

UTILITY CONSTRUCTION AND EASEMENT AGREEMENT

FOR

ARROWHEAD-WESTON TRANSMISSION LINE PROJECT

This Agreement is made by and between Wisconsin Public Service Corporation, a Wisconsin corporation, 700 North Adams Street, Green Bay, WI 54307 ("WPS"), American Transmission Company, LLC, a Wisconsin limited liability company, and ATC Management, Inc., a Wisconsin corporation, N19 W23993 Ridgeview Parkway West, Waukesha, WI 53187 (collectively known as "ATC")(WPS and ATC individually or together referred to as the "Grantee"), and Douglas County, Wisconsin, 1316 N. 14th Street, Superior, WI 54880 (the "County"). The parties agree as follows:

1. Introduction. Grantee and its successors and assigns propose to install, maintain, and operate an electric transmission line known as the Arrowhead-Weston Transmission Line within Douglas County (the "Project") on both public and private lands, including, but not limited to, three easements granted by the County in conjunction with this Agreement (the "New Easements"), and an existing easement granted by the County to Superior Water, Light & Power Company on August 14, 1972 (the "Existing Easement"). The New Easements are attached as Attachments 1-3. The Existing Easement is attached as Attachment 4. The land within the boundaries of the New Easements shall be referred to hereinafter as the "New Easement Land." The land within the boundaries of the Existing Easement shall be referred to hereinafter as the "Existing Easement Land." This Agreement incorporates by specific reference as if set forth in full herein all terms and conditions of the New Easements and the Existing Easement.

2. Grant of Easement. Upon execution of this Agreement, the County agrees to cause the New Easements to be properly executed by representatives of the County and delivered to Grantee for recording. In consideration and upon receipt of the grant of the New Easements, Grantee will pay the County the sum of the following:

- a. The Grantee will pay the fair market value of the timber within the New Easement Land taken down during the construction of the Project. If the parties cannot agree to the value of the timber, the dispute resolution provisions in Section 13 shall apply.
- b. The Grantee shall pay as just compensation, the following sums:

\$86,000 – New Easement acquisition.
(43 acres more or less at \$2,000/acre)

+ \$2,500 – Savings on appraisal cost

\$88,500- Total

- c. The Grantee shall pay the County \$229,500 (75% of \$2000/acre multiplied by 153 acres more or less) for the use of the Existing Easement to construct, operate and maintain the Project. The County acknowledges that the Existing Easement

has been partially assigned to the Grantee by Superior Water, Light & Power Company by an assignment dated March 15, 2005 and recorded on March 18, 2005 by the Douglas County Recorder. The County agrees not to contest or challenge the assignment of the Existing Easement to the Grantee or the Grantee's right to use the rights granted by the Existing Easement to construct, operate and maintain the Project in consideration for this payment.

- d. The Grantee will pay statutorily required impact fees to the County, as required by sec. 16.969 of the Wisconsin Statutes to the Wisconsin Department of Administration (the "Department") at the times designated by the Department. In the event the fees payable to the County pursuant to sec. 16.969 are diminished by a change in the law in the future, the Grantee agrees to pay directly to the County whatever sums are necessary so the County receives the amount of impact fees to which it is entitled pursuant to the current version of sec. 16.969.
- e. The Grantee shall pay the County for actual past and anticipated future reasonable legal expenses paid by the County to outside counsel for legal work associated with the Project. The parties agree that the cost of these legal services is fixed at \$15,000.
- f. The Grantee shall pay the County for actual and anticipated future reasonable staff cost associated with the Project incurred by the County. The parties agree that the staff cost is fixed at \$118,064.
- g. The Grantee will pay a lump sum of \$119,000 to establish an Economic Development Fund to be used at the discretion of the Douglas County Board for economic development programs that emphasize and encourage environmental stewardship.
- h. The Grantee will pay \$40,000 to the County to fund a Community Contribution Fund to be disbursed by the County. The County will publicly recognize the Grantee as the funding organization. The funds will be disbursed by the County as follows:
 - i. \$9,000 Superior Public Museums
 - ii. \$6,000 Business Improvement District
 - iii. \$5,000 Pond Hockey Program
 - iv. \$4,500 The Senior Center
 - v. \$4,500 Casda
 - vi. \$4,000 Douglas County Historical Society
 - vii. \$4,000 Harbor House Shelter

viii. \$3,000 The Salvation Army

- i. The sums described in subsections b, c, and e through h of this section shall be due and payable within 30 days of the date the Grantee receives the New Easements executed by the County unless a different time is provided for herein. The County agrees to waive its statutory right to litigate just compensation for the grant of the New Easements or any other matter associated with this Agreement.

3. Construction of the Project. The Grantee agrees to do all of the following associated with the construction of the Project:

- a. The Grantee will survey the location of each structure used in the construction of the Project on Easement Land and provide the County with GPS coordinates for each such structure. The Easement legal descriptions will be referenced and tied to two corners marked and established by the U.S. Public Land Survey. All section corners recovered and GPS coordinates established will be shared with the County. The Grantee is permitted to access lands of the County outside the Easement Lands to identify, recover and/or establish said corners of the U. S. Public Land Survey. This permission is given subject to the condition that the County will be paid for any and all damage to property or timber resulting from said land surveying activities.
- b. The Grantee shall prepare a Construction and Mitigation Plan-Part B ("CMP-Part B") in cooperation with the County. The CMP-Part B will contain detailed site specific construction procedures and methods for protecting sensitive resources that are identified in the environmental impact statement prepared by the Public Service Commission of Wisconsin ("PSCW") and resources identified during engineering surveys and during construction of the Project on County-owned land. The Grantee will not commence construction on County-owned land until the CMP-Part B is approved by the PSCW.
- c. Concurrent with the development of the CMP-Part B, the Grantee shall determine, in consultation with the County, all construction access points required by the Grantee located on County-owned land necessary to construct the Project. If the Grantee determines that it requires access across County-owned land for the construction of the Project that is not Easement Land (hereinafter "Non-Easement Land"), the Grantee and the County agree to negotiate in good faith such access points. The Grantee shall pay the County \$200 per acre for the land needed for the construction access areas.
- d. The Grantee and County shall establish a route to be used by all construction vehicles during the construction of the Project. The Grantee and County Highway Commissioner or the Commissioner's designee will jointly inspect and document the condition of all County and town roads on the established route prior to the commencement of construction. The County and Grantee shall then attempt in good faith to agree on a formula which will determine the anticipated wear on said roads caused by the construction vehicles. The formula will take into

account the number of trips necessary by the construction vehicles and the weight of the vehicles. The Grantee will reimburse the County or town having jurisdiction over the road for damage to said roads caused by the construction vehicles pursuant to the formula. If the Grantee and the County cannot agree on a formula, the dispute resolution provisions in Section 13 shall apply.

- e. The Grantee shall restore all construction areas on County-owned land in accordance with the plans approved by the Wisconsin Department of Natural Resources (“WDNR”) and PSCW. Restoration activities shall comply with all laws, rules, and regulations affecting those activities.
 - f. Herbicides will not be used in conjunction with construction of the Project without the written consent of the Douglas County Forester.
 - g. At the conclusion of construction, the Grantee will revegetate areas disturbed by construction activities pursuant to Wisconsin law. The Grantee agrees to consult the County to determine appropriate perennial vegetative cover for land disturbed by construction activities. The Grantee shall accommodate reasonable requests by the County for restoration work subject to approval of the restoration plan by the Wisconsin Department of Natural Resources.
4. Maintenance of the Project. The Grantee agrees to do all of the following:
- a. The Grantee will repair any damage to County-owned land caused by the Grantee during maintenance or operation of the portion of the Project as required by Wisconsin law.
 - b. Herbicides will not be used in conjunction with the maintenance of the Project without the written consent of the Douglas County Forester.
 - c. If the Grantee and County agree on permanent access points to be used for maintenance of the line, the Grantee shall pay the County \$2,000 per acre for the land needed for the permanent access areas. In exchange for said payment, the County will grant and convey to Grantee and its successors and assigns, a permanent right and easement of ingress and egress (“Access Easement”) over, upon, under, and across existing and future roadways, paths, or access roads over and across the County’s property from the Easement Land to publicly dedicated roads, as necessary to access, place, maintain, operate, replace and repair electrical transmission facilities within the Easement Land. Subject to the terms and provisions of this Agreement, the County may, from time to time, and upon reasonable prior written notice to Grantee, reasonably relocate the Access Easement Area or a portion or portions thereof; provided that County shall, at County’s expense, prepare and record an amendment to the Access Easement (which amendment shall be duly executed by the County and the Grantee or their respective successors or assigns) depicting the relocated Access Easement Area. During relocation the County shall provide reasonably equivalent alternative access during the action or construction period. After completion, such relocated

Access Easement Area shall be of a quality and quantity substantially equivalent to that enjoyed by the Grantee prior to County's relocation of such Access Easement Area. At no time during any construction or other relocation shall the Grantee's ingress and egress to the transmission line easement areas from publicly dedicated roads be materially diminished.

5. Extraordinary Law Enforcement Costs. The Grantee agrees to reimburse the County for reasonable costs incurred by County law enforcement personnel in the event of demonstrations, protests, civil disobedience or criminal action committed by the public which is directly related to the construction, maintenance, or operation of the Project in Douglas County. The Grantee's responsibility for such costs ends the day after the date of substantial completion of the Project in Douglas County. For purposes of this section, the Project shall be considered substantially complete when all restoration activities contemplated in section 3(e) are completed. Nothing in this section precludes the Grantee from seeking damages from the offenders, and the County agrees to cooperate with the Grantee in the event the Grantee makes such a claim against the offenders.

6. Solon Springs Airport. The Grantee shall abide by the terms of the August 3, 2004, letter agreement entered into between the Grantee and the Solon Springs Airport Board relating to easements in the vicinity of the Solon Springs Airport. The Grantee agrees to comply with all regulations of the Federal Aviation Administration that relate to the construction of the Project.

7. Douglas County Lawsuit. The Grantee and County agree to dismiss all claims filed against each other in the lawsuit filed by the Grantee, Case No. 05-CV-254 venued in Douglas County as moot. The Grantee will provide the County with a stipulation and order for dismissal signed by the appropriate representatives of the Grantee within 10 days of the execution of this Agreement.

8. Amendment. This Agreement may be amended only by written consent of WPS, ATC, and the County.

9. Assignment and Binding Effect. WPS may assign the Easements and any obligations imposed on WPS by this Agreement to ATC without the County's consent. ATC may assign the Easements in this Agreement to a third-party without the County's consent. Each provision of this agreement shall extend to and shall bind and inure to the benefit of the Grantee and the County and their respective successors and assigns.

10. Severability. If any provision of this Agreement or its application to any person or circumstance is held to be invalid by a court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this Agreement or its application to other persons or circumstances.

11. Notice. If notice is given pursuant to this Agreement, it shall be given in writing as follows:

To Douglas County:

Douglas County Clerk
1313 Belnap St.
Superior, WI 54880-2769

Douglas County Forester
P.O. Box 211
Solon Springs, WI 54873

To ATC:

American Transmission Company
Vice President, Major Projects
2 Fen Oak Court
Madison, WI 53718-8810

And

American Transmission Company
Director, Real Estate
N19 W23993 Ridgeview Parkway West
Post Office Box 47
Waukesha, WI 53187-0047

To WPS:

Wisconsin Public Service Corporation
Project Director-Arrowhead-Westin Project
700 N. Adams Street
Green Bay, WI 54307

12. Construction of Agreement. This Agreement has been drafted with the assistance of counsel for each signatory and, except as expressly provided in this Agreement, shall not be constructed in favor of or against any signatory.

13. Governing Law and Dispute Resolution. The construction and performance of this agreement shall be governed by the laws of the State of Wisconsin.

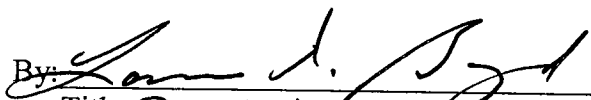
If a dispute related to this Agreement arises, all parties shall attempt to resolve the dispute through direct discussions and negotiations. If the dispute cannot be resolved by the parties, and if all parties agree, it may be submitted to a third party agreed to by the Grantee and the County for arbitration. If the matter is arbitrated, the procedures of Chapter 788 of the Wisconsin Statutes or any successor statute shall be followed. If the dispute is not resolved by these procedures, any party may commence an action in any court of competent jurisdiction. If a lawsuit is commenced, the parties agree that the dispute shall be submitted to alternate dispute resolution pursuant to Section 802.12 of the Wisconsin Statutes or any successor statute.

Unless otherwise provided in this Agreement, the parties shall continue to perform according to the terms and conditions of this Agreement during the pendency of any litigation or other dispute resolution proceeding.

The parties further agree that all parties necessary to the resolution of a dispute (as the concept of necessary parties is contained in Chapter 803 of the Wisconsin Statutes or its successor statutes) shall be joined in the same litigation or other dispute resolution proceedings. In any arbitration or legal action brought to interpret or enforce the terms of this Agreement, the prevailing party shall be entitled to reasonable attorney's fees and all related costs of the arbitration or litigation.

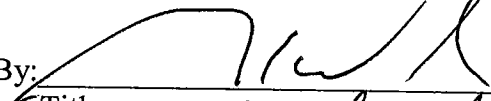
14. Execution of Agreement. This Agreement may be executed in counterparts, and each such duly executed counterpart shall have the same validity, force, and effect as the original. Executed signature pages of counterpart documents may be exchanged by facsimile.

WISCONSIN PUBLIC SERVICE CORPORATION

By: 
Title: President + COO, Energy Delivery


Dated: 9/14/05

AMERICAN TRANSMISSION COMPANY, LLC, and ATC MANAGEMENT, INC., in its own Right and as Corporate Manager for AMERICAN TRANSMISSION COMPANY, LLC

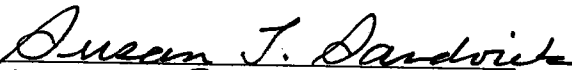
By: 
Title: Vice President Reg. Projects

Dated: 9/15/05

DOUGLAS COUNTY

By: 
Printed Name: Douglas M. Jensen
Title: County Belcher

Dated: 9-16-05

By: 
Printed Name: Susan T. Sandvick
Title: County Clerk

Approved by Douglas County Board of Supervisors on 9-15-05