

UTILITY EASEMENT AGREEMENT

Document Title

This Utility Easement Agreement (“**Agreement**”) is entered into by and between the City of West Allis, a Wisconsin municipal corporation (“**Grantor**”) and Everstream GLC Holding Company LLC, a Delaware limited liability company (“**Everstream**”).

RECITALS

- A. Grantor owns real property in Milwaukee County, Wisconsin legally described as follows (the “**Property**”):

Parcel Two (2) of Certified Survey Map No. 5306, being a part of the Southeast Quarter (SE1/4) of Section Six (6) Township Six (6) North, Range Twenty-One (21) East, City of West Allis, Milwaukee County, Wisconsin, and recorded in the Office of the Register of Deeds for Milwaukee County on August 8, 1989 in Reel 2356, Image 1456 to 1459, inclusive, as Document No. 6300590.

- B. Grantor leases to T-Mobile Central LLC a certain portion of the Property, which T-Mobile Central LLC wishes to be served by fiber provided by Everstream.
- C. Grantor is willing to grant a non-exclusive easement to Everstream for such purposes on the terms and conditions contained in this Agreement.

AGREEMENT

For good and valuable consideration, the receipt and sufficiency of which are acknowledged, Grantor and Everstream agree as follows:

1. Grant of Easement. Grantor hereby grants to Everstream a six-foot wide, non-exclusive easement on the Property in the location legally described on *Exhibit A* (“**Easement Area**”) to construct, reconstruct, maintain, operate, and remove an underground fiber optic cable and any necessary appurtenant equipment to serve the parcel leased to T-Mobile Central LLC. All improvements shall be located below grade. Everstream shall provide Grantor with at least 48 hours’ advance notice prior to performing any work in the Easement Area by calling (414) 302-8827 or providing written notice as set out in Section 10.
2. Term. The term of the easement granted in Section 1 of this Agreement shall be coextensive with the term of the lease to T-Mobile Central LLC and shall automatically terminate upon the termination of said lease (“**Term**”). Everstream shall remove all of its facilities installed within the Easement Area within 90 days of receiving notice that Grantor’s lease with T-Mobile Central LLC has terminated.
3. Consistent Uses Allowed. Grantor reserves the right to use the Property and the Easement Area for all purposes that will not interfere with the rights granted to Everstream under this Agreement.

Recording Data

Name and Return Address
Atty. Julia K. Potter
Boardman & Clark LLP
PO Box 972
Madison, WI 53701-0927

481-9993-028

Parcel Identification Number (PIN)

4. Restoration of Surface. Upon completion of any work within the Easement Area, Everstream shall restore the surface of the Easement Area (and any adjacent portions of the Property affected by work in the Easement Area) to substantially the same condition it was in prior to the commencement of Everstream's work.
5. Indemnification. Everstream shall indemnify the City of West Allis and its agents, employees, officers, departments, commissions, and elected and appointed officials from and against all loss, costs (including attorney's fees), penalties, injury, death, or damage to persons or property that at any time during the Term may be suffered or sustained by any person or entity in connection with Everstream's activities conducted on the Property, regardless of the cause of the injury, except to the extent caused by the negligence or willful misconduct of Grantor or its agents or employees.
6. Covenants Run with Land. This Agreement is an equitable servitude running with the land described on **Exhibit A** and shall be binding upon, and inure to the benefit of, and be enforceable by Grantor and Everstream and their respective successors and assigns.
7. No Waiver. Nothing in this Agreement is intended to be a waiver or estoppel of the City of West Allis to rely on the limitations, defenses, and immunities contained within Wisconsin law, including but not limited to those contained in Wis. Stat. §§ 893.80 and 345.05. To the extent that indemnification is available and enforceable, the City of West Allis shall not be liable in indemnity or contribution for an amount greater than the limits of liability for municipal claims established by Wisconsin law.
8. Governing Law. This Agreement shall be construed and enforced in accordance with the internal laws of the State of Wisconsin, without regard to its conflict of laws provisions.
9. Entire Agreement. This Agreement sets forth the entire understanding of Grantor and Everstream with respect to its subject matter and may not be changed except by a written document executed and acknowledged by Everstream and all record owners of the Easement Area and duly recorded in the office of the Register of Deeds for Milwaukee County.
10. Notices. All notices permitted or required pursuant to this Agreement shall be in writing and shall be delivered or sent by certified mail or overnight delivery by a reputable national carrier to the addresses provided below, provided that either party may change such address by written notice to the other:

Grantor:	City of West Allis, Wisconsin Attn: Water Systems Superintendent 6300 W. McGeoch Ave West Allis, WI 53219
Everstream:	Everstream GLC Holding Company LLC Attn: General Counsel 1228 Euclid Ave Suite 250 Cleveland, OH 44115
11. Invalidity. If any term or condition of this Agreement, or the application of this Agreement to any person or circumstance, shall be deemed invalid or unenforceable, the remainder of this Agreement, or the application of the term or condition to persons or circumstances other than those to which it is held invalid or unenforceable, shall not be affected thereby, and each term and condition shall be valid and enforceable to the fullest extent permitted by law.
12. Waiver. No delay or omission in exercising any right or power arising out of any default under the terms or conditions of this Agreement shall be construed to be a waiver of the right or power. A waiver by Grantor or

Everstream of any of the obligations of the other shall not be construed to be a waiver of any breach of any other terms or conditions of this Agreement.

13. Enforcement. Enforcement of this Agreement may be by proceedings at law or in equity against any person or persons violating or attempting or threatening to violate any term or condition in the Agreement, either to restrain or prevent the violation or to obtain any other relief. If a suit is brought to enforce this Agreement, the prevailing party shall be entitled to recover its costs, including reasonable attorney's fees, from the non-prevailing party.

Dated this _____ day of _____, 2021.

CITY OF WEST ALLIS, WISCONSIN:

By: _____

Print Name: _____

Title: _____

By: _____

Print Name: _____

Title: _____

ACKNOWLEDGMENT

STATE OF WISCONSIN)
) ss.
COUNTY OF MILWAUKEE)

Personally came before me this _____ day of _____, 2021, the above-named _____, the _____ of the City of West Allis and _____, the _____ of the City of West Allis, to me known to be the persons who executed the foregoing document and acknowledged the same.

Print Name: _____
Notary Public, State of Wisconsin
My Commission: _____

Everstream GLC Holding Company LLC:

By: _____

Print Name: Joe Pellegrini

Title: COO

ACKNOWLEDGMENT

STATE OF OHIO)
) ss.
COUNTY OF WYATTOGA)

Personally came before me this 10th day of MAY, 2021, the above-named JOE PELLEGRINI, the COO of Everstream GLC Holding Company LLC, to me known to be the person who executed the foregoing document and acknowledged the same.

Jara Anton
Print Name: JARA ANTON
Notary Public, State of OHIO
My Commission: 4.23.25



JARA ANTON
Notary Public, State of Ohio
My Commission Expires:
April 23, 2025

This instrument drafted by:
Attorney Julia K. Potter
Boardman & Clark LLP



EXHIBIT A

EASEMENT AREA

A part of Parcel Two (2) of Certified Survey Map No. 5306 recorded as Document No. 6300590 of Milwaukee County Records and being located in the Northwest Quarter (NW1/4) of the Southeast Quarter (SE1/4) of Section Six (6) Township Six (6) North, Range Twenty-One (21) East, City of West Allis, Milwaukee County, Wisconsin containing 953 square feet (0.022 acres) of land and being Three (3) feet each side of and parallel to the following described line:

Commencing at the South Quarter Corner of said Section 6; thence $N01^{\circ}-03'-51''W$ 2026.40 feet along the West line of the SE1/4 of Section 6 to the Northwest Corner of said Certified Survey Map No. 5306; thence $N89^{\circ}-21'-43''E$ (Recorded as $S89^{\circ}-49'-30''E$) 228.40 feet along the North Line of said Certified Survey Map No. 5306 (also being the South Right of Way Line of W. Rogers Street) to the point of beginning; thence $S01^{\circ}-03'-52''E$ 126.83 feet; thence $S80^{\circ}-28'-53''W$ 19.33 feet; thence $S22^{\circ}-38'-27''W$ 12.72 feet to a point on the North line of T-Mobile's existing Lease Parcel and the point of termination. The side lot lines of said easement shall be shortened or lengthened to terminate on the South Right of Way Line of W. Rogers Street and the North line of T-Mobile's existing Lease Parcel.