

EXHIBIT D

(page 1 of 6)

DANE COUNTY REGISTER OF DEEDS

Doc No 2909070

1997-11-21 02:07 PM
Trans. Fee 0.00
Rec. Fee 20.00
Pages 6

EASEMENT

This Easement ("Easement") is executed and entered into this 18th day of November, 1997, by and between the County of Dane, Wisconsin, a Wisconsin municipal corporation (the "County") and the City of Madison, a Wisconsin municipal corporation (the "City").

000563

WITNESSETH:

WHEREAS, the County is the owner of certain real property located in the City of Madison, Dane County, Wisconsin, more particularly described on Exhibit A which is attached hereto and made a part hereof (the "Property"); and

THIS SPACE RESERVED FOR RECORDING DATA

RETURN TO: CEDU - Real Estate
P.O. Box 2983
Madison, WI 53701-2983

Tax Parcel Numbers: 60-0809-253-0099-1
60-0809-254-0519-1
60-0809-254-0520-4

WHEREAS, the County desires to provide the City with a perpetual, exclusive easement over a portion of the Property for the operation of the existing City-owned water tower ("Tower"), booster pump station ("Pump Station"), water main facilities ("Water Main Facilities"), and telecommunications shelter ("Shelter"); and

WHEREAS, the County desires to provide the City with an easement over a portion of the Property for ingress and egress to and from the Tower, Pump Station, Water Main Facilities and Shelter.

NOW, THEREFORE, for good and valuable mutual consideration, the delivery, receipt and sufficiency of which is hereby acknowledged, the parties covenant and agree as follows:

1. Grant of Tower Easement. The County hereby grants and conveys to the City, and the City hereby accepts from the County, a permanent exclusive easement upon, over, and across that portion of the Property described as Parcel A on Exhibit A (the "Tower Easement Area") for the continued operation of the Tower, Pump Station, Water Main Facilities and Shelter. This Easement includes, but is not limited to, the right of pedestrian and vehicular ingress and egress upon, over, and across the Tower Easement Area; the right to excavate, install, operate, maintain, repair, replace and modify the Tower, Pump Station, Water Main Facilities and Shelter; and the right to perform all work incidental thereto. Any modification by the City to such improvements located within the Tower Easement Area shall be subject to the prior written approval by the County. The Tower Easement Area is identified as Parcel A on Exhibit B which is attached hereto and made a part hereof.
2. Grant of Ingress/Egress Easement. The County hereby grants and conveys to the City, and the City hereby accepts from the County, a permanent non-exclusive easement upon, over and across that portion of the Property described as Parcel B on Exhibit A and identified as Parcel B on Exhibit B (the "Ingress/Egress Easement Area") for the right of pedestrian and vehicular ingress and egress to and from the Tower Easement Area.
3. Grants of Licenses to Others. The City shall be permitted to grant licenses to a maximum of three (3) telecommunication companies for the construction, operation, maintenance, repair, replacement and removal of telecommunications equipment and improvements on the Tower and Tower Easement Area, together with the right of pedestrian and vehicular access thereto upon, over and across the Ingress/Egress Easement Area, subject to the following terms and conditions:
 - a. The City shall provide the County with copies of all executed licenses.
 - b. The City shall pay to the County annually fifty percent (50%) of the annual net revenues received for each license. The term "annual net revenues" shall be defined as license fees less any direct costs and expenses incurred by the City as a result of its administration of the terms and conditions of the licenses. Payment shall be made in arrears by the City to the County within thirty (30) days following the anniversary date of each license and shall be



6/20

EXHIBIT D

(page 2 of 6)

accompanied by an accounting of any direct costs and expenses incurred for each license during the prior year period. All payments to the County shall be made to the County Treasurer and shall be sent or personally delivered to the County at the address specified in Paragraph 4.

000564

- 4. **Notices.** All payments and correspondence pertaining to this Easement shall be mailed or personally delivered to the address of the parties specified below:

For the County: County of Dane
Department of Administration
Attn.: Real Estate Officer
210 Martin Luther King, Jr. Boulevard, Room 425
Madison, WI 53711

For the City: Community and Economic Development Unit
Real Estate Section
Madison Municipal Building
215 Martin Luther King, Jr. Boulevard
P. O. Box 2983
Madison, WI 53701-2983

Any party hereto may, by giving five (5) days written notice to the other party in the manner herein stated, designate any other address in substitution of the address shown above to which payments and correspondence shall be sent or personally delivered.

- 5. **Utilities.** The City shall be responsible for payment of all utility services serving the Tower, Pump Station, Water Main Facilities and Shelter.
- 6. **Applicable Law.** This Easement shall be construed in accordance with the laws of the State of Wisconsin.
- 7. **Amendment.** This Easement may not be amended, modified, terminated, or released without the written consent of all the parties hereto, or their respective successors-in-interest.
- 8. **Severability.** If any term or provision of this Easement is held to be invalid or unenforceable by a court of competent jurisdiction, then such holding shall not affect any of the remaining terms and provisions of this Easement and the same shall continue to be effective to the fullest extent permitted by law.
- 9. **Binding Effect.** This Easement shall run with the land and shall inure to the benefit of and shall be binding upon the parties hereto and their respective successors and assigns.
- 10. **Public Record.** This Easement will be recorded at the office of the Dane County Register of Deeds after it is executed by the parties.

Dated this 13th day of October, 1997.

COUNTY OF DANE

By: Kathleen M. Falk
Kathleen M. Falk, County Executive

By: Joseph T. Parisi
Joseph T. Parisi, County Clerk



EXHIBIT D

(page 3 of 6)

State of Wisconsin)
)ss.
County of Dane)

000565

Personally came before me this 13 day of October, 1997, the above named Kathleen M. Falk, County Executive of the County of Dane, acting in said capacity and known by me to be the person who executed the foregoing instrument and acknowledged the same.

Judith K. Nowak
Notary Public, State of Wisconsin
My Commission: 4-22-2001

State of Wisconsin)
)ss.
County of Dane)

Personally came before me this 14 day of October, 1997, the above named Joseph T. Parisi, County Clerk of the County of Dane, acting in said capacity and known by me to be the person who executed the foregoing instrument and acknowledged the same.

Judith K. Nowak
Notary Public, State of Wisconsin
My Commission: 4-22-2001

CITY OF MADISON

By: Susan J. Bauman
Susan J. M. Bauman, Mayor

By: Ray Fisher
Ray Fisher, City Clerk

State of Wisconsin)
)ss.
County of Dane)

Personally came before me this 18th day of November, 1997, the above named Susan J. M. Bauman, Mayor of the City of Madison, acting in said capacity and known by me to be the person who executed the foregoing instrument and acknowledged the same.

Arnella Williamson
Notary Public, State of Wisconsin
My Commission: exp. 3-22-98

State of Wisconsin)
)ss.
County of Dane)

Personally came before me this 14 day of November, 1997, the above named Ray Fisher, City Clerk of the City of Madison, acting in said capacity and known to me to be the person who executed the foregoing instrument and acknowledged the same.

Idell K. Dietz
Notary Public, State of Wisconsin
My Commission: 10-14-2001

City of Madison



EXHIBIT D

(page 4 of 6)

Execution of this document is authorized by Resolution No. 54,705, ID No. 22,254,
adopted by the Common Council of the City of Madison on November 11, 1997.

000586

Drafted by the City of Madison Real Estate Section.

Project No. 4011

City of
Madison



EXHIBIT D

(page 5 of 6)

EXHIBIT A (The Property)

000567

Tower Easement Area (Parcel A)

A part of Lot 9 of Hanover Plat, a plat of record; being a part of the Northeast Quarter (NE 1/4) of the Southwest Quarter (SW 1/4) of Section Twenty-five (25), Township Eight (8) North, Range Nine (9) East, City of Madison, Dane County, Wisconsin, containing 23,256 square feet (0.534 acres) of land and being described by:

Commencing at the South Quarter (S 1/4) Corner of said Section 25; thence N01°05'16"E, 1,858.21 feet along the East line of the Southwest Quarter (SW 1/4) of said Section 25; thence N88°54'44"W, 42.33 feet to the **point of beginning**; thence S05°14'12"W, 230.82 feet; thence N88°09'26"W, 85.65 feet; thence N03°40'41"W, 221.27 feet; thence N87°01'11"E, 121.03 feet to the **point of beginning**; being subject to any and all easements and restrictions of record.

Ingress/Egress Easement Area (Parcel B)

A 12 foot wide Ingress/Egress Easement being a part of Lot Nine (9) of Hanover Plat; a part of Lots Fifteen (15) and Sixteen (16), Block Two (2), and a part of vacated Esch Lane (recorded as Drewry Lane) lying North of Lake View Avenue, Lake View Heights, a plat of record; all being a part of the Northwest Quarter (NW 1/4) of the Southeast Quarter (SE 1/4) and the Northeast Quarter (NE 1/4) of the Southwest Quarter (SW 1/4) of Section Twenty-five (25), Township Eight (8) North, Range Nine (9) East, City of Madison, Dane County, Wisconsin, containing 6,171 square feet (0.142 acres) of land and being 6 feet either side of and parallel to a line described by:

Commencing at the South Quarter (S 1/4) Corner of said Section 25; thence N01°05'16"E, 1,380.93 feet along the East line of the Southwest Quarter (SW 1/4) of said Section 25 to the Southwest Corner of Lot 15, Block 2, of said Lake View Heights; thence S89°44'03"E, 215.67 feet (recorded as N89°09"E, 216.04 feet) along the South line of said Lot 15 and the East extension thereof to the Centerline of vacated Esch Lane; thence S01°11'57"W (recorded as S00°07"W), 20.63 feet along said Centerline to a point in the North line of Lake View Avenue extended West; thence S89°18'04"E (recorded as N89°37"E), 10.00 feet along said North line to the **point of beginning**; thence N01°11'57"E, 30.71 feet; thence N89°44'03"W, 16.15 feet; thence N34°04'04"W, 91.22 feet; thence N51°43'15"W, 89.38 feet; thence N72°55'51"W, 95.12 feet; thence N36°48'06"W, 114.81 feet; thence N00°18'58"E, 55.32 feet; thence N89°41'02"W, 15.51 feet; thence N00°18'58"E, 6.00 feet to the **point of termination**.

