

ENROLLED ORDINANCE 172-034

APPROVE DISTRIBUTION EASEMENT TO WISCONSIN ELECTRIC POWER COMPANY
TO CONSTRUCT, INSTALL, OPERATE, MAINTAIN, REPAIR, REPLACE AND
EXTEND UNDERGROUND UTILITY FACILITIES ON WAUKESHA
COUNTY AIRPORT PROPERTY

WHEREAS, Waukesha Flying Services, Inc., doing business as Atlantic Aviation, a tenant of Waukesha County Airport, requires energy services from Wisconsin Electric Power Company doing business as WE Energies for its new hangar located at 2621 Aviation Drive, Waukesha, WI; and

WHEREAS, it is deemed necessary to allow We Energies, to construct, install, operate, maintain, repair, replace and extend underground utility facilities on Waukesha County's land for the purpose of providing and maintaining electrical service to Atlantic Aviation's new hangar; and

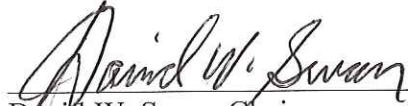
WHEREAS, it is necessary to provide an easement from Waukesha County to We Energies for the purpose of constructing, installing, operating, maintaining, repairing, replacing and extending underground utility facilities on County-owned land; and

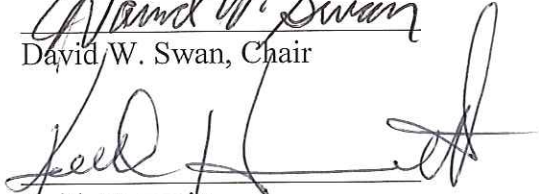
THE COUNTY BOARD OF SUPERVISORS OF THE COUNTY OF WAUKESHA ORDAINS that Waukesha County's grant of an Underground Utility Easement ("Easement") to Wisconsin Electric Power Company, which will be recorded in the Office of the Register of Deeds, is hereby approved.


BE IT FURTHER ORDAINED that the Director of the Department of Public Works may execute said Easement on behalf of Waukesha County.

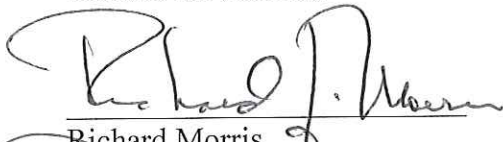
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Presented by:
Public Works Committee


David W. Swan, Chair


Keith Hammitt


Darlene M. Johnson


Richard Morris


Thomas J. Schellinger


Steve Whittow


Chuck Wood

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

Date: 9/26/17, 
Kathleen Novack, County Clerk

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

Approved: X
Vetoed: _____

Date: 10/3/17, 
Paul Farrow, County Executive

**DISTRIBUTION EASEMENT
UNDERGROUND**

Document Number

WR NO. **4068635** IO NO. **5463**

For good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, **WAUKESHA COUNTY**, hereinafter referred to as "Grantor", owner of land and operator of the Waukesha County Airport, is obligated to meet standards established by the Federal Aviation Administration relating to airport safety and the protection of aircraft landing and taking off from its airport, hereby grants to **WISCONSIN ELECTRIC POWER COMPANY**, a Wisconsin corporation doing business as **We Energies**, hereinafter referred to as "Grantee", a permanent easement upon, within and beneath, over and a part of Grantor's land hereinafter referred to as "easement area".

The easement area is described as a strip of land twelve (12) feet in width of Grantor's premises being a part of the Northwest 1/4 and Southwest 1/4 of Section 27 and the Northeast 1/4 of Section 28, Township 7 North, Range 19 East, in the City of Waukesha, County of Waukesha, State of Wisconsin.

The location of the easement area with respect to Grantor's land is as shown on the attached drawing, marked Exhibit "A" and made a part of this document.

RETURN TO:
We Energies
PROPERTY RIGHTS & INFORMATION GROUP
231 W. MICHIGAN STREET, ROOM A252
PO BOX 2046
MILWAUKEE, WI 53201-2046

WAKC 0970-999
(Parcel Identification Number)

1. **Purpose:** The purpose of this easement is to construct, install, operate, maintain, repair, replace and extend underground utility facilities, conduit and cables, electric pad-mounted transformers, manhole, electric pad-mounted switch-fuse units, electric pad-mounted vacuum fault interrupter, concrete slabs, power pedestals, riser equipment, terminals and markers, together with all necessary and appurtenant equipment under and above ground as deemed necessary by Grantee, all to transmit electric energy, signals, television and telecommunication services, including the customary growth and replacement thereof. The location and height of any above ground equipment/structures are subject to prior approval of Grantor, such approval to not be unreasonably withheld provided that said equipment/structures do not interfere with Grantor's airport requirements or operations. Trees, bushes, branches and roots may be trimmed within the easement area so as not to interfere with Grantee's use of the easement area. No trees or bushes shall be removed from within the easement area without the prior approval of the Waukesha County Department of Public Works, which approval shall not be unreasonably withheld, conditioned or delayed provided that said removal is reasonably necessary for Grantee's full enjoyment of the rights granted herein. Grantee shall not trim, cut down or remove trees and bushes outside the easement area without prior approval of the Waukesha County Department of Public Works.
2. **Consistent Uses Allowed:** The Grantor reserves the right to use the easement area for purposes which are not inconsistent with the purpose of this easement nor interfere with the Grantee's full enjoyment of the easement rights granted herein. Grantor reserves the right to grant easement rights to other persons or entities as the Grantor deems appropriate, provided the easement rights are not inconsistent with the purpose of this easement nor interfere with the Grantee's full enjoyment of the easement rights granted herein. If the land on which the facilities are installed is needed by the Grantor for a public purpose which requires the removal or relocation of said facilities, Grantee shall, within ninety (90) days after notification by the Grantor, remove or relocate said facility to a mutually agreeable location. The cost of such relocation shall be borne by the party benefitting from such relocation.
3. **Access:** Grantee or its agents shall have the right to enter and use the easement area with full right of ingress and egress over and across the easement area and such adjacent lands of Grantor being primarily the adjacent Aviation Drive and other adjoining hard surface unless otherwise agreed upon prior to any such entrance onto Grantor's property outside the easement area for reasonable access to the easement area for the purpose of exercising its rights in the easement area. Except in the case of an emergency, Grantee or its agents shall provide Grantor 24 hours' advanced notice of entry.
4. **Aircraft Interference:** Grantee will not permit or suffer the use of the easement area as to create any electrical or electronic interference with radio communications between any air navigational or aviation communications installation upon or in the vicinity of the airport property and aircraft, or as to make it difficult for an aircraft pilot to distinguish between airport lights and others, or as to otherwise impair an aircraft pilot's visual perception in the

vicinity of the airport or as otherwise to endanger the landing, taking off, or maneuvering of aircraft in the vicinity of said airport property.

5. **Buildings or Other Structures:** Grantor agrees that no new structures will be erected in the easement area as to create a violation of all applicable State of Wisconsin electric codes or any amendments thereto.
6. **Above Surface Objects:** Grantee agrees that so long as the underlying airport property is used for airport purposes, no poles, additional surface markers or surface structures of any kind shall be placed upon airport property, and Grantee agrees to not replace or relocate any existing facilities within the easement area without the prior written approval of the Grantor, it being understood and agreed, however, that such approval shall not be unreasonably withheld. Equipment may not encroach into protected airspace except in emergencies.
7. **Elevation:** Grantor 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 more than 4 inches without the written consent of Grantee.
8. **Restoration:** Grantee agrees to restore or cause to have restored any and all damages to Grantor's land which resulted from Grantee's entrance and/or performance of its work while in the exercise of its rights hereunder, as nearly as is reasonably possible, to the condition existing prior to such entry by Grantee or its agents. This restoration, however, does not apply to any trees, bushes, branches or roots which may interfere with Grantee's use of the easement area and for which, where necessary under the terms hereof, Grantee has obtained prior approval to remove.
9. **Exercise of Rights:** It is agreed that the complete exercise of the rights herein conveyed may be gradual and not fully exercised until sometime in the future, and that none of the rights herein granted shall be lost by non-use.
10. **Indemnify and Hold Harmless:** In consideration of the foregoing grant, it is understood that during Grantee's exercise of its rights hereunder, including during such time as its facilities are located on Grantor's land pursuant to this grant, Grantee will indemnify, defend and save the Grantor, its successors and assigns harmless from any and all claims for injury or death to any person or for damage to property of any person arising out of Grantee's exercise of any of its rights under this easement; excepting, however, any claims or actions arising out of negligence or willful acts on the part of the Grantor, its successors and assigns, Grantors employees, agents and invitees.
11. **Governing Law:** This easement shall be construed and enforced in accordance with the laws of the State of Wisconsin.
12. **Invalidity:** If any term or condition of this easement, or the application of this easement to any person or circumstance, shall be deemed invalid or unenforceable, the remainder of this easement 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.
13. **Binding on Future Parties:** This grant of easement shall be binding upon and inure to the benefit of the heirs, successors and assigns of all parties hereto. Grantee shall not assign its interest in this easement unless Grantor has provided written consent.
14. **Entire Agreement:** This easement 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 easement and duly recorded in the Office of the Register of Deeds of Waukesha County, Wisconsin.

[Signatures on Next Pages]

IN WITNESS WHEREOF, the Grantor has caused this Distribution Easement to be approved by the Waukesha County Board of Supervisors and signed by its Director of Public Works.

Grantor: WAUKESHA COUNTY

By: _____
Allison Bussler, Director of Public Works

Acknowledged before me in Waukesha County, Wisconsin on _____, 2017, by Allison Bussler, Director of Public Works, on behalf of Waukesha County.

(NOTARY STAMP/SEAL)

Notary Public, Signature, State of Wisconsin

Notary Public Name (Typed or Printed)

My commission expires _____

IN WITNESS WHEREOF, the Grantee has caused this Distribution Easement to be and signed by its Manager of Property Management.

**Grantee: WISCONSIN ELECTRIC POWER COMPANY,
doing business as We Energies**

By: _____
James T. Raabe, Manager of Property Management

Acknowledged before me in _____ County, Wisconsin on _____, 2017, by James T. Raabe, Manager of Property Management, on behalf of Wisconsin Electric Power Company, a Wisconsin corporation doing business as We Energies.

(NOTARY STAMP/SEAL)

Notary Public, Signature, State of Wisconsin

Notary Public Name (Typed or Printed)

My commission expires _____

This instrument was drafted by Jeffrey Fowle on behalf of Wisconsin Electric Power Company, PO Box 2046, Milwaukee, Wisconsin 53201-2046.

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

172-0-034

Passed (24 Y - 0 N - 1 Absent)

Majority Vote