

**EASEMENT
WATER MAIN - MUNICIPALITY**

THIS INDENTURE, made by and between **WISCONSIN ELECTRIC POWER COMPANY**, a corporation organized and existing under the laws of the State of Wisconsin, hereinafter called "Company", and **CITY OF MILWAUKEE**, a municipal corporation of the State of Wisconsin, hereinafter called "City".

WITNESSETH:

WHEREAS, City desires to acquire an easement over a portion of Company's lands hereinafter described for one (1) water main;

NOW, THEREFORE, in consideration of the sum of \$1.00 paid to Company by the City, receipt whereof is hereby acknowledged, and in further consideration of the conditions and agreements hereinafter specified to be kept and performed, Company, for itself, its successors and assigns, does hereby grant unto City, its successors and assigns, the right to build, construct, excavate, install, operate, inspect, maintain, repair, clean out and reconstruct one (1) permanent water main with the right of entry upon, in, under and across a strip of land twenty (20) feet in width, being a part of Company's lands in the Northwest ¼ of Section 21, Township 6 North, Range 22 East, in the City of Milwaukee in Milwaukee County, Wisconsin.

RETURN TO:
CITY OF MILWAUKEE
DEPARTMENT OF PUBLIC WORKS
MILWAUKEE WATER WORKS
4001 SOUTH 6TH STREET
MILWAUKEE, WI 53221

(Parcel Identification Number)

The location of the easement strip with respect of the land of Company is as shown on the Exhibit "WE881" attached hereto and made a part hereof.

This easement is granted and given upon the following terms and conditions:

1. The easement herein granted is nonexclusive, and Company reserves unto itself, its successors and assigns, the right, not inconsistent with the rights herein granted, to use the strip of land for any purpose. It is expressly agreed that the construction, installation, operation, maintenance and replacement of electric lines, gas mains, communication lines and related facilities, both overhead and underground, upon, over, across, within and beneath said strip of land, are not uses which are inconsistent with the rights herein granted, provided said underground electric lines, gas mains and communication lines shall maintain a minimum of six inches (6") vertical clearance from the outside edge of the water main and two feet zero inches (2' 0") horizontal clearance from the outside edge of the water main, and provided said related facilities, both overhead and underground shall not be constructed within five feet zero inches (5' 0") horizontal from the outside edge of the water main. It is understood and agreed that Company may grant rights to others to use the strip of land for purposes not inconsistent with the rights herein granted and such uses shall not exceed the minimum clearances from the water main as described above. It is also agreed that this easement is taken subject to the rights of third parties, which have previously been granted to place facilities in said strip of land. It is further agreed that access to Company's lands shall be maintained at all times.
2. City shall, in the performance of any and all work relating to the construction or maintenance of said water main, conform with the provisions and requirements of all applicable laws, rules and regulations, including without limitation all laws, rules and regulations such as O.S.H.A. dealing with safe work practices and the operation of equipment near electrical lines and equipment, and the provisions of the Wisconsin State Electrical Code and any amendments thereto. City further agrees to abide by the requirements set forth by Company on the Exhibit "B" attached hereto and made a part hereof.
3. City shall protect, indemnify, save and hold harmless the Company and its affiliated corporations and their directors, officers, agents and employees from any and all claims, demands, actions, and all liability, costs and expenses (including attorney's fees) in connection therewith, which may be made or brought against or

incurred by the Company and its affiliated corporations or their directors, officers, agents or employees as a result of injury or death of any person (including employees of the Company and its affiliated corporations or damage to any property arising out of or in any way connected with the permission herein given, or City's use of the property of Company.

4. City agrees that it will indemnify and save harmless Company from any special tax or assessment that shall at any time be made or levied against Company on the lands upon which the above-described easement is located by reason of the construction or maintenance of said water main, so long as this easement remains effective; provided that, in the event the foregoing commitment is for any reason held to be invalid or unenforceable, City, by acceptance of this easement, agrees that as additional consideration for the granting of this easement, it will pay Company an amount equal to the amount paid by Company under any special tax or assessment in connection with or on account of the construction, installation or maintenance of said water main.

5. In and during the construction of said water main and thereafter, in and about its maintenance and operation, so much of the surface, subsurface or underground installations or facilities now or hereafter placed in said strip of land as may be disturbed, will, at the expense of City be replaced in the same condition as it or they now exist. Included in such restoration of said lands of Company shall be the placing of topsoil and perennial seed on said disturbed areas. If said restoration is not completed within a reasonable time, Company shall have the right to make such restoration and collect the cost thereof from City upon presentation of a bill therefor. It is further agreed that City shall (where possible) avoid damage to/or removal of mature trees and shrub on Company's lands.

6. City agrees to release Company from any responsibility for damage resulting from electrolysis due to local galvanic or stray current conditions on or along said strip of land which may be incurred by the installation of said water main, and further agrees to assume all costs for electrolysis protection and/or any drainage equipment considered necessary to protect said water main.

7. City agrees to contact Company at (414) 221-4514 or such other phone number as Company may designate in writing to City within the specified time limits to inform it about the following occurrences:

- a. At least seven (7) calendar days prior to the commencement of the project herein permitted.
- b. Within seven (7) calendar days after the completion of the work involved in the construction, installation and/or maintenance of said water main with a plan for restoration and a detailed "as built" engineering drawing showing the exact location of said water main.
- c. Within seven (7) calendar days after the restoration has been completed.
- d. Within seven (7) calendar days after a lapse of six (6) months since City accepted this easement if the project herein permitted has not been undertaken by such date; within seven (7) calendar days after each six (6) month interval thereafter until the project herein permitted is undertaken.

8. If it is necessary for City to make emergency repairs to its facility, City shall have the right to make said necessary repairs and notify Company within twenty-four (24) hours thereafter of the location and extent of said emergency repairs. If in the judgment of Company its property, poles, wires, cables, anchors, structures, gas mains, or other facilities are jeopardized, due to failure or improper functioning of said water main, Company reserves the right to make emergency repairs, without notice to City and to collect the cost thereof from City upon presentation of a bill therefor.

9. City shall contact "Diggers Hotline" at least three (3) working days prior to the construction or maintenance of said water main in order to determine the location of electric, telephone and gas facilities within Company's said lands and the applicable clearance requirements for work performed in proximity to such facilities. (The current phone number for "Diggers Hotline" is 1-800-242-8511.)

10. In and during the construction of said water main, City shall remove from the lands of Company all earth, stones or other excavated material which may result from the excavation and installation of said water main. Excepted from this provision are such material as may be necessary to provide adequate cover for said water main or such material which Company desires to have placed on its lands as may be mutually agreed upon.

11. City agrees that there shall be no impairment of natural or of installed drainage facilities occasioned by the aforementioned use of Company's lands and/or by the installation, repair, maintenance or removal of said water main.

12. City agrees that all of the foregoing terms and conditions are to inure to the benefit of Company and its successors or assigns.

13. This easement shall not take effect until the same is fully accepted, subject to all its terms and conditions, by the City of Milwaukee and is duly executed by the proper officials of the City of Milwaukee.

IN WITNESS WHEREOF, said **WISCONSIN ELECTRIC POWER COMPANY** has caused these presents to be signed by its Manager of Property Management on the 1st day of March, 2001, and the said **CITY OF MILWAUKEE**, has caused these presents to be signed by its _____ and by its _____ and its corporate seal to be hereunto affixed this ____ day of _____, 2001.

WISCONSIN ELECTRIC POWER COMPANY

By Michael James
Michael James, Manager of Property Management

CITY OF MILWAUKEE

By SEE PAGES 9 AND 10

ATTEST:

By _____

STATE OF WISCONSIN)
: SS
MILWAUKEE COUNTY)

Personally came before me this 1st day of March, 2001, Michael James, Manager of Property Management of the above-named corporation, **WISCONSIN ELECTRIC POWER COMPANY**, known to me to be the person who executed the foregoing instrument and to me known to be such Manager of Property Management, and acknowledged that he executed the foregoing instrument as such Manager of Property Management, as the deed of said corporation, by its authority.



Russell F. Wiegman
Russell F. Wiegman

Notary Public, State of Wisconsin

My commission expires January 9, 2000

STATE OF WISCONSIN)
: SS
MILWAUKEE COUNTY)

Personally came before me this _____ day of _____, 2001, _____, _____, and _____, _____ of the above-named municipal corporation, **CITY OF MILWAUKEE** to me known to be the persons who executed the foregoing instrument and to me known to be such _____ and _____ of said municipal corporation and acknowledged that they executed the foregoing instrument as such officers, as the deed of said municipal corporation, by its authority, and pursuant to Resolution File No. _____ adopted by its City Council on _____, 2000.

Notary Public, State of Wisconsin

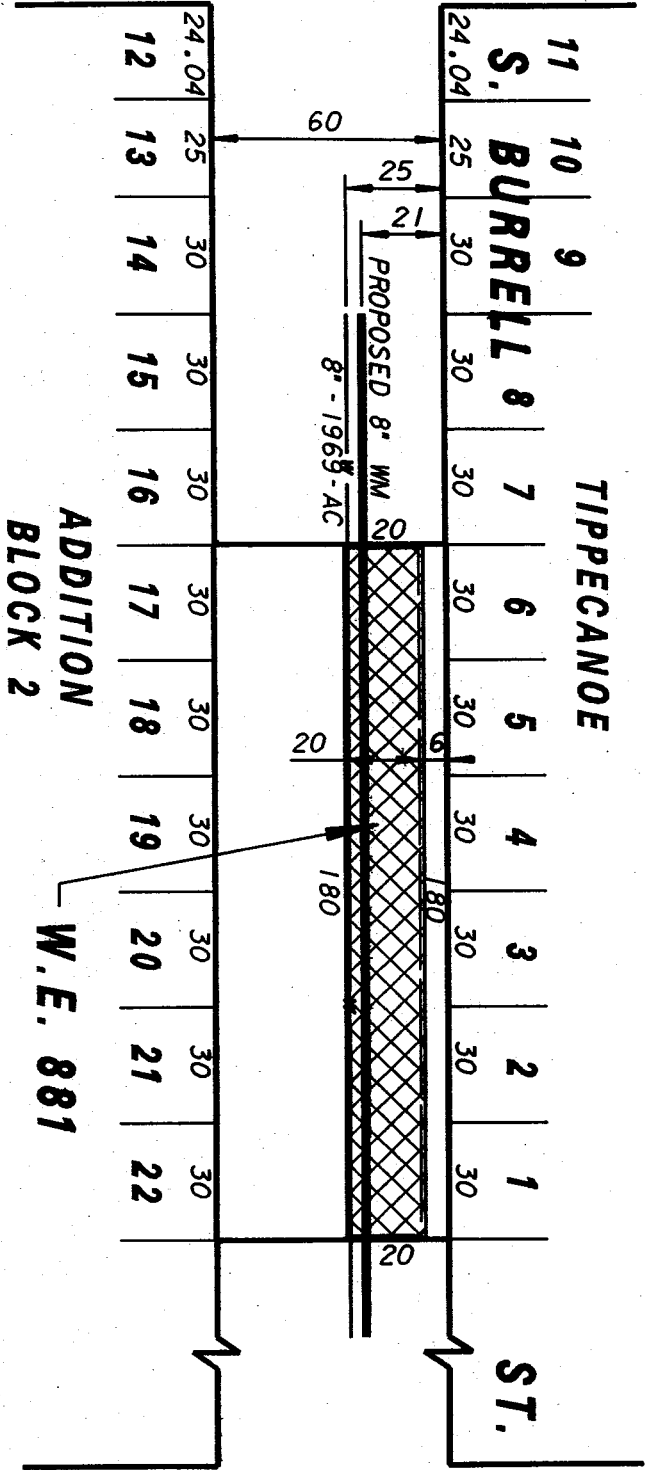
My commission expires _____

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This document was drafted by Russell F. Wiegand on behalf of Wisconsin Electric Power Company, P. O. Box 2046, Milwaukee, Wisconsin 53201.

N.W. 1/4 OF SEC. 21, T. 6 N., R. 22 E.

E. WATERFORD AVE.



E. NORWICH ST.

WATER EASEMENT W.E. 881

MILWAUKEE Water Works
Water Engineering
 Department of Public Works
 Milwaukee, Wisconsin

WATER EASEMENT

IN S. BURRELL ST.
 FROM 139' NORTH OF E. WATERFORD AVE.
 TO 319' NORTH OF E. WATERFORD AVE.

SCALE	1" = 50'	DATE
1/4 SEC. NO.	581	
PLAN DATE	4-12-00	
DRAWN BY	P.W.P.	
CHECKED BY		
REVIEWED BY		
WORK ORDER	WT41091283	
APPROVED	<i>[Signature]</i>	1-14-01
MAJOR DESIGN ENGINEER	<i>[Signature]</i>	2-15-01
CHIEF DESIGN ENGINEER	<i>[Signature]</i>	2-15-01
SPECIAL REPORT COMMISSIONER OF PUBLIC WORKS		

SHEET NO. 1 OF 1 PLAN FILE NO. WE881



UNNOTED

CONTRACTOR'S SPECIAL PROVISIONS

A. RELATIONS WITH WISCONSIN ELECTRIC POWER COMPANY ("COMPANY")

No work shall be initiated under this agreement in proximity to underground electrical conductors without a 72 hour prior notice to Company. In addition, all work under this agreement performed in proximity to energized electrical conductors shall conform to the provisions and requirements, with any amendments hereto, of O.S.H.A. Safety and Health Regulations for Construction, in particular but not limited to subpart 1926.550 and the provisions of the Wisconsin State Electrical Code and any amendments thereto.

No building or structure or replacements thereof, including lighting standards, signal or control devices and highway signs, will be erected in proximity to said electric lines which will be in violation of the provisions of the above regulations.

B. NAME AND ADDRESS OF COMPANY REPRESENTATIVES

Company representative who may be consulted by Permittee/Grantee and bidders with regard to utility requirements during construction is Mr. Peter Angeli, Operations Supervisor, and the Company representative with whom contractors may arrange for temporary de-energizing and grounding of circuits is Mr. Jewel Currie, Milwaukee Area Manager. Arrangements must be made at least 15 days in advance.

C. GENERAL - WORK ON TRANSMISSION RIGHT-OF-WAY (Fee owned and Easement)

All work, including construction of embankment, clearing, grubbing and grading within and around utility structures shall be subject to inspection by a Company representative; shall be conducted and performed in a manner satisfactory to such representative; and shall be in accordance with the requirements of the plans, standard specifications and these special provisions.

Grantee/Permittee shall exercise extreme care in the prosecution of this work to prevent damage to utility structures, foundations, adjacent structures, underground installations or property. Any damage done by the Grantee/Permittee to existing installations during the progress of this work shall be repaired by Grantee/Permittee at his own expense in a manner satisfactory to Company.

1. Embankment Materials and Methods of Construction

Material for embankments within and adjacent to the towers shall be free of sod, humus, wood, or other degradable materials, frozen lumps and shall all pass a six-inch ring.

All required construction of embankments within a distance of ten feet of a tower structure shall be done by hand or with small equipment which is equipped with direct positive controls, except that work within two feet of a tower member shall be accomplished entirely with hand-operated tools. Clamshells, drag buckets, or any other equipment having indirect controls; or power-driven compaction equipment shall not be used within ten feet of a tower structure.

All embankment work shall be done in such a manner that no direct or indirect pressure will be brought against any portion of the tower structure by the Grantee's/Permittee's equipment.

Prior to placing embankment within and around the towers, Grantee/Permittee shall clean the steel work to be covered by embankment of all earth, oil, or other foreign matter in an approved manner; except that in no case shall Grantee/Permittee use equipment or materials that would damage the steel work, bolts, or galvanized coating.

After the steel work has been cleaned, Grantee/Permittee shall apply a coating of asphalt-based paint, as approved by the Manager, Construction Services, Wisconsin Electric Power Company, on all areas which are to be covered by fill material. This protective paint coating shall be applied to the steel work to a height of not less than six inches above the finished grade.

This asphalt paint coating shall be applied in two separate coats, allowing 12 hours drying time between applications. Care shall be taken in the construction of embankments to avoid damage to the asphalt paint.

All costs of coating the steel tower legs indicated above shall be construed to be incidental to other contract items and no separate additional payment will be made thereof.

Compaction of the fill material shall be in accordance with the requirements for Special Compaction in Subsection 207.3.6.3 of the Standard Specifications. After a layer of materials has been put into place, compacting work shall begin near the center of a tower structure and shall be carried out in a uniformly expanding pattern except that around any tower leg, both sides shall be compacted simultaneously.

Grantee/Permittee shall not place any embankment or fill material in an area within the tower base occupied by free water.

2. Excavations

When open cut excavation is required in the vicinity of Transmission Structures the following conditions should be met:

- a. The near side of the excavation shall be no closer than 20 feet from the face of the structure involved.
- b. That the grade around a structure shall be maintained for a distance of 20 feet in all directions, as measured at grade perpendicular to the outside face of a steel structure footing or a wood pole. Grading of ground beyond the edge of the resulting square or rectangular flat area shall not be steeper than the following slopes:

	<u>Horizontal Distance</u>	<u>Vertical Distance</u>
Steel towers	4 ft.	1 ft.
Steel poles	4 ft.	1 ft.
Wood H-frames	3 ft.	1 ft.
Single wood poles	2 ft.	1 ft.

- c. The excavation must be shored to prevent any loss of material from the area of the tower foundations to insure retention of structural integrity.
- d. Excavated material shall not be stored in the immediate area of the tower (i.e., piled so as to cause damage to bracing systems).

- e. The excavation shall be backfilled with suitable material and thoroughly compacted.
- f. The surface elevation of the excavated area shall be restored to its original condition and not cause any alteration of the drainage patterns in the area of the tower.
- g. The agency involved should submit plans in advance for any work in the vicinity of transmission structures.
- h. If the above conditions cannot be met, the plans for the proposed project should be submitted to W.E.P.Co. Transmission Engineering for review.

3. Additional Requirements

The Grantee/Permittee agrees:

That no explosives will be used on the Company rights-of-way.

To accept liability for damage or the destruction of property, damage to Company facilities and injury or death of personnel in connection with the proposed construction which will be covered by this agreement.

To reimburse Company for any facility alternation costs which Company may consider necessary due to the construction covered by the agreement.

To provide for the retention of access to Company's facilities which would otherwise be land-locked or an appropriate sum should be offered to Company for this condition resulting from the construction.

To provide for twenty-four hour access to any substation property.

To restore, to a condition satisfactory to Company, any ground surface which may have been disturbed by the Grantee/Permittee operations.

That Company reserves the right, permission and authority to cut down and remove or trim all trees, the mature height of which will exceed fifteen (15) feet and overhanging branches.

Water Easement
W.E. 881

IN WITNESS WHEREOF, the said City of Milwaukee, has caused these presents to be signed by John O. Norquist, its Mayor and Ronald D. Leonhardt, its City Clerk and countersigned by W. Martin Morics, Comptroller, at Milwaukee, Wisconsin, and its corporate seal to be affixed this ____ day of _____ A.D., 20____.

Signed and sealed in presence of:

CITY OF MILWAUKEE

By: _____
John O. Norquist, Mayor

Ronald D. Leonhardt, City Clerk

COUNTERSIGNED

W. Martin Morics, City Comptroller

STATE OF WISCONSIN)
) SS
MILWAUKEE COUNTY)

Personally came before me this ____ day of _____, 20____,
John O. Norquist, Mayor of the City of Milwaukee, to me known to be the person who executed the foregoing instrument and to me known to be such Mayor of the City of Milwaukee and acknowledged that he executed the foregoing instrument as such officer as the deed of the City of Milwaukee, by its authority, and pursuant to Resolution File Number _____ adopted by its Common Council on _____.

Notary Public, State of Wisconsin

My Commission Expires _____

Water Easement
W.E. 881

STATE OF WISCONSIN)
) SS
MILWAUKEE COUNTY)

Personally came before me this _____ day of _____, 20___, the above-named Ronald D. Leonhardt, to me known to be the City Clerk of the City of Milwaukee, who by its authority and on its behalf executed the foregoing instrument and acknowledged the same.

Notary Public, State of Wisconsin

My Commission Expires _____

STATE OF WISCONSIN)
) SS
MILWAUKEE COUNTY)

Personally came before me this _____ day of _____, 20___, the above-named W. Martin Morics, to me known to be the Comptroller of the City of Milwaukee, who by its authority and on its behalf executed the foregoing instrument and acknowledged the same.

Notary Public, State of Wisconsin

My Commission Expires _____

This instrument was drafted by Wisconsin Electric Power Company and The City of Milwaukee.

Approved as to Contents

Date: 3/30/01



SUPERINTENDENT, MILWAUKEE WATER WORKS

Approved as to form and Execution

Date:

ASSISTANT CITY ATTORNEY