

EASEMENT

Document Number

8335912

REGISTER'S OFFICE 1 SS
Milwaukee County, WI

RECORDED AT 1:25 PM

08-23-2002

IGNATIUS J. NIEMCZYK
REGISTER OF DEEDS

AMOUNT 29.00

THIS INDENTURE, made by and between WISCONSIN ELECTRIC POWER COMPANY, a Wisconsin Corporation doing business as We Energies ("COMPANY") and the CITY OF MILWAUKEE, a municipal corporation, ("CITY"),

WITNESSETH:

WHEREAS, COMPANY is the owner of a parcel of land in the Northeast ¼ of Section 22, Township 6 North, Range 21 East, City of Greenfield, Milwaukee County, Wisconsin; and

WHEREAS, Milwaukee County is the owner of a parcel of land adjoining COMPANY's land, hereinafter called "Milwaukee County Park Lands," in the Northeast ¼ of Section 22, Township 6 North, Range 21 East, City of Milwaukee, Milwaukee County, Wisconsin; and

WHEREAS, CITY desires to acquire an Easement for a public street, with sewer and water ("UTILITIES"), hereinafter called "roadway", over COMPANY's land for ingress to and egress from Milwaukee County Park Lands; and

WHEREAS, COMPANY is willing to grant the Easement for said roadway to CITY;

NOW, THEREFORE, in consideration of the sum of \$1.00 and other good and valuable consideration paid to COMPANY by CITY, the receipt whereof is hereby acknowledged, COMPANY does hereby give and grant unto CITY an easement 40 feet in width for the roadway upon, over and across COMPANY's property.

The legal description for the Easement area on COMPANY's land is as set forth on the Exhibit "A", attached hereto and made a part hereof. The location of the roadway on COMPANY's land is as shown on the Exhibit "B", attached hereto and made a part hereof.

THIS EASEMENT is granted upon the following terms and conditions:

1. CITY shall use the roadway as a public street for vehicular traffic and for said UTILITIES only and in such a manner that they will not constitute a hazard to the present or future facilities, equipment, improvements or operations of COMPANY or of its affiliated companies. CITY agrees that no vehicles or equipment will be parked or materials of any kind will be stored temporarily or permanently on the roadway. Access shall be maintained to COMPANY's land at all times.
2. CITY shall, at CITY's sole cost and expense, construct, maintain, repair, resurface and replace the roadway. Only clean fill material shall be used for any road and roadway construction. CITY shall abide by applicable governmental laws, rules, regulations and guidelines for the control of erosion and sediment during construction activities on COMPANY's land.
3. CITY has determined that the roadway will be constructed so as to be one foot above the existing grade and will impair natural drainage. CITY agrees to install such additional drainage facilities as may be required by COMPANY by virtue of the existence of the roadway, such drainage facilities shall be installed by CITY at CITY's expense. If necessary, culverts shall be used to avoid local flooding.
4. CITY agrees that all work done in proximity to any electric line facilities shall be performed in conformance 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. Safety and Health Regulations for Construction 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. Construction equipment shall be kept at least 11 feet away from poles, guy wires and overhead lines at all times. CITY further agrees to abide by the requirements set forth by COMPANY on the Exhibit "C", attached hereto and made a part hereof.

Recording Area

Name and Return Address

WE ENERGIES
ATTN: DOUGLAS J. FABIO, ROOM A252
231 WEST MICHIGAN STREET
MILWAUKEE, WI 53203

572-8975

Parcel Identification Number (PIN)

REEL 5398

IMAGE 1361

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5. CITY shall contact Digger's Hotline at (800) 242-8511 at least 3 days prior to any work, excavation, or construction on COMPANY's land in order to determine the location of electric, telephone and gas facilities within COMPANY's land and the applicable clearance requirements for work performed in proximity to such facilities.

6. CITY covenants and agrees that it will indemnify and save harmless COMPANY, its affiliated corporations and their directors, officers, agents, employees, successors and assigns, from any and all liability, loss, damage, claims, injury, including death, cost of expense of any nature whatsoever, including reasonable attorney fees, arising out of or in connection with CITY's actions or those of its employees, agents, invitees and any and all users of the roadway whether authorized to use the roadway or not and whether or not such use is legally permissible or not with respect to the use, existence, construction, maintenance, repair or replacement of the roadway, by CITY, CITY's employees, agents or invitees, pursuant to the easement herein granted. CITY further assumes all liability and agrees to pay COMPANY for all loss, damage and expenses resulting from damage to or destruction of COMPANY's or its affiliated corporation's facilities, equipment or improvements, where such loss, damage and/or expense is caused by or incident to the performance of any work or use of the roadway by CITY, CITY's contractors or subcontractors, employees, agents and invitees, pursuant to the easement herein granted.

7. 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 land upon which the Easement is located by reason of the construction, operation, repair, cleaning, reconstruction, replacement, maintenance or existence of the roadway; 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, operation, repair, cleaning, reconstruction, replacement, maintenance, removal or existence of the roadway.

8. In consideration of the conveyance made herein, CITY covenants and agrees to construct and improve the easement area with street, roadway and UTILITY improvements, as hereinbefore stated, equivalent to or better in construction standards and quality of materials than those streets and utilities in the area, in accord with current standards, which connect to existing streets and utilities, and to provide such connections outside the easement area.

9. CITY hereby agrees to pay COMPANY for additional costs reasonably incurred by COMPANY as a result of the existence of the roadway, associated with the maintenance or repair of COMPANY's existing facilities and/or any construction or installation of any new facility on COMPANY's land.

10. CITY understands and agrees that no lighting structures will be permitted in the easement area or on COMPANY's land unless said lighting structures are owned and installed by COMPANY, at CITY's sole cost and expense, at such locations as approved by COMPANY.

11. If not performed by Milwaukee County, CITY, at its sole cost and expense, shall provide and be responsible for routine lawn maintenance, to include grass cutting and weed control, on the entire area of COMPANY's land to the north of the roadway to South 60th Street and within 10 feet along the entire south edge of the roadway on COMPANY's land. Nothing in this provision shall obligate CITY to maintain the grass areas in a condition superior to similar areas of CITY under CITY control, however, such condition shall not be less than the quality of grass maintenance on COMPANY's adjoining lands. In addition, nothing in this provision shall prevent CITY from assigning its grass maintenance obligations to Milwaukee County or any other responsible entity.

12. CITY, at its sole cost and expense, shall be responsible for removal of snow from said roadway (snow plowing) and for the timely restoration of any damage to COMPANY's land resulting therefrom.

13. CITY has provided complete construction drawings for said roadway and improvements which have been reviewed and approved of by COMPANY. Any material alterations or revisions to said construction drawings must be submitted to and approved of by COMPANY.

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IMAGE

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14. This Easement shall terminate as to the roadway if the CITY does not use the area of the Easement for roadway purposes for a period of more than 4 years; provided, however, that CITY shall retain easement rights for the maintenance, repair and/or replacement of any CITY utilities actively in service within the easement area.

15. This Easement is nonexclusive and COMPANY reserves the right to grant rights to others for such other purposes as COMPANY may deem necessary; provided, however, that such rights shall not impair CITY's access over or use of the roadway or UTILITY installations beneath the easement area. CITY understands that this easement is taken subject to the rights of third parties which have previously been granted rights by COMPANY to place facilities in the easement area. Furthermore, COMPANY reserves unto itself, its successors and assigns, the right, not inconsistent with the rights herein granted, to construct, install, operate, maintain, repair and replace electric lines, gas mains and related facilities, both overhead and underground, upon, over, across, within and beneath said easement area on COMPANY's land.

The covenants herein contained shall bind and inure to the benefit of the parties and their respective successors and assigns.

IN WITNESS WHEREOF said WISCONSIN ELECTRIC POWER COMPANY has caused these presents to be executed on its behalf by its Manager of Property Management this 22nd day of AUGUST, 2002, and the CITY OF MILWAUKEE has caused these presents to be executed on its behalf by its Mayor and City Clerk this 5 day of August, 2002.

WISCONSIN ELECTRIC POWER COMPANY

By: James T. Raabe
JAMES T. RAABE, Manager of Property Management

CITY OF MILWAUKEE

John O. Norquist
JOHN O. NORQUIST, Mayor

Ronald D. Leonhardt
RONALD D. LEONHARDT, City Clerk

COUNTERSIGNED:

W. Martin Morics
W. MARTIN MORICS, Comptroller *W*

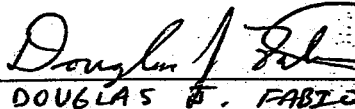
REFL 5398

IMAGE

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STATE OF WISCONSIN)
)ss.
MILWAUKEE COUNTY)

Personally came before me this 22ND day of AUGUST, 2002, James T. Raabe, 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 of said corporation, and acknowledged that he executed the foregoing instrument as such Manager of Property Management, as the deed of said corporation, by its authority.


DOUGLAS B. FABIO

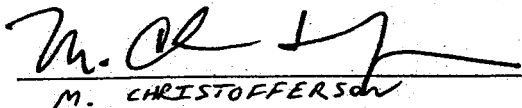
Notary Public, MILWAUKEE County, WI

My commission expires: FEBRUARY 6, 2005

REEL 5398

STATE OF WISCONSIN)
)ss.
MILWAUKEE COUNTY)

Personally came before me this 2 day of August, 2002, John O. Norquist, Mayor of the CITY OF MILWAUKEE, known to me 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 Mayor, as the deed of said City of Milwaukee, by its authority.


M. CHRISTOFFERSON

Notary Public, Milwaukee County, WI

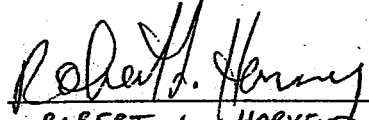
My commission expires: 11/23/03

NOTARY PUBLIC
STATE OF WISCONSIN
M. CHRISTOFFERSON

IMAGE 1364

STATE OF WISCONSIN)
)ss.
MILWAUKEE COUNTY)

Personally came before me this 5 day of August, 2002, _____, Ronald D. Leonhardt, City Clerk, of the CITY OF MILWAUKEE, known to me to be the person who executed the foregoing instrument and to me known to be such City Clerk of the City of Milwaukee, and acknowledged that he executed the foregoing instrument as such City Clerk, as the deed of said City of Milwaukee, by its authority.



ROBERT L. HARVEY

Notary Public, Milwaukee County, WI

My commission expires: 12/5/05



REEL 5398
IMAGE 1365

This instrument was drafted by:
the Office of City Attorney
Thomas O. Gartner, Assistant City Attorney

EXHIBIT A

Description of a Permanent Public Highway Easement across Wisconsin Electric Power Company right-of-way west of South 60th Street, which is to be acquired for proposed West Waterford Court, in the 11th Aldermanic District of the City of Milwaukee.

That part of the Wisconsin Electric Power Company right-of-way in the Northeast 1/4 of Section 22, Township 6 North, Range 21 East, described as follows: Commencing at the northeast corner of said 1/4 Section; thence South $00^{\circ}12'40''$ West, along the east line of said 1/4 Section, 1368.26 feet to a point in the easterly extension of the north line of said right-of-way; thence South $87^{\circ}48'40''$ West, along the north line of said right-of-way and its easterly extension, 353.19 feet to the point of beginning of the land to be described; thence continuing South $87^{\circ}48'40''$ West, along the north line of said right-of-way, 53.58 feet to a point; thence South $43^{\circ}53'37''$ East 41.78 feet to a point of curve; thence Southeasterly 192.25 feet along the arc of said curve which has a radius of 240.00 feet with its center to the northeast having a central angle of $45^{\circ}53'43''$ and whose chord bears South $66^{\circ}50'28.5''$ East 187.15 feet to a point of tangency; thence South $89^{\circ}47'20''$ East 180.25 feet to a point in the west line of South 60th Street; thence North $00^{\circ}12'40''$ East, along said west line, 40.00 feet to a point; thence North $89^{\circ}47'20''$ West 180.25 feet to a point of curve; thence Northwesterly 160.20 feet along the arc of said curve which has a radius of 200.00 feet with its center lying to the northeast having a central angle of $45^{\circ}53'43''$ and whose chord bears North $66^{\circ}50'28.5''$ West 155.96 feet to a point of tangency; thence North $43^{\circ}53'37''$ West 6.13 feet to the point of beginning.

The above described parcel contains 15,217 square feet or 0.3493 acres of land.

REEL 5398

IMAGE

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POOR QUALITY DOCUMENT RECEIVED FOR RECORDING

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

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ARMOUR PARK (MILWAUKEE COUNTY) LANDS

LANDS

PRESENT CITY OF MILWAUKEE LIMITS

PRESENT CITY OF GREENFIELD LIMITS

WISCONSIN

POWER

CO.

R.O.W.

ELECTRIC

W. Waterford Ct. (PROPOSED)

MEADOWS

CARLTON

2

2

S. 60th St.

SEC. LINE

W. Waterford Ave.

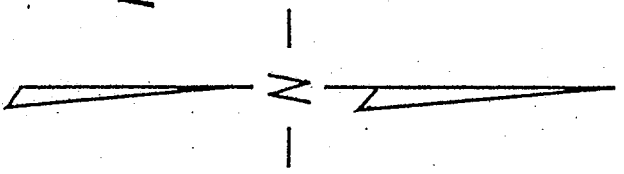
PROPOSED PERMANENT PUBLIC HIGHWAY EASEMENT TO BE ACQUIRED

PROPOSED PERMANENT PUBLIC HIGHWAY EASEMENT

DRAINAGE EASEMENT

CITY OF GREENFIELD LIMITS

CITY OF MILWAUKEE LIMITS



- ①
- R- 200.00'
- A- 160.20'
- C- 155.96'
- I <- 45° 53' 43"
- D <- 22° 56' 51.5"
- C.B. = N.66° 50' 28.5" W.

- ②
- R- 240.00'
- A- 192.25'
- C- 187.15'
- I <- 45° 53' 43"
- D <- 22° 56' 51.5"
- C.B. = S.66° 50' 28.5" E.

FILE NO.

INFRASTRUCTURE SERVICES DIVISION

MILWAUKEE, WISCONSIN

ASSIGNED TO: W.E. FUCHS

DRAWN BY: W.E.F.

PROJECT/GRANT NO.: WK52336196

APPROVED BY:

CH'K'D. BY: M.C. WILLIAMS

DATE: JULY 20, 2001

SCALE: 1" = 80'

EXHIBIT B

Marcia Smith
CENTRAL DRAFTING & RECORDS MANAGER

Thomas Rumber
CITY ENGINEER

EXHIBIT "C"

(MILWAUKEE METROPOLITAN AREA)

CONTRACTOR'S SPECIAL PROVISIONS

REEL 5398

IMAGE 1368

A. RELATIONS WITH WISCONSIN ELECTRIC POWER 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 replacement 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 and the Company representative with whom contractors may arrange for temporary de-energizing and grounding of circuits is Ms. Gail De Veau, Area Manager (414) 362-5184. 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 (10) 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 (2) 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 (10) 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 (2) 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 15 feet and overhanging branches.

REEL 5398
IMAGE 1870