

ENROLLED ORDINANCE 168-47

GRANT OF EASEMENT TO WAUKESHA WATER UTILITY FOR NEW WATER MAIN ON MOOR DOWNS GOLF COURSE & RELEASE OF PRIOR EASEMENT

WHEREAS, Waukesha County owns and operates Moor Downs Golf Course and the government campus, and

WHEREAS, the Waukesha County campus buildings, specifically the Human Services building, Moor Downs Golf Course Clubhouse, and Central Grounds Service Center are served by water main service from the Waukesha Water Utility, and

WHEREAS, the existing 1927 six inch water main was in need of replacement, and was replaced with a new eight inch water main by the Waukesha Water Utility in Spring, 2013, and

WHEREAS, the existing 1927 water main easement, as recorded with the Waukesha County Register of Deeds as Document Number 908681 on April 25, 1975, was abandoned to accommodate the new Health and Human Services Building and related site improvements, and

WHEREAS, a twenty foot wide easement located between Riverview Avenue and the western boundary of Moor Downs Golf Course, within the Southeast One Quarter (1/4) of Section Thirty Four (34), Township Seven (7) North, Range Nineteen (19) East in the City of Waukesha and a release of the 1927 easement was approved by Enrolled Ordinance 167-74 on February 26, 2013 and was recorded with the Waukesha County Register of Deeds as Document Number 4002406 on April 2, 2013, and

WHEREAS, it is now necessary that the easement location be revised to accommodate mass transit schedules, reduce overall cost of the project, and minimize disruption to construction activities necessary for the Health and Human Services Center project, and

WHEREAS, to accomplish the same, it is desirable that the April 2, 2013 easement be released, and a twenty foot wide easement in a revised location between Riverview Avenue and the western boundary of Moor Downs Golf Course, within the Southeast One Quarter (1/4) of Section Thirty Four (34), Township Seven (7) North, Range Nineteen (19) East in the City of Waukesha be granted for the revised water main route to this property, and

WHEREAS, this easement is provided from Waukesha County to the Waukesha Water Utility for a fee of zero dollars.

THE COUNTY BOARD OF SUPERVISORS OF THE COUNTY OF WAUKESHA ORDAINS that the Easement to the Waukesha Water Utility, which permits the construction and maintenance of an eight inch water main in the revised location upon lands known as Moor Downs Golf Course owned by Waukesha County and releases the April 2, 2013 easement, is hereby approved.

BE IT FURTHER ORDAINED that said Easement and Release may be executed by the Director of the Department of Parks and Land Use on behalf of Waukesha County.

**UTILITY EASEMENT AGREEMENT &
RELEASE OF RECORDED EASEMENT**

Document Number

Document Title

This Utility Easement Agreement & Release of Recorded Easement ("Agreement") is entered into by WAUKESHA COUNTY, a municipal corporation, as "Grantor," owner of the land, and the CITY OF WAUKESHA WATER UTILITY referred to hereinafter as "Grantee."

RECITALS

WHEREAS the Grantor is the fee holder of certain real property in the City of Waukesha, State of Wisconsin, as more particularly described as follows (the "Property"):

See Attached Exhibit A

Recording Area

Name and Return Address

Waukesha County
c/o Dept. of Parks and Land Use
515 W. Moreland Blvd., Rm AC-230
Waukesha, WI 53188

WAKC1000983

Parcel Identification Number (PIN)

WHEREAS the Grantee has requested that Grantor grant a permanent utility easement over a certain portion of the Property (the "Utility Easement Area") as more particularly described as follows:

See Attached Exhibit B

WHEREAS the Grantee currently holds a separate utility easement on a portion of the Property and adjoining property recorded with the Waukesha County Register of Deeds on April 2, 2013 as Document No. 4002406 which will be released with respect to the Property only and replaced by this Agreement.

AGREEMENT

NOW, THEREFORE, for good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties agree as follows:

- I. Grant of Easement. Grantor, Waukesha County, grants to Grantee a perpetual 20 foot wide easement and right-of-way upon the Utility Easement Area to construct and maintain a new 8-inch water main, including for such purpose the right of ingress and egress over the Utility Easement Area as long as required for such purpose, including the right to operate necessary equipment thereon.

THIS PAGE IS PART OF THIS LEGAL DOCUMENT – DO NOT REMOVE.

This information must be completed by submitter: document title, name & return address, and PIN (if required). Other information such as the granting clause, legal description, etc., may be placed on this first page of the document or may be placed on additional pages of the document.

WRDA Rev. 12/22/2010

168-0-047

2. Release of Recorded Easement. Grantee, the Waukesha Water Utility, releases all of its right, title and interest in the Property arising under its prior utility easement recorded with the Waukesha County Register of Deeds on April 2, 2013 as Document No. 4002406. The release of the utility easement recorded with the Waukesha County Register of Deeds as Document No. 908681 on April 25, 1975 contained in the aforementioned easement document shall remain in full force and effect.
3. Indemnification. Grantee shall defend, indemnify and hold harmless the Grantor and all of its departments, agencies, boards, officers, employees and agents from any and all liability, loss, damages, expenses and costs (including attorneys' fees and expenses) that it may suffer or incur as the result of any injury to or death of any person or damage to property which results from any action or omission, in whole or in part, negligent or otherwise, of Grantee or its agents in connection with any use of the Grantee's land under this Agreement regardless of the cause of the injury, except to the extent caused by the gross negligence or willful acts on the part of the Grantee and all of its departments, agencies, boards, officers, employees and agents.
4. Insurance. The Grantee shall furnish the Grantor with a Certificate or Letter of Self-Insurance.
5. Consistent Uses Allowed. The Grantor reserves the right to use the Utility Easement Area for purposes that will not interfere with the Grantee's full enjoyment of the easement rights granted herein and to grant easement rights to other persons or entities as the Grantor deems appropriate.
6. Restoration. Grantee and its agents shall have the right of access upon the premises for the purposes of exercising the rights herein acquired, and Grantee shall promptly restore the premises to the condition existing prior to the entry by Grantee or its agents. The restoration shall not apply to any trees or brush which may be permitted to be removed pursuant to the rights granted herein. Grantee shall be liable to make prompt payment for any damage caused by it or its agents to any of Grantor's roadways and curbs, highway facilities, fences, parking lots, trail improvements, signs, entrance gates, park improvements, or any other fixtures or facilities of the Grantor and for the unauthorized removal of trees.
7. Notices. All notices to the Grantor shall be sent to the Director of the Waukesha County Department of Parks and Land Use, Park System Division, 515 Moreland Blvd, Room AC-230, Waukesha, Wisconsin 53188.
8. Recording. This Agreement shall be duly recorded in the office of the Register of Deeds of Waukesha County, Wisconsin by Waukesha County.
9. Governing Law. This Agreement shall be construed and enforced in accordance with the laws of the State of Wisconsin.
10. Restriction of Scope. The installation of any other equipment or expansion beyond the Utility Easement Area requires a written amendment to this Agreement.

11. Restriction on Assignability. This Agreement shall be binding upon and inure to the benefit of the heirs and successors thereto. The right to assign this Agreement is restricted and it shall not be assigned to parties not listed in this Agreement.
12. Enforcement. Enforcement of this Agreement may be by proceedings at law or in equity against any person or persons violating or attempting or threatening to violate any term or condition in this Agreement, either to restrain or prevent the violation or to obtain any other relief.
13. Entire Agreement. This Agreement sets forth the entire understanding of the parties and may not be changed except by a written document executed and acknowledged by all parties to this Agreement and duly recorded in the Office of the Register of Deeds of Waukesha County, Wisconsin.
14. Invalidity. If any term or condition of this Agreement, or the application of this Agreement to any person or circumstance, shall be deemed invalid or unenforceable, the remainder of this Agreement, or the application of the term or condition to persons or circumstances other than those to which it is held invalid or unenforceable, shall not be affected thereby, and each term and condition shall be valid and enforceable to the fullest extent permitted by law.
15. Waiver. No delay or omission by any party in exercising any right or power arising out of any default under any of the terms or conditions of this Agreement shall be construed to be a waiver of the right or power. A waiver by a party of any of the obligations of the other party shall not be construed to be a waiver of any breach of any other terms or conditions of this Agreement.

IN WITNESS WHEREOF, the Grantor has caused this Agreement to be approved by the Waukesha County Board of Supervisors and signed by the Director of the Waukesha County Department of Parks and Land Use as evidenced below.

SIGNATURE OF GRANTOR

By _____

Date: _____

COUNTY OF WAUKESHA

By _____

Dale R. Shaver
 Director
 Waukesha County Department of Parks and
 Land Use

ACKNOWLEDGMENT

STATE OF WISCONSIN
COUNTY OF WAUKESHA

This instrument was acknowledged before me on the _____ day of _____, 2013 by Dale R. Shaver, Director of the Waukesha County Department of Parks and Land Use, on behalf of Waukesha County.

Notary Public, State of Wisconsin
My commission expires: _____

SIGNATURES OF GRANTEE

CITY OF WAUKESHA WATER UTILITY

By: _____
Print Name: _____
Title: _____

ACKNOWLEDGMENT

STATE OF WISCONSIN
COUNTY OF WAUKESHA

This instrument was acknowledged before me on the _____ day of _____, 2013 by _____, on behalf of the CITY OF WAUKESHA WATER UTILITY.

Notary Public, State of _____
My commission expires: _____

This document was drafted by
Attorney Erik G. Weidig
Waukesha County Corporation Counsel Office
515 W. Moreland Blvd., Room AC-330
Waukesha, WI 53188

EXHIBIT A

Legal Description of Property:

All that part of the West One-half (1/2) of the South East One quarter (1/4) of Section Thirty-four (34), in Township Seven (7) North, Range Nineteen (19) East, and part of Lots One (1), Four (4), Five (5) and Lots Six (6) through Fifteen (15), both inclusive, and part of the vacated streets and alleys in R. N. KIMBALLS SUBDIVISION OF BLOCK LETTERED "Z" OF THE NORTHWEST ADDITION TO PRAIRIEVILLE, a platted Subdivision, in the City of Waukesha, bounded and described as follows, to-wit:

Commencing at the South Quarter corner of said Section Thirty-four (34); thence North 0 degrees 01'30" West along the Easterly line of Highland Addition 1576.44 feet to the North East corner of said Highland Addition; thence south 68 degrees 31' West along the Northwesterly line of said Highland Addition 1.22 feet to the North-South Quarter line of said Section Thirty-four (34); thence North 0 degrees 04' West along the said North-South Quarter line 1072.00 feet to the center of said Section Thirty-four (34); thence North 89 degrees 15' East along the East-West Quarter line of said Section Thirty-four (34), 1318.35 feet to the North One-eighth corner of said South East One-quarter (1/4) Section; thence South 0 degrees 16' East along the Westerly line of Griffin Heights Addition and the Westerly line of Griffin Heights Addition extended 2115.94 feet to the Northwesterly line of Buena Vista Avenue; thence South 52 degrees 22' West along the Northwesterly line of Buena Vista Avenue 41.82 feet; thence South 38 degrees 56' West along the Northwesterly line of Buena Vista Avenue 659.30 feet to the Northerly line of R. N. Kimballs Subdivision of Block Z of the North West Addition to Prairieville (Now City of Waukesha); thence South 89 degrees 18' West along the Northerly line of said R.N. Kimballs Subdivision 10.23 feet; thence South 40 degrees 53' West along the Northwesterly line of Buena Vista Avenue 246.08 feet; thence North 50 degrees 57' West and parallel to Barstow Street 131.92 feet; thence South 38 degrees 58' West 119.00 feet; thence North 50 degrees 57' West and parallel to Barstow Street 122.90 feet; thence South 38 degrees 58' West and parallel to the Northwesterly line of Buena Vista Avenue 225.00 feet to the Northeasterly line of Barstow Street; thence North 50 degrees 57' West along the Northeasterly line of Barstow Street 446.80 feet to the Northerly line of said R. N. Kimballs Subdivision; thence North 89 degrees 18' East along the Northerly line of said R. N. Kimballs Subdivision and the South line of said Section Thirty-four (34), 55.00 feet to the point of commencement, excepting therefrom:

All that part of the South East One-quarter (1/4) of Section Thirty-four (34), in Township Seven (7) North, Range Nineteen (19) East, in the City of Waukesha, described as follows, to-wit: Commencing at a point on the North line of said Quarter section distant North 89 degrees 15' East 919.76 feet from the North West corner of said Quarter section; thence North 89 degrees 15' East 398.59 feet; thence South 0 degrees 16' East 126.64 feet; thence 414.80 feet along arc

of curve to left of radius 2472.37 feet, chord bears North 74 degrees 24'05" West 414.32 feet to the point of commencement, and further excepting therefrom:

All that part of the South East One-quarter (1/4) of Section Thirty-four (34), in Township Seven (7) North, Range Nineteen (19) East, in the City of Waukesha, described as follows, to-wit: Commencing at the center of said section and thence South 0 degrees 04' East 50.00 feet; thence North 89 degrees 19' East 425.65 feet; thence 913.78 feet along arc of curve to right of radius 2372.37 feet, chord bears South 79 degrees 41'32" East 908.14 feet; thence North 0 degrees 16' West 107.20 feet; thence 414.80 feet along arc of curve to the left of radius 2472.37 feet, chord bears North 74 degrees 24'05" West 414.32 feet; thence South 89 degrees 19' West along the North line of said Quarter section 919.76 feet to the point of commencement, and further excepting therefrom that part thereof conveyed by Warranty Deed recorded as Document No. 765063, described as follows:

All that part of Lots Four (4) and Five (5) of R. N. Kimball's Subdivision of Block "Z" in the Northwest Addition to the Plat of Prairieville, being a subdivision of the land in the North East One-quarter (1/4) of Section Three (3), in Township Six (6) North, Range Nineteen (19) East, in the City of Waukesha, bounded and described as follows, to-wit: Beginning at the Southeasterly corner of said Lot Four (4); thence North 40 degrees East along the Southeasterly line of Lot Four (4), also being the Northerly line of the parcel described in Volume 1038 of Deeds on page 615, as Document No. 654789, 150.00 feet; thence North 50 degrees West 100.00 feet to the Northwesterly line of Lot Five (5); thence South 40 degrees West along said Northwesterly line of Lot Five (5), 150.00 feet to the Northeasterly right-of-way line of Barstow Street; thence South 50 degrees East along said Northeasterly right-of-way line 100.00 feet to the place of beginning.

Easement Description:

All that part of the Southeast ¼ of Section 34, Township 7 North, Range 19 East in the City of Waukesha, Waukesha County, Wisconsin, described as follows

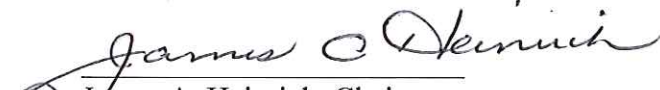
Commencing at the Southwest corner of the Southeast ¼ of said section; thence North 00° 33' 21" West along the west line of said section, 944.76 feet to the point of beginning of said easement; thence North 71° 10' 58" East, 457.15 feet to a point; thence South 70° 43' 56" East, 55.77 feet to a point; thence South 58° 36' 23" East, 120.46 feet to a point; thence South 82° 37' 59" East, 134.01 feet to a point; thence South 78° 20' 41" East, 123.91 feet to a point; thence North 85° 25' 37" East, 174.37 feet to a point; thence North 81° 20' 38" East, 153.83 feet to a point; thence North 52° 59' 06" East, 44.85 feet to a point; thence North 24° 25' 16" East, 78.91 feet to a point; thence North 49° 12' 31" East, 209.87 feet to a point; thence North 40° 47' 29" West, 20.00 feet to a point; thence South 49° 12' 31" West, 214.27 feet to a point; thence South 24° 25' 16" West, 78.22 feet to a point; thence South 52° 59' 06" West, 34.70 feet to a point; thence South 81° 20' 38" West, 148.06 feet to a point; thence South 85° 25' 37"

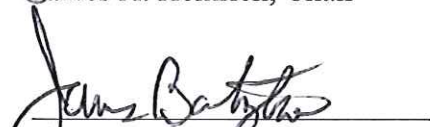
West, 170.81 feet to a point; thence North 78° 20' 41" West, 121.80 feet to a point; thence North 82° 37' 59" West, 130.50 feet to a point; thence North 58° 36' 23" West, 118.33 feet to a point; thence North 70° 43' 56" West, 64.80 feet to a point; thence South 71° 10' 58" West, 457.45 feet to a point on the west line of said section; thence South 00° 33' 21" East along said west line, 21.06 feet to the point of beginning.

Said easement contains 0.710 acres.

GRANT OF EASEMENT TO WAUKESHA WATER UTILITY FOR NEW WATER MAIN ON MOOR DOWNS GOLF COURSE & RELEASE OF PRIOR EASEMENT

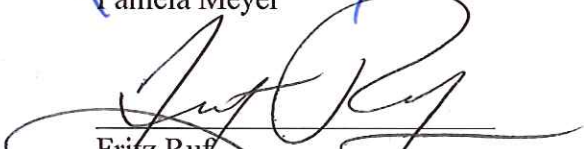
Presented by:
Land Use, Parks, and Environment Committee

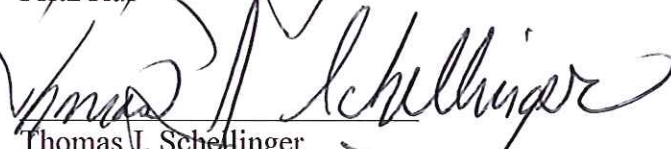

James A. Heinrich, Chair



Jim Batzko


Walter Kolb


Pamela Meyer


Fritz Ruf



Thomas J. Schellinger


David D. Zimmermann

The foregoing legislation adopted by the County Board of Supervisors of Waukesha County, Wisconsin, was presented to the County Executive on:

Date: 10/22/2013, 
Kathleen Novack, County Clerk

The foregoing legislation adopted by the County Board of Supervisors of Waukesha County, Wisconsin, is hereby:

Approved: X
Vetoed: _____
Date: 10-24-13, 
Daniel P. Vrakas, County Executive

WAUKESHA COUNTY BOARD OF SUPERVISORS

V

DATE-10/22/13

(ORD) NUMBER-1680047

1 C. SLATTERY.....AYE
3 R. MORRIS.....AYE
5 J. BRANDTJEN.....AYE
7 J. GRANT.....AYE
9 J. HEINRICH.....AYE
11 F. RUF.....
13 P. DECKER.....AYE
15 W. KOLB.....AYE
17 D. PAULSON.....AYE
19 C. CUMMINGS.....AYE
21 W. ZABOROWSKI.....AYE
23 K. HAMMITT.....AYE
25 G. YERKE.....AYE

2 D. Zimmermann.....AYE
4 J. BATZKO.....AYE
6 J. JESKEWITZ.....
8 P. HAUKOHL.....AYE
10 D. SWAN.....AYE
12 P. WOLFF.....AYE
14 P. MEYER.....AYE
16 M. CROWLEY.....AYE
18 L. NELSON.....AYE
20 T. SCHELLINGER....AYE
22 P. JASKE.....AYE
24 D. DRAEGER.....AYE

TOTAL AYES-23

TOTAL NAYS-00

CARRIED _____

DEFEATED _____

UNANIMOUS

X

TOTAL VOTES-23