

ENROLLED ORDINANCE 165-88

APPROVE WISCONSIN ENERGY UTILITY EASEMENT
FOR NAGAWAUKEE PARK CAMPGROUND

WHEREAS, Waukesha County has established campground areas within its park areas, where drinking water is provided by hand pump to campground users, and

WHEREAS, Waukesha County annually inspects drinking water at its facilities to provide safe drinking water, and

WHEREAS, using a hand pump poses risks of contamination of drinking water and, when required, the hand pump makes it difficult to sanitize the well, and

WHEREAS, providing an electrical pump, with appropriate safeguards such as backflow preventer and water discharge away from the well base, allows users to draw water with reduced risk of water contamination, and

WHEREAS, Waukesha County requests Wisconsin Electric Power to supply electric power to the campground well location, and

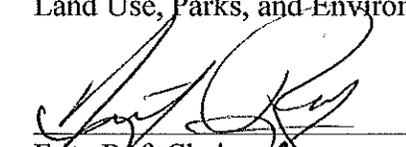
WHEREAS, Wisconsin Electric Power Company requires a 712-foot linear, 12-foot wide permanent utility easement on Waukesha County property to supply an underground electrical power supply.

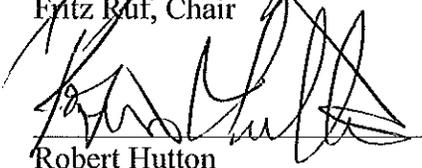
THE COUNTY BOARD OF SUPERVISORS OF THE COUNTY OF WAUKESHA ORDAINS that a Utility Easement between Wisconsin Electric Power Company and Waukesha County for a 712-foot linear, 12-foot wide permanent utility easement on Waukesha County property in Nagawaukee Park, a copy of which is on file in the Parks and Land Use Department, is approved.

BE IT FURTHER ORDAINED that the County Executive and County Clerk may execute said Agreement on behalf of Waukesha County.

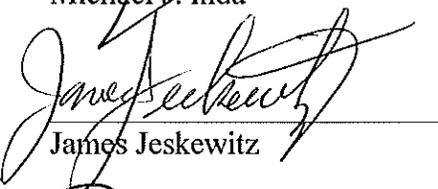
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FOR NAGAWAUKEE PARK CAMPGROUND

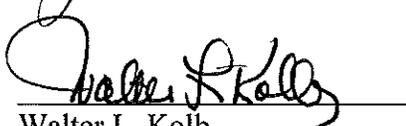
Presented by:
Land Use, Parks, and Environment Committee

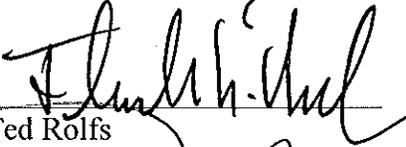

Fritz Ruf, Chair

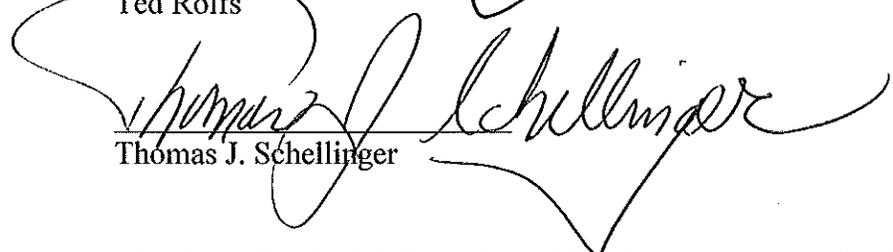

Robert Hutton


Michael J. Inda


James Jeskewitz

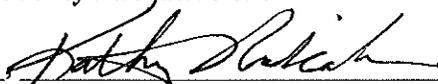

Walter L. Kolb


Ted Rolfs


Thomas J. Schellinger

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

Date: 2-25-11


Kathy Nickolaus, County Clerk

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

Approved: X

Vetoed: _____

Date: 2-25-11


Daniel P. Vrakas, County Executive

WAUKESHA COUNTY BOARD OF SUPERVISORS

V

DATE-02/23/11

(ORD) NUMBER-1650093

1 D. FALSTAD.....AYE
 3 R. HUTTON.....AYE
 5 J. JESKEWITZ.....AYE
 7 P. HAUKOHL.....
 9 J. HEINRICH.....AYE
 11 F. RUF.....AYE
 13 P. DECKER.....AYE
 15 P. MEYERS.....AYE
 17 J. TORTOMASI.....AYE
 19 S. WIMMER.....AYE
 21 W. ZABOROWSKI.....AYE
 23 K. CHIAVEROTTI.....AYE
 25 G. YERKE.....AYE

2 T. ROLFS.....
 4 J. DWYER.....AYE
 6 J. BRANDTJEN.....AYE
 8 T. SCHELLINGER....
 10 D. SWAN.....AYE
 12 P. WOLFF.....AYE
 14 M. INDA.....AYE
 16 D. PAULSON.....AYE
 18 K. CUMMINGS.....AYE
 20 P. JASKE.....AYE
 22 P. GUNDRUM.....AYE
 24 W. KOLB.....AYE

TOTAL AYES-22

TOTAL NAYS-00

CARRIED _____

DEFEATED _____

UNANIMOUS X

TOTAL VOTES-22

Document No.

DISTRIBUTION EASEMENT
(UNDERGROUND)

Return to:
<u>Waukesha County</u>
<u>Department of Parks and Land Use, Parks Division</u>
<u>515 West Moreland Blvd., Room AC-230</u>
<u>Waukesha, WI 53188</u>

DELC 0783-991-001

Parcel Number

This Utility Easement Agreement (*Agreement*) is granted by WAUKESHA COUNTY, a municipal corporation, hereinafter referred to as "Grantor", owner of land, to WISCONSIN ELECTRIC POWER COMPANY, a Wisconsin Corporation doing business as We Energies; referred to hereinafter as "Grantee."

RECITALS:

A. The Grantor/Owner is the fee holder of certain real property in the City of Delafield, County of Waukesha, State of Wisconsin, as more particularly described as Document Number 666002 recorded July 12, 1966 in Vol 1055 of Deeds pages 13-16 excluding Documents Number 3000147 and 3000148 being a part of SW ¼ of Section 16, Township 7 North, Range 18 East.

B. The Grantee has requested that the Owner grant a permanent utility easement (the *Easement*) over a certain portion of the Property (the *Utility Easement Area*) on such portions as are described in the attached and incorporated Exhibit A.

AGREEMENT

For good and valuable consideration, the receipt and sufficiency of which are acknowledged, the parties agree as follows:

1. **Purpose:** The sole purpose of this easement is to bring electric power to facilities within the Nagawaukee Park Campground. To effectuate this purpose, the Owner does hereby give Wisconsin Electric Power Company the right, permission and authority, within the easement area, to install, operate, maintain, repair, replace, and extend underground utility facilities, conduit and cables, electric pad-mounted transformers, concrete slabs, power pedestals, one pole, riser equipment, terminals and markers, together with all necessary and appurtenant equipment as deemed necessary by the Grantee, all to transmit electric energy and signals, including the customary growth and replacement thereof within the easement area the description of which is contained in Exhibit A that is attached and incorporated hereto .
2. **Consistent Uses Allowed:** The Owner reserves the right to use the Utility Easement Area for purposes that will not interfere with the Grantees' full enjoyment of the easement rights granted herein and to grant easement rights to other persons or entities as the Owner deems appropriate. The Owner shall not nor allow others to place or construct a structure in the easement area or in such close proximity to the electric facilities as to create a violation of the Wisconsin State Electrical Code or any amendments thereto.
3. **Elevation:** Owner agrees that the elevation of the ground surface existing as of the date of the initial installation of Grantee's facilities within the easement area will not be altered by Owner by more than four (4) inches without the written consent of the Grantee.
4. **Removal of Trees, Brush, Branches, and Roots:** Grantees are given the right to trim, cut down and remove trees brush, branches, and roots within the twelve (12) foot easement area where, in the opinion of Grantees, the trees, brush, branches, and roots will interfere with the location, construction, operation and maintenance of the Grantee's facilities. Grantees may not trim, cut down or remove trees and brush outside of the twelve (12) foot area unless it submits a cutting plan to the Owner and obtains prior written approval of the Director of the Waukesha County Department of Parks and Land Use.
- 5.. **Continual Operation of Park:** Nagawaukee Park shall at all times remain open for public use. If the Grantees must perform work in any area that will in any way interfere with or detour the travelling public in the Park, Grantees must seek prior approval of Owner.
- 6.. **Access:** Grantee or its agents shall have the right to enter Nagawaukee Park during normal business hours without obtaining a park sticker for the purposes of construction and inspection of underground utility facilities. Grantee or its agents shall have the right to access the utility easement area by way of crossing land adjacent to the easement utility area provided that Grantee complies with provisions of paragraph 9, Restoration.
7. **Indemnification:** Grantees shall defend, indemnify and hold harmless the Owner 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 Grantees or its agents in connection with any use of the Owner's land under this Agreement regardless of the cause of the injury, except to the extent cause by the gross negligence or willful acts on the part of the Owner and all of its departments, agencies, boards, officers, employees and agents.

8. **Insurance:** The Grantee shall furnish the Owner with a Certificate or Letter of Self-Insurance.
9. **Restoration:** Grantees and its agents shall have the right of access upon the premises for the purposes of exercising the rights herein acquired, and Grantees shall promptly restore the premises to the condition existing prior to the entry by Grantees 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. Grantees shall be liable to make prompt payment for any damage caused by it or its agents to any of Owner's roadways and curbs, facilities, fences, parking lots, trail improvements, signs, entrance gates, park improvements, or any other fixtures or facilities of the Owner and for the unauthorized removal of trees.
10. **Notices:** All notices to the Owner 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.
11. **Recording:** This Agreement shall be duly recorded in the office of the Register of Deeds of Waukesha County, Wisconsin by Waukesha County.
12. **Governing Law:** This Agreement shall be construed and enforced in accordance with the laws of the State of Wisconsin.
13. **Restriction of Scope:** The installation of any other equipment or expansion beyond the Utility Easement Area requires a written amendment to this Agreement.
14. **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 without prior consent of Owner.
15. **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.
16. **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.
17. **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.
18. **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 Owner has caused this Utility Easement to be approved by the Waukesha County Board of Supervisors and signed by its County Executive and its County Clerk as evidenced below.

SIGNATURES OF OWNER

COUNTY OF WAUKESHA

Date: _____

By _____
Daniel P. Vrakas, County Executive

Date: _____

By _____
Kathy Nicholas, County Clerk

ACKNOWLEDGMENT

STATE OF WISCONSIN
COUNTY OF WAUKESHA

This instrument was acknowledged before me on the _____ day of _____, 2011 by Daniel P. Vrakas, County Executive, on behalf of Waukesha County.

Notary Public, State of Wisconsin
My commission expires: _____

ACKNOWLEDGMENT

STATE OF WISCONSIN
COUNTY OF WAUKESHA

This instrument was acknowledged before me on the _____ day of _____, 2011 by Kathy Nickolaus on behalf of Waukesha County.

Notary Public, State of Wisconsin
My commission expires: _____

SIGNATURES OF GRANTEEES

WISCONSIN ELECTRIC POWER COMPANY

By: _____

Print Name: _____

Title: _____

ACKNOWLEDGMENT

STATE OF WISCONSIN
COUNTY OF WAUKESHA

This instrument was acknowledged before me on the _____ day of _____, 2011 by
_____, on behalf of WISCONSIN ELECTRIC
POWER COMPANY.

Notary Public, State of _____

My commission expires: _____

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

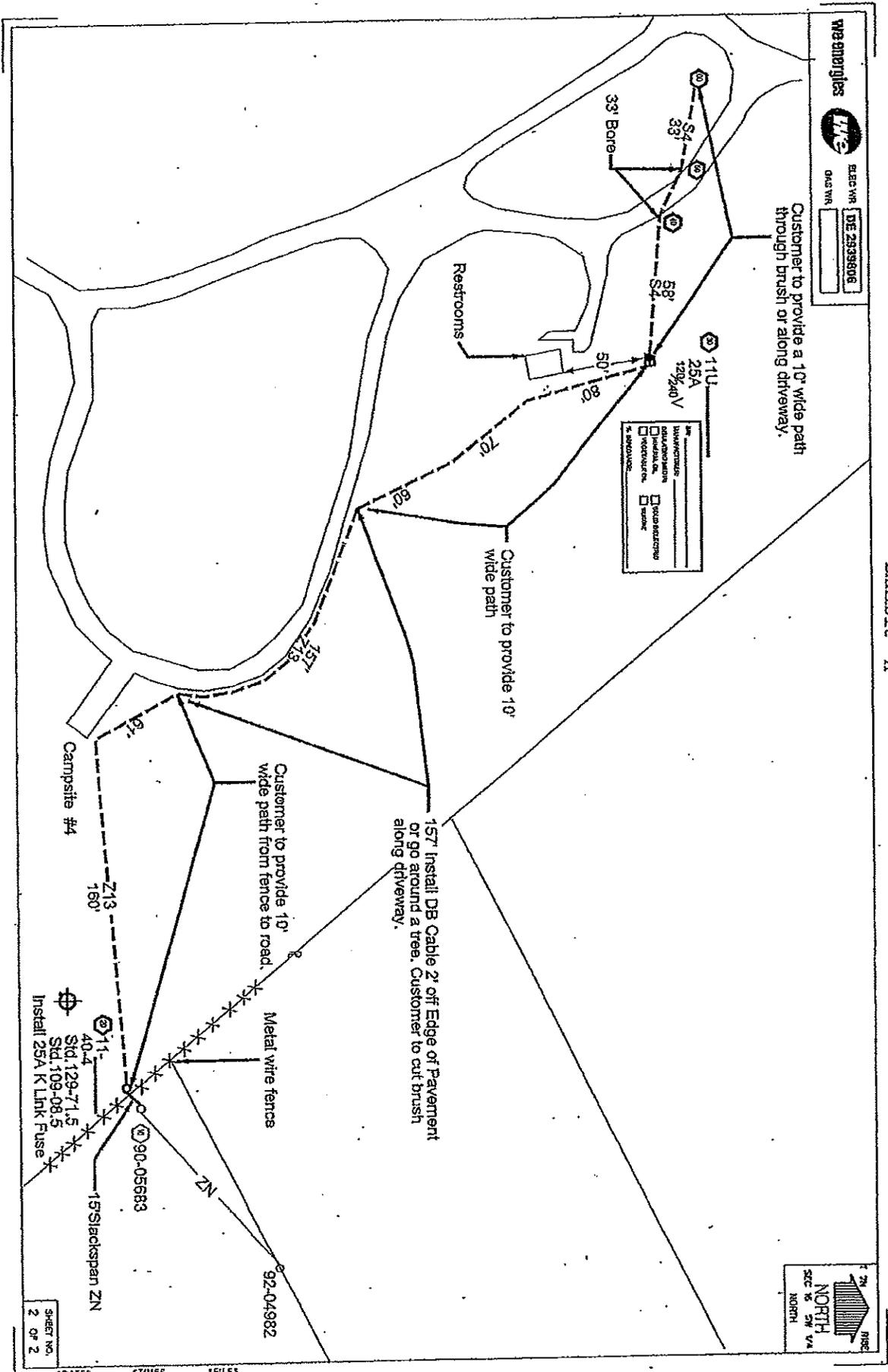


Exhibit "A"