



17.1 Introduction

The relocation and adjustment of utility facilities represents a major effort in the successful development of a highway project. Utility companies, like highway agencies, are created to perform a specific public service. Both of these public services require transportation routes. Often these routes parallel or cross each other. When improvements are planned, conflicts may occur and adjustments are needed.

It is imperative that the impact of these highway and utility conflicts be kept to a minimum to provide services to the public at the lowest possible total cost.

As with real estate parcels, utility parcels must be acquired before a project can be let to bid. It is the responsibility of the agency acquiring the right of way to certify to the State that all real estate interests including utility interests have been acquired.

This guide is intended to serve as a straightforward approach to utility acquisition by a local agency or their consultant. For a more detailed explanation of some of the methods referred to in this guide, see FDM [Chapter 18](#) or other chapters of “WisDOT Guide to Utility Coordination.”

While Wisconsin Administrative Code Chapter Trans 220 does not apply to projects on non-STH highways, the utility coordination process for all highway improvement projects remains the same. Good utility coordination practices, as set forth in this guide must be followed in order to have a successful local highway improvement project.

Four parties are involved in utility coordination efforts on a non-STH (local) project: the design consultant, the local government (Highway Agency), the Management Consultant (MC) and the WisDOT Bureau of Technical Services Utility and Access Unit. This chapter will identify the roles and duties of each party. It is assumed that the reader is familiar with the way the local program projects are administered (i.e. the relationship between the design consultants and the Management Consultant).

The Local Project Utility Coordination Task List [Attachment 17.1.1](#) shall be filled out for each design contract. This task list spells out which utility coordination activities the design consultant is responsible for. The list will vary from project to project and from local government to local government. Some local governments prefer to take a more active role in utility coordination activities and have the staff to do so. The task list is available as a MS-Word document from the WisDOT Bureau of Project Development Consultant Section.

17.2 Investigation Stage

In order to properly determine which utility companies have facilities within the project area it will be necessary to perform a thorough search of the records. The WisDOT Region Utility Coordinator will assist in providing a list of utilities that may have facilities in the area of the project. This list may not be totally inclusive and must be checked against other available information. Local governments should know what utilities have facilities within their jurisdiction. Other sources may include the Register of Deeds, property owners in the area, and Diggers Hotline.

The MC, as part of the Field Review Checklist, will determine the number of utility coordination meetings required on a project and whether detailed utility work plans will be required. See example Field Review Checklist in [Attachment 17.2.1](#). The Field Review Checklist is available as a MS-Word document from the WisDOT Bureau of Project Development Consultant Section. An urban project should have at least two utility coordination meetings, one early in design to identify utility facilities that should be avoided, and one later in design after the utility companies have started to develop their relocation plans. See the “Operational Planning Meeting” and “Utility Coordination Meeting” paragraphs in the “Coordination with Utilities” section below. Rural projects with very few utility facilities, such as a small bridge replacement with no utility facilities on the bridge, may not require a utility coordination meeting. The intent of the utility coordination meetings is to exchange information so that the total project cost (highway and utility relocation) is minimized. Avoiding unnecessary utility relocations, and coordinating various utility relocation plans to be the most cost-effective with the least amount of disruption to the highway contractor is the goal of the utility coordination meetings. Hold enough utility coordination meetings to accomplish this, but do not waste people’s time with unnecessary meetings. Experience with various types of highway projects helps in determining how many meetings to hold.

Utility work plans can vary in complexity from a simple one-sentence email from the utility company (for small rural bridges where only one pole needs to be relocated) to a detailed multi-page narrative description with drawings and time schedules for more complex projects. On some projects a one page narrative and schedule (with or without a sketch) describing what will be done is sufficient. The MC will determine the level of complexity expected in the work plans as part of the Field Review Checklist. There are three detail levels for work plans:

Simple – Short narrative or simple sketch

Medium – Proposed work drawings and work schedule required

Complex – Detailed work drawings and work schedule required, generally requires some coordination during highway construction. Appropriate on urban projects and large rural projects with many utility conflicts.

When the utility owners are identified, the design consultant shall send each utility a “Facility Inquiry” letter and a copy of the Concept Definition Report for the project. See [Attachment 17.2.2](#). This letter can be combined with an invitation to attend the Operational Planning Meeting or a utility coordination meeting early in the design process. In this letter the utilities are asked to provide copies of facility maps showing the location of their facilities in the project area. **These maps should be used as reference only.**

Another important aspect of the investigation stage is the field locates of utility lines. The design consultant shall contact Diggers Hotline or the utility directly and have the lines marked in the field. These locations are then picked up in the highway survey process and the facilities are shown on the highway plan. In the case of underground lines it may be necessary to determine the depth of the lines to properly show the vertical locations on the highway plans. This can be done by contacting the utility and asking them to cooperate in obtaining this information. If they do not want to cooperate in exposing their facilities and/or providing the vertical location information, the utility must be told to relocate completely out of the excavation limits. The permitting authority can help enforce this provision.

17.3 Coordination with Utilities

The overall success of a street or highway project will often depend on the amount of time spent on coordinating the relocation and adjustment of utility facilities. If proper coordination has not been done there will be time delays and extra costs involved during the construction stage of the project. Several steps are necessary to ensure this coordination effort is accomplished.

The highway designer is responsible for identifying any County or local ordinances that may affect utility coordination requirements on the project.

The **Operational Planning Meeting (OPM)**, or a utility coordination meeting early in the design process, should be held as soon as the project concepts are developed. In most cases it will be beneficial to invite all utilities having facilities in the project area. Making utilities aware of the project may have several positive impacts on your project. Once utilities are aware of pending highway work they will place on hold any improvements they may have proposed to their facilities in the area. Being knowledgeable of highway plans will also allow the utilities to program funding to facilitate their relocations to accommodate the highway improvement schedule.

If utilities have facilities that would be costly to relocate they may inform the Highway Agency of this fact at the OPM meeting and thereby provide the highway designer time to review alternate alignments to see if the utility lines can be designed around. Often the costs of these adjustments are reimbursable and the Highway Agency is in fact saving their own money by allowing the utility lines to remain in place. As with any highway improvement project, the goal is to minimize the total project costs including utility relocations.

This early meeting can be used to notify utilities of areas where more specific location information will be needed. For example, if a communication duct package crosses the right of way where a storm sewer will be needed, the utility should be notified that we need the exact size and depth information of that duct package. It may be too early in design to discuss the logistics of obtaining the location information, but the utility can be put on notice that this will be required later in the design process. Since the objective of obtaining the information is to design around the utility facility if possible, the utility company should be receptive to the idea of providing the information. Wis. Stat. s. 182.0175(2)(a) requires that designers “plan the excavation to avoid to the extent possible interference with” utility facilities. See [Attachment 1.2.4](#).

The **Right of way plat** is the first complete drawing showing proposed alignment and proposed right of way, and giving stationing that can be related to the cross sections. For more information about right of way plats, see [Attachment 17.13.1](#).

Sending plans to utilities and approving their work plans is an important part of the utility coordination process. Utility companies need sufficient time to design their facilities, order materials and schedule work crews prior to highway construction. In order for all of this to occur, the plans must be sent to utility companies as soon as possible. It is desirable to have the utility relocations occur in the Fall of the year prior to highway construction. This requires the designer to send the plans to the utilities in the Spring or early Summer of the year prior to highway construction. Utilities must design their relocations, order materials and schedule construction operations prior to ground freeze in the Fall. Winter construction is costly and in many cases impossible for utility relocations. [Attachment 17.3.1](#) is a sample of a cover letter sending plans to a utility company that has a compensable land interest. [Attachment 17.3.2](#) is a sample of a cover letter sending plans and other documents to a utility company that does not have a compensable land interest.

The plan package sent to a utility should include a list of potential conflicts as identified by the designer. This list is for information purposes and is the highway designer's best estimation of potential conflicts based on the utility facility location information that the designer has. The utility company is responsible for verifying this list and identifying any other potential conflicts with their facilities. See [Chapter 9](#), Identifying Utility Conflicts, for more guidance.

The Highway Agency is responsible for acquiring any compensable utility land interests. They may hire the design consultant to assist with this work.

After the utilities have designed their work plan, they will submit the work plan to the designer and the Highway Agency that has permitting authority. The designer must review the utility work plan to assure there is no conflict with the proposed highway plans. The designer or the Highway Agency should approve the work plan and inform the utilities of the approval. The Highway Agency will review and approve the utility permit.

If the utility does not return their work plan by the due date, the designer needs to contact the utility and request that they submit it as soon as possible. See [Attachment 17.3.3](#) for a sample work plan reminder letter. It may require continued contacts with the utility company in order to obtain the work plan. It is not acceptable to just say that plans were sent to the utility but they never replied with a work plan.

Another important meeting is the **Utility Coordination Meeting**. Shortly after the plans have been provided to the utilities a utility coordination meeting should be held. The purpose of this meeting is to inform the utilities of the project concepts and schedules. Other items of interest to the utilities include: any special soil or geologic conditions that may be present; right of way acquisition time lines; any special environmental concerns or contaminated areas; any special permit requirements that may be required and any special community events that might affect the construction schedule.

The Wisconsin Department of Natural Resources (DNR) has requested that the designer share with the utilities any coordination that has been done with their agency. Many times the designer coordinates with the DNR and then the utility has to duplicate that coordination with their work plan. Sharing the results of the designer's efforts and letting the DNR know that the utility work is related to the highway work can avoid contradictory guidance from the DNR. This can save time and avoid duplication of efforts or unintended damage to the environment. The utility still has to do its own coordination with the DNR, but it can be simplified and more efficient when the information is shared. Different sections within the DNR review utility plans and highway plans. Notifying the DNR that the designer has already coordinated on the project will enable the DNR reviewers to share information and eliminate redundant or contradictory requirements.

In some cases it may be necessary to hold two or more utility coordination meetings. This is especially true in the case of large rural projects or complex urban projects. It is recommended that if a second coordination meeting is held it should be scheduled just before preparation of the Utility Special Provisions to ensure the information being provided is as up-to-date and accurate as possible.

Coordination between PS&E and construction is important and critical to a successful project. This coordination assures that utility work plans are followed and nothing is forgotten. The MC is responsible for

monitoring utility relocation activities during the period between PS&E submittal and the start of highway construction. This includes notifying utilities of changes to Let dates and delays or advancements of construction start dates. Design contracts may be written to assign this responsibility to the design consultant.

Utility work plans may propose that all utility facilities be relocated prior to highway construction. However, sometimes there are communication breakdowns that result in utility relocation activities being delayed. Making contacts with the utilities during this time period helps remind them of their commitments and confirms that the highway project is still on schedule. The utility companies may have additional questions that can be answered when the contacts are made, such as “when will construction start?” “Where will they start?” “Can we hire the highway contractor to perform some of our work?” and so on.

The utility company may also need construction staking done in order for them to place their facilities in the correct location. This is a task on the Utility Coordination Task List. When the project is scoped an estimate should be made of the number times that staking for utilities will be needed. The timing of when the staking is needed will likely be during the period between PS&E and construction but may be just prior to PS&E or during construction. The Highway Agency has a vested interest in getting the utility facility placed in the correct permitted location. A wrong location can cost money and time during highway construction. Delays to contractors also translate into increased user costs, which affect the traveling public.

17.4 PS&E Review

The PS&E that is submitted to the MC by the designer should include “Utility” special provisions that are based on a utility company work plan, the Utility Status Report (DT1080), and copies of correspondence that documents what is said in the special provisions and the status of any compensable utility interests. Proof of the completion of the acquisition of any compensable utility interest is also required. Copies of signed documents are required.

The MC will review the materials submitted to assure that the utility coordination process has been followed and that all utility facilities and land interests are accounted for. This includes checking the right of way plat to see that all compensable interests have been identified and acquired.

The MC or the highway designer submits the Eplans PS&E package to WisDOT Central Office.

About a month prior to the Ad Meeting, which is six weeks prior to the letting, the Statewide Utility projects Coordinator in the Bureau of Technical Services Utility and Access Unit reviews the Utility Status Report (USR) to determine the status of any compensable utility interests. If the compensable interests are all shown as acquired, the project is approved for advertising from a utility coordination perspective. If there are utility parcels that are not acquired at the time of the PS&E submittal, the Statewide Utility Projects Coordinator will contact the MC and ask for an update on the status of those parcels. The MC is given about a month to finalize any acquisitions that have not been acquired. The MC works with the highway designer and/or the highway agency to complete any outstanding acquisitions.

The Thursday before the Ad Meeting the Statewide Utility Projects Coordinator must submit recommendations to the Ad Meeting Committee regarding the status of utility coordination on all of the projects in that month’s letting. The Statewide Utility Projects Coordinator recommends that any projects that have outstanding utility parcels be pulled from the letting.

17.5 Utility Coordination During Construction

During highway construction the construction project manager handles most utility coordination that is not the responsibility of the highway contractor. If they are unable to resolve a utility conflict, the MC can be called upon to assist in finding a resolution to the situation. This may require assistance from the highway designer if it is unclear what is supposed to take place or what commitments were made during the design stage.

The Highway Agency is responsible for managing their right of way, including the permitting of utility facilities within the right of way. Part of the permitting process includes making sure that utility facilities are placed at the location shown on the approved permit and according to the schedule submitted with the permit. The Highway Agency is also responsible for enforcing other permit requirements, such as erosion control and traffic control. Failure to monitor utility construction activities may lead to unforeseen conflicts with the highway construction and potential delays, which can increase construction costs.

If utility facilities are being relocated during construction, the construction project manager may have to provide additional staking for the utility companies in order to assure that their facilities are placed in the correct location. This could include but is not limited to staking of right of way, staking of back of curb, or staking of centerline.

See [Chapter 19](#), “Preconstruction Meeting,” [Chapter 20](#), “Conflicts During Construction” and [Chapter 21](#), “Utility Coordination During Construction” for additional guidance.

17.6 Compensable and Non-Compensable Work

Payment for the cost of relocating utility facilities is based on the utility being able to prove and provide a land interest in the land being acquired for highway use. A thorough search of the records must be made to validate the utility's interest. Wisconsin Statutes provide a provision whereby a utility can gain an interest in a property under adverse possession or prescriptive rights. This process is explained in Wis. Stat. s. 893.28 (2), see [Attachment 11.4.2](#).

When a utility is located on private property being acquired for a highway the utility is deemed to have an interest in the real property. The cost of relocation or adjustment of its facilities to accommodate the highway improvement is considered to be compensable. Conversely, when utility facilities are located on public highway right of way, even if the City, Village, Town or County owns that right of way, the utility use is considered to be permitted and is generally considered to be non-compensable. See Wis. Stat. s. 66.0831, [Attachment 1.2.3](#).

The easiest way to determine if the utilities on your project are compensable or non-compensable is to review the right of way plat. Compensable utility locations should be shown as utility numbers if the plat has been properly prepared.

There must be a separate utility number for each compensable utility company with facilities on the project. When one utility company has multiple facilities on the project, for example gas and electric, it may be necessary to designate a separate utility number for each type of facility. This will greatly reduce the problems in understanding the estimate and make it easier to track the compensable cost at billing time.

17.7 Funding

The preferred way to fund compensable utility relocations on local transportation projects in an approved federal aid improvement program is for local units of government to fund 100% of the utility portion of the project. This includes utility facilities owned by municipalities, cooperatives, private individuals or companies. Although acquisition of utility parcels is technically eligible for participation, it is **not** the preferred method for funding compensable utility relocations on these projects.

In order to reduce administrative costs, only large compensable utility relocations (in excess of \$50,000 per utility) are eligible for Federal/State funding. Smaller compensable utility relocations will continue to be funded entirely by the Highway Agency. WisDOT staff and MC staff that review and approve utility agreements and invoices will be charging time to the design project ID or the construction project ID. The amount of time involved is dependent on the complexity of the project and the adequacy of information provided for review.

The State/Municipal Agreement for a Highway Improvement Project (SMA) includes discussions about both compensable and non-compensable utility costs. Compensable utility costs are for utility facilities in areas where the utility has a land right and is therefore eligible for compensation. Generally this is in new right of way. These costs should be shown under the Real Estate Acquisition Costs portion of the SMA. The compensable utility costs are shown as a separate line item under the Real Estate Acquisition Costs and labeled as “Compensable Utility Costs.” Usually these costs will be 100% locally funded. In some cases these costs may be funded with participation (Federal or State) depending on the program in question.

Non-compensable utility costs are generally shown under the Construction Costs portion of the SMA. They are labeled “Non-Participating Items” and generally include city sewer and water and/or other non-compensable utility moves that are required to be performed by the contractor. These costs are 100% locally funded. See [FDM 3-1-10](#) for more information about including non-participating sewer and water work on a highway improvement project.

The non-compensable utility work that will be performed by the utility outside of the project and/or prior to construction is generally not included in the SMA.

On projects funded through the Local Roads Improvement Program (LRIP), utility relocations are not eligible costs. (ch. Trans 206.03[9] Wis. Adm. Code). They are also not eligible under right of way acquisition costs. (ch. Trans 206.03[9] Wis. Adm. Code).

Purchases of real estate or utility interests by local units of government do not get credited to their contribution to the project. If the locals fund 100% of the real estate or utilities, this is by choice. If they choose to request funding participation from a Federal/State fund source, they are responsible for their local matching funds depending on the program in question. Work credits are not possible for local road system projects.

All utility projects with Federal/State funding, regardless of program, must have a separate utility project ID. When Federal/State funding is used for utility relocations, this should be spelled out in the SMA as mentioned above.

17.8 Using Federal Funding for Utility Relocation Costs

Generally a set amount of money is allotted to a project and that money can be spent on various aspects of the project. In some cases this dollar value is capped at a set amount. The MC is responsible for watching the total costs for a project or family of projects. They must alert WisDOT and the local government as project costs increase.

The local government should fully understand that State delivery costs are added to all State or Federally funded projects. Also, local governments must abide by all State and Federal requirements when they use Federal money for utility relocations. This may increase the total costs.

Utility company cost estimates are subject to market fluctuations and resource shortages caused by national or international events. Using State or Federal funding will require that the utility be compensated for the actual costs incurred. This could lead to increased project costs when prices rise. When local funding is used, a municipality can negotiate agreement terms that may be fixed and more favorable to the community. At the time the SMA is developed, it is extremely difficult to estimate utility relocation costs because there is no highway design to look at to determine what conflicts exist.

Utility relocation costs are an eligible cost for Federal or State funding if the costs are compensable under State law. In Wisconsin, utility facility relocations are only compensable when the utility holds a valid land interest and conveys that land interest to WisDOT. That interest may be an easement, a prescriptive right under Wis. Stats. s. 893.28, or a Conveyance of Rights document from a previous project.

If the decision is made to use Federal/State funding on utility relocations, the SMA funding table must reflect this. In addition, the SMA boilerplate includes specific language for both compensable and non-compensable utility relocations. A utility project ID must be assigned and an estimate of the costs for that project ID must be included in the funding table of the SMA for projects that will use Federal/State funds for compensable utility relocations.

A 3-party utility agreement ([Form DT2244](#), [Attachment 17.8.1](#)) will be used between the utility company, the local government, and WisDOT. This agreement requires the utility company (Utility) to provide a release of rights document to the local government (Municipality), the Utility submits invoices to the Municipality, and the Municipality will pay the Utility and then seek reimbursement from WisDOT Bureau of Technical Services Utility and Access Unit. The request for reimbursement will be supported by the invoice and documentation from the Utility. The Municipality will certify that the work was done according to the agreement.

The process:

1. The Municipality requests the use of Federal/State funds. Only utility relocations in excess of \$50,000 per utility, not per project, are eligible. If approved, the SMA is written to include separate project ID numbers for each compensable utility. The estimated utility relocation dollars are assigned to each project ID.
2. After the highway design is substantially complete, the Municipality sends the highway plans, right of way plat, release of rights document, and 3-party utility agreement form (DT2244) to the Utility and requests the Utility prepare a relocation plan and estimate to be returned along with the other signed documents.
3. The Utility prepares their relocation plan and estimate, and has the release of rights document and 3-party utility agreement signed by the proper company officials. These documents are then returned to the Municipality.

4. The Municipality reviews the returned documents and, if acceptable, signs the 3-party agreement and forwards it, along with a copy of the signed release of rights document, relocation plan and estimate, and right of way plat showing compensable areas, to the MC.
5. The MC Utility Coordinator will review the agreement to make sure that only compensable costs are being included, and that all WisDOT and Federal requirements are met. The MC Utility Coordinator is responsible for making sure that the appropriate forms are used. They are also responsible for making sure that the required State and Federal agreement provisions are enforced.
6. The MC will forward the documents (agreement, relocation plan and estimate, right of way plat showing compensable areas, and release of rights document) to the Statewide Utility Projects Coordinator in the Bureau of Technical Services Utility and Access Unit.
7. The MC will forward a copy of the draft utility agreement and estimate dollar value to the Region Local Program FIIPS Coordinator. The FIIPS Coordinator will change the FIIPS Review Control Code to "F."
8. The Statewide Utility Projects Coordinator will have the Manager of the Real Estate Acquisition and Services Section sign the 3-party utility agreement.
9. A copy of the signed 3-party utility agreement is returned to the MC, who then returns it to the Municipality.
10. The Statewide Utility Projects Coordinator will forward a copy of the signed 3-party utility agreement to the Bureau of State Highway Programs, Program Finance Section. The Program Finance Section requests the Bureau of Business Services, Fiscal Services Section to authorize the project for charging and changes the FIIPS Review Control Code to "G." The Fiscal Services Section requests Federal authorization (Form 37). The project ID is authorized for charging when Federal authorization is received. After obtaining approval from FHWA, the Fiscal Services Section changes the FIIPS Review Control Code to "H."
11. This copy of the signed 3-party utility agreement is then forwarded to the Bureau of Business Services, Expenditure Accounting Unit where the funds are encumbered in EAPS.
12. After receipt of the fully signed 3-party utility agreement, the Municipality sends a copy to the Utility, and authorizes the Utility to begin work.
13. The Utility will do its relocation work and then send a bill to the Municipality with the appropriate level of documentation justifying the costs incurred and explaining any overages from the estimate.
14. The Municipality will pay the Utility and seek reimbursement from WisDOT.
15. The Municipality will send a request for reimbursement (Request) for the amount billed by the Utility to the MC. The detailed bill and documentation from the Utility will be attached to the Request from the Municipality to document the actual costs. The detailed costs from the Utility must be similar in nature to the original estimate so that a comparison can be made. Variations in actual costs from the estimate are expected. Large deviations (over 15%) from the estimated costs should be supported by an explanation of why the costs increased (or decreased). The MC Utility Coordinator will review the bill and compare it to the estimate. If the costs and materials are similar, or large variations are explained, the MC Utility Coordinator will forward the Request and attachments to the Bureau of Technical Services Utility & Access Unit. The Utility & Access Unit will approve the Request and forward the Request to the Bureau of Business Services, Expenditure Accounting Unit for payment.
As mentioned above, the Municipality will request reimbursement for the full amount billed by the Utility. Any project cost sharing will be dealt with through the normal process covered by the SMA.
16. Depending upon project funding, the Fiscal Services Section either will request a check to the Municipality for the Federal/State share of the utility costs or reduce the local share amount due from the Municipality.

The Bureau of Technical Services Utility & Access Unit is responsible for conducting an auditing process of the federally funded utility relocations for quality assurance purposes. Not all projects will be audited; a sampling of the projects will be audited periodically. This will be done in conjunction with the periodic Quality Assurance Reviews of the WisDOT Region Offices. The Division of Transportation Investment Management, State Highway Programs, Contract Audit and Administration Section will conduct additional financial audits of audit agreements.

17.9 Compensable Cost Estimate

When it has been determined that a utility must adjust or relocate facilities on highway right of way within the taking area of the new roadway, it will be necessary for the utility to prepare a detailed estimate outlining these relocation costs. This estimate should set forth all labor, material and equipment costs as well as appropriate overheads normally charged by the utility. If contract forces will be used on the project the contract work should be done under competitive bid and approved by the Highway Agency prior to approval of the contract work. The

compensable work estimate shall also provide appropriate credits for used life, salvage and betterment when applicable. For more detailed information on these credits see [FDM 18-15-20](#).

17.10 Utility Agreement – Locally Funded

Utility work is normally performed under an agreement with the utility. Two documents have been developed to handle these agreements between the utility and the Highway Agency. The **Lump Sum Agreement** is used for projects where work is well defined and contains no variables that could affect the cost agreed to. Under this type of agreement the utility prepares an estimate covering all the cost they anticipate having in the relocation of its facilities. This estimate along with the signed release of rights document and the agreement are reviewed by the Highway Agency and if found acceptable approved by the Highway Agency. Once approved by all parties the work is performed and the utility is paid the lump sum amount as stated in the estimate. The Lump Sum Agreement is usually reserved for agreements of low dollar value. As an example, the current limit for Lump Sum Agreements on State projects per policy is limited to \$50,000.00. A lump sum agreement form that is suitable for use on local projects is shown in [Attachment 17.10.1](#).

Another form of agreement is the **Audit Agreement**. Under this type of agreement the utility prepares an estimate with appropriate credits as outlined above. The agreement is signed by utility officials and sent to the Highway Agency for review. If the agreement is found acceptable, the Highway Agency approves the agreement and the utility is authorized to perform the work. Unlike the Lump Sum Agreement, the utility is not limited to the estimated amount with the Audit Agreement. Under the Audit Agreement, the utility costs may be higher or lower than the estimated amount and the utility will be paid the cost actually incurred in the relocation of the agreed to work. Normally an Audit Agreement is used for contracts over \$50,000.00, but can be used for agreements of any size. Under the Audit Agreement, the Highway Agency has the right to audit the utility records to ensure the cost reflected in the utility's billing were actually incurred. An audit agreement form that is suitable for use on local projects is shown in [Attachment 17.10.2](#).

17.11 Release of Rights Documents

When a utility has an interest in the land being acquired for a highway it is necessary to acquire that land interest in order to provide clear title and ownership of the highway. The type of release of rights document used to acquire these land rights will vary depending on the location of the utility facilities and the utility's desire to remain within its original easement on highway land or to relocate to new lands.

When a utility has land rights within the area being acquired for right of way and chooses to relocate off their easement onto new private easement, they should provide a **Quit Claim Deed** to the Highway Agency for the area they are vacating. The cost of acquiring a new easement as well as the relocation of facilities would normally be considered as reimbursable costs and paid by the Highway Agency.

When a utility has land rights within the area being acquired for right of way and chooses to have its facilities remain within the remaining easement area or stay on highway right of way where the easement previously existed thereby saving the Highway Agency the cost of paying the utility to acquire a new private easement, the utility would provide the Highway Agency with a **Conveyance of Rights**. When this type of release of rights document is provided, the utility will be entitled to future reimbursement associated with the relocation or adjustment of the existing facilities within the prior easement area should they need relocation or adjustment to accommodate expanded or additional highway improvements.

If a Highway Agency does not desire to be placed in a position where they may be held responsible for future utility relocation costs, they should require a Quit Claim Deed be provided and pay the utility the cost to acquire replacement land rights for the land right being lost through the highway taking. However, it should be kept in mind that a utility will usually acquire a new easement just outside the right of way being acquired for highway use and in fact have to be paid for the relocation should the need arise to acquire additional right of way in the future.

Each permanent release of rights document, either the Quit Claim Deed or the Conveyance of Rights, must be signed by an authorized utility representative, and recorded with the County Register of Deeds. In order to record the documents, each will have to be authenticated by an attorney licensed to practice law, or notarized by a licensed Notary Public. Copies of the original recorded release of rights document should be submitted to the utility company and to the local unit of government.

WisDOT has developed a Quit Claim Deed and a Conveyance of Rights document that can be modified for a specific county, city, village, or town.

Form Type	County	City	Village	Town
Quit Claim Deed	Attachment 17.11.1	Attachment 17.11.2	Attachment 17.11.3	Attachment 17.11.4
Conveyance of Rights	Attachment 17.11.5	Attachment 17.11.6	Attachment 17.11.7	Attachment 17.11.8

There are times when the Highway Agency is acquiring a Temporary Limited Easement (TLE) in order to construct a portion of a highway improvement project. Whenever a TLE is obtained in an area where a utility has a land interest, any utility facilities within the TLE are compensable. In order to provide that compensation, the Highway Agency needs to acquire a temporary land right from the utility. A document signed by the utility company is needed to convey this temporary land interest. A Quit Claim Deed or a Conveyance of Rights In Land would be inappropriate because they are permanent documents. A temporary document is required in which the utility company acknowledges that they have an interest in the land and that they are aware of our proposed work. A **Temporary Construction Easement** is the document most commonly used.

Many utility company easements place restrictions on what kind of excavation can occur in the easement area. Often work associated with a highway project may violate those restrictions. A Temporary Construction Easement removes any utility company restrictions on the land for the duration of the highway project, allowing the highway work to proceed. If a utility company balks at signing a Temporary Construction Easement and they have no compensable relocations, the Highway Agency can settle for a letter from the utility stating that they are aware of the project and that the project will not adversely affect their easement rights. If there is some compensable relocation, the Highway Agency needs to acquire a temporary land right from the utility in order to be able to pay them. The Temporary Construction Easement must be signed by the utility in order for them to receive payment.

There are two versions of the Temporary Construction Easement document. See [Attachment 17.11.9](#) for a sample of a Temporary Construction Easement for Traditional Plats. A Temporary Construction Easement for a Transportation Project Plat (TPP) will have slightly different wording than a Temporary Construction Easement for a non-TPP project. The right of way plat for a TPP is recorded at the County Register of Deeds office. However, this will frequently take place late in the design process, possibly after the Project Plans package is sent to the utility companies. Since the Temporary Construction Easement is not recorded, it does not have to contain the recording information of the TPP. It can merely refer to the right of way plat by project ID number and state that the plat is available for viewing at the Highway Agency office. See [Attachment 17.11.10](#) for a sample of a Temporary Construction Easement for Transportation Project Plats.

When a Permanent Limited Easement (PLE) is acquired in an area where a utility has a land interest, any utility facilities within the PLE are compensable. Since the Highway Agency is not the underlying fee owner, a Conveyance of Rights is not the proper document to use because the utility would be giving up its right to be on the land and the Highway Agency does not have the authority to grant permission to occupy the land to the utility. In a PLE area a Temporary Construction Easement should be used. This document expires when the work is completed and yet provides the Highway Agency with a document that both acknowledges the utility land interest and temporarily releases any restrictions that might affect construction activities.

Note: The original signed Temporary Construction Easement should be filed in the Project Real Estate files. Copies of the signed Temporary Construction Easement should be kept in the Region Management Consultant Utility Unit files.

17.12 Basic Utility Acquisition Process

The following format outlines the basic steps to be followed for normal utility acquisition.

1. Project concept is developed, determination made if any utility facilities are compensable. Decision regarding Federal/State Funding is made and included in the SMA document.
2. The Highway Agency sends the respective utility a *Notice of Reimbursable Work*. This notice includes: A draft release of rights document, a right of way plat, either a lump sum or an audit agreement form, and associated plans and cross sections.

3. The utility prepares an estimate for the cost of adjustment of its reimbursable facilities as shown on the right of way plat and returns the estimate along with the signed agreement and release of rights document to the Highway Agency.
4. The Highway Agency reviews the estimate and, if found acceptable, has the proper highway officials sign the agreement.
5. Where federal funds are used to acquire the utility interest, utility estimate packet (the proposed plan, estimate, signed agreement and release of rights document) must be submitted to the Region Management Consultant prior to the start of any compensable utility work. At this same time a 3-party utility agreement is submitted for approval.

The Region Management Consultant forwards the 3-party utility agreement and utility estimate packet to the Statewide Utility Projects Coordinator in the Bureau of Technical Services Utility and Access Unit.

The Statewide Utility Projects Coordinator reviews the 3-party utility agreement and utility estimate packet and if acceptable, has the Technical Services Chief of the Acquisition and Services Section of the Bureau of Technical Services sign the 3-party utility agreement. The Statewide Utility Projects Coordinator returns the signed 3-party utility agreement to the Highway Agency through the Region Management Consultant.

6. The Highway Agency returns the fully executed agreement to the utility and authorizes the utility to proceed with work. [Attachment 17.12.1](#) is a sample letter returning the approved utility agreement to the utility company and authorizing them to begin work. The release of rights document is sent to the Register of Deeds for recording. [Attachment 17.12.2](#) is a sample letter sending the release of rights document to the County Register of Deeds for recording. When the release of rights document is recorded and returned, a copy of the document bearing the recording data should be sent to the utility.
7. When the utility adjustments are complete the utility will send a bill to the Highway Agency for the reimbursable portion of the utility work. The Highway Agency should review the bill to ensure it conforms to the estimate, and then pay the bill. [Attachment 17.12.3](#) is a sample letter for sending the check to the utility company for a lump sum agreement. [Attachment 17.12.4](#) is a sample letter for sending the check to the utility company for an audit agreement.
8. When Federal funds are used, the Highway Agency sends a letter requesting reimbursement and a copy of the detailed invoice from the utility to the Region Management Consultant. The Management Consultant will forward the request for reimbursement and supporting documentation to the Statewide Utility Projects Coordinator. The Statewide Utility Projects Coordinator will review the supporting documentation to assure that the costs are reasonable and in compliance with the original agreement and then authorize payment to the Highway Agency. WisDOT then cuts a check to the Highway Agency.

If the agreement is an audit type, the agency or WisDOT may audit the utility records to verify the charges. This is optional and is not required if the Highway Agency is satisfied with the charges itemized in the billing.

THE UTILITY ACQUISITION PROCESS IS CONSIDERED COMPLETE!

17.13 Typical Time Sequence

**Weeks Prior to bid
letting of highway
contract**

ITEM OF WORK

	Project concept created, utility funding decision made State-Municipal Agreement is created
26 – 52	Right of way plat is prepared <i>Highway Agency approves right of way plat</i> Survey and Engineering by Utility Utility Prepares Estimate Utility executes forms (Agreement & Release of Rights documents) Estimates and Agreements are returned to Highway Agency <i>Highway Agency reviews estimate. WisDOT Management Consultant Utility Coordinator reviews if Federal funds are used to purchase Utility Parcels</i> <i>Highway Agency Officials sign utility agreement</i> <i>Utility Coordination Meeting is held</i> <i>Highway Agency returns agreement to Utility and authorizes work to begin</i>
20	<i>Highway Agency sends release of rights document to the Register of Deeds Office for recording. After recording, a copy of the release of rights document is sent to Utility by the Highway Agency.</i> Utility performs fieldwork per agreement * WisDOT reviews plans and certifies the project clear for letting
-0-	Highway contract is let to bid Highway contract is awarded <i>Pre-construction meeting is held</i> Highway construction work is performed
Completion and Payment Stage	Utility prepares and submits bill for relocation work <i>Highway Agency reviews bill: performs audit if applicable</i> <i>Highway Agency makes payment</i> Project is complete

* Every effort should be made to have utility work completed prior to highway construction.

Note, texts in *italics* indicate a task performed by the Highway Agency.

LOCAL PROJECT UTILITY COORDINATION TASK LIST

[This task list is to be filled out by the Management Consultant (MC), the design consultant, and the local highway agency, where appropriate. Tasks will be assigned as appropriate for this project.]

Project Description – Include Design Project ID, Title, Limits, Highway, County			
Construction ID's			
Date	MC Project Manager - Region		Telephone number
Consultant Name	Contact	Telephone number	Email address

Note: All Utility Coordination shall be done in accordance with the "WisDOT Guide to Utility Coordination" unless otherwise noted.

	TASK	MC	Local Agency	Design Consult.	N/A	Date Done
1	Provide Concept Definition Report (CDR) and copies of any subsequent revisions.					
2	WisDOT Region Utility Coordinator will create an initial list of known utilities in the project area.					
3	Verify the list created in #2. <i>FDM Procedure 18-10-10</i>			X		
4	Participate in project field review meeting.					
5	Complete Field Review Checklist	X				
6	Check local ordinances on utility coordination requirements			X		
7	Send project notification with cover letter and exhibits to utilities with a potential for facilities in the project area. <i>FDM Procedure 18-10-10</i>					
8	Invite utilities to Operation Planning Meeting. <i>FDM Procedure 18-10-10</i>					
9	Maintain Utility Correspondence Log. <i>FDM Procedure 18-1-15</i>				X	
10	Obtain system maps from the utilities. Compare the system maps with the highway plan information to confirm that all utility facilities are shown properly. <i>FDM Procedure 18-10-10</i>					
11	Field locate utility facilities in project area. <i>FDM Procedure 18-10-15</i> _____. Remove manhole covers. Determine flow line elevations and pipe sizes. _____. Expose existing utility facilities and obtain elevations (pothole) at the following locations: _____ NOTE: This will have to be coordinated with the facility owners.					
12	Provide 30% plan to MC for review prior to 30% Plan Review Meeting. (Environmental Document Stage)					
13	Show existing utility facilities on plat, plans and cross-sections [i.e., plot the horizontal locations of all buried and above ground utility facilities on mainline and side road cross sections]. <i>FDM Procedures 15-1-35, 18-10-25, and Utility Guide Chapter 10</i>					
14	Invite utilities to all Public Information Meetings.					

	TASK	MC	Local Agency	Design Consult.	N/A	Date Done
15	Provide a draft plat to the MC for review after all existing information, including compensable and non-compensable utility facilities and easements, has been added.					
16	Provide a final plat to the MC for review, including compensable and non-compensable utilities, prior to plat approval.					
17	Provide a copy of the DSR and plan and profile and cross-sections to MC at 60% stage.					
18	Identify potential utility conflicts and provide lists of potential conflicts to each utility. <i>FDM Procedure 18-10-20</i>					
19	Hold utility coordination meeting before plan sets are mailed to utility companies.					
20	NO PLAT: Send Project Plan Transmittal to all utilities along with plans and related exhibits. Include cover letter, conflict list, and Utility Worksheet. <i>FDM Procedure 18-10-30</i>					
21	PLAT: Send Project Plan Transmittal to all utilities along with plat, plans and related exhibits. Include cover letter, conflict list, and Utility Worksheet, utility agreement forms, and release of rights. <i>FDM Procedure 18-10-30 and 18-15-15</i>					
22	Draft & record releases of rights (Conveyance/Quit Claim/Temporary Construction Easement).					
23	Send copies of recorded documents to the highway agency and the appropriate utility.					
24	Provide revised plan sheets to all utilities with changes from previous plans indicated, as required. <i>FDM Procedure 18-10-45</i>					
25	Notify the utility companies of any coordination that has been done with the Department of Natural Resources.					
26	Provide information of hazardous material sites to utilities. With this information clearly state what hazardous material has been found, where it has been located, other potential sites, who will be responsible for the removal, handling of the removal, storage of material that has been removed, & the cost associated with any and all dealing of the hazardous material on this local highway project.					
27	Provide information of environmental conditions, as it is associated with this project, to utilities. This includes wetlands, bedrock, historical and archaeological sites, endangered species, underground storage tanks, etc.					
28	Hold a utility coordination meeting after the plan packages have been mailed to involved utility companies, but before work plans are due back. <i>FDM Procedure 18-10-35 and 18-20-5</i>					
29	Review utility work plans as they are received. Recommend corrective action if necessary. <i>FDM Procedure 18-10-35</i>					

	TASK	MC	Local Agency	Design Consult.	N/A	Date Done
30	Review utility estimates for reimbursement as they are received. Negotiate compensable utility agreements. (Return receipt mail may be used if necessary) <i>FDM Procedure 18-15-20 and 18-20-1</i>					
31	Send notice to utilities of having received their work plan, cost estimate, release of rights, waiver letter, etc. An email notice is acceptable.					
32	Identify and resolve (or recommend resolution for) any conflicts among the various utility work plans.					
33	Send utility cost estimates and agreements to Management Consultant for review and recommendation of approval if Federal or State funds are used for utility compensation.					
34	Send utility agreements to BTS Utility Coordinator for approval and processing if Federal or State funds are used for utility compensation.	X				
35	Approve utility work plans. <i>FDM Procedure 18-10-35</i>					
36	Send Work Plan Approval and Start Work Notices to utility companies.					
37	Provide 90% plan and profile and cross-sections to MC at PS&E review time.					
38	Review utility permits for compatibility with highway project design. Recommend corrective action if necessary.					
39	Approve utility permits.		X			
40	Conduct field meetings with all utilities.					
41	Write the utility section of the highway contract special provisions, based upon work plans provided by the utility owners. Use when appropriate: "These plans show utility facilities existing at the time of the original survey in _____ of _____. Facilities installed after this are addressed in the specials."					
42	Review the utility section of the highway contract special provisions.					
43	Update utility contacts for General Notes sheet on final plan based upon contact information provided by utilities from work plans.					
44	Prepare Form DT1080, Utility Status Report (USR), as part of the PS&E submittal package. <i>FDM Procedure 18-10-40</i>					
45	Provide right-of-way staking for utilities as needed throughout the design process. Right-of-way staking is needed only in the areas where utility facilities will be placed, not the entire project. Estimate this will be needed _____ times.					
46	Send a final, reduced size plan set and copy of the utility portion of the highway contract special provisions to each utility with facilities in the project area just prior to or soon after the final PS&E submittal. <i>FDM Procedure 18-10-45</i>					

	TASK	MC	Local Agency	Design Consult.	N/A	Date Done
47	Hold a utility coordination meeting after all work plans have been approved but before utility relocations begin. <i>FDM Procedure 18-10-35 and 18-10-45</i>					
48	Follow-up on status of utility relocations between PS&E submittal and the preconstruction meeting.					
49	Conduct Pre-Bid Utility Meeting for potential bidders to discuss utility relocations and utility coordination during construction.			X		
50	Attend the Pre-construction meeting and answer any questions regarding the utility coordination efforts.					
51	Provide staking for utilities between PS&E and start of highway construction. Estimate ____ number of times.					
52	Process utility agreement change orders and send to BTS Utility Coordinator if Federal or State funds are used for utility compensation.					
53	Process utility second moves and send to BTS Utility Coordinator if Federal or State funds are used for utility compensation.					
54	Process utility billings and send to BTS Utility Coordinator for reimbursement if Federal or State funds are used for utility compensation.					

Date of Field Review:
 Project ID:
 Name of Road:
 Feature Under:
 County:
 Bridge Number:
 Sufficiency Rating (Date):
 Structurally Deficient or Functionally Obsolete:

Checklist for Field Review	
Right-of-Way:	Railroad:
Potential Hazardous Materials Sites:	Utilities Present:
Wetland Mitigation:	Coordination Meeting Needed:
Historical/Arch Investigation:	Work Plan: ☐ Simple ☐ Medium ☐ Complex
Environmental Documentation:	Staking Required:
Current Clear Bridge Width:	Proposed Clear Bridge Width:
Road Status During Construction:	Proposed Design Class:
Average Daily Traffic:	Functional Classification:
Project Length:	Schedule Reviewed:
Program Estimate (including 15% E&C):	Update Estimate (including 15% E&C):

Comments:

Prepared By:

Note: This updates and verifies the information provided in the Concept Definition Report accepted _____.

December 14, 2007

County or Municipality Letterhead

September 20, 1998

WISCONSIN PUBLIC SERVICE CORPORATION
PO BOX 19002
GREEN BAY WI 54307-9002

RE: Project ID 1153-07-41
CTH A - South County Line
CTH I
Green County

We are preparing plans for the above road improvement project and would like to show all utility facilities owned by your company which are either within the public way or adjacent to it. A map is enclosed showing the project limits. Please show us where your facilities are located along this route. Copies of your plant maps would be very helpful to us in our design process.

This project is in Section 36, Town 3 North, Range 9 East, Town of Albany, Green County.

Also enclosed is a copy of the Concept Definition Report that explains the purpose and scope of our project. More detailed information and plans will be sent to you later.

You will be contacted in the future and asked to mark the locations of any underground lines so that our survey crews can obtain this information for our plans.

We are early in the design process, but we expect that construction will take place in 2006. We hope to have our plans completed by March of 2005. If you have any high-cost utility facilities in the proposed construction area, please let us know so that we can consider them as a design constraint and we will try to design around them.

Thank you for your cooperation on this project. We will keep you informed as our plans develop for this project. If you have any questions regarding this project, please contact me at __ (sender's contact information) or the project designer, _____ at __ (designer's contact information).

Sincerely,

Name
Title

County or Municipality Letterhead

September 20, 1998

WISCONSIN PUBLIC SERVICE CORPORATION
PO BOX 19002
GREEN BAY WI 54307-9002

**TRANSMITTAL OF PROJECT PLAN AND
NOTICE OF COMPENSABLE WORK**

RE: Project ID 1153-07-41
CTH A - South County Line
CTH C
Green County
Parcel 17, WISCONSIN PUBLIC SERVICE CORPORATION

It is our desire to acquire certain land rights from your company. Reimbursement will be made for facilities presently located on property in which your company has a compensable land interest and which will require adjustment. Enclosed for your approval and execution are the following documents:

1. Right-of-way plat showing the location of your facilities in relation to the proposed right-of-way for this highway. This project is in Section 36, Town 3 North, Range 9 East, Town of Albany, Green County.
2. {Quit Claim Deed by Utility, Conveyance of Rights in Land, or Temporary Construction Easement, whichever is appropriate} for Parcel # 17.
3. {Audit Agreement or Lump Sum Agreement}, providing for reimbursement of the associated utility relocation work.
4. A copy of the PROJECT PLANS for the above project.
5. A synopsis of the project containing information regarding any special features about this project, such as hazardous materials sites, historic or archaeological sites, marsh or environmentally sensitive areas, the proposed highway work schedule and any special civic constraints or activities that must be accommodated such as festivals and holiday events.

In connection with the agreement, we herewith extend plan preparation authority and preparation of the detail plan and estimate for the anticipated relocation work. The plan should show both the present affected facility and the relocated or replaced facility. Please also provide some stationing tie with the highway plan so that the location can be readily identified. The estimate should be made in compliance with CFR 23, Part 645, Subpart A-Utility Relocations, Adjustments and Reimbursements on the basis of replacement-in-kind theory, with appropriate credits for used life, salvage and betterments, and must follow your company's standard utility accounting practices. The plan and estimate must be furnished by the WORK PLAN due date of _____.

This project is scheduled for letting on **DATE**, with construction anticipated to begin in **MONTH** of **YEAR**.

Please furnish three (3) sets of the plan and estimate, the executed {Quit Claim Deed by Utility, Conveyance of Rights in Land, or Temporary Construction Easement, whichever is appropriate} and the signed agreement document.

This is not an authorization to proceed with construction. Construction performed before the _____ County Highway Commission accepts the contract will not be reimbursed.

If you have any questions regarding this project, please contact me at ____ (sender's contact information) or the project designer, _____ at ____ (designer's contact information).

Sincerely,

Name
Title

County or Municipality Letterhead

September 20, 1998

WISCONSIN PUBLIC SERVICE CORPORATION
PO BOX 19002
GREEN BAY WI 54307-9002

RE: Project ID 1153-07-41
CTH A - South County Line
CTH E
Green County

Please review the enclosed PROJECT PLANS to determine the impact this proposed highway project would have on your facilities. Also included is a synopsis of the project containing information regarding any special features about this project, such as hazardous materials sites, historic or archaeological sites, marsh or environmentally sensitive areas, the proposed highway work schedule and any special civic constraints or activities that must be accommodated such as festivals and holiday events.

This project is in Section 36, Town 3 North, Range 9 East, Town of Albany, Green County.

You may wish to meet with the Design Engineer (add designer contact information) to discuss relocation and permit requirements.

This letter is not an authorization to undertake any study or relocation work at our expense. If you feel you have a land interest in which payment should be made for relocation of facilities, please contact our office so that we may review your claim and, if necessary, revise our right-of-way plat.

You will be provided with a final plan reflecting any changes prior to the letting date. This project is scheduled for letting on **DATE**, with construction anticipated to begin in **MONTH**, of **YEAR**.

If you have any non-design related questions, you may contact me at _____

Sincerely,

Name
Title

County or Municipality Letterhead

November 18, 2001

Bresnan Communications
Attn: Larry Ladwig
1022 South 19th St
PO Box 758
La Crosse WI 54602-0758

SUBJECT: **Work Plan Reminder**
ID 1644-06-71
Farnum Street to Redfield Street
USH 14 (South Avenue), City of La Crosse
La Crosse County

Dear Mr. Ladwig:

I have not yet received a work plan from you describing your plan for the relocation of your facilities in conflict with next year's South Avenue project. The project will be let to bids in April and will be built shortly thereafter. I need to receive a work plan from you as soon as possible in order for me to write the utility special provisions and which will become part of the contract for the project.

I have included another copy of the utility worksheet to help you in providing me with the information I need, along with a copy of the letter I mailed out with the project plans in August of this year.

Unresolved or unexpected conflicts create problems for all of us during construction. There is a good chance for damage to your facilities and delays to the contractor if conflicts are not addressed and their resolution planned for in advance. With an urban project like this one much of the utility work may need to take place during construction, so good advance planning will help the project get built as smoothly as possible. Highway contractors bid on the project based on information in the utility special provisions, so please include as much detail as possible on what you will need to move, when, and how long it will take.

If you have any questions regarding the preparation of the work plan, or if you would like a meeting to review the project please call me at (608) 785-9032, or the designer, Ron Egge at (608) 789-7874.

Sincerely,

Name
Title

enclosure

AUDIT AGREEMENT FOR PAYMENT TO MUNICIPALITY FOR LANDS OR INTERESTS IN LANDS ACQUIRED FROM PUBLIC UTILITY

This Agreement is made and entered into by and between the Wisconsin Department of Transportation hereinafter designated as the "DEPARTMENT", the signatory _____ hereinafter designated as the "MUNICIPALITY," for the payment for certain lands or interests in lands acquired by the MUNICIPALITY from _____, a public utility company, a quasi utility or cooperative hereinafter designated as the "COMPANY" in connection with a transportation improvement designated:

Project:

**Utility Project ID:
Parcel #:**

WITNESSETH: For and in consideration of the conveyance by separate instrument to the MUNICIPALITY of certain lands or interests or rights in said lands in which the COMPANY holds a real property interest, the DEPARTMENT will pay to the MUNICIPALITY an amount equal to the net cost incurred by the COMPANY for the actual removal, relocation, alteration, or other rearrangement of the COMPANY facilities situated on the said lands required to restore equivalent function as necessary, in kind if feasible, of the affected segment of the COMPANY facility.

The work covered by the Agreement is set forth in the Exhibit hereto attached and made a part hereof. The Exhibit consists of a statement of the work and a proposed schedule for its accomplishment and coordination if necessary with the companion transportation work, an estimate of costs, plans and special provisions, if any.

The work shall be performed under normal COMPANY practices and the costs thereof computed and determined in accordance with the work order accounting procedure prescribed or approved for the COMPANY by the regulatory agency having jurisdiction, including applicable provisions of the Code of Federal Regulations 23, Part 645, Subpart A - Utility Relocations, Adjustments, and Reimbursement. It is further understood, however, that:

1. All salvage shall be credited to the project in the manner prescribed under the COMPANY's accounting procedure for work undertaken at the expense and volition of the COMPANY. When recovered materials are to be disposed of by sale or as scrap, the COMPANY shall either have filed with the MUNICIPALITY an acceptable statement outlining the COMPANY's current standard practice and procedure for disposal of such material or shall give written notice to the MUNICIPALITY of the location and time said recovered materials will be available for inspection.
2. A credit shall be given representative of the amount of depreciation accrual, if any, assignable to the facilities subject to replacement. Such credit shall be calculated for all facilities covered by the Code of Federal Regulations 23, Section 645.117(h). The amount of the credit shall be based upon the original installed cost, the age of the facility and the applicable depreciation rates, but may also consider the average service lives certified by the regulatory agency having jurisdiction and the expected remaining service lives of the existing materials.
3. Work under this Agreement shall not start until the COMPANY has received written notice from the MUNICIPALITY to proceed with the work. The COMPANY shall give prior notice to the MUNICIPALITY when it proposes to commence its construction operations and shall give similar notification when operations are resumed subsequent to suspension of operations. Any significant change in the extent or scope of the work under this agreement must be covered by a written change order or an extra work order. **It is expressly understood and agreed that any work by the COMPANY prior to authorization by the MUNICIPALITY shall be at the COMPANY's sole expense.**

The COMPANY shall not subcontract any portion of the work included under this Agreement without the prior approval of the MUNICIPALITY except for work of relatively minor cost or nature. Any existing continuing contract, under which the COMPANY now has certain work regularly performed, will be considered to conform to the requirements of this section, provided the contract is submitted for the MUNICIPALITY's prior approval.

The COMPANY shall keep and make available to the MUNICIPALITY detailed payrolls for office and field personnel, equipment use records, materials used, and salvage records including the condition and disposition of the removed and salvaged materials, as well as payments to any utility subcontractor if the work is performed in that manner.

4. Upon completion of the work contemplated under this Agreement, the COMPANY will submit invoices to the MUNICIPALITY setting forth the actual and related indirect cost in substantially the same detail and order indicated in the estimate attached to this Agreement. Each copy of such invoice shall identify the location where the supporting records for the costs included in the billing may be reviewed as well as the name of the COMPANY custodian of such records. Invoices shall be submitted within one year of the completion of the companion highway construction project.

The COMPANY agrees to permit audit of said invoices by the MUNICIPALITY, DEPARTMENT, or by the Federal Highway Administration, if necessary, and to offer prompt support for any item cited for review or be deemed to concur in the deletion or correction thereof. The supportable net amount of the invoice verified by audit as being in compliance with the provisions of this Agreement shall be paid by the MUNICIPALITY to the COMPANY and will be accepted as full compensation for the rights or interests in the lands conveyed, including all damages, costs and expenses incurred by the COMPANY and arising from or necessitated by the said conveyance. Said invoice shall be submitted to the DEPARTMENT's Management Consultant with a request for reimbursement and a copy of the COMPANY invoice, record of payment, and supporting documentation who will forward it to the DEPARTMENT's Utility Projects Coordinator. The Utility Projects Coordinator shall review the invoice for compliance with the original agreement and applicable State and Federal regulations. When this compliance is assured, the Utility Projects Coordinator will authorize payment by the DEPARTMENT to the MUNICIPALITY.

The MUNICIPAL UTILITY shall comply with the Buy America requirements specified under 23 USC 313 and 23 CFR 635.410 when any part of this highway improvement project involves funding by the Federal Aid Highway Program. To complete processing of invoices submitted, the MUNICIPAL UTILITY shall provide to the DEPARTMENT a signed DT2249, *Utility's Certificate of Compliance for Steel and Iron Items*.

5. In Connection with the performance of work under this contract, the COMPANY agrees not to discriminate against any employee or applicant for employment because of age, race, religion, color, handicap, sex, physical condition, developmental disability as defined in s.51.01(5) Wisconsin Statutes, sexual orientation as defined s.111.32(13m) Wisconsin Statutes or national origin. This provision shall include, but not be limited to, the following: employment, upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. Except with respect to sexual orientation, the COMPANY further agrees to take affirmative action to ensure equal employment opportunities. The COMPANY agrees to post in conspicuous places, available for employees and applicants for employment, notices to be provided by the contracting officer setting forth the provisions of the nondiscrimination clause.
6. The execution of this Agreement by the MUNICIPALITY or DEPARTMENT shall not relieve the COMPANY from compliance with applicable Federal and State laws, Wisconsin Administrative Codes, and local laws or ordinances which may affect the performance of the work covered herein, and shall not be construed to supersede any other governmental agency requirements for plan approval or authority to undertake the utility alteration work.

No COMPANY work affecting highway lands shall be undertaken without any required separate permit, which may be processed and approved concurrently with this Agreement.

7. It is further agreed that any legal action taken by the COMPANY because of dispute arising through this transaction shall be for monetary considerations only, and shall not be for the revocation of the conveyance for the lands or rights or interests therein.
8. The Agreement is not binding upon the parties hereto until this document has been fully executed by the DEPARTMENT, MUNICIPALITY, and the COMPANY.

IN WITNESS WHEREOF the parties hereto have caused this Agreement to be executed by their proper officers and representatives on the year and the day below written.

Wisconsin Department of Transportation

(Authorized Signature)

(Date)

LOCAL UNIT OF GOVERNMENT

(Authorized Signature)

(Date)

(Company)

(Signature) (Date)

(Title)

(Signature) (Date)

(Title)

LUMP SUM AGREEMENT FOR PAYMENT FOR LANDS OR INTERESTS IN LANDS ACQUIRED FROM PUBLIC UTILITY

This Agreement is made and entered into by and between the _____ hereinafter designated as the "DEPARTMENT," and _____, a public utility company, a quasi utility or cooperative hereinafter designated as the "COMPANY," to provide for the lump sum payment in the amount of \$ _____ for lands or interests in lands being acquired from the COMPANY in connection with a highway improvement designated:

Project:**Utility Project ID:
Parcel #:**

WITNESSETH: WHEREAS the COMPANY now has facilities located on the aforesaid parcel lands, and the DEPARTMENT has requested the COMPANY to remove, relocate, rebuild or otherwise rearrange said facilities in order that these lands may be vacated to the extent required for the designated highway improvement.

NOW, THEREFORE, it is mutually agreed as follows:

1. The COMPANY will convey to the DEPARTMENT, by separate instrument, the parcel of land or land interests identified above.
2. The COMPANY agrees to remove, relocate, rearrange or rebuild its facilities situated on said parcel as required by the DEPARTMENT to construct and operate the above-described highway improvement.

The work necessary for this purpose is indicated in the Exhibit attached hereto and made a part hereof. The Exhibit consists of a statement of the work and proposed schedule for its accomplishment, the estimate of cost, plans and special provisions, if any.

The work shall be performed under normal COMPANY practices and the costs thereof computed and determined in accordance with the work order accounting procedure prescribed or approved for the COMPANY by the regulatory agency having jurisdiction, including applicable provisions of the Code of Federal Regulations 23, Part 645, Subpart A - Utility Relocations, Adjustments, and Reimbursement. Credits for anticipated salvage and accrued depreciation, if any, have been provided in the same amount and computed in the same manner as if the work were being undertaken at the expense and volition of the COMPANY.

3. The DEPARTMENT agrees to pay the COMPANY the lump sum amount indicated above after the parcel has been conveyed to it and after the adjustment of the COMPANY's facilities presently situated thereon has been satisfactorily completed. An invoice shall be submitted by the COMPANY within one year of the completion of the companion highway project.

Payment of such lump sum amount by the DEPARTMENT to the COMPANY shall constitute full and final compensation for the parcel conveyed, including all damages, costs and expenses incurred by the COMPANY and arising from or necessitated by the conveyance. Any legal action taken by the COMPANY because of dispute arising through this transaction shall be for monetary considerations only, and shall not be for the revocation of the conveyed parcel.

4. In connection with the performance of work under this Agreement, the COMPANY agrees not to discriminate against any employee or applicant for employment because of age, race, religion, color, handicap, sex, physical condition, developmental disability as defined in s.51.01(5) Wisconsin Statutes, sexual orientation as defined in s.111.32(13m) Wisconsin Statutes or national origin. This provision shall include, but not be limited to, the following: employment, upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. Except with respect to sexual orientation, the COMPANY further agrees to take affirmative action to ensure equal employment opportunities.

The COMPANY shall comply with the Buy America requirements specified under 23 USC 313 and 23 CFR 635.410 when any part of this highway improvement project involves funding by the Federal Aid Highway Program. To complete processing of invoices submitted, the COMPANY shall provide to the DEPARTMENT a signed DT2249, *Utility's Certificate of Compliance for Steel and Iron Items*.

5. The execution of this Agreement by the DEPARTMENT shall not relieve the COMPANY from compliance with applicable Federal and State laws, Wisconsin Administrative Codes, and local laws or ordinances which may affect the

performance of the work covered herein, and shall not be construed to supersede any other governmental agency requirements for plan approval or authority to undertake the utility alteration work.

No COMPANY work affecting highway lands shall be undertaken without any required separate permit, which may be processed and approved concurrently with this agreement.

6. The Agreement is not binding upon the parties hereto until this document has been fully executed by the COMPANY and the DEPARTMENT. **It is expressly understood and agreed that any work by the COMPANY prior to authorization by the DEPARTMENT shall be at the COMPANY's sole expense.**

IN WITNESS WHEREOF the parties hereto have caused this Agreement to be executed by their proper officers and representatives on the year and the day below written.

LOCAL UNIT OF GOVERNMENT	_____	
	(Company)	
	_____	_____
	(Signature)	(Date)

	(Title)	
_____	_____	
(Authorized Signature)	(Signature)	(Date)
_____	_____	
(Date)	(Title)	

AUDIT AGREEMENT FOR PAYMENT FOR LANDS OR INTERESTS IN LANDS ACQUIRED FROM PUBLIC UTILITY

This Agreement is made and entered into by and between the _____ hereinafter designated as the "DEPARTMENT," and _____, a public utility company, a quasi utility or cooperative hereinafter designated as the "COMPANY," for the payment for certain lands or interests in lands acquired by the DEPARTMENT from the COMPANY in connection with a transportation improvement designated:

Project:

**Utility Project ID:
Parcel #:**

WITNESSETH: For and in consideration of the conveyance by separate instrument to the DEPARTMENT of certain lands or interests or rights in said lands in which the COMPANY holds a real property interest, the DEPARTMENT will pay to the COMPANY an amount equal to the net cost incurred by the COMPANY for the actual removal, relocation, alteration, or other rearrangement of the COMPANY facilities situated on the said lands required to restore equivalent function as necessary, in kind if feasible, of the affected segment of COMPANY facility.

The work covered by the Agreement is set forth in the Exhibit hereto attached and made a part hereof. The Exhibit consists of a statement of the work and a proposed schedule for its accomplishment and coordination if necessary with the companion transportation work, an estimate of costs, plans and special provisions, if any.

The work shall be performed under normal COMPANY practices and the costs thereof computed and determined in accordance with the work order accounting procedure prescribed or approved for the COMPANY by the regulatory agency having jurisdiction, including applicable provisions of the Code of Federal Regulations 23, Part 645, Subpart A - Utility Relocations, Adjustments, and Reimbursement. It is further understood, however, that:

1. All salvage shall be credited to the project in the manner prescribed under the COMPANY's accounting procedure for work undertaken at the expense and volition of the COMPANY. When recovered materials are to be disposed of by sale or as scrap, the COMPANY shall either have filed with the DEPARTMENT an acceptable statement outlining the COMPANY's current standard practice and procedure for disposal of such material or shall give written notice to the DEPARTMENT of the location and time said recovered materials will be available for inspection.
2. A credit shall be given representative of the amount of depreciation accrual, if any, assignable to the facilities subject to replacement. Such credit shall be calculated for all facilities covered by the Code of Federal Regulations 23, Section 645.117(h). The amount of the credit shall be based upon the original installed cost, the age of the facility and the applicable depreciation rates, but may also consider the average service lives certified by the regulatory agency having jurisdiction and the expected remaining service lives of the existing materials.
3. Work under this Agreement shall not start until the COMPANY has received written notice from the DEPARTMENT to proceed with the work. The COMPANY shall give prior notice to the DEPARTMENT when it proposes to commence its construction operations and shall give similar notification when operations are resumed subsequent to suspension of operations. Any significant change in the extent or scope of the work under this agreement must be covered by a written change order or an extra work order. **It is expressly understood and agreed that any work by the COMPANY prior to authorization by the DEPARTMENT shall be at the COMPANY's sole expense.**

The COMPANY shall not subcontract any portion of the work included under this Agreement without the prior approval of the DEPARTMENT except for work of relatively minor cost or nature. Any existing continuing contract, under which the COMPANY now has certain work regularly performed, will be considered to conform to the requirements of this section, provided the contract is submitted for the DEPARTMENT's prior approval.

The COMPANY shall keep and make available to the DEPARTMENT detailed payrolls for office and field personnel, equipment use records, materials used, and salvage records including the condition and disposition of the removed and salvaged materials, as well as payments to any utility subcontractor if the work is performed in that manner.

4. Upon completion of the work contemplated under this Agreement, the COMPANY will submit invoices to the DEPARTMENT setting forth the actual and related indirect cost in substantially the same detail and order indicated in the estimate attached to this Agreement. Each copy of such invoice shall identify the location where the supporting records for the costs included in the billing may be reviewed as well as the name of the COMPANY custodian of such records. Invoices shall be submitted within one year of the completion of the companion highway construction project.

The COMPANY shall comply with the Buy America requirements specified under 23 USC 313 and 23 CFR 635.410 when any part of this highway improvement project involves funding by the Federal Aid Highway Program. To complete processing of invoices submitted, the COMPANY shall provide to the DEPARTMENT a signed DT2249, *Utility's Certificate of Compliance for Steel and Iron Items*.

The COMPANY agrees to permit audit of said invoices by the DEPARTMENT and by the Federal Highway Administration, if necessary, and to offer prompt support for any item cited for review or be deemed to concur in the deletion or correction thereof. The supportable net amount of the invoice verified by audit as being in compliance with the provisions of this Agreement shall be paid by the DEPARTMENT and will be accepted as full compensation for the rights or interests in the lands conveyed, including all damages, costs and expenses incurred by the COMPANY and arising from or necessitated by the said conveyance.

5. In Connection with the performance of work under this contract, the COMPANY agrees not to discriminate against any employee or applicant for employment because of age, race, religion, color, handicap, sex, physical condition, developmental disability as defined in s.51.01(5) Wisconsin Statutes, sexual orientation as defined s.111.32(13m) Wisconsin Statutes or national origin. This provision shall include, but not be limited to, the following: employment, upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. Except with respect to sexual orientation, the COMPANY further agrees to take affirmative action to ensure equal employment opportunities. The COMPANY agrees to post in conspicuous places, available for employees and applicants for employment, notices to be provided by the contracting officer setting forth the provisions of the nondiscrimination clause.
6. The execution of this Agreement by the DEPARTMENT shall not relieve the COMPANY from compliance with applicable Federal and State laws, Wisconsin Administrative Codes, and local laws or ordinances which may affect the performance of the work covered herein, and shall not be construed to supersede any other governmental agency requirements for plan approval or authority to undertake the utility alteration work.

No COMPANY work affecting highway lands shall be undertaken without any required separate permit, which may be processed and approved concurrently with this Agreement.

7. It is further agreed that any legal action taken by the COMPANY because of dispute arising through this transaction shall be for monetary considerations only, and shall not be for the revocation of the conveyance for the lands or rights or interests therein.
8. The Agreement is not binding upon the parties hereto until this document has been fully executed by the COMPANY and the DEPARTMENT.

IN WITNESS WHEREOF the parties hereto have caused this Agreement to be executed by their proper officers and representatives on the year and the day below written.

LOCAL UNIT OF GOVERNMENT

_____ (Authorized Signature) _____ (Date)	_____ (Company) _____ (Signature) (Date) _____ (Title) _____ (Signature) (Date) _____ (Title)
---	--

Document Number QUIT CLAIM DEED By Utility

Exempt from fee s.77.25(2r) Wis. Stats.
s.83.06 Wis. Stats.

THIS DEED, made by Emerald City Electric GRANTOR, a utility organized and existing under the laws of the State of Wisconsin and authorized to transact business in the State of Wisconsin, with its principal place of business at 1114 Barnes St. City of Green Bay County of Brown State of Wisconsin quit claims to the County of Brown, GRANTEE, all of its title, rights, or interests in and to the lands described, reserving to itself the ownership and title of its facilities or personalities occupying the described lands, and which the GRANTOR, at its own cost and expense will remove from the lands, or will so relocate, change, or alter that they will not interfere with or be interfered with or be interfered with by the normal operation and maintenance of a public highway on the described lands, for the sum of One Dollar (\$1) and other good and valuable consideration. Any person named in this deed may make an appeal from the amount of compensation within six months after the date of recording of this deed as set forth in s.32.05(2a) Wisconsin Statutes. For the purpose of any such appeal, the amount of compensation stated on the deed shall be treated as the award, and the date the deed is recorded shall be treated as the date of taking and the date of evaluation. Other persons having an interest of record in the property: None. If not appropriate, cross out None and list name(s).

NONE

Legal Description

See attached legal description

Return to
Julie Harris
1112 County Rd CB
Green Bay, WI 54313

Parcel Identification Number/Tax Key Number
See attached list

The undersigned certify that this instrument is executed pursuant to a resolution of the Board of Directors (or shareholders, stockholders, or members, if authorized by law) of GRANTOR corporation or cooperative.

Acknowledgment

(Grantor Name)

(Signature)

(Title)

(Print Name)

(Signature)

(Title)

(Print Name)

(Date)
State of _____)
_____) ss.
_____ County)
On the above date, this instrument was acknowledged before me by
the named person(s).

(Signature, Notary Public)

(Print or Type Name, Notary Public)

(Date Commission Expires)

Utility or RW Project ID 1123-01-22

This instrument was drafted by Brown County

RW Parcel No. 43

Quit Claim Deed for County Projects
Revised: 03/2006

Page 1 of 2

Parcel Identification Number/Tax Key Number

22810-1911-0150-0000
22810-1911-0125-0000
22810-2002-0375-0000
22810-2022-0100-0000
22810-2021-0325-0000
22810-2021-0327-0000
22810-2021-0425-0000

Legal Description

All that part of the lands subject to Grantor's easements or interests included in lands acquired for the improvement of CTH CB by the Grantee in:
parcels 1, 3, 5 and 15 of Transportation Project Plat 1123-01-22-4.01, recorded as Document #1432158 and filed in TPP Cab Pg 6a;
parcels 20 and 29 of Transportation Project Plat 1123-01-22-4.02, recorded as Document #1432159 and filed in TPP Cab Pg 7b;
parcels 31 and 40 of Transportation Project Plat 1123-01-22-4.03, recorded as Document #1432160 and filed in TPP Cab Pg 8c;
in the Brown County Office of the Register of Deeds and all subsequent revisions.

Document Number QUIT CLAIM DEED By Utility

Exempt from fee s.77.25(2r) Wis. Stats.
s.62.22 Wis. Stats.

THIS DEED, made by Emerald City Electric GRANTOR, a utility organized and existing under the laws of the State of Wisconsin and authorized to transact business in the State of Wisconsin, with its principal place of business at 1114 Barnes St City of Green Bay County of Brown State of Wisconsin quit claims to the City of Green Bay, GRANTEE, all of its title, rights, or interests in and to the lands described, reserving to itself the ownership and title of its facilities or personalities occupying the described lands, and which the GRANTOR, at its own cost and expense will remove from the lands, or will so relocate, change, or alter that they will not interfere with or be interfered with or be interfered with by the normal operation and maintenance of a public highway on the described lands, for the sum of One Dollar (\$1) and other good and valuable consideration. Any person named in this deed may make an appeal from the amount of compensation within six months after the date of recording of this deed as set forth in s.32.05(2a) Wisconsin Statutes. For the purpose of any such appeal, the amount of compensation stated on the deed shall be treated as the award, and the date the deed is recorded shall be treated as the date of taking and the date of evaluation. Other persons having an interest of record in the property: None. If not appropriate, cross out None and list name(s).

NONE

Legal Description

See attached legal description

Return to
Julie Harris
City of Green Bay
1678 Madison St.
Green Bay, WI 54301

Parcel Identification Number/Tax Key Number
See attached list

The undersigned certify that this instrument is executed pursuant to a resolution of the Board of Directors (or shareholders, stockholders, or members, if authorized by law) of GRANTOR corporation or cooperative.

Acknowledgment

(Grantor Name)

(Signature)

(Title)

(Print Name)

(Signature)

(Title)

(Print Name)

(Date)
State of _____)
_____) ss.
_____, County)
On the above date, this instrument was acknowledged before me by
the named person(s).

(Signature, Notary Public)

(Print or Type Name, Notary Public)

(Date Commission Expires)

Utility or RW Project ID 1123-01-22
Quit Claim Deed for City Projects
Revised: 05/2006

This instrument was drafted by City of Green Bay

R/W Parcel No. 22
Page 1 of 2

Parcel Identification Number/Tax Key Number

22810-1911-0150-0000
22810-1911-0125-0000
22810-2002-0375-0000
22810-2022-0100-0000
22810-2021-0325-0000
22810-2021-0327-0000
22810-2021-0425-0000

Legal Description

All that part of the lands subject to Grantor's easements or interests included in lands acquired for the improvement of Main St. by the Grantee in:
parcels 1, 3, 5 and 15 of Transportation Project Plat 1123-01-22-4.01, recorded as Document #1432158 and filed in TPP Cab Pg 6a;
parcels 20 and 29 of Transportation Project Plat 1123-01-22-4.02, recorded as Document #1432159 and filed in TPP Cab Pg 7b;
parcels 31 and 40 of Transportation Project Plat 1123-01-22-4.03, recorded as Document #1432160 and filed in TPP Cab Pg 8c;
in the Brown County Office of the Register of Deeds and all subsequent revisions.

Document Number QUIT CLAIM DEED By Utility

Exempt from fee s.77.25(2r) Wis. Stats.
s.61.34 (3) and (3m) Wis. Stats.

THIS DEED, made by Emerald City Electric Company GRANTOR, a utility organized and existing under the laws of the State of Wisconsin and authorized to transact business in the State of Wisconsin, with its principal place of business at 1114 Barnes St. City of Green Bay County of Brown State of Wisconsin quit claims to the Village of Ashwaubenon, GRANTEE, all of its title, rights, or interests in and to the lands described, reserving to itself the ownership and title of its facilities or personalities occupying the described lands, and which the GRANTOR, at its own cost and expense will remove from the lands, or will so relocate, change, or alter that they will not interfere with or be interfered with or be interfered with by the normal operation and maintenance of a public highway on the described lands, for the sum of One Dollar (\$1) and other good and valuable consideration. Any person named in this deed may make an appeal from the amount of compensation within six months after the date of recording of this deed as set forth in s.32.05(2a) Wisconsin Statutes. For the purpose of any such appeal, the amount of compensation stated on the deed shall be treated as the award, and the date the deed is recorded shall be treated as the date of taking and the date of evaluation. Other persons having an interest of record in the property: None. If not appropriate, cross out None and list name(s).

NONE

Legal Description

See attached legal description

The undersigned certify that this instrument is executed pursuant to a resolution of the Board of Directors (or shareholders, stockholders, or members, if authorized by law) of GRANTOR corporation or cooperative.

Acknowledgment

(Grantor Name)

(Signature)

(Title)

(Print Name)

(Signature)

(Title)

(Print Name)

(Date)
State of _____)
_____) ss.
_____, County)
On the above date, this instrument was acknowledged before me by the named person(s).

(Signature, Notary Public)

(Print or Type Name, Notary Public)

(Date Commission Expires)

Return to

Julie Packer

Village of Ashwaubenon

1456 Holmgren Way

Ashwaubenon, WI 54304

Parcel Identification Number/Tax Key Number

See attached list

Utility or RW Project ID 1123-01-22

This instrument was drafted by Village of Ashwaubenon

RW Parcel No. 42

Quit Claim Deed for Village Projects
Revised: 05/2006

Page 1 of 2

Parcel Identification Number/Tax Key Number

22810-1911-0150-0000
22810-1911-0125-0000
22810-2002-0375-0000
22810-2022-0100-0000
22810-2021-0325-0000
22810-2021-0327-0000
22810-2021-0425-0000

Legal Description

All that part of the lands subject to Grantor's easements or interests included in lands acquired for the improvement of CTH CB by the Grantee in:
parcels 1, 3, 5 and 15 of Transportation Project Plat 1123-01-22-4.01, recorded as Document #1432158 and filed in TPP Cab Pg 6a;
parcels 20 and 29 of Transportation Project Plat 1123-01-22-4.02, recorded as Document #1432159 and filed in TPP Cab Pg 7b;
parcels 31 and 40 of Transportation Project Plat 1123-01-22-4.03, recorded as Document #1432160 and filed in TPP Cab Pg 8c;
in the Brown County Office of the Register of Deeds and all subsequent revisions.

Document Number QUIT CLAIM DEED By Utility

Exempt from fee s.77.25(2r) Wis. Stats.
s.82.14(1) Wis. Stats.

THIS DEED, made by Emerald City Electric GRANTOR, a utility organized and existing under the laws of the State of Wisconsin and authorized to transact business in the State of Wisconsin, with its principal place of business at 1114 Barnes St. City of Green Bay County of Brown State of Wisconsin quit claims to the Town of Green Bay, GRANTEE, all of its title, rights, or interests in and to the lands described, reserving to itself the ownership and title of its facilities or personalities occupying the described lands, and which the GRANTOR, at its own cost and expense will remove from the lands, or will so relocate, change, or alter that they will not interfere with or be interfered with or be interfered with by the normal operation and maintenance of a public highway on the described lands, for the sum of One Dollar (\$1) and other good and valuable consideration. Any person named in this deed may make an appeal from the amount of compensation within six months after the date of recording of this deed as set forth in s.32.05(2a) Wisconsin Statutes. For the purpose of any such appeal, the amount of compensation stated on the deed shall be treated as the award, and the date the deed is recorded shall be treated as the date of taking and the date of evaluation. Other persons having an interest of record in the property: None. If not appropriate, cross out None and list name(s).

NONE

Legal Description

See attached legal description

Return to
Julie Harris
Town of Green Bay
1678 Town Line Rd.
Green Bay, WI 54301

Parcel Identification Number/Tax Key Number
See attached list

The undersigned certify that this instrument is executed pursuant to a resolution of the Board of Directors (or shareholders, stockholders, or members, if authorized by law) of GRANTOR corporation or cooperative.

Acknowledgment

(Grantor Name)

(Signature)

(Title)

(Print Name)

(Signature)

(Title)

(Print Name)

(Date)
State of _____)
_____) ss.
_____) County
On the above date, this instrument was acknowledged before me by
the named person(s).

(Signature, Notary Public)

(Print or Type Name, Notary Public)

(Date Commission Expires)

Utility or RW Project ID 1154-01-21

This instrument was drafted by Town of Green Bay

R/W Parcel No. 43

Quit Claim Deed for Town Projects
Revised: 03/2006

Page 1 of 2

Parcel Identification Number/Tax Key Number

22810-1911-0150-0000
22810-1911-0125-0000
22810-2002-0375-0000
22810-2022-0100-0000
22810-2021-0325-0000
22810-2021-0327-0000
22810-2021-0425-0000

Legal Description

All that part of the lands subject to Grantor's easements or interests included in lands acquired for the improvement of CTH EA by the Grantee in:
parcels 1, 3, 5 and 15 of Transportation Project Plat 1154-01-21-4.01, recorded as Document #1432168 and filed in TPP Cab Pg 6a;
parcels 20 and 29 of Transportation Project Plat 1154-01-21-4.02, recorded as Document #1432179 and filed in TPP Cab Pg 7b;
parcels 31 and 40 of Transportation Project Plat 1154-01-21-4.03, recorded as Document #1432180 and filed in TPP Cab Pg 8c;
in the Brown County Office of the Register of Deeds and all subsequent revisions.

Document Number CONVEYANCE OF RIGHTS IN LAND

Exempt from fee s.77.25(2) Wis. Stats.
s.83.06(1) Wis. Stats.

Wisconsin Electric Partners, GRANTOR, for and in consideration of the sum of One Dollar (\$ 1) and other good and valuable consideration, grants and conveys any and all rights and interest which, by virtue of prior title, easement, license, or other legal devices, GRANTOR holds in the land described below to the County of Brown, GRANTEE, for the purposes of constructing, operating, and maintaining a public highway and appurtenant facilities on, over, under, or across the said land; provided, however that GRANTOR reserves to itself the subordinate right to cross, traverse, or otherwise occupy said land with its present and future overhead or underground transmission lines, appurtenant facilities, and supporting structures in a manner consistent with the purposes of this conveyance and in a manner which will not interfere with normal highway maintenance and operation; provided, further, that the costs of any relocation or alteration, now or in the future, of the transmission lines, appurtenant facilities, or supporting structures when required by the GRANTEE for any reason, including accommodating future expanded or additional highway facilities on, over, under or across said land, will be paid by the GRANTEE; provided, however, that the costs of such relocation or alteration, or of the installation of new or additional facilities when done at the instance of and for the purposes of the GRANTOR, will be defrayed by the GRANTOR.

This conveyance shall be binding on the GRANTOR, GRANTEE, and their respective successors and assigns.

Any person named in this conveyance may make an appeal from the amount of compensation within six months after the date of recording of this conveyance as set forth in s.32.05(2a) Wisconsin Statutes. For the purpose of any such appeal, the amount of compensation stated on the conveyance shall be treated as the award, and the date the conveyance is recorded shall be treated as the date of taking and the date of evaluation.

Other persons having an interest in record in the property:

NONE

Legal Description

See attached legal description

The undersigned certify that this instrument is executed pursuant to a resolution of the Board of Directors (or shareholders, stockholders, or members, if authorized by law) of GRANTOR corporation or cooperative.

Acknowledgment

(Grantor Name)

(Signature)

(Title)

(Print Name)

(Signature)

(Title)

(Print Name)

(Date)
State of _____)
_____) ss.
_____) County
On the above date, this instrument was acknowledged before me by the named person(s).

(Signature, Notary Public)

(Print or Type Name, Notary Public)

(Date Commission Expires)

This space is reserved for recording data

Return to
Julie Harris
1112 County Rd CB
Green Bay, WI 54313

Parcel Identification Number/Tax Key Number
See attached list

Utility or RW Project ID 1123-01-22

This instrument was drafted by Brown County

RW Parcel No. 42

Conveyance of Rights for County Projects
Revised: 05/2006

Page 1 of 2

Parcel Identification Number/Tax Key Number

22810-1911-0150-0000
22810-1911-0125-0000
22810-2002-0375-0000
22810-2022-0100-0000
22810-2021-0325-0000
22810-2021-0327-0000
22810-2021-0425-0000

Legal Description

All that part of the lands subject to Grantor's easements or interests included in lands acquired for the improvement of CTH CB by the Grantee in:
parcels 1, 3, 5 and 15 of Transportation Project Plat 1123-01-22-4.01, recorded as Document #1432158 and filed in TPP Cab Pg 6a;
parcels 20 and 29 of Transportation Project Plat 1123-01-22-4.02, recorded as Document #1432159 and filed in TPP Cab Pg 7b;
parcels 31 and 40 of Transportation Project Plat 1123-01-22-4.03, recorded as Document #1432160 and filed in TPP Cab Pg 8c;
in the Brown County Office of the Register of Deeds and all subsequent revisions.

Document Number CONVEYANCE OF RIGHTS IN LAND

Exempt from fees s. 77.25(2r) Wis. Stats.
s. 62.22 Wis. Stats.

Wisconsin Electric Partners, GRANTOR, for and in consideration of the sum of One Dollar (\$ 1) and other good and valuable consideration, grants and conveys any and all rights and interest which, by virtue of prior title, easement, license, or other legal devices, GRANTOR holds in the land described below to the City of Green Bay, GRANTEE, for the purposes of constructing, operating, and maintaining a public highway and appurtenant facilities on, over, under, or across the said land; provided, however that GRANTOR reserves to itself the subordinate right to cross, traverse, or otherwise occupy said land with its present and future overhead or underground transmission lines, appurtenant facilities, and supporting structures in a manner consistent with the purposes of this conveyance and in a manner which will not interfere with normal highway maintenance and operation; provided, further, that the costs of any relocation or alteration, now or in the future, of the transmission lines, appurtenant facilities, or supporting structures when required by the GRANTEE for any reason, including accommodating future expanded or additional highway facilities on, over, under or across said land, will be paid by the GRANTEE; provided, however, that the costs of such relocation or alteration, or of the installation of new or additional facilities when done at the instance of and for the purposes of the GRANTOR, will be defrayed by the GRANTOR.

This conveyance shall be binding on the GRANTOR, GRANTEE, and their respective successors and assigns.

Any person named in this conveyance may make an appeal from the amount of compensation within six months after the date of recording of this conveyance as set forth in s. 32.05(2a) Wisconsin Statutes. For the purpose of any such appeal, the amount of compensation stated on the conveyance shall be treated as the award, and the date the conveyance is recorded shall be treated as the date of taking and the date of evaluation.

Other persons having an interest in record in the property:

NONE

Legal Description

See attached legal description

The undersigned certify that this instrument is executed pursuant to a resolution of the Board of Directors (or shareholders, stockholders, or members, if authorized by law) of GRANTOR corporation or cooperative.

Acknowledgment

(Grantor Name)

(Signature)

(Title)

(Print Name)

(Signature)

(Title)

(Print Name)

(Date)
State of _____)
_____) ss.
_____) County
On the above date, this instrument was acknowledged before me by the named person(s).

(Signature, Notary Public)

(Print or Type Name, Notary Public)

(Date Commission Expires)

This space is reserved for recording data

Return to
Julie Harris
City of Green Bay
1678 Madison St.
Green Bay, WI 54301

Parcel Identification Number/Tax Key Number
See attached list

Utility or R/W Project ID 1123-01-22

This instrument was drafted by City of Green Bay

R/W Parcel No. 42

Conveyance of Rights for City Projects
Revised: 05/2006

Page 1 of 2

Parcel Identification Number/Tax Key Number

22810-1911-0150-0000
22810-1911-0125-0000
22810-2002-0375-0000
22810-2022-0100-0000
22810-2021-0325-0000
22810-2021-0327-0000
22810-2021-0425-0000

Legal Description

All that part of the lands subject to Grantor's easements or interests included in lands acquired for the improvement of Main St. by the Grantee in:
parcels 1, 3, 5 and 15 of Transportation Project Plat 1123-01-22-4.01, recorded as Document #1432158 and filed in TPP Cab Pg 6a;
parcels 20 and 29 of Transportation Project Plat 1123-01-22-4.02, recorded as Document #1432159 and filed in TPP Cab Pg 7b;
parcels 31 and 40 of Transportation Project Plat 1123-01-22-4.03, recorded as Document #1432160 and filed in TPP Cab Pg 8c;
in the Brown County Office of the Register of Deeds and all subsequent revisions.

Document Number CONVEYANCE OF RIGHTS IN LAND

Exempt from fee s.77.25(2r) Wis. Stats.
s.61.34 (3) and (3m) Wis. Stats.

Wisconsin Electric Partners, GRANTOR, for and in consideration of the sum of One Dollar (\$ 1) and other good and valuable consideration, grants and conveys any and all rights and interest which, by virtue of prior title, easement, license, or other legal devices, GRANTOR holds in the land described below to the Village of Ashwaubenon, GRANTEE, for the purposes of constructing, operating, and maintaining a public highway and appurtenant facilities on, over, under, or across the said land; provided, however that GRANTOR reserves to itself the subordinate right to cross, traverse, or otherwise occupy said land with its present and future overhead or underground transmission lines, appurtenant facilities, and supporting structures in a manner consistent with the purposes of this conveyance and in a manner which will not interfere with normal highway maintenance and operation; provided, further, that the costs of any relocation or alteration, now or in the future, of the transmission lines, appurtenant facilities, or supporting structures when required by the GRANTEE for any reason, including accommodating future expanded or additional highway facilities on, over, under or across said land, will be paid by the GRANTEE; provided, however, that the costs of such relocation or alteration, or of the installation of new or additional facilities when done at the instance of and for the purposes of the GRANTOR, will be defrayed by the GRANTOR.

This conveyance shall be binding on the GRANTOR, GRANTEE, and their respective successors and assigns.

Any person named in this conveyance may make an appeal from the amount of compensation within six months after the date of recording of this conveyance as set forth in s.32.05(2a) Wisconsin Statutes. For the purpose of any such appeal, the amount of compensation stated on the conveyance shall be treated as the award, and the date the conveyance is recorded shall be treated as the date of taking and the date of evaluation.

Other persons having an interest in record in the property:

NONE

Legal Description

See attached legal description

The undersigned certify that this instrument is executed pursuant to a resolution of the Board of Directors (or shareholders, stockholders, or members, if authorized by law) of GRANTOR corporation or cooperative.

Acknowledgment

(Grantor Name)

(Signature)

(Title)

(Print Name)

(Signature)

(Title)

(Print Name)

(Date)
State of _____)
_____) ss.
_____) County
On the above date, this instrument was acknowledged before me by the named person(s).

(Signature, Notary Public)

(Print or Type Name, Notary Public)

(Date Commission Expires)

This space is reserved for recording data

Return to

Julie Packer

Village of Ashwaubenon

1456 Holmgren Way

Ashwaubenon, WI 54304

Parcel Identification Number/Tax Key Number

See attached list

Utility or RW Project ID 1123-01-22

This instrument was drafted by Village of Ashwaubenon

RWW Parcel No. 42

Conveyance of Rights for Village Projects
Revised: 05/2006

Page 1 of 2

Parcel Identification Number/Tax Key Number

22810-1911-0150-0000
22810-1911-0125-0000
22810-2002-0375-0000
22810-2022-0100-0000
22810-2021-0325-0000
22810-2021-0327-0000
22810-2021-0425-0000

Legal Description

All that part of the lands subject to Grantor's easements or interests included in lands acquired for the improvement of CTH EB by the Grantee in:
parcels 1, 3, 5 and 15 of Transportation Project Plat 1123-01-22-4.01, recorded as Document #1432158 and filed in TPP Cab Pg 6a;
parcels 20 and 29 of Transportation Project Plat 1123-01-22-4.02, recorded as Document #1432159 and filed in TPP Cab Pg 7b;
parcels 31 and 40 of Transportation Project Plat 1123-01-22-4.03, recorded as Document #1432160 and filed in TPP Cab Pg 8c;
in the Brown County Office of the Register of Deeds and all subsequent revisions.

Document Number CONVEYANCE OF RIGHTS IN LAND

Exempt from fee s.77.25(2) Wis. Stats.
s.82.14(1) Wis. Stats.

Wisconsin Electric Partners, GRANTOR, for and in consideration of the sum of One Dollar (\$ 1) and other good and valuable consideration, grants and conveys any and all rights and interest which, by virtue of prior title, easement, license, or other legal devices, GRANTOR holds in the land described below to the Town of Green Bay, GRANTEE, for the purposes of constructing, operating, and maintaining a public highway and appurtenant facilities on, over, under, or across the said land; provided, however that GRANTOR reserves to itself the subordinate right to cross, traverse, or otherwise occupy said land with its present and future overhead or underground transmission lines, appurtenant facilities, and supporting structures in a manner consistent with the purposes of this conveyance and in a manner which will not interfere with normal highway maintenance and operation; provided, further, that the costs of any relocation or alteration, now or in the future, of the transmission lines, appurtenant facilities, or supporting structures when required by the GRANTEE for any reason, including accommodating future expanded or additional highway facilities on, over, under or across said land, will be paid by the GRANTEE; provided, however, that the costs of such relocation or alteration, or of the installation of new or additional facilities when done at the instance of and for the purposes of the GRANTOR, will be defrayed by the GRANTOR.

This conveyance shall be binding on the GRANTOR, GRANTEE, and their respective successors and assigns.

Any person named in this conveyance may make an appeal from the amount of compensation within six months after the date of recording of this conveyance as set forth in s.32.05(2a) Wisconsin Statutes. For the purpose of any such appeal, the amount of compensation stated on the conveyance shall be treated as the award, and the date the conveyance is recorded shall be treated as the date of taking and the date of evaluation.

Other persons having an interest in record in the property:

NONE

Legal Description

See attached legal description

The undersigned certify that this instrument is executed pursuant to a resolution of the Board of Directors (or shareholders, stockholders, or members, if authorized by law) of GRANTOR corporation or cooperative.

Acknowledgment

(Grantor Name)

(Signature)

(Title)

(Print Name)

(Signature)

(Title)

(Print Name)

(Date)
State of _____)
_____) ss.
_____) County
On the above date, this instrument was acknowledged before me by the named person(s).

(Signature, Notary Public)

(Print or Type Name, Notary Public)

(Date Commission Expires)

This space is reserved for recording data

Return to
Julie Harris
Town of Green Bay
1678 Town Line Rd.
Green Bay, WI 54301

Parcel Identification Number/Tax Key Number
See attached list

Utility or R/W Project ID 1123-01-22

This instrument was drafted by Town of Green Bay

R/W Parcel No. 42

Conveyance of Rights for Town Projects
Revised: 05/2006

Page 1 of 2

Parcel Identification Number/Tax Key Number

22810-1911-0150-0000
22810-1911-0125-0000
22810-2002-0375-0000
22810-2022-0100-0000
22810-2021-0325-0000
22810-2021-0327-0000
22810-2021-0425-0000

Legal Description

All that part of the lands subject to Grantor's easements or interests included in lands acquired for the improvement of CTH EA by the Grantee in:
parcels 1, 3, 5 and 15 of Transportation Project Plat 1154-01-21-4.01, recorded as Document #1432168 and filed in TPP Cab Pg 6a;
parcels 20 and 29 of Transportation Project Plat 1154-01-21-4.02, recorded as Document #1432179 and filed in TPP Cab Pg 7b;
parcels 31 and 40 of Transportation Project Plat 1154-01-21-4.03, recorded as Document #1432180 and filed in TPP Cab Pg 8c;
in the Brown County Office of the Register of Deeds and all subsequent revisions.

**TEMPORARY CONSTRUCTION EASEMENT
(Traditional Right-of-Way Plat)**

Wisconsin Electric Partners, Grantor, which has an interest in the lands described below, grants to the Brown County, Grantee, the right and permission to occupy Grantor's easement area for highway improvement purposes, which may include but are not limited to: 1) Constructing slopes and drainage facilities on the following described lands, including the right to operate necessary equipment thereon; 2) The right of ingress and egress, as long as required for such public purpose, including the right to preserve, protect, remove or plant thereon any vegetation that the highway authorities may deem desirable to prevent erosion of the soil, provided such activities are consistent with the rights held by the Grantor under its easement.

The said lands are situated in the Town of Pittsfield, Brown County, Wisconsin and are shown on Sheet Number(s) 4.01, which is a part of the Right-of-Way Plat for Project No. 1123-01-22, filed by the grantee with the County Clerk and County Highway Committee of the said County as required by Wisconsin Statutes. This plat is also available for viewing at the Office located at 944 VanderPerren Way, Green Bay, Wisconsin.

The said lands are part of Parcel(s) 1 as shown on said Right-of-Way Plat and are further described as lying in the NE 1/4 of the SW 1/4 of Section(s) 21, T25N, R19E, Town of Pittsfield.

This Temporary Construction Easement establishes the right of Grantee to occupy lands on which Grantor has easement interests. However, Grantor reserves to itself the right to continue to use said easement area with its present and future overhead and/or underground facilities in a manner which is consistent with this grant, and further, that the costs of any relocation or alteration of any facilities of Grantor required by Grantee to accomplish its work, now or in the future, will be paid by Grantee.

This Temporary Construction Easement shall terminate upon completion of Construction Project No. 1123-01-71 for which this instrument is given. The Grantor has a prescriptive right or an easement and therefore grants this Temporary Construction Easement as a holder of a property interest and not as a property owner.

The Grantor's easement is recorded as Document 238057 in the Brown County Register of Deeds Office or exists by prescriptive rights as defined by Section 893.28 Wisconsin Statutes.

February 2, 2008

(Document Created Date)

Wisconsin Electric Partners

(Company)

(Signature)

(Date)

(Title)

(Signature)

(Date)

(Title)

Utility or RW Project ID 1123-01-22

RW Parcel No. 42

Local Temporary Construction Easement (Traditional Right-of-Way Plat)
Revised: 06/2006

Page 1 of 1

**TEMPORARY CONSTRUCTION EASEMENT
(Transportation Project Plat)**

Wisconsin Electric Partners, Grantor, which has an interest in the lands described below, grants to the Brown County, Grantee, the right and permission to occupy Grantor's easement area for highway improvement purposes, which may include but are not limited to: 1) Constructing slopes and drainage facilities on the following described lands, including the right to operate necessary equipment thereon; 2) The right of ingress and egress, as long as required for such public purpose, including the right to preserve, protect, remove or plant thereon any vegetation that the highway authorities may deem desirable to prevent erosion of the soil, provided such activities are consistent with the rights held by the Grantor under its easement.

The said lands are situated in the Town of Pittsfield, Brown County, Wisconsin and are shown on Transportation Project Plat(s) 1123-01-22, which depicts the right-of-way required for Highway Construction Project No. 1123-01-22 in accordance with Wisconsin Statutes. This plat is available for viewing at the Office located at 944 VanderPerren Way, Green Bay, Wisconsin.

The said lands are part of Parcel(s) 1 as shown on said Transportation Project Plat and are further described as lying in the E 1/4 of the SW 1/4 of Section(s) 21, T25N, R19E, Town of Pittsfield.

This Temporary Construction Easement establishes the right of Grantee to occupy lands on which Grantor has easement interests. However, Grantor reserves to itself the right to continue to use said easement area with its present and future overhead and/or underground facilities in a manner which is consistent with this grant, and further, that the costs of any relocation or alteration of any facilities of Grantor required by Grantee to accomplish its work, now or in the future, will be paid by Grantee.

This Temporary Construction Easement shall terminate upon completion of Construction Project No. 1123-01-71 for which this instrument is given. The Grantor has a prescriptive right or an easement and therefore grants this Temporary Construction Easement as a holder of a property interest and not as a property owner.

The Grantor's easement is recorded as Document 238057 in the Brown County Register of Deeds Office, or exists by prescriptive rights as defined by Wisconsin Statutes, Section 893.28.

February 2, 2008
(Document Created Date)

Wisconsin Electric Partners
(Company)

(Signature) (Date)

(Title)

(Signature) (Date)

(Title)

Utility or R/W Project ID 1123-01-22
Local Temporary Construction Easement (Transportation Project Plat)
Revised: 06/2006

R/W Parcel No. 42
Page 1 of 1

County or Municipality Letterhead

September 20, 1998

WISCONSIN PUBLIC SERVICE CORPORATION
PO BOX 19002
GREEN BAY WI 54307-9002

RE: Project ID 1153-07-41
CTH A - South County Line
CTH Q
Green County
Parcel 17, WISCONSIN PUBLIC SERVICE CORPORATION

On **DATE**, the _____ County Highway Commission accepted an agreement with the **WISCONSIN PUBLIC SERVICE CORPORATION** for the above project. A copy of the signed agreement is enclosed for your records.

If you have not already done so, please forward the executed release of rights document to our office.

Before you begin work, contact us and we will bring you up to date on the status of right-of-way acquisitions. If you have buried facilities parallel to the roadway, a potential for conflict exists in cut areas where driveways are being graded to match the new profile. It may be necessary to place your facilities extra deep through these areas.

When the necessary highway right-of-way has been acquired and the permits to occupy highway right-of-way are approved, you may proceed with contract work.

You must notify me at **PHONE NUMBER** of the date you actually begin contract work as well as the date when work is complete.

Sincerely,

Name
Title

County or Municipality Letterhead

September 20, 1998

REGISTRAR
GREEN COUNTY REGISTER OF DEEDS
STREET ADDRESS
MONROE WI 99999

RE: Project ID 1153-07-41
CTH A - South County Line
CTH P
Green County
Parcel 17, WISCONSIN PUBLIC SERVICE CORPORATION

We have enclosed a {Conveyance of Rights or Quit Claim Deed} document pertaining to the above project.

Please record this instrument and submit your invoice in duplicate, along with the recorded conveyance, to the **GREEN COUNTY HIGHWAY COMMISSIONER, MONROE WI, 99999**.

Sincerely,

Name
Title

County or Municipality Letterhead

September 20, 1998

WISCONSIN PUBLIC SERVICE CORPORATION
PO BOX 19002
GREEN BAY WI 54307-9002

RE: Project ID 1153-07-41
CTH A - South County Line
CTH Q
Green County
Parcel 17, WISCONSIN PUBLIC SERVICE CORPORATION

Utility invoice/billing # **937182**.

Enclosed is check **#1287** drawn in the amount of **\$7,893.28**.

This check represents payment in full for the lump sum contract for this project.

Thank you for your cooperation in this matter of mutual interest.

Sincerely,

Name
Title

County or Municipality Letterhead

September 20, 1998

WISCONSIN PUBLIC SERVICE CORPORATION
PO BOX 19002
GREEN BAY WI 54307-9002

RE: Project ID 1153-07-41
CTH A - South County Line
CTH X
Green County
Parcel 17, Wisconsin Public Service Corporation

Enclosed is check # **762** drawn in the amount of \$ **73,856.27**. This check represents full payment for your billing # **1**. Any overpayment disclosed by audit must be refunded.

Thank you for the cooperation you have given us in expediting the above project.

Sincerely,

Name
Title

8.1 General

Almost every highway has some utilities located within or adjacent to the highway right of way. A highway improvement project frequently requires some of these facilities to be relocated. When new right of way is purchased, a utility may be eligible for compensation for the relocation of some of their facilities. (See [Chapter 11](#), Utility Reimbursement Process, for additional information on compensation.)

The right of way (R/W) plat is the first complete drawing showing proposed alignment and proposed right of way, and giving stationing that can be related to the cross sections. The completed plat and plotted cross sections provide the basic information the utility company engineers need to start identifying conflicts, and determining where they may be able to put relocated or replacement facilities.

Planners are required to plan excavations to avoid to the extent possible interference with utility facilities in or near the excavation area. See Wis. Stat. s.182.0175 in [Attachment 1.2.4](#). If the existing facilities are not properly located and identified, the planner cannot adequately fulfill this obligation. **Utility facilities must be field located.** Reliance on utility company facility maps (hard copy or electronic) for location of utilities **is not acceptable**.

8.2 Establishing New Right of Way Limits

Determining the right of way required for an improvement project is not always easy. Many points of view come into play, and the final design is not yet established at the time the right of way plat is completed. With this in mind, the Designer is urged to set the new right of way limits conservatively so that later design changes are easily accommodated. Also, the needs of utility companies should be taken into consideration during this process.

[Attachment 8.2.1](#), a memo written in response to several problems encountered in former District #1, is included to give the Designer insight into some of the items that should be considered in establishing needed right of way. The information in this memo is relevant to all Regions. The basic points of this memo can be summarized as:

1. Be sure the right of way is wide enough to provide flexibility in final design.
2. Consider constructability and future maintenance.
3. Consider the relocation needs of the utility facilities.
4. Streamline the right of way to minimize the number of jogs.
5. Provide room outside of the slope intercepts to accommodate the above.
6. On rural projects, the suggested minimum distance between the slope intercept and the right of way line is 10 feet. (FDM [Procedure 12-15-1](#)) On urban projects 10 feet may be excessive, and 5 feet may be more desirable. Less than 5 feet between the slope intercept and the right of way line will usually require Temporary Interests (TI's) in order to build the project.

8.3 Showing Utilities on the Right of Way Plat

All utility facility location information shall conform to Quality Level B or Quality Level A as defined in the "American Society of Civil Engineers (ASCE) Standard Guideline for the Collection and Depiction of Existing Subsurface Utility Data, CI/ASCE 38-02." In summary, Quality Level B means that all utility location information must be field located. Quality Level A means that horizontal and vertical location as well as facility size and type information must be provided by exposing the structure and collecting the data. See the ASCE Standard Guideline document for additional detailed information on data quality levels.

All utility information within the area covered by the right of way plat should be shown on the plat. This includes both physical facilities and land rights information. The Designer may use a little discretion in this area. The intent is to show the utility system affected by the project. For example, facilities on a street parallel to the project need not be shown, unless they are connected to facilities affected by the project. **See the section later in this chapter titled "Transportation Project Plats (Recorded Right of Way Plats)" for additional information on what utility facilities to show on recorded plats.**

For non-recorded plats, all utility facilities within existing or proposed right of way, both underground and surface, shall be shown on the plat. Overhead lines are usually not shown, but the poles supporting them (which are surface facilities) are shown. The plat shall also indicate the ownership of the utility facility. Note that recorded plats are only required to show utility facilities where a portion of the facility is compensable, but they may show all utility facilities. Utilities are to be marked using the standard symbols as shown in [Attachment 8.3.1](#) and in FDM [Procedure 15-5-30](#). The intended purpose of a plat is for the purchase of land interests. As such it is not a construction document. Any construction activity should be done using the plan sheets that were developed for that purpose. However, since the development of the plat sheet is closely tied to the development of the plan sheets, the following discussion on "caution" symbols is included in this section. It should be noted that **"caution" symbols are not required on plats**

because plats are not construction documents, but some designers may find it more efficient to include the “caution” symbols on plat sheets rather than adding them to the plan sheets that are created later. Showing the “caution” symbols is acceptable.

There are two caution symbols that are to be used on plans and plats. See [Attachment 8.3.1](#) or FDM [Procedure 15-5-30 Attachment 30.2](#). The Combustible Fluids Caution symbol should be used only for pipelines carrying combustible or explosive fluids. See FDM [Procedure 15-1-35](#). A blowup of a pipeline or gas main would cause a widespread catastrophe.

High voltage power lines would cause serious injury to any individuals in direct contact with the lines, but the nature of the damage is limited to the immediate area. Therefore a High Voltage Caution symbol is warranted. The symbol is appropriate to show on electric transmission lines that are 69 kV and higher.

If a pole or pedestal has been accurately determined to lie either inside or outside of the new right of way, its position on the plat should be slightly exaggerated to clearly demonstrate whether or not the facility is compensable.

NOTE: The center of the pole or pedestal is used to determine compensability.

The Designer should make sure that the locations of underground facilities match between plat sheets.

On each sheet of the plat, the ownership of the utility facilities shown must be identified. It is not unusual for utilities to change their names due to corporate reorganization, mergers, federal rulings, etc. The right of way plat should show the most current name of the utility, if it is known. However, it is acceptable to show the name of the company as shown on the easement documents.

All applicable land interests of utilities shall be shown on the right of way plat. This includes land owned by the utility as well as all easements, conveyance of rights documents from past highway projects, or use agreements obtained by the utility company.

General public utility easements established as part of land platting and certified surveys shall be shown and identified. See [Attachment 8.3.2](#). However, only when easements are located within new right of way **and** are actually occupied by a utility does a platted general public utility easement become a compensable utility parcel.

As mentioned above, utility land interests (**easements, conveyance of rights documents**, etc.) need to be shown on the plat. See also FDM [Procedure 12-1-5](#). However, because some utility easements are written in very general terms and cover an entire section or quarter-quarter, the plat only needs to reference the source document (by the recording information such as volume and page, document number, etc.) that applies to the utility easement or conveyance of rights document. The notation should also include which parcels the easement applies to. Where specific physical boundaries of strip easements and use agreements can be identified, they may be shown as such. Easements shall be identified as shown in the examples in [Attachments 8.3.2, 8.3.3, 8.3.4](#), and [Attachment 8.3.5](#).

Easements owned by a utility fall into two categories, occupied and unoccupied. An **occupied easement** is one in which a utility has some type of facility. An **unoccupied easement** is one that is owned by a utility but is currently unused, meaning that there is no utility facility in the easement area. Both types of easements shall be shown on the plat. The recording information of the easement, along with what parcels are affected by the easement has to be shown on the plat. See [Attachment 8.3.5](#). You do not need to graphically show the limits of the easement, but in some cases that can be helpful and it is permissible to show the limits of the easement. Unoccupied easements more than 100 feet away from the new right of way need not be shown on the plat. Any release of rights document that is created for the highway improvement project needs to include all easements, both occupied and unoccupied.

If a utility with compensable facilities also has **land** (for example, at a company-owned sub-station) which WisDOT will need to purchase for new right of way, the real estate parcel and the utility parcel are different and must be assigned different parcel numbers. See [Attachments 8.3.3](#) and [8.3.6](#).

Utility facilities located in proposed Temporary Limited Easements or Permanent Limited Easements may be compensable, and should be shown as a parcel on the plat where relocation is required. A Temporary Construction Easement, [Form DT2216](#) -Traditional Right of Way Plat or [Form DT2217](#) -Transportation Project Plat, is needed to allow construction to take place in this area. This Temporary Construction Easement also serves as the vehicle to

allow payment because it is a temporary release of a land right.

Sometimes utilities legally occupy private land via **unrecorded easements, verbal agreements, or prescriptive rights**. In this case there will not be any recorded documents and you should show the compensable utility facility without any reference to recording information. See Parcels 46 and 47 in [Attachment 8.3.7](#) for an example. Chapter 11 of this guide has more information regarding prescriptive rights.

When utilities sign a conveyance of rights document for a highway project they retain the right to future compensation for utility relocations caused by an improvement project. When there is an existing **conveyance of rights document from a previous project**, the utility facility is compensable and must be shown as such on the right of way plat. See [Attachment 8.3.8](#).

Though not always necessary, a separate Utility Plan may be prepared to avoid showing all utilities on a cluttered right of way plat. However, the compensable utilities located in the new acquisition areas must still be shown on the right of way plat. The separate Utility Plan must contain the reference line, existing and proposed right of way lines, all existing utilities, slope intercepts, utility easements, and the proposed work. This separate Utility Plan will not be a part of the right of way plat, but it must be completed at the same time as the plat if it is to be useful to the utilities. Please consult with the Region Utility Unit if you are considering developing a Utility Plan.

8.4 Trans 233 Setbacks

Trans 233 affects the compensation of utility facilities in the highway setback area on land divisions created after February 1, 1999. The location of the setback line, the date of the creation of the land division, and the date of the placement of the utility facilities determine whether the utility facilities between the setback line and the right of way line are compensable. Therefore it is important to indicate the land division recording information on the right of way plat. For land divisions created after February 1, 1999, the land division document should be consulted to determine whether the utility facilities in the setback area should be shown as compensable or not. [Attachments 8.4.1](#) and [8.4.2](#) are examples of a Certified Survey Map (CSM) and a subdivision showing the required information.

For a more thorough discussion of Ch. Trans 233 Wis. Adm. Code and its impact on compensation of utility facilities, see UC Guide [Chapter 22](#), TRANS 233.

8.5 Compensable Utilities

When a utility has facilities in land rights within the proposed right of way, the relocation of these facilities and the release of the land rights are compensable. Compensable means that WisDOT is required to offer to pay the relocation costs of the facilities, and must obtain the land rights from the utility company. If all of the utility facilities are within the existing right of way, WisDOT does not pay the utility to relocate its facilities unless there is a prior conveyance of rights from a previous project. An example of compensable utility facilities on a right of way plat is shown in [Attachment 8.3.2](#) and [Attachment 8.3.7](#).

For utility poles, the location of the center of the pole is used to determine compensability. If the center of a pole is located on the right of way line or within the existing right of way, the pole is not considered compensable. There are times when exceptions are made for very large steel poles or structures, such as transmission towers. The compensability of large structures may be prorated based on the percentage of the structure on private lands. Other types of utility facilities other than poles or large structures should be treated in a similar manner. The center of the facility should be used to determine compensability or, if that is too difficult to determine, a prorated percentage based on the area inside the existing right of way versus the area outside of the existing right of way can be used. See [Attachment 8.5.1](#). If any part of a utility facility is compensable, it should be shown on the plat as compensable. Check with the Region Utility Unit if you are uncertain as to whether a facility should be shown as compensable.

Anchors and guy poles are compensable only if the primary pole is compensable.

Service drops are not usually considered compensable. Service drops do not usually have an easement associated with them, so there is no land right to justify payment. (We generally do not consider prescriptive rights apply to a service drop.) There are exceptions to this. If there is an easement associated with the service drop, the service drop would be compensable. Also, large service drops serving industries, public buildings such as schools, and other similar facilities would be considered compensable. These services more closely resemble a distribution line than a service connection. It is important to note that service drops are never excluded from an estimate. In general, the ratio of payment is based on the ratio of existing utility distribution facility on private land versus public land. In the case of a

sewer main that is 50% on private land, 50% of the total invoice, including service drops, would be compensable. In general, if none of the main is on private land, none of the work is considered compensable, even if some service connection work requires replacement of the service drop that is outside of the right of way.

In areas where a company holds easement rights that fall within new right of way, but has no actual facilities, a parcel **must** be shown.

Facilities or easements that fall within a Temporary Interest (Temporary Limited Easement or Construction Permit) or a Permanent Limited Easement (PLE) are compensable and should be identified as parcels on the plat.

The utility facilities and land rights within the new right of way shall be marked and identified with the owner's name and the parcel number. The utility companies and the parcel numbers shall be shown on the **Schedule of Interests** portion of the plat. The Interest Required is a "Release of Rights." A sample Schedule of Interests is shown in [Attachment 8.3.6](#). In addition to the information shown in Attachment 8.3.6, it is sometimes helpful to include the last two digits of the Utility Project ID on the Schedule of Interest, directly after the utility company name. This is particularly helpful when there are multiple plats for a project and where a utility company may have more than one utility agreement. Again, the Utility Project ID is optional.

It is possible for a utility facility within existing highway right of way to be compensable. This would occur when a utility has previously given WisDOT **a release of rights for an earlier project**. For example, in 1954 WisDOT purchased new right of way for STH 23 in Iowa County. GTE North gave WisDOT a release of rights at that time, but did not relocate their facilities. In 1992, WisDOT again planned to reconstruct STH 23. GTE North was eligible for compensation on both the facilities in the right of way purchased in 1992 and the facilities in the right of way purchased in 1954. This was discovered by reading the language in the Conveyance of Rights from 1954, which was found in the title searches for the project. See [Attachment 8.3.8](#).

An unusual situation occurs where **lands adjacent to a highway have been dedicated for highway purposes**. Although such lands will not appear on the plat as new right of way, it is possible that a utility located within the dedicated lands would be a compensable parcel if the utility's occupation of the lands pre-dates the dedication.

A related situation is where the utility has facilities in a land division "Highway Setback" area. It is possible that the facilities in the setback area are not compensable even though they are in a utility easement. This is only true for facilities placed after February 1, 1999. Any facilities placed prior to that date would be compensable. See [Chapter 22](#), Trans 233, for additional information.

On projects involving a designated freeway (per Wis. Stats. 84.295) municipally owned utilities are 90% compensable when located within existing right of way. These facilities should be shown similar to compensable utility parcels, but they would be labeled as "Utility Agreement 101" or simply "UA 101" rather than parcel 101. They are not exactly a parcel, but they are compensable and need to be shown on the plat. They would be labeled on the applicable plat sheets and listed in the Schedule of Interests. When numbering the Utility Agreements start with "UA 101." If there are more than 100 parcels, but less than 200, start with "UA 201," and so on. Facilities in new right of way are still a utility parcel and would be 100% compensable. It is quite likely that there will be two agreements required, one for the 90% compensable work and one for the 100% compensable work. Two state statutes are involved and two different agreement forms are required.

8.6 Non-Compensable Utilities

Utility facilities that are within the existing right of way are non-compensable unless a conveyance of rights was obtained on an earlier project. [Attachment 8.6.1](#) shows non-compensable utilities on a right of way plat.

8.7 Preliminary Right of Way Plat

The base plat, which shows all the existing land information, should be submitted to the Region Utility Unit for their review prior to placing new right of way information on the plat. The Utility Unit will verify that all existing information is shown as required. This may save time and rework in later reviews.

A print of the preliminary right of way plat must be given to the Utility Unit for their review **at least one month prior to the completion of the final plat**. The Utility Unit will check to see that the utility facilities and land rights are shown properly. Changes and corrections that must be made will be submitted to the Designer prior to the completion of the right of way plat that is submitted with the relocation order.

8.8 Signed Right of Way Plat

A copy of the signed right of way plat, and all revisions that may affect utilities, must be given to the Utility Unit. The designer must provide the Utility Unit with a copy of the plat when it is first signed, and again whenever it is revised. At the same time, they will also need a set of plan and profile pages, mainline and side road cross-sections, as well as typical sections and intersection details and all information necessary to design the utility relocations required. The Designer must provide this information. For in-house projects additional sets of all of the above will be requested by the Utility Unit to send to all of the affected utilities. The designer is responsible for furnishing the prints to the Utility Unit. On consultant projects refer to the contract to determine who is responsible for sending plats and plans to the utilities.

8.9 Transportation Project Plats (Recorded Right of Way Plats)

A Transportation Project Plat (TPP) is a highway right of way plat that is recorded at the County Register of Deeds Office. It must contain the utility easement and all utility-related land interest information. They must also show existing utility facilities in the acquisition area and all other compensable utility facilities, such as facilities occupying areas where a Conveyance of Rights in Land document is in effect from a previous project.

When any part of a utility facility is compensable, all of that utility's facilities shall be shown on the TPP. This includes facilities in the new acquisition area, in the existing right of way, and in areas adjacent to the right of way. In most cases, sewer and water facilities are not compensable and will not be shown on plats. The exception is when the sewer or water utility owns an easement or on projects where a highway is designated as a freeway by Wis. Stat. s.84.295.

The timing of the recording of TPP's is generally later in the project development process, usually after highway project plans have been sent to the utility companies. When the TPP is not recorded by the time the highway plans are sent to utility companies, this creates problems for utility coordination. The Office of General Counsel has issued a legal opinion that states we can send plans and agreement forms to utility companies prior to the relocation order date or recording date. See [Attachment 8.9.1](#). The utility company can also sign the agreement forms and return them to WisDOT prior to the relocation order date. However, as a matter of policy and to be sure we are in compliance with Wis. Stat. s.4.09, WisDOT will not sign the agreements until after the TPP has been recorded. If the TPP is not recorded by the time the utility returns the agreements to WisDOT, the highway improvement project will be delayed. Also, the release of rights documents, either the Conveyance of Rights in Land or the Quit Claim Deed, must reference the recorded plat in the legal description. Therefore, the utility coordinator cannot send out the release of rights document until after the TPP is recorded. If the TPP is not recorded at the time the highway plans are sent to the utilities, it is recommended that the utility coordinator send the release of rights document to the utility company with the approved utility agreement. A sample cover letter for sending the approved utility agreement and the release of rights document is shown in [Attachment 11.15.2](#), of Chapter 11, "Utility Reimbursement Process," of this Guide.

When a TPP is recorded, the Register of Deeds will create an index for the TPP and all subsequently recorded documents are indexed to the TPP. Our release documents need to be indexed to the TPP. So, the legal description needs to contain a reference to the TPP and that means that the **TPP has to be recorded prior to creating the release document**.

The current method of operation does not require the recording of the TPP until just shortly before real estate is purchased, which is usually going to be after the utility coordinator has sent out the Project Plans packet of information to the utilities. In the past we included the release document in the Project Plans packet. In many cases we can no longer do that because the TPP won't be recorded at that time. Instead, the new process will have the release document sent to the utility company at the time the approved utility agreement is sent to the utility company. It is anticipated that the TPP will be recorded by this time and the appropriate legal description, including the recording information of the TPP, can be included in the release document. If for some reason the TPP is not recorded by the time the Utility Agreement is sent back to the utility company, the Region has a problem and the project letting should probably be rescheduled.

The agreement states "For and in consideration of the conveyance by separate instrument to the State of Wisconsin of certain lands or interests or rights in said lands in which the Company holds a real property interest, the Department will pay...", which means that the agreement is not valid until we receive the release document. We cannot pay any invoices until the release document is received and recorded. By signing the agreement the utility company has agreed to provide the release document. The **PS&E can be submitted** prior to the recording

of the release document, and **the project can be let** prior to the recording, however, **we cannot pay any invoices** until after the release document is recorded.

If **plat revisions** are needed, the TPP must be corrected in one of two different ways, depending on the nature of the required revisions. If the recorded plat is missing a utility land interest area, or the utility is not listed as a parcel, the plat must be amended. This means the plat must be revised (amended) and a new plat recorded. An example of missing a utility land interest area is where we show the utility facility inside the right of way with no utility easement. Then we discover that the utility facility is really outside of the right of way and it is thus compensable. We would need to revise the plat to show the facility outside of the right of way and label it as a parcel. If there were a recorded easement that we originally missed, we would have to add that information also. This revised plat would then be recorded at the Register of Deeds Office. A new release of rights document would have to be recorded also, unless the error was detected before the release of rights document was recorded.

If the plat revision is more of a clerical nature, such as adding existing easement recording information that we missed in the original TPP, that correction can be dealt with in the legal description in the release of rights document. This assumes that we had correctly shown the utility as compensable on the original TPP, and it was labeled as a parcel. So, the only thing that needs correcting is the existing easement information. Revise the legal description to include all of the correct information and return the release of rights document to the utility for signature before recording it. This method can also be used to correct the name of a utility company or to correct text errors on the TPP.

8.10 TPP and Traditional Plat on the Same Project

On projects where there are a lot of temporary limited easements (TLEs), it is possible that the Project Manager may decide to have both a traditional plat and a TPP. For example, a project is 10 pages long and there is fee acquisition only at two intersections, which are on two separate pages. The remaining 8 pages are for TLEs. Since TLEs are temporary interests by definition, there is no point in recording those 8 pages. They would just be unnecessary recorded documents at the Register of Deeds Office and they could confuse someone in the future. So, to avoid cluttering up the Register of Deeds files with worthless documents, the Project Manager will use a TPP for the two pages where fee acquisitions are needed and a traditional plat to show the TLEs. These plats will have separate right of way project ID numbers and different sets of parcel numbers (although the plat preparer could use the same utility parcel numbers on the two plats for each utility company if they choose to).

The utility coordinator still needs to acquire the land interests from the utility companies. In order to do that, a release of rights document is needed for the TPPs, and a Temporary Construction Easement is needed for the traditional plat areas. This assumes that no TLEs will be shown on the TPP. Different right of way project ID numbers will be used on the two documents. The release of rights document will have a legal description referencing the TPP right of way project ID and the Temporary Construction Easement will have a legal description referencing the traditional plat right of way project ID. The same Utility Project ID number will be used on both documents. The utility agreement will cover the work necessary for the entire project, so only one Utility Project ID will be needed.

8.11 Cooperative Acquisition

Wis. Stat. s. 84.093 allows WisDOT to enter into agreements with utility companies for the acquisition, development and maintenance of right of way. This process is optional and will be decided on a project basis. If cooperative acquisition is used on a project, additional information regarding the land interests needed by the utility company must be shown on the plat. Wis. Stat. s. 84.093, cooperative acquisition of rights-of-way, is [Attachment 8.11.1](#).

The decision to use cooperative acquisition should be made jointly by the Region design, real estate, plat development and utility unit personnel. The decision to use cooperative acquisition should be made early in the design process so that the appropriate agreements can be developed and the additional information that is required on the plat can be added during the initial plat development process.

To date, cooperative acquisition has not been used on any projects, primarily because of many questions that have arisen regarding how it can be implemented. Please consult with the Office of General Counsel (OGC) if cooperative acquisition is being considered. Additional guidance is provided in [Attachment 8.11.2](#).

CORRESPONDENCE MEMORANDUM

DATE: March 1, 1991

TO: District #1 Designers

FROM: Ernest J. Peterson, District Utilities Engineer
(The basic concepts of this memo were approved by the District Technical Committee)

District #1 Guidelines for Establishing New R/W Limits

It has been District policy to minimize the R/W taken for an improvement project. In the past there has been pressure from farmers, environmentalists and other special interest groups to minimize the taking of farmland, wetland, woodland, and residential land. In response to this pressure, the District has implemented a policy that minimized R/W acquisition.

There are places where we must minimize highway R/W. For example, near historic buildings, parklands, and other 4f lands. However, I feel that we sometimes create problems for ourselves when we restrict the R/W.

There have been a number of projects where the slope intercept is approximately one foot from the R/W line. The R/W lines tend to zig-zag constantly throughout the project. This method of establishing R/W may have minimized the taking of land, but it has also caused problems during final design and construction. We create problems for ourselves when we are too conservative in establishing the initial R/W.

The R/W limits are determined during the preliminary design. During final design, it is not uncommon to change the grade in response to concerns of adjacent property owners, or to improve safety, or in response to other information that was not known at the time of the preliminary design. However, when the R/W is too restrictive, the designer loses the flexibility to change the grade without affecting R/W needs. This is sometimes compensated for by steepening slopes, or building curb and gutter or retaining walls. These alternatives compromise the safety of the roadway, even if they are acceptable design practices. The designer should put more emphasis on "streamlining" slope intercepts during the preliminary design so that later changes can be more easily accommodated.

We must also consider the accuracy of the data the designer has to work with. Technical Services acknowledges that cross sections can easily be off by 1.25 feet horizontally, and 0.2 to 0.3 foot vertically on PX mapping. The combination of the vertical and horizontal error magnifies the difference between cross section data and actual field conditions. If the original ground is wrong by one foot horizontally, that adds four feet to the slope intercept for a 4:1 slope. Add to this any vertical error, and the end result can be quite dramatic. When the R/W is established at one foot from the slope intercept, a one foot error on the cross sections puts the slope intercept out onto private land. This scenario is discovered during construction, and slopes are steepened. Again, the safety of the roadway is compromised.

The designer must also realize that there is other information that is not apparent until construction

Attachment 8.2.1: Guidelines for Establishing New Right of Way Limits Memo (Historical)

begins. Aerial mapping cannot pick up all of the information that affects the proper design and construction of the roadway. While a field survey is always made to supplement the PX mapping, some information can go undetected by even the most experienced survey crew. Sometimes old culvert pipes are uncovered during construction that are not shown on the plan. The pipe may be almost full, and not noticeable when driving on the road, but it may drain a low spot that was not picked up by the mapping and cross sections. There are other features that may be uncovered during construction that can cause changes to the design during construction.

Another aspect the designer should take into consideration is constructability.

- Contractors do not build slopes with a sharp angle point at the slope intercept. There is a rounding effect that occurs. The actual construction limits are extended by this rounding, although this is not shown on the plan this way.

- Slope stakes should not have to be placed on private property.

- Top soil storage, and room for equipment to operate should be given some thought during the design process.

- Rock cut information on plans is not always the same as what is found in the field during construction. Weathered rock, or rock at a different elevation than shown on the plan, can cause problems during construction which require changes to the cross sections.

The ability to maintain the highway after construction should also impact on the determination of R/W limits. Continually zigzagging the R/W creates problems in knowing where the R/W limits are. Tapers become obliterated by the loss of R/W marker posts at angle points. After construction is complete, stationing is not usually readily available in the field. While the Total Station equipment can simplify this task, this equipment is not readily available to Maintenance personnel and others who need to verify R/W locations. Accurate restoration of R/W marker posts becomes difficult without this equipment. With sign control and prevention of encroachments being given high priority by the FHWA, it is imperative to have easily recognizable R/W limits during field surveillance.

Once construction is complete, the District Maintenance Section is responsible for the repair of erosion and drainage problems. This becomes extremely difficult where the slope intercepts are at or near the R/W line. This is especially true on fenced highways. There should be a minimum of 15 feet between the slope intercept and the R/W line to allow equipment operation on the highway R/W when the need arises. This would prevent the disturbance of highway traffic, or the need to obtain approval from the adjacent property owner.

Now, let's examine the reasons for restricting the R/W:

Loss of farmland. When we improve an existing highway adjacent to farmland, there is a loss of productive farmland. However, farmers do not plow their fields or plant crops in a zigzag pattern. They prefer long straight stretches. Therefore, when our R/W is not uniform, we may be taking less farmland, but the actual loss of productive farmland is not significantly less. The farmer is not able to utilize the odd shaped land, and if he/she does, they are probably encroaching on the R/W in order to do so.

Loss of woodland. There is definitely a loss of woodlands. While trees are a renewable resource, it takes many years for the trees to grow to maturity. However, the loss of woodland

Attachment 8.2.1: Guidelines for Establishing New Right of Way Limits Memo (Historical)

habitat is somewhat offset by the gain in habitat suitable for small rodents and predatory birds and animals. Reduced mowing of roadsides has increased wildlife habitat in some areas. An increased interest in the planting of native grasses and wildflowers in suitable areas of the R/W can offset some of the loss of woodland. We are replacing a wooded area with an area that is suitable for other types of animals. (Many environmentalists do not accept this argument, but studies have shown this to be true.) Also, not all trees within the R/W are removed. We no longer clear cut the R/W. Only the vegetation that conflicts with the roadway construction or the clear zone is removed.

Loss of wetland. The effect on wetland is similar to that of the woodland. Not all wetland within the R/W is lost to roadway construction, and some of it is replaced by a different type of wildlife habitat. However, the EPA does not give credit for wetland that remains wetland within the R/W limits. Once we purchase wetland, in the eyes of the EPA, it is no longer wetland.

Loss of residential land. In many cases, the effect is merely the loss of taxes to the local municipality. The area from the slope intercept to the R/W line can still be maintained by the property owner, and is effectively an extension of the lawn. When slopes are relatively flat, the effective lawn extends to the ditch bottom, or the shoulder point.

DOT is constantly being asked to be more responsive to the public. The demand for recreation trails, noise barriers, and landscaping, is increasing. These all require space on the R/W. When designing roadways today, we must acknowledge the possibility of being required to provide these in the future, as well as items we aren't even aware of at this time.

Lastly, providing a wider and more uniform R/W will make it easier to accommodate utilities on the R/W. The utility must remain outside of the clear zone if they stay within the R/W. They may occupy private land by easements, but easements are becoming harder to get. We can blindly say "that is their problem", but it becomes our problem when they hold up construction on a project. We can also force them to move, but when their customers must go without service because DOT forced them off the R/W, we become the villain. Besides, we are both servicing the public, and the bottom line is that the taxpayers and the rate payers are the ones who foot the bill. We must look at what is in the best public interest, rather than become territorial about who has the legal right to occupy the R/W and under what conditions.

The DOT has a policy that the utility must be as close to the R/W line as possible. Every time there is an angle in the R/W there is consequently an angle in the pole line of the utility. An angle point requires guy wires and anchors, which are another potential traffic hazard.

While the days of a uniform R/W width from one end of the project to the other may be over, we can still make an effort to establish a wider and more uniform R/W on our improvement projects.

SUGGESTION: We should strive for a minimum of 10 feet outside of the widest slope intercepts, with streamlining to minimize the angle points in the R/W line.

I would like to mention a few projects that I am aware of where problems were compounded by the narrow R/W. I do not mean to pick on these projects, these are just some that I am aware of.

Attachment 8.2.1: Guidelines for Establishing New Right of Way Limits Memo (Historical)

Newville Bridge -- R/W was too tight to begin with, and then we raised the grade after the project was let.

- * Now ditches are on private property
- * One property owner wishes he would have been bought out (I have heard this comment on many projects where the designer took great pains to avoid taking the building, only to hear after construction was underway, that the owner would rather have been bought out, especially when they must look at a large fill or retaining wall)
- * Could have had a better design had we been willing to spend more money on R/W and relocation costs.

USH 51 north of STH 19

- * V-shaped ditches, rather than the preferred 6:1 sloped ditches
- * Steep backslopes and inslopes
- * Erosion problems

USH 51 - Pierstorff - CTH "CV"

- * R/W one foot outside of the clear zone
- * We purchased additional R/W through condemnation during construction.

STH 78 - Mount Horeb to Black Earth

* Rock cuts in some areas were not able to hold the steep design slopes. The cross sections in these areas had to be revised during construction. Stone walls replaced the rock cuts where possible, and some slope intercepts are at or outside of the R/W.

FIG9-1.DOC

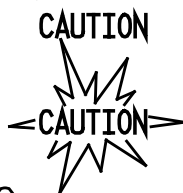
UTILITY SYMBOLS

UNDERGROUND

<u>COLOR</u>	<u>SYMBOL</u>	<u>UTILITY</u>
ORANGE	—— TV ——	CABLE TELEVISION
ORANGE	—— C ——	COMMUNICATION
ORANGE	—— FO ——	FIBER OPTIC
ORANGE	—— T ——	TELEPHONE
RED	—— E ——	ELECTRIC
RED	—— OH ——	OVERHEAD LINES
YELLOW	(Size) G ——	GAS
GREEN	(Size) SAN ——	SANITARY SEWER
GREEN	(Size) SS ——	STORM SEWER
GREEN	(Size) SSS ——	COMBINED SEWER
BLUE	(Size) W ——	WATER



HIGH VOLTAGE CAUTION



COMBUSTIBLE FLUIDS CAUTION

TOPOGRAPHIC



CONTROL BOX



HYDRANT



LIGHT POLE



MANHOLE



POLE



COMMUNICATION TOWER



TOWER



VALVE



CABLE MARKER

COMPENSABLE	NON-COMPENSABLE

POWER POLE

TELEPHONE POLE

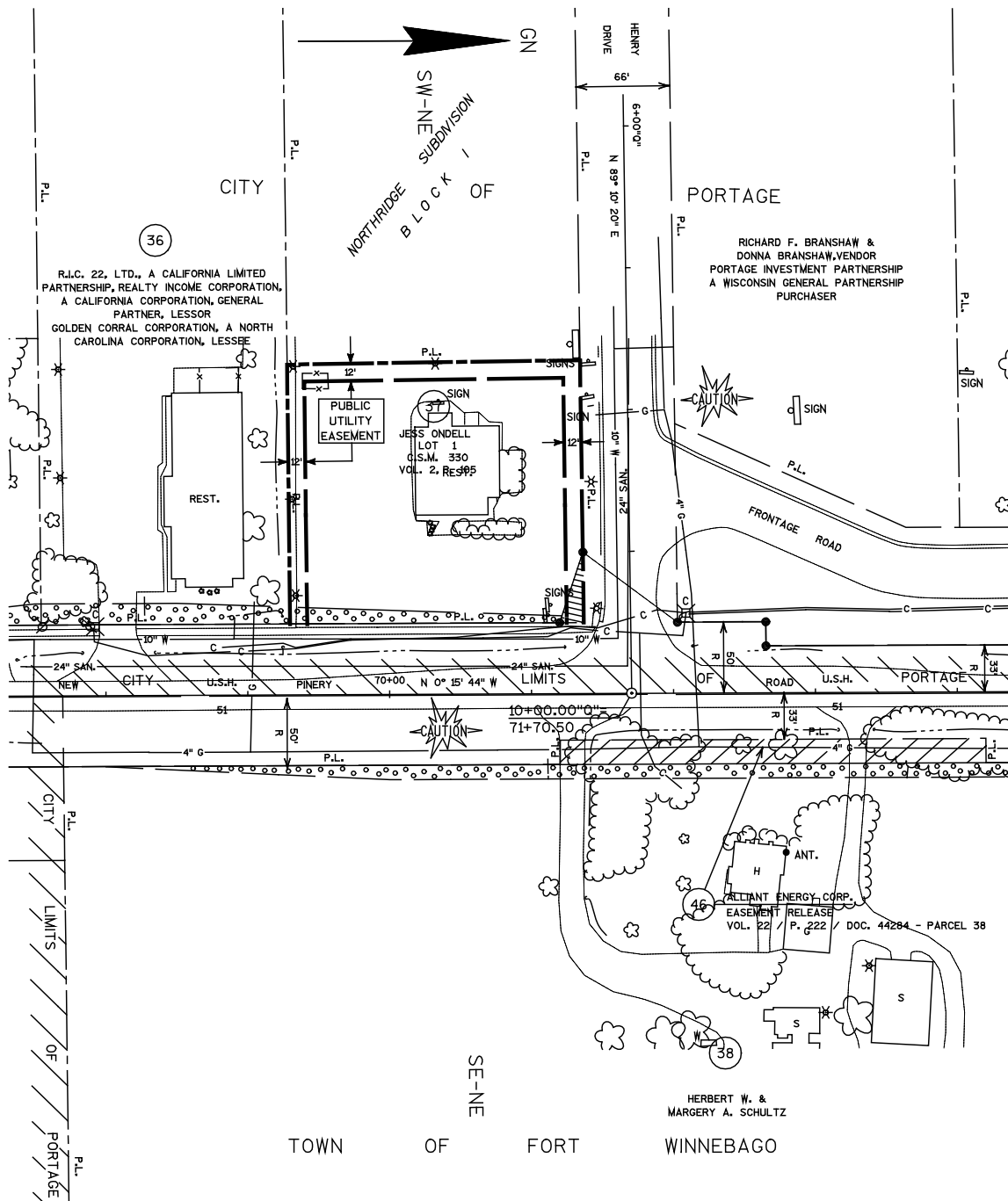
UTILITY PEDESTAL

Attachment 8.3.1: Utility Symbols





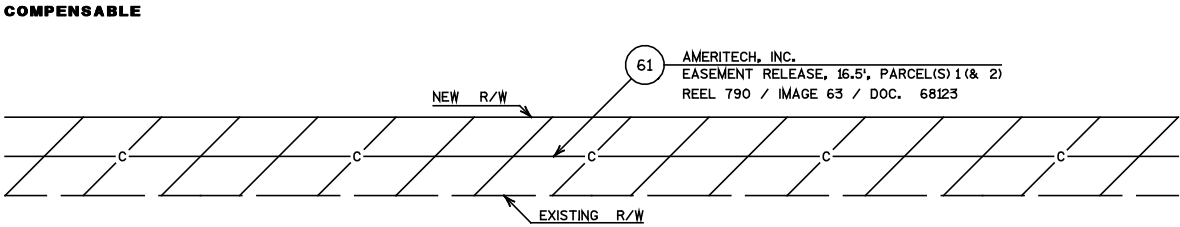
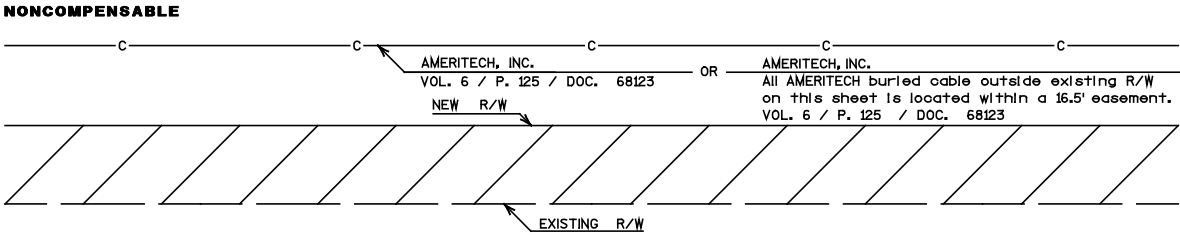
Page 4



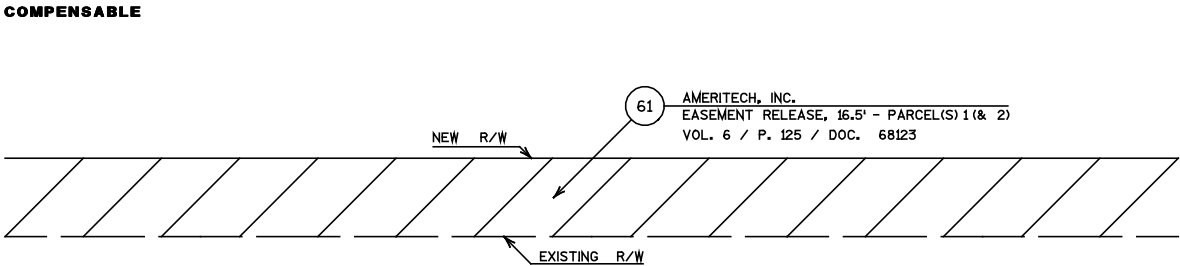
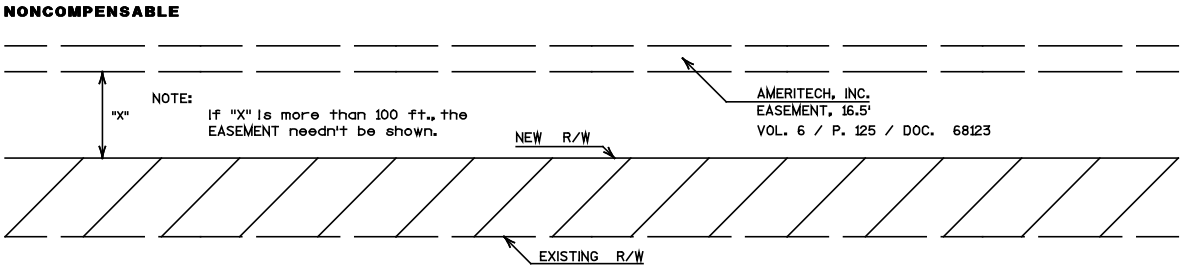
EXAMPLE SHOWING PUBLIC UTILITY EASEMENT

Attachment 8.3.4: Public Utility Easement

OCCUPIED EASEMENTS



UNOCCUPIED EASEMENTS



EXAMPLE SHOWING NOTATIONS FOR EASEMENTS

Attachment 8.3.5: Notation for Easements

LEVELS ON -

FILE NAME : 690303000

ORIGINATOR : DOT&D

PLOT NAME : 69030

PLOT SCALE :

NOTE: ALL PARCELS ARE COMPUTED IN SQUARE FEET.

PARCEL NUMBER	SHEET NUMBER	OWNER (S)	INTEREST REQUIRED	TOTAL ACRES OR S.F.	NEW	R/W ACRES OR S.F. REQUIRED EXISTING	TOTAL	TOTAL ACRES OR S.F. REM.	T.I., P.L.E. ACRES OR S.F.
1	4.2	JOHN C. BERGEN & JULIE M. HARVEY	FEE	19,846	274	5,672	5,946	13,900	---
2	4.2	WILLIS A. & ELIZABETH M. VOIGHT, VENDOR WILLIAM A. VOIGHT, PURCHASER	FEE & T.I.	32,390	3,251	---	3,251	29,139	630
3	4.2	ALLIANT ENERGY CORP., A WISCONSIN CORPORATION	T.I.	INDET.	---	INDET.	---	INDET.	152
4	4.2	KENNETH B. ROSING, VENDOR WILLIAM W. & IRMA J. BROCKLEY, PURCHASER	T.I.	118,003	---	7,303	7,303	110,700	603
5									
6	4.2	ROGER H. & BARBARA L. HAUN	T.I.	12,433	---	---	---	12,433	955
7	4.2	PORTAGE CAR WASH PARTNERSHIP	T.I.	17,527	---	---	---	17,527	1,724
8	4.2	JOANNE C. GAFFNEY, SURVIVING JOINT TENANT	T.I.	11,821	---	---	---	11,821	521
9	4.2	TIMOTHY J. GAFFNEY	T.I.	25,418	---	---	---	25,418	1,147
10									
11	4.2	ZRH, A WISCONSIN GENERAL PARTNERSHIP	T.I.	26,694	---	---	---	26,694	290
12	4.2	LENUS & MARJORIE ASHLEY	FEE & T.I.	23,581	1,182	---	1,182	22,399	448
13	4.2 & 4.3	TODD SCHULTZ	FEE	11,272	1,031	---	1,031	10,241	---
14	4.3	LEONA D. GRUNKE	FEE	10,841	1,056	---	1,056	9,785	---
15									
16	4.3	TRUSTEES OF THE FIRST METHODIST CHURCH OF PORTAGE, WI N/A UNITED METHODIST CHURCH OF PORTAGE, WI	T.I.	INDET.	---	---	---	INDET.	7,527
17	4.3	JAMES DANIEL DALEY	T.I.	11,626	---	---	---	11,626	722
18	4.3	EUGENE P. & CAROL L. NETT	T.I.	28,049	---	---	---	28,049	789
19	4.3	ROBERT W. MORGAN	T.I.	496,252	---	---	---	496,252	617
20									
21	4.3	RUSSELL C. & JEANETTE L. SMITH	T.I.	28,394	---	---	---	28,394	643
22	4.3	EVERETT G. & MARION E. TIMME	T.I.	66,613	---	6,750	6,750	59,863	1,312
23	4.3	EDGEWATER GREENHOUSES, INC., A WISCONSIN CORPORATION	T.I.	29,903	---	---	---	29,903	1,693
24	4.3	BARABOO CAR WASH PARTNERSHIP II, A GENERAL PARTNERSHIP	T.I.	67,200	---	9,023	9,023	58,177	3,558
25	4.3	NANCY LEE SCHMIDT & JOANN G. RUSSELL	P.L.E.	174,240	---	---	---	174,240	300
26	4.3	HRZ, A PARTNERSHIP	T.I.	31,672	---	---	---	31,672	2,625
27	4.3	HRZ PARTNERSHIP	T.I.	57,567	---	---	---	57,567	2,170
28	4.4	BIBLE BAPTIST CHURCH OF PORTAGE	FEE	69,548	1,495	---	1,495	68,053	---
29	4.4	PORTAGE COMMUNITY HIGH SCHOOL DISTRICT	T.I.	INDET.	---	---	---	INDET.	45,605
30									
31	4.4 & 4.5	CITY OF PORTAGE	T.I.	INDET.	---	---	---	INDET.	56,351
32	4.5	WILLIAM H. WAGNER	T.I.	60,558	---	---	---	60,558	220
33	4.5	FREDRICK A. & BRIDGET M. GALLE	FEE & T.I.	16,797	1,710	---	1,710	15,087	503
34	4.6	JOHN H. & RITA A. WILZ	T.I.	33,748	---	---	---	33,748	1,195
46	4.2-4.6 & 4.8	ALLIANT ENERGY CORP.	RELEASE OF RIGHTS	---	---	---	---	---	---
47	4.2-4.6 & 4.8	GTE NORTH INCORPORATED	RELEASE OF RIGHTS	---	---	---	---	---	---
48	4.4 & 4.5	CITY OF PORTAGE	RELEASE OF RIGHTS	---	---	---	---	---	---

NOTE: ALL PARCELS ARE COMPUTED IN SQUARE FEET.

SCHEDULE OF LANDS & INTERESTS REQUIRED

AREAS SHOWN IN THE TOTAL ACRES COLUMN MAY BE APPROXIMATE AND ARE DERIVED FROM TAX ROLLS OR OTHER AVAILABLE SOURCES AND MAY NOT INCLUDE LANDS OF THE OWNER WHICH ARE NOT CONTIGUOUS TO THE AREA TO BE ACQUIRED.

REVISION DATE: 9 - 18 - 11

EXAMPLE OF A UTILITY LAND PARCEL AND A UTILITY FACILITIES PARCEL

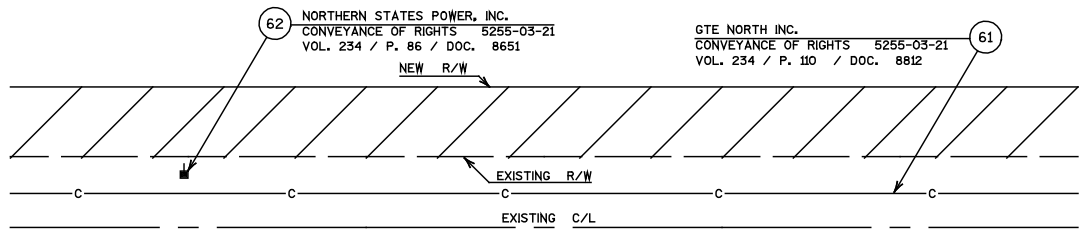
(GRAPHICS ENHANCED FOR CLARITY IN THIS EXAMPLE)

Attachment 8.3.6: Schedule of Interest

Attachment 17.13.1: Right of Way Plat

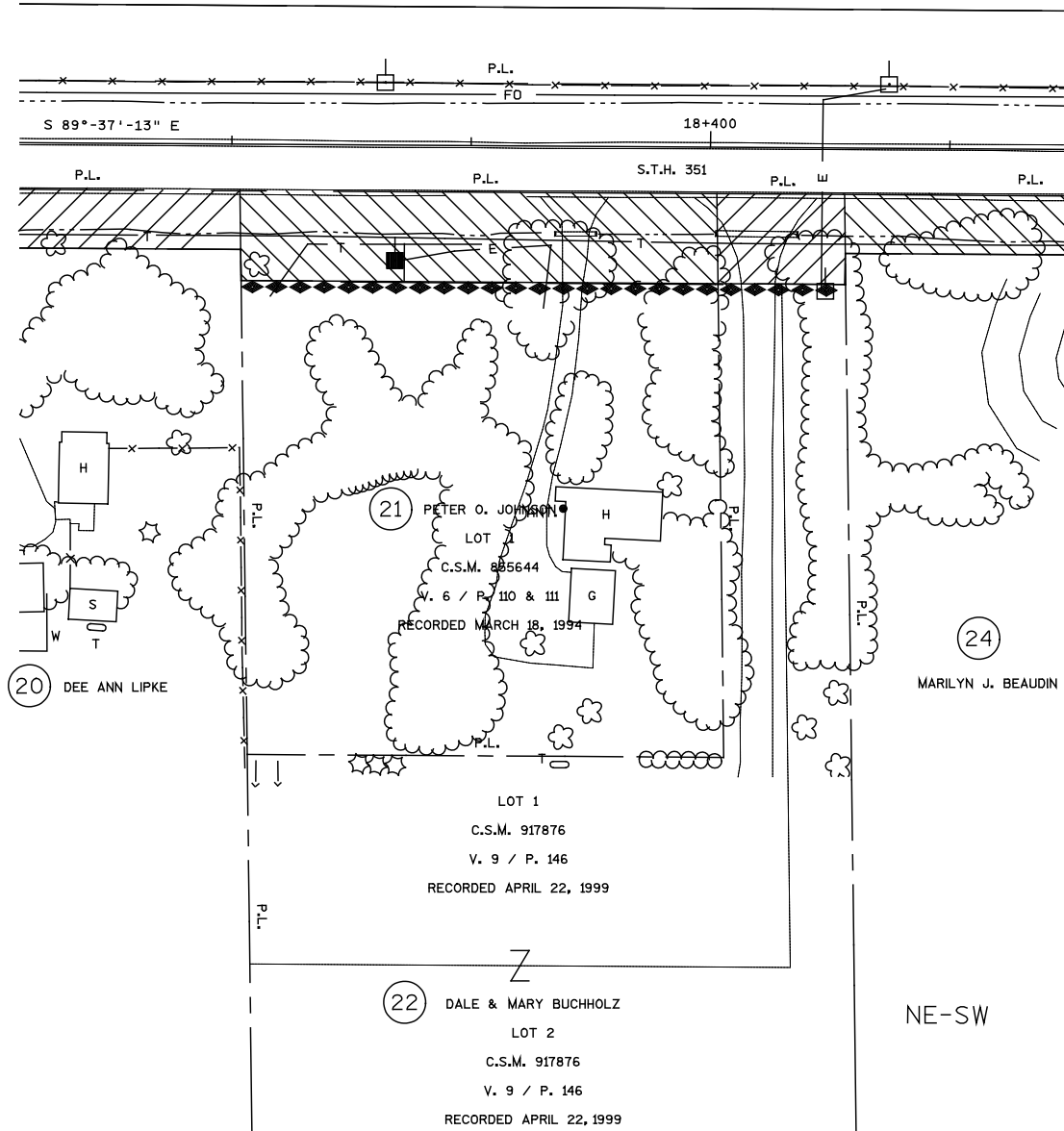


Attachment 17.13.1: Right of Way Plat



EXAMPLE SHOWING CONVEYANCE OF RIGHTS FROM PREVIOUS PROJECT

Attachment 8.3.8: Compensable Facility In Right Of Way



LEGEND: ◆◆◆◆◆ Access Control by Previous Documents

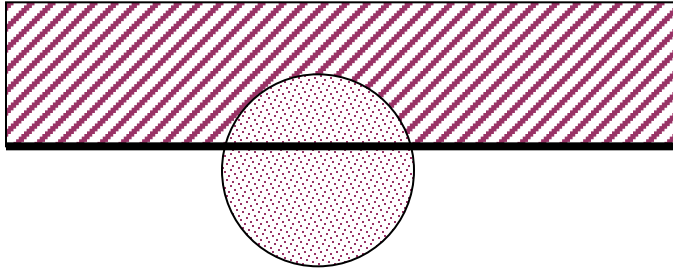
EXAMPLE SHOWING A CERTIFIED SURVEY MAP

Attachment 8.4.1: Certified Survey Map

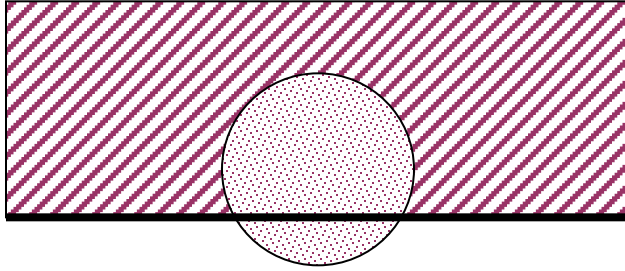


EXAMPLE SHOWING A SUBDIVISION

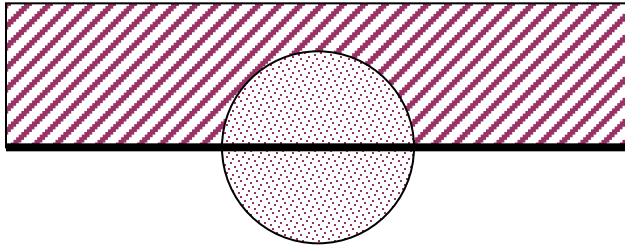
Attachment 8.4.2: Showing a Subdivision



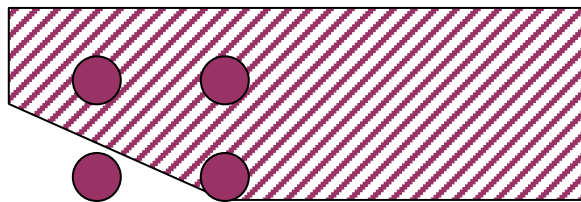
Noncompensable - center of pole inside existing r/w



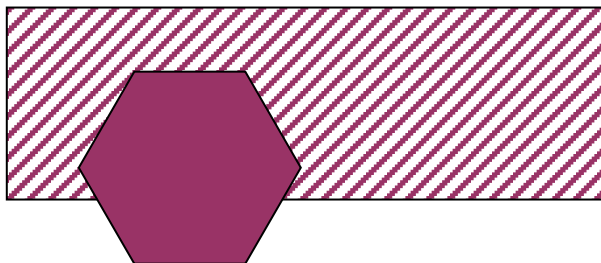
Compensable – center of pole in acquisition area



Noncompensable – center of pole is on the existing r/w line

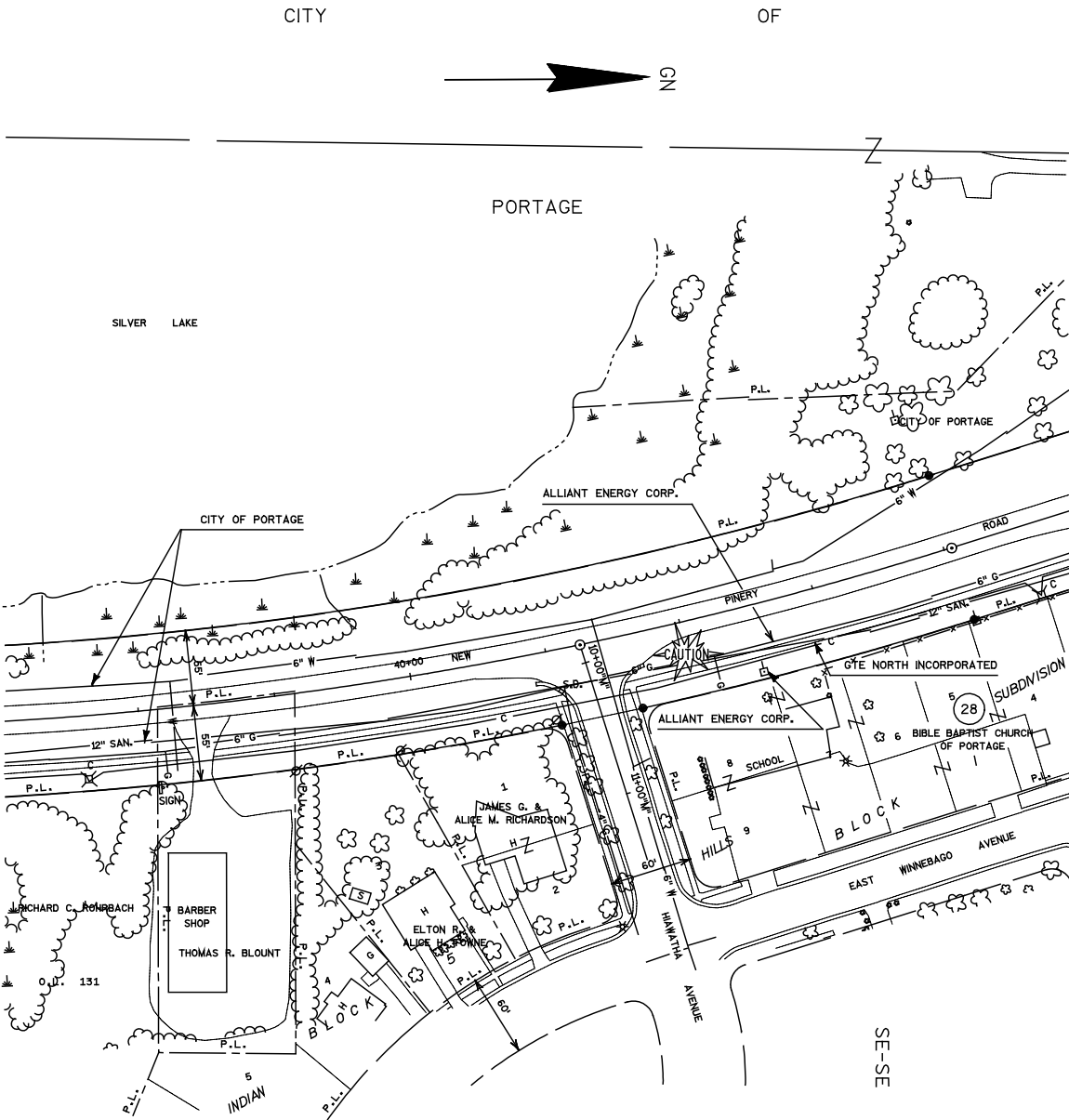


**4-legged tower
3 legs in new r/w, one leg in existing r/w
75% compensable**



**Large utility facility
60 % in new r/w
60% compensable**

Attachment 8.5.1: Compensable Utility Facilities



EXAMPLE SHOWING NON-COMPENSABLE UTILITIES

Attachment 8.6.1: Non-Compensable Utilities

SENDING AGREEMENTS PRIOR TO RELOCATION ORDER

Below is a Legal Opinion by Fred Wisner on the ability of WisDOT to send plats, plans and utility agreements to the utility companies prior to the signing of the relocation order or the recording of the Transportation Project Plat. This is reprinted from an email message to Ernest Peterson, dated Thursday, July 27, 2006, 12:00 PM.

You ask to what extent can the Department commit to the reasonable costs to a utility for the compensable work for the relocation of its utility facilities required by a state trunk highway improvement, prior to or independent of filing a transportation project plat.

Short Answer: The Department is authorized by Wis. Adm. Code § Trans 220.05(6) and (7) to approve the reasonable costs of compensable work that is included in the utility's work plan. This approval is not conditioned or depended upon the filing of a transportation project plat.

Wis. Stat. § 84.063 authorizes a process for facilitating the timely relocation of utility facilities within the right of way of a proposed Department highway improvement. Wis. Adm. Code ch. Trans 220 establishes the administrative procedures for implementing Wis. Stat. § 84.063. The rule includes a step-by-step process with timelines for the Department and utilities to follow to achieve a timely relocation of utility facilities, and covers both noncompensable and compensable work. Compensable work is defined in Wis. Adm. Code § Trans 220.03(3) as follows:

Trans 220.03(3)

(3) "Compensable work" means utility facility alteration or relocation work for which the department will reimburse the utility facility owner under programs or policies of the department, including s. 84.295 (4m), Stats.

Of relevance here for purposes of this discussion, is Wis. Adm. Code § Trans 220.05(6) and (7). These subsections read as follows:

Trans 220.05(6)

(6) For compensable work, in addition to the items specified in sub. (5), the work plan shall include an estimate of cost for utility facilities relocation including appropriate credits for betterments, used life and salvage. An executed conveyance of rights or quitclaim deed to the property occupied by the owner's facilities if one is required by the improvement project may be submitted at this time.

Trans 220.05(7)

(7) The department shall review the work plan to ensure compatibility with permit requirements, the improvement plans and construction schedule, reasonableness of relocation scheme and reasonableness of cost for compensable work. If the work plan submitted by the owner is not compatible or reasonable, the department shall advise the owner by mail as soon as practicable. If sent through regular mail, the department may include a receipt of mailing form. If a receipt of mailing form is sent, the owner shall complete the form and mail it back to the department within 7 calendar days of receipt. The owner shall submit a revised work plan within 30 calendar days of receipt of advice by the department that the work plan is not compatible or reasonable. The department shall review the revised work plan and if the work plan is still not compatible or reasonable, the work plan revision process shall be repeated. When the work plan is compatible and reasonable, the department shall advise the owner by mail of its approval

It is clear from the aforesaid two subsections that the Department is authorized to approve the reasonableness and compatibility of a utility's work plan for the relocation of its utility facilities required by a state trunk highway improvement, and that such approval covers the reasonable costs of compensable work included as part of the work plan. Nothing in Wis. Stat § 84.063, nor

Attachment 8.9.1: Sending Agreements Prior to Relocation Order

in Wis. Adm. Code ch. Trans 220, makes the approval of the work plan conditioned or depended upon the filing of a transportation project plat.

Conclusion

The Department is authorized by Wis. Adm. Code § Trans 220.05(6) and (7) to approve the reasonable costs of compensable work that is included in the utility's work plan. This approval is not conditioned or depended upon the filing of a transportation project plat.

Fred Wisner
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fred.wisner@dot.state.wi.us

Attachment 8.9.1: Sending Agreements Prior to Relocation Order

Wis. Stat. s. 84.093 Cooperative acquisition of rights-of-way

(1) The department, acting in the public interest, may contract with a public utility, as defined in s. 196.01 (5), or with a rural electric cooperative association, as described in s. 32.02 (10), for the receipt or furnishing of services, or the joint exercise of any power or duty required or authorized by law, relating to the acquisition, development or maintenance of rights-of-way to be used jointly by the department and a public utility or rural electric cooperative association. If parties to a contract under this section have varying powers or duties under the law, each may act under the contract to the extent of its lawful powers and duties. This section shall be interpreted liberally in favor of cooperative action between the department and a public utility or rural electric cooperative association.

(2) Any contract under this section may provide a plan for administration of the function or project, which may include provisions as to proration of the expenses involved, deposit and disbursement of funds appropriated, submission and approval of budgets and formation and letting of contracts.

History: 1997 a. 91; 1999 a. 32 s. 166.

Attachment 8.11.1: s.84.093 Cooperative Acquisition

From: Thiel, Jim
Sent: Wednesday, August 08, 2001 4:42 PM
To: Gruendler, James; Peterson, Ernest
Cc: Bovy, Robert; Larsen, Sheldon; McDonald, Hugh; Polacek, Ronald; Schrader, Gerald; Weber, Edith; Johnson, Liz; CASS, MICHAEL
Subject: Cooperative Acquisition of Right of Way: OGC 98-360

This is in response to four separate, but related legal requests as follows:

- Ernie Peterson's E-Mail of **July 8, 1998** asking questions on behalf of the Cooperative Acquisition Committee;
- OGC 98-360, an official legal services request by Jim Gruendler dated **November 16, 1998**, dealing specifically with cooperative acquisition with Alliant Energy on the Janesville Bypass, STH 11 project;
- Ernie Peterson's/David Kipp's E-Mail of **December 10, 1998**, dealing with cooperative acquisition with WEPCO for the STH 22 project in Shawano County; and,
- Ernie Peterson's E-Mail of **January 21, 1999**, relating to drafting a generic cooperative acquisition agreement. (Copies are attached.)

I will first address the series of questions in Ernie Peterson's E-Mail of July 8, 1998. The statute involved was created as sec. 84.095, Stats., by 1997 Wis. Act 91, but was renumbered as sec. 84.093, Stats., by the Revisor of Statutes pursuant to sec. 13.93 (1) (b), Stats. It went into effect April 28, 1998. It is a permissive or enabling statute. It does not require WISDOT to participate in cooperative acquisitions with certain utilities; it allows WISDOT to do so under certain conditions and limitations. It reads as follows:

"84.093 Cooperative acquisition of rights-of-way.

(1) The department, **acting in the public interest, may contract** with a public utility, as defined in s. 196.01 (5), or with a rural electric cooperative association, as described in s. 32.02 (10), **for** the receipt or furnishing of services, or the **joint exercise of any power or duty required or authorized by law**, relating to the acquisition, development or maintenance of rights-of-way to be used jointly by the department and a public utility or rural electric cooperative association. If parties to a contract under this section have varying powers or duties under the law, each may act under the contract to the extent of its lawful powers and duties. This section shall be interpreted liberally in favor of cooperative action between the department and a public utility or rural electric cooperative association.

(2) Any contract under this section **may** provide a plan for administration of the function or project, which **may** include provisions as to proration of the expenses involved, deposit and disbursement of funds appropriated, submission and approval of budgets and formation and letting of contracts." (Emphasis added.)

For convenience, I will repeat each of Ernie Peterson's questions and provide an answer:

QUESTION 1: "If WISDOT and a utility enter into an agreement, can utility real estate agents purchase easements and if necessary use our "quick-take" condemnation process?"

ANSWER 1: **YES, if the WISDOT/utility agreement is properly and carefully written and the transactions are in the public interest. The key will be the terms of the agreement and the facts of the specific situation/project.**

This is an unintentionally loaded question. Among issues that would need to be sorted out are (1) who are these real estate "agents" acting as "agents" for, WISDOT or the utility or both? (2) who are they requiring the easement for, for what reason, and in whose name is the acquisition? and (3) on whose behalf are they exercising "quick-take" under sec. 32.05, Stats.?

The phrase "utility real estate agent" in every day conversation most likely refers to an employee of the utility whose major work deals with real estate, but it could also be a contractor hired by a utility to do real estate work for the utility.

However, that person or entity could also become an "agent" of WISDOT pursuant to a cooperative acquisition agreement with the utility. The legal meaning of "agent" is significant and carries with it some potential legal

Attachment 8.11.2: Cooperative Acquisition Legal Guidance (Historical Document)

confusion baggage. "The generally accepted rule is that "one who contracts with an independent contractor is not liable to others for the torts of the independent contractor." Snider v. NSP Co., 81 Wis. 2d 224, 232, 260 N.W.2d 260, 263 (1977); Majorowicz v. Allied Mut. Ins. Co., 212 Wis. 2d 513, 525 (1997). For that reason, among others, state contracts often make it clear and express that the person or entity involved is an "independent contractor." However, the law actually makes it clear that the terms "independent contractor" and "agent" are not mutually exclusive categories. Both can and do act on the behalf of another. An "agent" can be an "independent contractor." And an "independent contractor" may or may not be an "agent." The important distinction for tort liability purposes, protection of governmental immunity statutes, and related laws and even insurance coverage is whether the a person is a "servant" rather than an "independent contractor." For example, if WISDOT engaged a printing company to print some plat sheets and maps and the company's truck driver negligently injured an individual while delivering the maps and plat sheets, neither the company nor the driver would be entitled to state governmental immunity, nor would WISDOT be responsible for the crash. The printing company would be an independent contractor **and** not a servant and wouldn't even be an agent of WISDOT. See Kettner v. Wausau Ins. Cos., 191 Wis.2d 723, 736-737 (1995). In general, the conduct of an independent contractor does not expose the government to potential liability for that conduct. A "servant" relationship exists when the contract is one where the dominant factor is the right to control such factors as the place of work, time of employment, method of payment, supplies and equipment, and the right to discharge employees.

What this all means generally is that WISDOT cannot be held responsible for the physical negligence of an independent contractor; but might be responsible for the negligence of an agent over whom it has enough control to make that person or agent a "servant" or the close equivalent of an employee. See Wis J I--Civil 4000, Agency; and Wis J I--Civil 4060, Independent Contractor; see also Arsand v. City of Franklin, 83 Wis. 2d 40, 43-44, 264 N.W.2d 579, 581 (1978).

What WISDOT should attempt to accomplish in its Cooperative Acquisition Agreements with any eligible public utility is a convenient way to jointly exercise any power or duty required or authorized by law relating to the acquisition, development or maintenance of rights-of-way to be used jointly by WISDOT and the public utility. This means the agreement needs to establish a sufficient agency relationship to empower a utility to act on WISDOT's behalf or for WISDOT to act on behalf of the utility without crossing the line and making the utility or its employees or subcontractors "servants" of WISDOT.

QUESTION 2: "If so [If utility real estate agents can purchase easements and if necessary use our "quick-take" condemnation process.], whose name would the easement have to be in? Can the easement be in the utility's name, or does it have to be an easement in WISDOT's name?"

ANSWER 2: **In WISDOT's name if the easement is acquired by "quick take" under sec. 32.05, Stats. Otherwise, if acquired by purchase, it could be in either WISDOT or the utility name depending on the specific situation.**

(1) The department, **acting in the public interest, may contract** with a public utility, as defined in s. 196.01 (5), or with a rural electric cooperative association, as described in s. 32.02 (10), **for the receipt or furnishing of services, or the joint exercise of any power or duty required or authorized by law**, relating to the acquisition, development or maintenance of rights-of-way to be used jointly by the department and a public utility or rural electric cooperative association. If parties to a contract under this section have varying powers or duties under the law, each may act under the contract to the extent of its lawful powers and duties. This section shall be interpreted liberally in favor of cooperative action between the department and a public utility or rural electric cooperative association.

An "agent" in a legal sense is a person who acts in your name. The agent is your representative and acts for, in the place of, and instead of, you. A consequence of the relationship that **whatever an agent does in the lawful prosecution of the transaction entrusted to the agent is your act**. Another characteristic of the agency relationship is that the agent has the power to bring about or alter business and legal relationships between you and third persons. Agents and independent contractors are not mutually exclusive categories; both can and do act on your behalf. The critical distinction is the degree of control you exercise. An independent contractor is one that contracts with another to do something, but is not controlled by the other nor subject to the other's right to control with respect to physical conduct in the performance of the undertaking. What this means generally is that you cannot be held responsible for the physical negligence of an independent contractor; you might be responsible for the negligence of an agent over whom you have enough control to make that person the close equivalent of an

employee or servant. See Wis J I--Civil 4000, Agency; and Wis J I--Civil 4060, Independent Contractor; see also **Arsand v. City of Franklin**, 83 Wis. 2d 40, 43-44, 264 N.W.2d 579, 581 (1978).

The WISDOT/utility agreement should state the utility is acting as an independent contractor on behalf of WISDOT, and pursuant to that contract the utility may purchase easements and use our "quick-take" condemnation process for the benefit of WISDOT. In this situation, the utility will be acting in the same manner as an outside consultant who has been contracted to act on our behalf.

Attachment 8.11.2: Cooperative Acquisition Legal Guidance (Historical Document)