

Enrolled Ordinance 172-014

APPROVE DISTRIBUTION EASEMENT TO THE SCHOOL DISTRICT OF WAUKESHA TO CONSTRUCT, INSTALL, OPERATE, MAINTAIN, REPAIR, REPLACE AND EXTEND UNDERGROUND FIBER OPTIC DUCT AND CABLE ON WAUKESHA COUNTY PROPERTY KNOWN AS RETZER NATURE CENTER

WHEREAS, the School District of Waukesha has requested permission to construct, operate, maintain, repair, replace and extend underground fiber optic duct and cable within Waukesha County property, known as Retzer Nature Center, located in the Northeast Quarter of Section 1, Township 6 North, Range 18 East, Town of Genesee, Waukesha County, Wisconsin; and

WHEREAS, it is deemed desirable to allow the School District of Waukesha to construct, install, operate, maintain, repair, replace and extend underground fiber optic duct and cable on Waukesha County's land for the purpose of upgrading and maintaining communication service to the School District of Waukesha's Charles Z. Horwitz Planetarium; and

WHEREAS, it is necessary to provide an easement from Waukesha County to the School District of Waukesha for the purpose of constructing, installing, operating, maintaining, repairing, replacing and extending underground fiber optic duct and cable on County-owned land.

THE COUNTY BOARD OF SUPERVISORS OF THE COUNTY OF WAUKESHA ORDAINS that Waukesha County's grant of a Distribution Easement Underground Communications Easement ("Easement") to the School District of Waukesha, which will be recorded in the Office of the Register of Deeds, is hereby approved.

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

**DISTRIBUTION EASEMENT
UNDERGROUND COMMUNICATIONS
AGREEMENT**

Document Number

Document Title

This Distribution Easement Underground Communications Agreement ("Agreement") is entered into by WAUKESHA COUNTY, a municipal corporation, as "Grantor," owner of the land, and WAUKESHA SCHOOL DISTRICT d/b/a SCHOOL DISTRICT OF WAUKESHA, a Wisconsin public school district, referred to hereinafter as "Grantee."

RECITALS

WHEREAS, Grantor is the fee holder of certain real property, known as Retzer Nature Center located in the Northeast Yi of Section 1, Township 6 North, Range 18 East in the Town of Genesee, State of Wisconsin (the "Property").

WHEREAS, Grantee has requested that Grantor grant a permanent easement upon, within, beneath, over and across a certain portion of the Property (the "Easement Area") as more particularly described as follows:

See depiction attached as Exhibit A and legal description attached as Exhibit B.

Recording Area

Name and Return Address

Attorney Kimberly K. Haines
Waukesha County Corporation Counsel
515 W. Moreland Blvd., Rm AC-330
Waukesha, WI 53188

Parcel Identification Number (PIN)

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 Easement Area to construct, reconstruct, maintain, operate and/or remove a 2-inch fiber optic duct and cable with all appurtenant equipment under and above ground, as deemed necessary by Grantee, including for such purpose the right of ingress and egress over the 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

2. Indemnification. Grantee shall defend, indemnify and hold harmless 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 Grantor's land under this Agreement regardless of the cause of the injury, except to the extent caused by the negligence or willful acts on the part of Grantor and all of its departments, agencies, boards, officers, employees and agents.
3. Insurance. The Grantee shall furnish the Grantor with a Certificate or Letter of Self-Insurance.
4. Consistent Uses Allowed. Grantor reserves the right to use, and to grant easement rights to other persons or entities upon, the Utility Easement Area for purposes that will not interfere with the Grantee's full enjoyment of the easement rights granted herein.
5. Restoration. Grantee and its agents shall have the right of access upon the Easement Area for the purposes of exercising the rights herein acquired, and Grantee shall promptly restore the Easement Area 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.
6. 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.
7. Recording. This Agreement shall be duly recorded in the office of the Register of Deeds of Waukesha County, Wisconsin by Waukesha County.
8. Governing Law. This Agreement shall be construed and enforced in accordance with the laws of the State of Wisconsin.
9. Restriction of Scope. The installation of any other equipment or expansion beyond the Easement Area requires a written amendment to this Agreement.
10. 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.

11. 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.

12. 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.

13. 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.

14. 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, 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

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 _____, 2017 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

Date: _____

WAUKESHA SCHOOL DISTRICT

By: _____
Print Name: _____
Title: _____

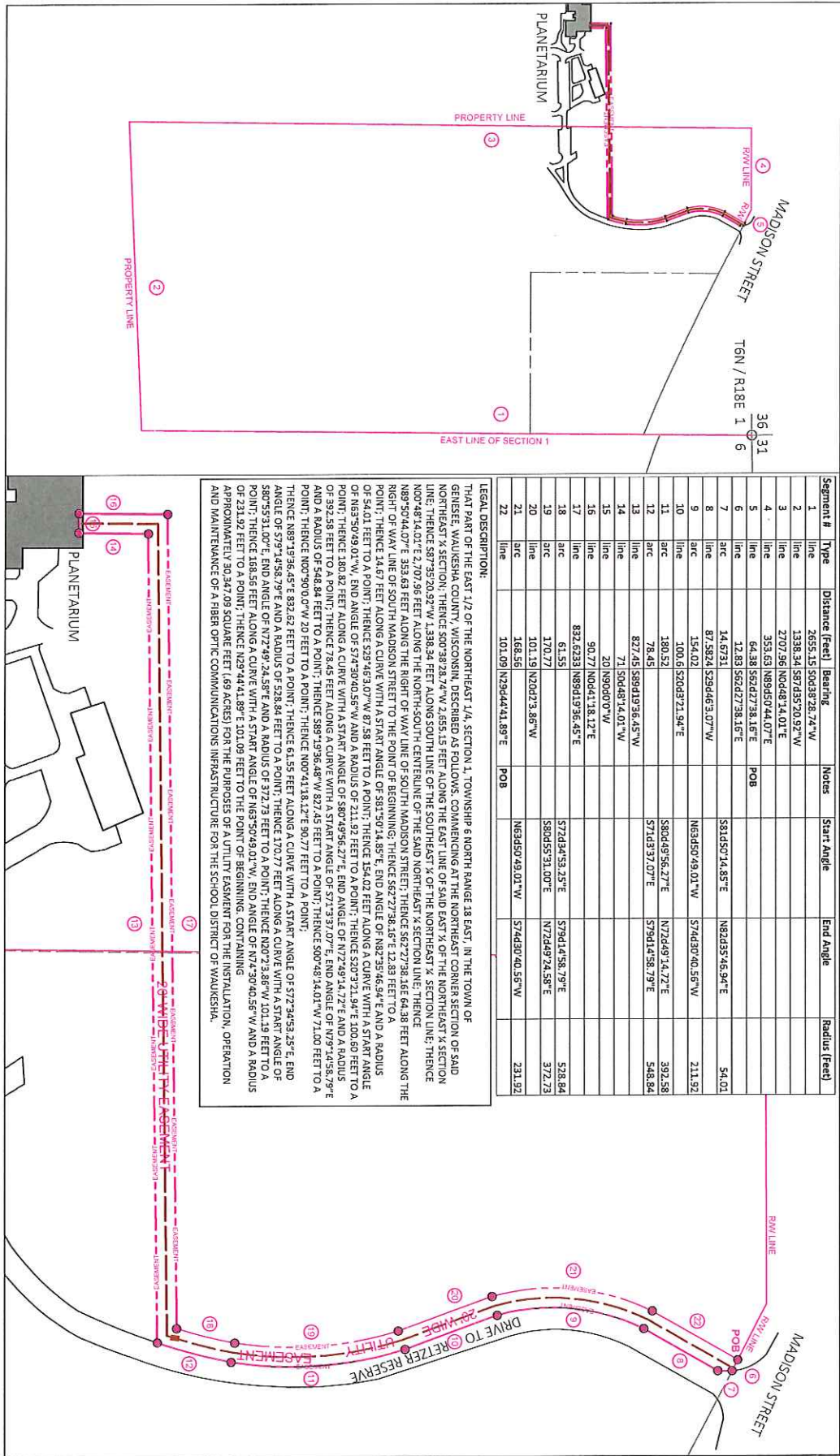
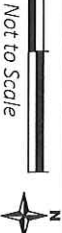
ACKNOWLEDGMENT

STATE OF WISCONSIN
COUNTY OF WAUKESHA

This instrument was acknowledged before me on the _____ day of _____, 2017 by _____, on behalf of WAUKESHA SCHOOL DISTRICT.

Notary Public, State of _____
My commission expires: _____

This document was drafted by
Attorney Kimberly K. Haines
Waukesha County Corporation Counsel Office
515 W. Moreland Blvd., Room AC-330
Waukesha, WI 53188



Segment #	Type	Distance (feet)	Bearing	Notes	Start Angle	End Angle	Radius (feet)
1	line	2655.15	S0438°28.74'W				
2	line	1338.34	S87°45'20.92"W				
3	line	2707.96	N0448°14.01'E				
4	line	353.03	N89°50'44.07"E				
5	line	64.38	S52°27'38.16"E	POB			
6	line	12.83	S52°27'38.16"E				
7	arc	14.67	S14°50'14.85"E				54.01
8	line	87.58	S29°44'53.07"W				
9	arc	154.02					211.92
10	line	100.6	S2048°21.94"E				
11	arc	180.52					392.58
12	line	78.45	S80°49'56.27"E				
13	line	827.45	S89°19'36.45"W				
14	line	71.50	N0448°14.01"W				
15	line	20	N90°00'0"W				
16	line	90.77	N044°18.12"E				
17	line	832.63	N89°41'36.45"E				
18	arc	61.55					528.84
19	arc	170.77					372.73
20	line	101.19	N204°23.86"W				
21	arc	168.56					231.92
22	line	101.09	N29°44'41.89"E	POB			

LEGAL DESCRIPTION:
THAT PART OF THE NORTH-EAST 1/4, SECTION 1, TOWNSHIP 6 NORTH RANGE 18 EAST, IN THE TOWN OF GENESSE, WAUKESHA COUNTY, WISCONSIN, DESCRIBED AS FOLLOWS: COMMENCING AT THE NORTHEAST CORNER SECTION OF SAID NORTHEAST 1/4 SECTION; THENCE S07°28'23.74"W 2,855.15 FEET ALONG THE EAST LINE OF SAID EAST 1/4 OF THE NORTH-EAST 1/4 SECTION LINE; THENCE S87°35'20.92"W 1,338.34 FEET ALONG SOUTH LINE OF THE SOUTH-EAST 1/4 OF THE NORTH-EAST 1/4 SECTION LINE; THENCE N04°48'14.01"E 2,707.96 FEET ALONG THE NORTH-SOUTH CENTERLINE OF THE SAID NORTH-EAST 1/4 SECTION LINE; THENCE N89°50'44.07"E 353.03 FEET ALONG THE RIGHT OF WAY LINE OF SOUTH MADISON STREET; THENCE S82°27'38.16"E 64.38 FEET ALONG THE RIGHT OF WAY LINE OF SOUTH MADISON STREET TO THE POINT OF BEGINNING; THENCE S82°27'38.16"E 12.83 FEET TO A POINT OF BEGINNING; THENCE S14°50'14.85"E 14.67 FEET TO A POINT OF BEGINNING; THENCE S29°44'53.07"W 87.58 FEET TO A POINT OF BEGINNING; THENCE S2048°21.94"E 100.6 FEET TO A POINT OF BEGINNING; THENCE S80°49'56.27"E 78.45 FEET TO A POINT OF BEGINNING; THENCE S89°19'36.45"W 827.45 FEET TO A POINT OF BEGINNING; THENCE N0448°14.01"W 71.50 FEET TO A POINT OF BEGINNING; THENCE N90°00'0"W 20 FEET TO A POINT OF BEGINNING; THENCE N044°18.12"E 90.77 FEET TO A POINT OF BEGINNING; THENCE N89°41'36.45"E 832.63 FEET TO A POINT OF BEGINNING; THENCE N204°23.86"W 101.19 FEET TO A POINT OF BEGINNING; THENCE N29°44'41.89"E 168.56 FEET TO A POINT OF BEGINNING; THENCE N29°44'41.89"E 101.09 FEET TO A POINT OF BEGINNING; THENCE S07°28'23.74"W 2,855.15 FEET TO THE POINT OF BEGINNING. CONTAINING APPROXIMATELY 30,347.09 SQUARE FEET (.69 ACRES) FOR THE PURPOSES OF A UTILITY EASEMENT FOR THE INSTALLATION, OPERATION AND MAINTENANCE OF A FIBER OPTIC COMMUNICATIONS INFRASTRUCTURE FOR THE SCHOOL DISTRICT OF WAUKESHA.

EXHIBIT B
(Utility Easement Area)

THAT PART OF THE EAST 1/2 OF THE NORTHEAST 1/4, SECTION 1, TOWNSHIP 6 NORTH RANGE 18 EAST, IN THE TOWN OF GENESEE, WAUKESHA COUNTY, WISCONSIN, DESCRIBED AS FOLLOWS

COMMENCING AT THE NORTHEAST CORNER SECTION OF SAID NORTHEAST X SECTION;
THENCE S00° 38'28.74"W 2,655.15 FEET ALONG THE EAST LINE OF SAID EAST Y, OF THE NORTHEAST X SECTION LINE;
THENCE S87° 35'20.92"W 1,338.34 FEET ALONG SOUTH LINE OF THE SOUTHEAST X OF THE NORTHEAST X SECTION LINE;
THENCE N00° 48'14.01"E 2,707.96 FEET ALONG THE NORTH-SOUTH CENTERLINE OF THE SAID NORTHEAST X SECTION LINE;
THENCE N89° 50'44.07"E 353.63 FEET ALONG THE RIGHT OF WAY LINE OF SOUTH MADISON STREET;
THENCE S62° 27'38.16E 64.38 FEET ALONG THE RIGHT OF WAY LINE OF SOUTH MADISON STREET TO THE POINT OF BEGINNING;
THENCE S62° 27'38.16"E 12.83 FEET TO A POINT;
THENCE 14.67 FEET ALONG A CURVE WITH A START ANGLE OF S81°50'14.85"E, END ANGLE OF N82° 35'46.94"E AND A RADIUS OF 54.01 FEET TO A POINT;
THENCE S29° 46'3.07"W 87.58 FEET TO A POINT;
THENCE 154.02 FEET ALONG A CURVE WITH A START ANGLE OF N63° 50'49.01 "W, END ANGLE OF S74° 30'40.56"W AND A RADIUS OF 211.92 FEET TO A POINT;
THENCE S20° 3'21.94" E 100.60 FEET TO A POINT;
THENCE 180.82 FEET ALONG A CURVE WITH A START ANGLE OF S80° 49'56.27" E, END ANGLE OF N72° 49' 14.72" E AND A RADIUS OF 392.58 FEET TO A POINT;
THENCE 78.45 FEET ALONG A CURVE WITH A START ANGLE OF S71° 3'37.07" E, END ANGLE OF N79° 14'58.79" E AND A RADIUS OF 548.84 FEET TO A POINT;
THENCE S89° 19'36.48"W 827.45 FEET TO A POINT;
THENCE S00° 48'14.01 "W 71.00 FEET TO A POINT;
THENCE N00° 90'0.0"W 20 FEET TO A POINT;
THENCE N00° 41'18.12"E 90.77 FEET TO A POINT;
THENCE N89° 19'36.45"E 832.62 FEET TO A POINT;
THENCE 61.55 FEET ALONG A CURVE WITH A START ANGLE OF S72° 34'53.25"E, END ANGLE OF S79° 14'58.79" E AND A RADIUS OF 528.84 FEET TO A POINT;
THENCE 170.77 FEET ALONG A CURVE WITH A START ANGLE OF S80° 55'31.00"E, END ANGLE OF N72° 49' .24.58" E AND A RADIUS OF 372.73 FEET TO A POINT;
THENCE N20° 2'3.86"W 101.19 FEET TO A POINT;
THENCE 168.56 FEET ALONG A CURVE WITH A START ANGLE OF N63° 50'49.01 "W, END ANGLE OF N74° 30'40.56"W AND A RADIUS OF 231.92 FEET TO A POINT;
THENCE N29° 44'41.89" E 101.09 FEET TO THE POINT OF BEGINNING.

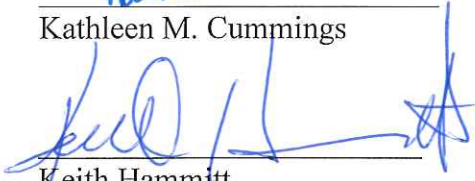
CONTAINING APPROXIMATELY 30,347.09 SQUARE FEET (.69 ACRES) FOR THE PURPOSES OF A UTILITY EASMENT FOR THE INSTALLATION, OPERATION AND MAINTENANCE OF A FIBER OPTIC COMMUNICATIONS INFRASTRUCTURE FOR THE SCHOOL DISTRICT OF WAUKESHA.

APPROVE DISTRIBUTION EASEMENT TO THE SCHOOL DISTRICT OF WAUKESHA
TO CONSTRUCT, INSTALL, OPERATE, MAINTAIN, REPAIR, REPLACE AND EXTEND
UNDERGROUND FIBER OPTIC DUCT AND CABLE ON WAUKESHA COUNTY
PROPERTY KNOWN AS RETZER NATURE CENTER

Presented by:
Land Use, Parks, and Environment Committee


David D. Zimmermann, Chair


ABSENT
Kathleen M. Cummings


Keith Hammitt


ABSENT
Robert L. Kolb


William Mitchell


Thomas J. Schellinger



Ted Wysocki

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

Date: 7/25/17, 
Kathleen Novack, County Clerk

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

Approved: X
Vetoed: _____
Date: 8/7/17


Paul Farrow, County Executive

D1 - Kolb	AYE	D14 - Wood	AYE
D2 - Zimmermann	(M) AYE	D15 - Mitchell	AYE
D3 - Morris	AYE	D16 - Crowley	AYE
D4 - Batzko	Notified	D17 - Paulson	AYE
D5 - Dondlinger	AYE	D18 - Nelson	AYE
D6 - Walz	AYE	D19 - Cummings	Absent
D7 - Grant	AYE	D20 - Schellinger	AYE
D8 - Michalski	AYE	D21 - Zaborowski	AYE
D9 - Heinrich	AYE	D22 - Wysocki	(2) AYE
D10 - Swan	AYE	D23 - Hammitt	Notified
D11 - Howard	AYE	D24 - Whittow	AYE
D12 - Wolff	AYE	D25 - Johnson	AYE
D13 - Decker	AYE		

172-0-014

Passed (22 Y - 0 N - 3 Absent)

Majority Vote