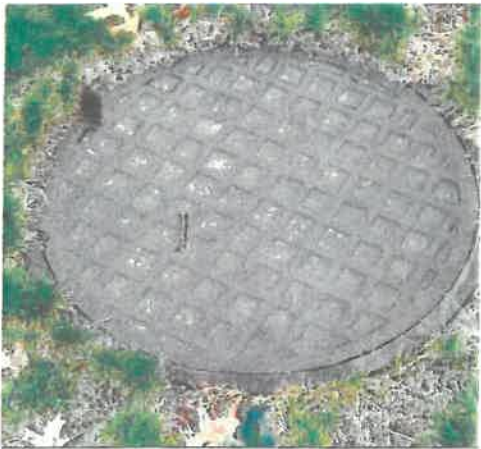
- Installation, maintenance, and monitoring of 4 extraction wells
  - Locations are approximate and subject to field verification, target areas are listed below
    - Oak View Road right of way (ROW)
    - Edwin Street ROW
    - Richard Street ROW
    - Pierce Avenue ROW or City parcel 251-01439.000
- Installation of pipelines, conduits, and associated appurtenances (electrical pull boxes, pipe cleanouts, utility location test stations, etc.) using horizontal directional drilling (HDD) and open cut trenching to connect extraction wells to the treatment system
  - Includes construction of drilling entry and exit pits of varying sizes
  - Pipelines will be installed via HDD wherever practicable
    - As many as approximately 27 entry/exit pits may be constructed along pipeline installation route
    - Some trenching will be required for connections along the construction route
  - Some pipelines along James Street, Todd Street, and Richard Street may be installed via open cut trenching
- Installation, maintenance and monitoring of up to eight (8) monitoring wells or piezometers as shown in Figure 1.
- Final alignment will be reviewed with the City of Marinette Engineer and presented to the City of Marinette Common Council for their final approval prior to beginning work
- Upon completion of the Activities, underground piping, wiring, and wells may remain but will be abandoned in accordance with applicable laws and regulations.





## Completed Extraction Well Features

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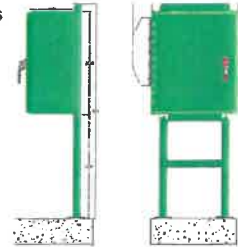


- **Steel Manhole**

- Located at each well adjacent to or in street
- Contains extraction well and vault
- Contains well pumps and groundwater level transducers

- **Small electrical Control Boxes**

- Located at EX-6, EX-7 and EX-9
- Supplies power to well components
- Steel green pad-mounted boxes
  - ~2 feet wide X 2 feet tall X 1 ft deep
  - Placed on a stand or concrete pedestal



# Extraction Wells Control Boxes

- Steel green pad-mounted boxes
  - ~8.75 feet wide X 4 feet tall X 4.5 ft deep
  - Drawing Sheets W-501 and -502
- Extraction well control boxes for 4 City ROW wells to be located by the water tower at Pierce & Edwin
- Vegetation may be used to help camouflage
- Occasional sampling and monitoring via technician and pickup



# Electrical Control Boxes



tyco  
 City Detection Products

