

THE RURAL MUNICIPALITY OF WHITEMOUTH

BY-LAW NO. 675/17

BEING A BY-LAW OF THE RURAL MUNICIPALITY OF WHITEMOUTH TO AUTHORIZE THE ENTERING INTO AND EXECUTION OF AN AGREEMENT WITH NEVA FALLS WATER CO-OP LTD.

WHEREAS Section 250(2) of Part 8, Division 1 of The Municipal Act provides in part as follows:

250(2) Without limiting the generality of subsection (1), a municipality may for municipal purposes do the following:

- (d) enter into agreements with a person, with an agency of the Government of Manitoba or the Government of Canada, or with another municipality, including a municipality in another province, to do with or on behalf of the municipality anything the municipality has the power to do within the municipality;

AND WHEREAS it is deemed expedient and in the best interests of the residents of The Rural Municipality of Whitemouth that The Rural Municipality of Whitemouth enter into an agreement with Neva Falls Water Co-op Ltd;

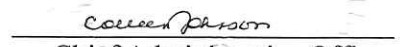
AND WHEREAS the terms of the agreement have been settled and are contained in the agreement attached hereto as Schedule "A";

NOW THEREFORE BE IT AND IT IS HEREBY ENACTED that the Council of The Rural Municipality of Whitemouth, duly assembled, enact as follows:

1. **THAT** the entering into the proposed Agreement attached hereto as Schedule "A" is hereby approved and authorized.
2. **THAT** the Reeve and the Chief Administrative Officer of The Rural Municipality of Whitemouth are hereby authorized and instructed to execute the agreement, as set out in Schedule "A" attached hereto, for and on behalf of the Municipality.

DONE AND PASSED by the Council of The Rural Municipality of Whitemouth in regular session assembled, this 13th day of September, AD., 2017.


Reeve


Chief Administrative Officer

Read a first time this 23rd day of August, AD. 2017
Read a second time this 23rd day of August, AD. 2017
Read a third time this 13th day of September, AD., 2017

THIS AGREEMENT MADE THIS 22 DAY OF AUGUST, 2017.

BETWEEN:

**THE RURAL MUNICIPALITY OF WHITEMOUTH
("Municipality")**

-and-

**NEVA FALLS WATER CO-OP.
("Co-op")**

WHEREAS:

- A. The Co-op owns and operates a private water distribution system servicing approximately 14 properties in the community of Neva Falls;
- B. The Co-op is proposing to transfer its water distribution system to the Municipality, and for the Municipality to take over the operation of the water distribution system.
- C. Section 250(2) of the Municipal Act provides that a municipality may construct, operate, maintain and acquire services, facilities, and utilities;
- D. By minutes dated March 29, 2017, the Co-op agreed to transfer its water distribution system, and the funds being held in its reserve to the Municipality;
- E. The Public Utilities Board has been requested to approve the transfer of the Co-op's water distribution system;
- F. The parties have agreed to the Municipality taking over the Co-op's water distribution system on the terms set out in this Agreement.

THE MUNICIPALITY AND THE CO-OP AGREE AS FOLLOWS:

Purchase of the Co-op's water distribution system

- 1. In consideration of payment of \$10.00 and other good and valuable consideration, and on the terms and conditions set out in this Agreement, the Co-op agrees to sell the Co-op's water distribution system described in Schedule A to the Municipality ("Water System").
- 2. The Co-op is selling the Water System to the Municipality free and clear of all liens, charges and encumbrances.

3. The Co-op shall assign the benefit of any warranties or guarantees it has relating to the Water System to the Municipality, to the extent such warranties and guarantees are assignable.
4. The effective date of the sale and purchase of the Water System, the date in which the Co-op shall provide possession of the Water System to the Municipality, the date on which the Municipality takes over responsibility for the Water System and pays the purchase price shall be (“Possession date”).
5. The Co-op is responsible for and the Municipality does not assume, have or accept any responsibility or liability whatsoever in respect of the Water System before the Possession Date for the following:
 - a. the payment of taxes, encumbrances, liens, or charges,
 - b. any actions, suits, claims and demands, and
 - c. any environmental requirements. Any and all costs, charges, fees, claims, demands and requirements arising out of or related thereto shall be borne and carried out entirely by the Co-op. The Municipality shall take title to the Water System free and clear of any outstanding or future work or remediation orders, or environmental requirements.
6. The Co-op undertakes that it has reasonably reviewed its records and operations, and as of the date of the signing of this Agreement, there are no outstanding matters of the nature described in subsections 5 a., b. or c..
7. The Co-op undertakes and agrees to assume all obligations for and undertakes to pay and satisfy all liabilities, costs, and damages and to indemnify the Municipality for any matter or thing, and all costs, liability, and damages it may incur, including payment of all legal fees, relating to or arising out of any claim or demand by anyone respecting the Water System before the Possession Date. The Co-op shall not be responsible for a claim that relates to a matter that arises after the Possession date.
8. The Co-op shall be responsible to collect any fees and charges for services provided by the Co-op to the users of the Water System prior to the Possession Date.

Transfer of the water distribution system reserve

9. On the Possession Date, the Co-op shall transfer to the Municipality all of funds held in the Co-op’s reserve.

General

- 10. The Co-op and the Municipality agree to provide, obtain and/or execute such further and other conveyances, documents and evidence as may be required to give effect to this Agreement. The Co-op further agrees to provide any information requested by the Municipality respecting the Co-op's water system and records.
- 11. The preamble forms part of this Agreement.

IN WITNESS WHEREOF the Municipality and the Co-op have executed this Agreement as of the date first above written.

THE RURAL MUNICIPALITY OF WHITEMOUTH



Reeve



Chief Administrative Officer

NEVA FALLS WATER CO-OP.



Witness



SCHEDULE A

TO AN AGREEMENT BETWEEN
THE RURAL MUNICIPALITY OF WHITEMOUTH and
NEVA FALLS WATER CO-OP

Description of the Co-op's water distribution system

Water lines, water meters, chattels, fixtures, structures, equipment, and facilities