

ENROLLED ORDINANCE 176-69

APPROVE DISTRIBUTION EASEMENT TO MCIMETRO ACCESS TRANSMISSION SERVICES, LLC  
TO CONSTRUCT, INSTALL, OPERATE, MAINTAIN, REPAIR, REPLACE AND EXTEND  
UNDERGROUND UTILITY FACILITIES ON WAUKESHA COUNTY PROPERTY  
KNOWN AS THE FOX RIVER TRAIL CORRIDOR

WHEREAS, MCImetro Access Transmission Services, LLC has requested permission to construct, operate, maintain, repair, replace and extend underground utility facilities within Waukesha County property, known as the Fox River Trail Corridor, located in the southeast quarter of Section 24, Township 7 North, Range 19 East, City of Pewaukee, Waukesha County, Wisconsin; and

WHEREAS, it is deemed desirable to allow MCImetro Access Transmission Services, LLC to construct, install, operate, maintain, repair, replace and extend underground utility facilities on Waukesha County's land for the sum of \$950.00 and other good and valuable consideration for the purpose of maintaining communications service to area properties, in the City of Pewaukee; and

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

WHEREAS, the constructing, installing, operating, maintaining, repairing, and replacing of the underground utility facilities will not interfere with the construction and continued use of the Fox River Trail.

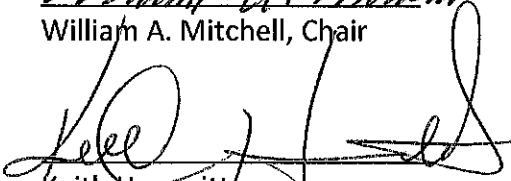
THE COUNTY BOARD OF SUPERVISORS OF THE COUNTY OF WAUKESHA ORDAINS that Waukesha County's grant of a Distribution Easement Underground to MCImetro Access Transmission Services, LLC which will be recorded in the Office of the Register of Deeds, is hereby approved.


BE IT FURTHER ORDAINED that the Director of the Department of Parks and Land Use may execute said Easement on behalf of Waukesha County.


APPROVE DISTRIBUTION EASEMENT TO MCIMETRO ACCESS TRANSMISSION SERVICES, LLC  
TO CONSTRUCT, INSTALL, OPERATE, MAINTAIN, REPAIR, REPLACE AND EXTEND  
UNDERGROUND UTILITY FACILITIES ON WAUKESHA COUNTY PROPERTY  
KNOWN AS THE FOX RIVER TRAIL CORRIDOR

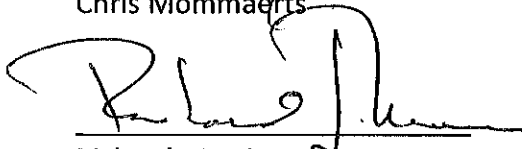
Presented by:  
Land Use, Parks, and Environment Committee

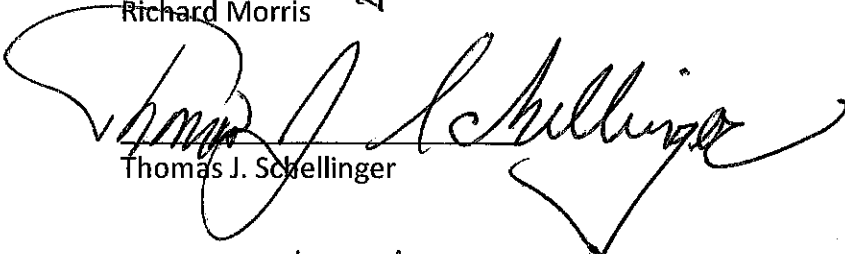
  
William A. Mitchell, Chair

  
Keith Hammitt

  
Thomas A. Michalski


  
Chris Mommaerts

  
Richard Morris

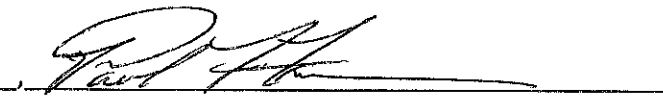
  
Thomas J. Schellinger

absent  
Steve Whittow

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

Date: 11/1/2021   
Margaret Wartman, County Clerk

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

Approved: X  
Vetoed: \_\_\_\_\_  
Date: 11/4/2021   
Paul Farrow, County Executive

**DISTRIBUTION EASEMENT  
UNDERGROUND**

Document Number

WR NO. \_\_\_\_\_

IO NO. \_\_\_\_\_

For the sum of \$950.00 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 **MCImetro ACCESS TRANSMISSION SERVICES, LLC, a Delaware limited liability company, having an office at 600 Hidden Ridge Drive, Irving, TX 75038**, 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 ten (10) feet in width being a part of Grantor's premises located in the **Southeast 1/4 of Section 24, Township 7 North, Range 19 East**, City of Pewaukee, Waukesha County, Wisconsin; said premises are more particularly described in the certain **Quit Claim Deed** recorded in the office of the Register of Deeds for Waukesha County on **January 3, 2001**, as **Document No. 2614239**.

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

RETURN TO:  
MCImetro Access Transmission Services, LLC  
ATTN: Manager – Right of Way  
600 Hidden Ridge Drive  
Irving, TX 75038

PWC 0960988

(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 signals, television and telecommunication services. The placement of all such underground equipment within the easement area shall be in conformance with plans and/or drawings approved by Grantor. Trees, bushes, branches and roots may be trimmed within the 10-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 10-foot wide easement area without the prior approval of the Waukesha County Park System. Grantee may not trim, cut down or remove trees and bushes outside the 10-foot wide easement area without prior approval of the Waukesha County Park System.
2. **Limitation on Use:**
  - a. Boring depth to be a minimum of four feet below existing elevation beneath the proposed trail.
  - b. Any structures (manholes, pull boxes, etc.) should be a minimum of 10 feet off the proposed trail centerline.
  - c. If potholing is required, utility would provide for the contractor.
  - d. If the conditions above are not met, any damages to the facilities during Grantor's construction of the proposed trail will be repaired at the cost of the utility.
  - e. If the installation of utility facilities has not commenced prior to the commencement of the County's proposed trail project, the utility will postpone commencement of installation of utility facilities until after completion of the Grantor's proposed trail project.
3. **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.
4. **Access:** Grantee or its agents shall have the right to enter and use Grantor's land with full right of ingress and egress over and across the easement area and adjacent lands of Grantor 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.

5. **Continual Operation of Parks and Trails:** The Grantor's grounds shall at all times remain open for public use. If the Grantee must perform work in any area that will in any way interfere with or detour the travelling public, Grantee will seek prior approval from Grantor, which approval shall not be unreasonably withheld, delayed or denied. Excepting, however, in cases of emergencies when access shall be immediate.
6. **Buildings or Other Structures:** Grantor agrees that no new structures will be erected in the easement area or in such close proximity to Grantee's facilities as to create a violation of all applicable State of Wisconsin electric codes or any amendments thereto.
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 some time in the future, and that none of the rights herein granted shall be lost by non-use.
10. **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.
11. **Indemnify and Hold Harmless:** In consideration of the foregoing grant, it is understood that during the time said underground facilities are located on the premises of the Grantor pursuant to this grant, the Grantee will indemnify 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, Grantor's employees, agents and invitees.
12. **Governing Law:** This easement shall be construed and enforced in accordance with the laws of the State of Wisconsin. Any lawsuits related to or arising out of disputes under this easement shall be commenced and tried in the Circuit Court of Waukesha County, Wisconsin and Grantor and Grantee shall submit to the jurisdiction of the Circuit Court for such lawsuits.
13. **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.
14. **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.
15. **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 Owner has caused this Distribution Easement to be approved by the Waukesha County Board of Supervisors and signed by its Director of Parks and Land Use.

**Grantor: WAUKESHA COUNTY, a municipal corporation**

By \_\_\_\_\_

Dale R. Shaver / Director of Parks and Land Use

Acknowledged before me in Waukesha County, Wisconsin, on \_\_\_\_\_, 2021, by Dale R. Shaver, County Director 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: \_\_\_\_\_

**Grantee: MCImetro Access Transmission Services, LLC**

By \_\_\_\_\_

Sofia Musyoki / Princ. Engr. Ntwk-Reg/RE

Acknowledged before me in \_\_\_\_\_ County, \_\_\_\_\_, on \_\_\_\_\_, 2021, by Sofia Musyoki, Princ. Engr. Ntwk-Reg/RE, on behalf of MCImetro Access Transmission Services, LLC.

\_\_\_\_\_  
Notary Public Signature, State of \_\_\_\_\_

\_\_\_\_\_  
Notary Public Name (Typed or Printed)

(NOTARY STAMP/SEAL)

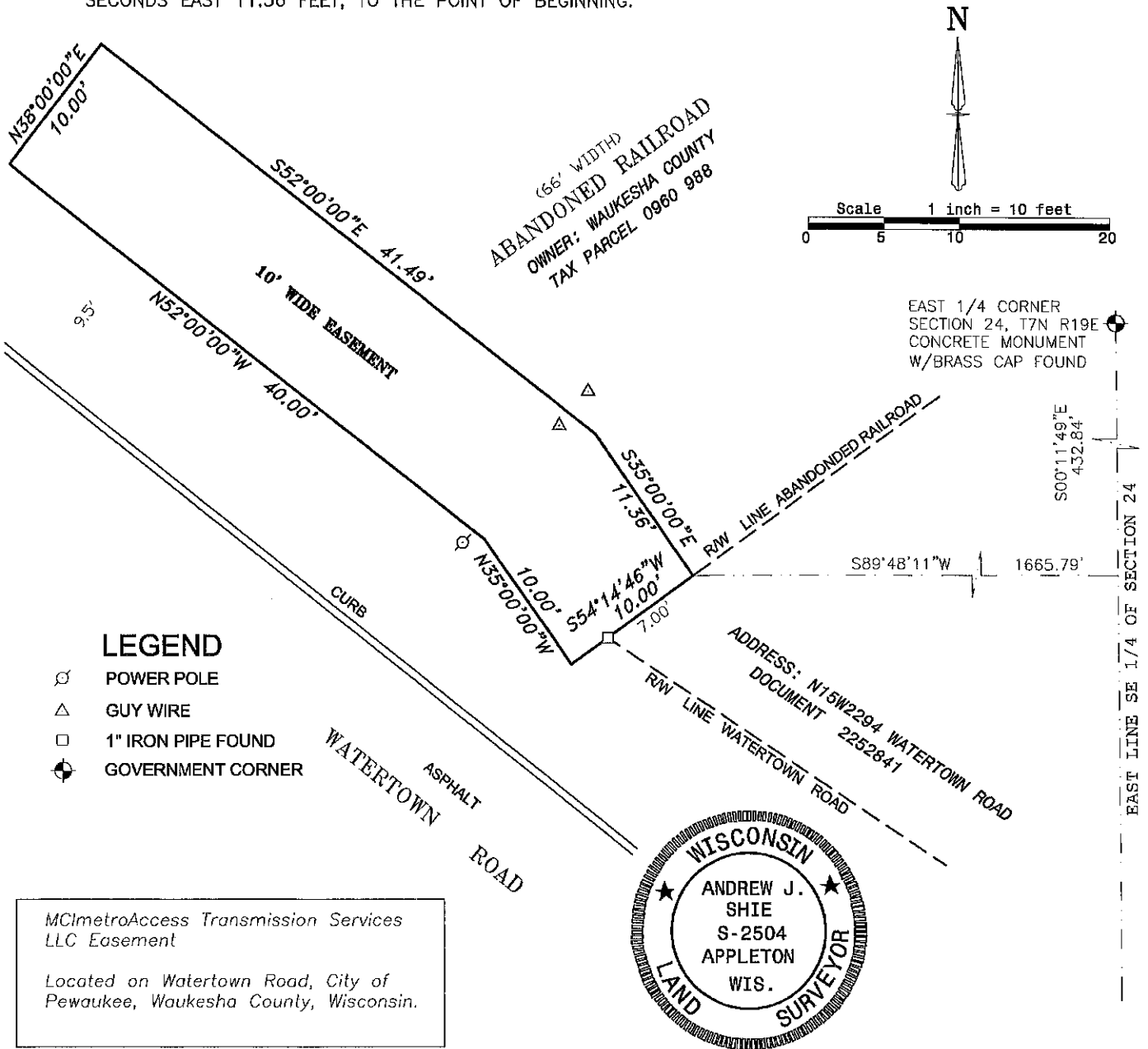
My commission expires: \_\_\_\_\_

This instrument was drafted by Stephen Siodlarz on behalf of Waukesha County, 515 W. Moreland Blvd., Waukesha, Wisconsin 53188.

# EXHIBIT "A" FOR EASEMENT

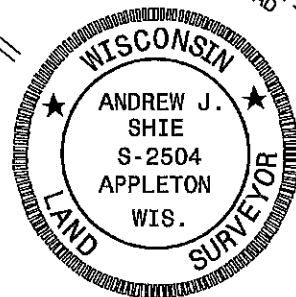
## LEGAL DESCRIPTION OF EASEMENT:

PART OF THE NORTHWEST 1/4 OF THE SOUTHEAST 1/4, IN SECTION 24, TOWNSHIP 7 NORTH, RANGE 19 EAST, CITY OF PEWAUKEE, WAUKESHA COUNTY, WISCONSIN, DESCRIBED AS FOLLOWS:  
 COMMENCING AT THE EAST 1/4 CORNER OF SAID SECTION 24; THENCE SOUTH 00 DEGREES 11 MINUTES 49 SECONDS EAST 432.84 FEET, ALONG THE EAST LINE OF THE SOUTHEAST 1/4 OF SAID SECTION 24; THENCE SOUTH 89 DEGREES 48 MINUTES 11 SECONDS WEST 1665.79 FEET, TO THE POINT OF BEGINNING; THENCE SOUTH 54 DEGREES 14 MINUTES 46 SECONDS WEST 10.00 FEET, ALONG THE NORTHWESTERLY LINE OF LANDS DESCRIBED IN DOCUMENT 2252841 AND ITS EXTENSION THEREOF; THENCE NORTH 35 DEGREES 00 MINUTES 00 SECONDS WEST 10.00 FEET; THENCE NORTH 52 DEGREES 00 MINUTES 00 SECONDS WEST 40.00 FEET; THENCE NORTH 38 DEGREES 00 MINUTES 00 SECONDS EAST 10.00 FEET; THENCE SOUTH 52 DEGREES 00 MINUTES 00 SECONDS EAST 41.49 FEET; THENCE SOUTH 35 DEGREES 00 MINUTES 00 SECONDS EAST 11.36 FEET, TO THE POINT OF BEGINNING.



MCImetroAccess Transmission Services  
 LLC Easement

Located on Watertown Road, City of  
 Pewaukee, Waukesha County, Wisconsin.



**SURVEYOR'S CERTIFICATE**  
 This is to certify the survey correctly represents the  
 MCImetroAccess Transmission Services LLC Easement Area.

*Andrew J. Shie* 9/13/2021  
 Andrew J. Shie Date  
 Wisconsin Professional Land Surveyor S-2504

**FOX VALLEY  
 LAND SURVEYING**  
 4321 W. College Ave., Suite 200  
 Appleton, WI 54914  
 920-474-5025  
 PROJECT NO. 071924-1



VOTING RESULTS

AYE  23 NAY  0 ABSTAIN  0 ABSENT  2

# Ordinance 176-O-073

Ordinance 176-O-073: Approve Distribution Easement...



D1 - Foti	AYE
D2 - Zimmermann	AYE
D3 - Morris	AYE
D4 - Batzko	AYE
D5 - Dondlinger	AYE
D6 - Walz	AYE
D7 - LaFontain	AYE
D8 - Michalski	AYE
D9 - Heinrich	AYE
	ABSENT
D11 - Howard	AYE
D12 - Wolff	AYE
D13 - Decker	AYE

D14 - Mommaerts	AYE
D15 - Mitchell	AYE
D16 - Crowlev	AYE
D17 - Paulson	AYE
D18 - Nelson	AYE
D19 - Cummings	AYE
D20 - Schellinger	AYE
D21 - Gaughan	AYE
D22 - Wysocki	AYE
D23 - Hammitt	AYE
	ABSENT
D25 - Johnson	AYE

October 26 2021 - October 26 2021 07:11:39 PM

