

Enrolled Ordinance 171-074

APPROVE DISTRIBUTION EASEMENT TO WISCONSIN ELECTRIC POWER COMPANY, TIME WARNER ENTERTAINMENT COMPANY, LP, AND LEVEL 3 COMMUNICATIONS, LLC TO CONSTRUCT, INSTALL, OPERATE, MAINTAIN, REPAIR, REPLACE AND EXTEND OVERHEAD AND UNDERGROUND UTILITY FACILITIES ON WAUKESHA COUNTY PROPERTY KNOWN AS THE BUGLINE TRAIL CORRIDOR & RELEASE PRIOR EASEMENT FOR BUGLINE TRAIL

WHEREAS, Wisconsin Electric Power Company d/b/a We Energies, Time Warner Entertainment Company, LP d/b/a Cablevision, and Level 3 Communications, LLC have requested permission to construct, operate, maintain, repair, replace and extend overhead and underground utility facilities within Waukesha County property, known as the Bugline Trail Corridor, located in the Northwest Quarter of Section 26, Township 8 North, Range 19 East, Village of Sussex, Waukesha County, Wisconsin, and

WHEREAS, it is deemed desirable to allow We Energies, Cablevision and Level 3 Communications, LLC to construct, install, operate, maintain, repair, replace and extend overhead and underground utility facilities on Waukesha County's land for the purpose of maintaining electrical and communication service to area properties, in the Village of Sussex, in conjunction with the Main Street Reconstruction Project, and

WHEREAS, it is necessary to provide an easement from Waukesha County to We Energies, Cablevision and Level 3 Communications, LLC for the purpose of constructing, installing, operating, maintaining, repairing, replacing and extending overhead and underground utility facilities on County-owned land, and

WHEREAS, a prior easement was granted to We Energies and Cablevision that did not include Level 3 Communications, LLC, limited the number of poles and fixed their location, and

WHEREAS, the prior easement no longer serves the easement's purpose for Waukesha County, We Energies and Cablevision.

THE COUNTY BOARD OF SUPERVISORS OF THE COUNTY OF WAUKESHA ORDAINS that Waukesha County's grant of a Distribution Easement Overhead and Underground Utility Easement ("Easement") to Wisconsin Electric Power Company, Time Warner Entertainment Company, LP and Level 3 Communications, LLC, 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.

BE IT FURTHER ORDAINED that the Director of the Department of Parks and Land Use may execute the release of the easement recorded on June 23, 2016 as Document No. 4214057 on behalf of Waukesha County.

**DISTRIBUTION EASEMENT
OVERHEAD AND UNDERGROUND
ELECTRIC AND COMMUNICATIONS**

Document Number

WR NO. **3902562** IO NO. **75853**

For the sum of \$600.00 and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, **WAUKESHA COUNTY, a municipal corporation**, hereinafter referred to as "Grantor", owner of land, hereby grants and warrants to **WISCONSIN ELECTRIC POWER COMPANY, a Wisconsin corporation doing business as We Energies, TIME WARNER ENTERTAINMENT COMPANY, LP doing business as Cablevision, and LEVEL 3 COMMUNICATIONS, LLC**, hereinafter referred to as "Grantee", a permanent easement upon, within, beneath, over and across a part of Grantor's land hereinafter referred to as "easement area".

The easement area is described as strips of land 12 feet in width being part of Grantor's land known as the Bugline Recreational Trail located in the **Northwest 1/4 of Section 26, Township 8 North, Range 19 East** in the Village of Sussex, Waukesha County, Wisconsin.

The location of the easement area with respect to Grantor's land is as shown on the attached drawings, marked Exhibits "A" and "B," respectively, 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

(Parcel Identification Number)

1. **Purpose:** The purpose of this easement is to allow Grantee to construct, install, operate, maintain, repair, replace and extend overhead and underground utility facilities, conduit and cables, electric pad-mounted transformers, manhole, 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, and to construct, erect, operate, maintain and replace overhead utility facilities, including a line of not more than five (5) poles, along the centerline of the easement area, together with the necessary conductors, anchors, guy wires, underground cable, pedestals, riser equipment and all other appurtenant equipment above ground, as deemed necessary by Grantee, for the transmission and distribution of electric energy, signals, television and telecommunications services. The placement of all such poles and other structures within the easement area shall be in conformance with plans and/or drawings approved by Grantor, such approval not to be unreasonably withheld, conditioned or delayed. Trees, bushes, branches and roots may be trimmed within the 12-foot wide easement area by Grantee so as not to interfere with Grantee's use of the easement area. Prior to any such trimming, Grantee shall consult with the Waukesha County Department of Parks and Land Use in order to minimize any potential negative impacts of the trimming upon trees and bushes. No trees or bushes shall be removed from within the 12-foot wide easement area without the prior approval of the Waukesha County Park System, 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 may not trim, cut down or remove trees and bushes outside the 12-foot wide easement area without prior approval of the Waukesha County Park System.
2. **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 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' advance notice of entry.
3. **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. Grantee acknowledges that a County trail currently exists within the easement area.
4. **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.
5. **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.

6. **Restoration:** Grantee agrees to restore or cause to have restored any and all damages to Grantor's land, including the Bugline Recreational Trail, 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.
7. **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.
8. **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.
9. **Indemnify and Hold Harmless:** In consideration of the foregoing grant, it is understood that during the time said overhead and underground electrical facilities are located on the premises of the Grantor 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 or its agents' 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, Grantor's employees, agents and invitees.
10. **Easement Review:** Grantor acknowledges receipt of materials which describe Grantor's rights and options in the easement negotiation process and furthermore acknowledges that Grantor has had at least 5 days to review this easement document *or* voluntarily waives the five-day review period.
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. **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.
14. **Release of Recorded Easement:** Grantee releases all of its right, title and interest in the Grantor's land arising under its prior distribution easement recorded with the Waukesha County Register of Deeds on June 23, 2016 as Document No. 4214057.

[Signature Page Follows]

Grantor:

WAUKESHA COUNTY, a municipal corporation

By: _____

Dale R. Shaver, Director, Parks and Land Use

Dated: _____

ACKNOWLEDGEMENT

STATE OF WISCONSIN
COUNTY OF WAUKESHA

This instrument was acknowledged before me on the _____ day of February, 2017 by Dale R. Shaver, Director of the Waukesha County Department of Parks and Land Use on behalf of Waukesha County.

Notary Public Signature, State of Wisconsin

Notary Public Name (Typed or Printed)

(NOTARY STAMP/SEAL)

My commission expires: _____

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

NW COR
SEC 26,
T8N, R19E

S00°11'20"W
WEST LINE OF THE NW 1/4 OF SEC 26, T8N, R19E



KEY:

--- CENTERLINE OF A 12' WIDE UTILITY EASEMENT

PARCEL 1
C.S.M. NO. 9749

LOT 1
C.S.M. NO. 9529

PAGE 02 OF 02

LINE	BEARING	DISTANCE
L1	N78°08'36"E	244.96'
L2	N78°43'18"E	108.00'
L3	N78°17'51"E	203.00'
L4	N78°01'20"E	381.00'

BUGLINE TRAIL

BEGINNING OF EASEMENT

33'
S89°48'40"E

PEMBROOKE PARK
BLOCK 1

1

2

3

4

5

6

7

8

9

10

11

MAPLE AVE

SUNSET DR

PAGE 01 OF 02

DRAWN BY: T.L. BROWN
DATE: JANUARY 17, 2017
WR NUMBER: 3907665
REVISIONS:

BEING LOCATED IN THE NW 1/4 AND NE 1/4 OF THE NW 1/4 OF SECTION 26,
TOWNSHIP 08 NORTH, RANGE 19 EAST, VILLAGE OF SUSSEX,
WAUKESHA COUNTY, WISCONSIN



R/W

R/W

R/W

R/W

MAIN ST

NORTH LINE OF THE NW 1/4 OF SEC 26, T8N, R19E

R/W

R/W

R/W

R/W

SILVER SPRING AVE

R/W

R/W

R/W

R/W

NORTH
(Assumed)

END OF EASEMENT

PARCEL 1
C.S.M. NO. 3942

LINE	BEARING	DISTANCE
L4	N78°01'20"E	381.00'
L5	N78°50'13"E	264.5'
L6	N80°28'09"E	68.00'
L7	N81°21'27"E	57.50'
L8	N83°26'18"E	128.90'
L9	N89°14'58"E	104.28'
L10	N00°49'09"W	13.79'
L11	N87°13'40"E	82.98'
L12	N89°29'12"E	177.85'

KEY:

--- CENTERLINE OF A 12' WIDE UTILITY EASEMENT

PAGE 02 OF 02

DRAWN BY: T.L. BROWN

DATE: JANUARY 17, 2017

WR NUMBER: 3907665

REVISIONS: _____

Referred to: LU 6

BEING LOCATED IN THE NW 1/4 AND NE 1/4 OF THE NW 1/4 OF SECTION 26,
TOWNSHIP 08 NORTH, RANGE 19 EAST, VILLAGE OF SUSSEX,
WAUKESHA COUNTY, WISCONSIN



PARCEL 1
C.S.M. NO. 9454

PARCEL 2
C.S.M. NO. 9454

17

16

15

14

13

PEMBROOKE ST

BUGLINE TRAIL

R/W

R/W


R/W

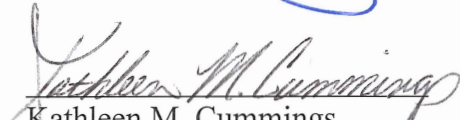
R/W

R/W

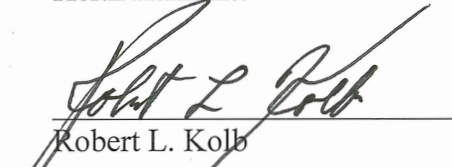
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Presented by:
Land Use, Parks, and Environment Committee


David D. Zimmermann, Chair


Kathleen M. Cummings

ABSENT
Keith Hammitt

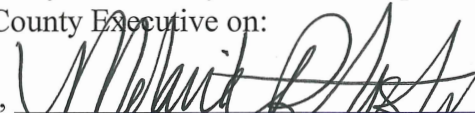

Robert L. Kolb


William Mitchell

ABSENT
Thomas J. Schellinger

ABSENT
Ted Wysocki

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

Date: 3/7/17, 
Kathleen Novack, County Clerk - Acting

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

Approved: X

Vetoed: _____

Date: 3/8/17, 
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	(2) AYE	D17 - Paulson	AYE
D5 - Dondlinger	Notified	D18 - Nelson	AYE
D6 - Walz	AYE	D19 - Cummings	AYE
D7 - Grant	AYE	D20 - Schellinger	AYE
D8 - Michalski	AYE	D21 - Zaborowski	AYE
D9 - Heinrich	AYE	D22 - Wysocki	AYE
D10 - Swan	AYE	D23 - Hammitt	AYE
D11 - Howard	AYE	D24 - Whittow	AYE
D12 - Wolff	AYE	D25 - Johnson	Notified
D13 - Decker	AYE		

171-0-075

Passed (23 Y - 0 N - 2 Absent)

Majority Vote

