

COUNTY OF MILWAUKEE  
INTER-OFFICE COMMUNICATION

Date: November 12, 2012

To: Marina Dimitrijevic, Chairwoman, Milwaukee County Board of Supervisors

From: James Burton, Director, Facilities Management Division, Department of Administrative Services

Subject: **WE Energies Request for a Gas Main Easement at Watertown Plank Road at the County Grounds – Action Item**

**ISSUE**

The Department of Administrative Services, Facilities Management Division (DAS-FM) respectfully requests authorization to grant to WE Energies a permanent easement so that WE Energies may construct, operate and maintain gas main improvements in and across the County Grounds.

**BACKGROUND**

The Wisconsin Department of Transportation (WisDOT) has been legislatively authorized to reconstruct the Zoo Interchange by the State of Wisconsin and by the Federal Highway Administration (FHWA) under various state and federal statutes and codes. Various utilities will be impacted by the proposed interchange improvements that affect the County Grounds, including a WE Energies gas distribution system that services County buildings and lessee buildings. WE Energies has requested a permanent easement to relocate sections of their gas main to address the conflicts with the interchange improvements along Watertown Plank Road. See attached draft easement 3251634 and associated exhibit.


DAS-FM has reviewed and approved WE Energies preliminary plans for the proposed gas main relocation. The final proposed gas main alignments were chosen to minimize the impact to County Grounds property. The proposed easement will provide the land rights to install, operate and maintain the gas main at no cost to the County. The project is scheduled to be completed in early 2013. All areas disturbed by the construction, operation or maintenance of the subject gas mains will be restored to DAS-FM specifications at no cost to the County. Appropriate County staff will review and approve all documents as required prior to execution.

**RECOMMENDATION**

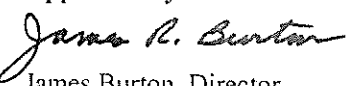
The Director of DAS-FM respectfully recommends that DAS-FM, Corporation Counsel and Risk Management staff be authorized to negotiate, prepare, review, approve, execute and record all documents and perform all actions required to grant a permanent easement to WE Energies for the construction, operation and maintenance of gas mains as a part of their natural gas distribution system. It is further recommended that the County Executive and County Clerk be authorized to execute the easements and required documents.

Prepared by: Karl Stave, Civil & Site Development Engineer

**Recommended by:**

  
Greg High, Director  
Architecture, Engineering &  
Environmental Services Section

**Approved by:**

  
James Burton, Director  
Facilities Management Division  
Dept. of Administrative Services

Attachments: Draft WE Energies Gas Easement

cc: Chris Abele, County Executive  
Marina Dimitrijevic, County Board Chairwoman  
Supervisor Jim Luigi Schmitt, District 6  
Kimberly Walker, Corporation Counsel  
Patrick Farley, Director, Department of Administrative Services (DAS)  
James Burton, Director, Facilities Management Division, DAS  
Pam Bryant, Office of the Comptroller  
Greg High, Director, AE&ES (DAS-FM)  
Gary Waszak, DAS-FM

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**DISTRIBUTION EASEMENT  
UNDERGROUND  
GAS**

Document Number

WR NO. 3251634

For good and other valuable consideration which **MILWAUKEE COUNTY**, a **municipal body corporate**, together hereinafter referred to as "Grantor", acknowledges receipt of, grants and warrants to **WISCONSIN GAS LLC**, doing business as **We Energies**, hereinafter referred to as "Grantee", a permanent easement upon, within and beneath a part of Grantor's land hereinafter referred to as "easement area."

The easement area is described as strips of land varying in width being a part of Grantor's lands located in the NW 1/4 of Section 29, Township 7 North, Range 21 East, in the City of Wauwatosa, Milwaukee County, 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.

**1. Purpose:**

(a) The purpose of this easement is to install, operate, maintain repair, replace and extend underground utility facilities, together with all necessary and appurtenant equipment under and above ground, as well as pipeline or pipelines with valves, tieovers, main laterals and service laterals, together with all necessary and appurtenant equipment under and above ground, including cathodic protection apparatus used for corrosion control, as deemed necessary by Grantee, for the transmission and distribution of natural gas and all by-products thereof, or any liquids, gases, or substances which can or may be transported or distributed through a pipeline, including the customary growth and replacement thereof. Trees, bushes, branches and roots may be trimmed or removed so as not to interfere with Grantee's use of the easement area.

(b) Grantor and Grantee understand, acknowledge and agree that this easement is non-exclusive and that Grantor will continue to use the easement area and shall have the right to make other agreements, such as leases, licenses, and easement with one or more utilities or other entities provided that any such subsequent agreements shall not interfere with Grantee's rights under this easement. Facilities and equipment other than that which is defined in this easement shall be installed only upon amendment of this easement or negotiation of an additional easement.

**2. Buildings or Other Structures:** Grantor agrees that no structures requiring below-grade footings will be erected in the easement area or in such close proximity to Grantee's facilities as to create a violation of the Wisconsin State electric and gas codes or any amendments to it. Structures with below-grade footings may be placed within the easement area only with Grantee's consent, which consent will not be unreasonably delayed or withheld.

**3. Elevation:** Grantor agrees that the elevation of the existing ground surface within the easement area will not be permanently altered by more than 4 inches without the written consent of Grantee, request for which shall be promptly considered by Grantee and not unreasonably withheld.

**4. Construction; Access:**

(a) Grantee shall provide written notice to the Milwaukee County Grounds Facilities Management Division (DAS-FM) prior to the commencement of work within the easement area by Grantee. Said notice shall indicate the anticipated start date and duration of the proposed work and include; plans showing the location, depth, type of installation, trees and shrubs within line or easement area, drawings and specifications detailing construction methodology, the erosion and sedimentation control plan and the preservation and restoration methods to be employed. These shall be reviewed and approved by Grantor within 14 days from receipt of the plans and prior to commencing any construction activities. Violation of the aforementioned conditions during periods of emergency shall not result in cancellation or penalty. Within 24 hours of an incident constituting an emergency, Grantee shall give notice to Grantor, of such emergency.

RETURN TO:  
WISCONSIN ELECTRIC POWER COMPANY  
PROPERTY RIGHTS & INFORMATION GROUP  
231 W. MICHIGAN STREET, ROOM A440  
PO BOX 2046  
MILWAUKEE, WI 53201-2046

379-9999-011, -017, -050, -051  
(Parcel Identification Numbers)

(b) No trees, shrubs or vegetation adjacent to the easement area shall be removed, trimmed or damaged without the written permission of DAS-FM. In that regard, a specific construction and restoration landscaping plan has been reviewed and approved by DAS-FM.

(c) Grantee shall secure and pay for all permits required by any governing body or agency before any substantial construction, repair or maintenance work commences; and any modifications, developments, or improvements to the facilities shall be subject to the written approval of DAS-FM and any other required governmental approvals.

(d) All Grantee construction, operation and repairs of the facilities installed within the easement area shall be completed at no expense to the Grantor.

(e) Grantee shall not suffer or permit any construction or mechanics' liens to be filed, or if filed, to remain uncontested, against the fee of the Property, nor against the Grantee's interest in the Property.

(f) Grantee shall be responsible for maintaining the facilities; the Grantor shall not be liable for any damage to the facilities that may be caused by Grantor, its employees, contractors, or others.

(g) It is further understood and agreed that the Grantor or its representatives shall have the right to enter upon the easement area at any time to make any inspection it may deem expedient to the proper enforcement of any term or condition of this easement and for the purpose of performing work related to any public improvement in, upon or along said easement area as the Grantor may deem appropriate provided such improvements do not damage the facilities and appurtenances thereto, including reasonable access to them, installed by the Grantee.

5. **Restoration:** Grantee agrees to restore or cause to have restored the Grantor's land, as nearly as is reasonably possible, to the condition existing prior to such entry by the 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. Grantee shall exercise reasonable care and attempt to save and preserve any existing landscaping in the easement area, including, without limitation, the trees and bushes located thereon.
6. **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.
7. **Relocation of facilities:** In the event that Grantor requires the relocation of Grantee's facilities, the Grantee will relocate such facilities, providing that Grantor provides a reasonably suitable alternate location for such facilities, together with all necessary easement rights to the Grantee for the facilities at their new location. The costs of such facilities relocation shall be paid by Grantor.
8. **Removal of facilities:** In the event that the Grantee's facilities are no longer required to provide gas service, Grantee shall abandon or remove said facilities and restore the easement area at its expense and the easement rights herein granted shall terminate.
9. **Grantor Review:** Grantor, utilizing available data, has reviewed the Grantee's construction plans, but in no way can the Grantor assure complete accuracy. The Grantee shall comply with all state and local laws regarding location and protection of existing utilities. The Grantee shall contact Diggers Hotline, DAS-FM and all applicable municipalities prior to commencing any construction to verify all pertinent easements and existing utility locations within the easement area boundaries.
10. **Indemnification:** It is understood that during the time said facilities are located on the premises of the Grantor pursuant to this grant, We Energies shall indemnify and save the Grantor harmless from any and all claims for injury or death to any person or for damage to property of any person arising out of the installation, operation, reconstruction and maintenance of said facilities; excepting, however, any claims or actions arising out of negligence or willful acts on the part of the Grantor, its employees, agents and invitees.
11. **Environmental Indemnification:** Grantee shall, to the full extent provided for under any environmental laws, rules and regulations, be responsible for any repair, cleanup, remediation or detoxification arising out of any hazardous materials brought onto or introduced into the easement area or surrounding areas by Grantee, its agents or guests. Grantee shall indemnify, defend and hold Grantor harmless from any liability, cost, damage, claim or injury (including reasonable attorney fees) arising therefrom.

12. "Definition Proposal": This easement agreement constitutes a "Definition Proposal" in conformance with Section 2.03 of that certain Easement Agreement between Grantor and Grantee dated December 2, 1996, and recorded in the office of the Register of Deeds for Milwaukee County on December 3, 1996, on Reel 3939, Images 1305 through 1365, as Document No. 7298264.

13. This grant of easement shall be binding upon and inure to the benefit of the heirs, successors and assigns of all parties hereto.

Grantor:

MILWAUKEE COUNTY, a municipal body corporate

By: \_\_\_\_\_

(Print name and title): \_\_\_\_\_

By \_\_\_\_\_

(Print name and title): \_\_\_\_\_

Personally came before me in \_\_\_\_\_ County, Wisconsin on \_\_\_\_\_, 2012,  
the above named \_\_\_\_\_, the \_\_\_\_\_  
and \_\_\_\_\_, the \_\_\_\_\_  
of MILWAUKEE COUNTY, a municipal body corporate by its authority.

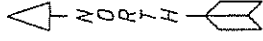
\_\_\_\_\_  
Notary Public Signature, State of Wisconsin

(NOTARY STAMP/SEAL)

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

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

BEARINGS AND DISTANCES ARE REFERENCED TO WISCONSIN TRANSPORTATION PROJECT PLAT NO: 1060-33-22 PAGE 4.13



WATERTOWN PLANK ROAD

SOUTH LINE OF SW 1/4 OF SECTION 20 - N 89° 44' 51" E 2667.48'



S 00° 15' 09" E 64.50' FROM POINT ON SOUTH LINE TO START OF CENTERLINE OF 12' WIDE EASEMENT

S 00° 15' 09" E 60.50'

S 89° 44' 51" W 234.78'

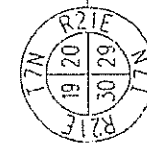
C/L 20' WIDE

S 89° 44' 51" W 256.34'

C/L 20' WIDE

S 89° 44' 51" W 136.00' TIE ONLY - NO EASEMENT

W. INNOVATION DRIVE



KEY	WE ENERGIES - EXHIBIT "A"	DRAWN BY JIM CLARKE
	VARIABLE WIDTH EASEMENT IN PART OF THE NW 1/4 OF SECTION 29, T7N R21E CITY OF WAUWATOSA, MILWAUKEE COUNTY, WISCONSIN	SCALE 1" = 150'
 CENTERLINE 12' WIDE EASEMENT (UNLESS NOTED)		DATE 11-02-2012