

EASEMENT

This easement agreement (hereinafter referred to as the "Easement") is granted by the City of Manitowoc, Wisconsin, a municipal corporation, 900 Quay Street, Manitowoc Wisconsin 54220-4543 (hereinafter referred to as the "Grantor") to Federal-Mogul Corporation, 2318 Waldo Boulevard, Manitowoc, Wisconsin (hereinafter referred to as the "Grantee").

WHEREAS, Thomas McCarty of Federal-Mogul submitted a Letter dated October 22, 2013 (Common Council Document #13-581) requesting the City of Manitowoc to grant them permission to have fiber optic cables within the Right-of-Way (ROW) of Fairmont Street; and

WHEREAS, the Licensing, Permits and Inspections Committee unanimously approved the said request on November 14, 2013; and recommended the City Attorney & Public Infrastructure Departments to prepare the necessary easement documents/agreements; and

WHEREAS, the Grantee has prepared the attached legal description and map, identified as Exhibit "A", for the said easement area, which more clearly delineates the area covered by this Easement, and the roles and responsibilities of the undersigned.

NOW, THEREFORE, the undersigned parties hereby agree as follows:

1. Grant of Easement. For the sum of no money and other good and valuable consideration, the receipt whereof is hereby acknowledged by Grantor, Grantor hereby grants unto Grantee, its agents and employees a perpetual easement for: (a) the placement of Grantee's buried fiber optic cables in the Grantor's public right-of-way; in order to connect the Federal-Mogul Plant with the United Piston Ring (UPR) Plant as identified in Exhibit "A" and legally described therein; and (b) to install, construct, place, maintain, repair, replace, restore and remove Grantee's improvements above, upon and below grade in the Easement Area, including all appurtenances related thereto.

The Grantee shall be responsible for registering with and/or becoming a member of Digger's Hotline (One-Call System) for locating underground utilities. The Grantee shall also be responsible for locating their fiber optic cables in accordance with the regulations of Diggers Hotline. The Grantee shall provide and install plastic marker posts (above ground) indicating that they have fiber optic cables at this location. The Grantee shall obtain the necessary approvals and permits from the Canadian National Railroad for those portions where the fiber optic cable crosses the Railroad's property.

The Grantee is expressly responsible to coordinate with the Grantor, in the design, installation, maintenance, repair and removal of improvements of any type and kind within the Easement Area, and shall be responsible for: (a) the payment of all fees, charges, assessments and expenses related thereto; (b) maintenance and repair of utilities in the Easement Area; and (c) restoration of the Easement Area to a condition satisfactory to the Grantor at Grantee's sole expense, upon termination of the Easement as defined in Section 9. Excepting those improvements expressly identified herein, the

Grantee shall not construct any building or other permanent structures or improvements in the Easement Area. The Grantee shall be responsible for the payment of all costs related to any required removal, replacement or relocation of any Grantee-installed improvements, upon terms and conditions acceptable to the undersigned parties.

The Grantee will construct, maintain, manage and control Grantee's improvements in the Easement Area including, without limitation, selection of contractors, materials used, structural design, architectural issues, debris removal, layout, paving and landscaping. Maintenance, landscaping, upkeep and general care of Grantee's improvements located within the Easement Area as of the effective date of this Easement shall be the sole responsibility of the Grantee. Upon termination of the Easement as defined in Section 9, the Easement Area shall be restored at Grantee's sole expense, to a condition acceptable to the undersigned parties.

2. Trimming and Removal of Landscaping Elements. The trimming and removal of trees, bushes, shrubs or other foliage in the Easement Area, as may be necessary, in the judgment of the Grantee, for the safe location of Grantee improvements, shall be the express responsibility of the Grantee. The Grantor hereby consents to any such trimming and removal provided by Grantee, however, the Grantee shall be required to restore the affected portion of the Easement Area to either substantially the same condition that existed prior to any work by the Grantee within the Easement Area, to a condition acceptable to the undersigned parties.
3. Representations. The Grantor hereby warrants that it possesses sufficient title to execute this Easement, and to convey this Easement free and clear of all encumbrances that would prevent the use of the Easement Area as contemplated herein.

The Grantee hereby warrants that at the time and date of execution of this Easement, the Grantee has the power, authority and legal right to execute and enter into said Easement, and further that the person(s) signing this Easement are duly authorized to do so, and their signatures bind the Grantee in accordance with the terms of this Easement.

4. Standard Utility Easement Agreement. The Easement shall be subject to the "Standard Utility Easement Conditions" (hereinafter referred to as "SUEC") recorded at the Manitowoc County Register of Deeds Office on November 2, 1997 in Volume 1252, Page 498 of Records, Document Number 798738 and which are incorporated herein by reference. The undersigned Grantee shall be defined as a Grantee under Section 1.(c) of the SUEC. In the event there is a conflict between SUEC and this Easement, this Easement shall control.
5. Indemnification and Insurance. The Grantee shall defend, indemnify and hold the Grantor harmless from and against any and all claims, liens, losses, liabilities, costs and expenses of any type and kind incurred in connection with any negligent act of the Grantee or any of Grantee's agents, employees and invitees expressly related to Grantee's use of the Easement Area.

Grantee shall maintain in effect at all times during the term of this Easement a policy or policies of comprehensive general liability insurance naming the Grantor as an additional insured and insuring against injury to property, person or loss of life arising out of the use, occupancy or maintenance of the Easement Area by the Grantee. All insurance policies required under this Section shall be purchased and maintained with insurance companies authorized to do business in the State of Wisconsin. In the event of a proposed cancellation or non-renewal of any such policy by an insurance company, Grantee shall secure adequate replacement insurance policies prior to the effective date of such cancellation or non-renewal. Grantee's insurance carrier shall provide the Grantor with a certificate of insurance evidencing that the Grantee's policy is in full force and effect.

6. Covenant Running With Land. This Easement is a covenant running with the land and is binding upon and inures to the benefit of and is enforceable by the parties hereto, their heirs, successors and assigns. The Easement is appurtenant to Grantor's public right-of-way, and Grantee's interest in the Easement may not be transferred, assigned or sublet separately from the Easement Area.
7. Taxes and Assessments. Grantee shall pay in a timely manner when due, any real estate taxes, and all current and future assessments against the Easement Area, special or otherwise, that may be levied and costs associated with the installation of any and all public utilities benefitting the Easement Area including, but not limited to, electric service, water main, storm sewer, sanitary sewer, sidewalks and street pavement in any public rights-of-way abutting said Easement Area.
8. As Is With All Faults. Grantee specifically acknowledges that Grantor, pursuant to the Easement, has granted rights to Grantee for utilization of Grantor's property on an "as is with all faults" basis regarding the quality, nature, adequacy and physical condition of the Easement Area, including but not limited to soils, geology, groundwater, constructability, stability or suitability of said property for any particular purpose.
9. Termination. This Easement shall remain in full force and effect until the first occurrence of one of the following events and without necessity for further documentation: (a) effective an agreed upon date of termination in writing signed by both undersigned parties; or (b) effective the date the Grantee notifies Grantor in writing that it no longer maintains fiber optic cables in the Easement Area.

Grantee shall, if required by Grantor to do so, remove all Grantee improvements and complete all restoration activities required by the Grantor within 90 calendar days after the effective date that this Easement is terminated, unless this 90-day period is extended, waived or modified by the mutual agreement of the undersigned parties. After the 90-day period has lapsed, the Grantor shall become the owner of all Grantee improvements remaining on Grantor's property, shall dispose of Grantee improvements through any means acceptable to the Grantor including, but not limited to sale, lease or license, and shall utilize any remedies at law or at equity to recover any outstanding financial fees, charges, assessments or damages related to the Easement Area from the Grantee.

10. Recordation. This Easement, and any subsequent modifications thereof or additions thereto shall be, upon being duly executed, recorded by the Grantor at the Grantee's sole expense, at the Register of Deeds for Manitowoc County, Wisconsin. The Grantee shall at Grantor's request and at Grantee's sole expense upon termination of the Easement, cause the preparation, filing, recording and execution by the Grantor and Grantee, of an instrument(s) at the Register of Deeds for Manitowoc County terminating this Easement.
11. Entire Agreement. This Easement represents the entire agreement of the parties and can only be modified or changed in writing executed by the undersigned parties.
12. Assignment or Sublease. Grantee shall not assign or sublease all, or any part of the Easement Area, without the prior written consent of the Grantor.
13. Notice and Demand. A notice, demand or other communication hereunder shall be deemed to have been sufficiently given by any party to another party under this Easement when personally delivered, faxed, mailed by first class or registered or certified mail, postage prepaid, addressed to Grantor or the Grantee, as the case may be, and:

A. In the case of the Grantor, address to or delivered personally to:

City of Manitowoc
ATTN: City Clerk
900 Quay Street
Manitowoc Wisconsin 54220-4543

With a copy to: City of Manitowoc - Engineering Department

In the case of Grantee, address to or delivered personally to:

Thomas McCarty & Debra Blake
Federal-Mogul Corporation – Powertrain Energy
2318 Waldo Boulevard
Manitowoc, WI 54220

The above addresses may be changed at any time by the parties by notice given in the manner provided above. The parties further agree that electronically reproduced signatures such as by facsimile transmission are valid for execution or amendment of this Easement, and that electronic transmission/facsimile is an authorized form of notice as that term is used in this Easement.

14. Other Agreements. If the provisions of the Easement conflict with the provisions of any other agreement related to the Easement Area, the provisions of the Easement shall control.

15. No Encumbrances Permitted. The undersigned parties agree that on and after the effective date of this Easement, no mortgage, or any other kind or type of security interest, lien or other recordable encumbrance, shall be permitted to be placed by the Grantee or any other party (excepting the Grantor), against the Easement Area. It is expressly understood that the Grantor will not permit its fee simple interest in the Easement Area to become encumbered, subordinate to, or subject to any lien or security interest of any lender's mortgage or creditor's security interest, and that the undersigned parties agree that the Grantor's property described in this Easement shall not to be considered additional collateral to secure any debt or obligation of the Grantee.
16. Default. Any default or material breach under this Easement shall entitle the non-defaulting party to any rights or remedies at law or at equity. In the event that either party shall default in the performance of any of its obligations under the terms of the Easement, the non-defaulting party shall forward written notice to the defaulting party outlining such default or material breach. The defaulting party shall cure such default within 30 calendar days after the giving of such notice, except that the cure period shall be extended to a reasonable time to cure any default or material breach that cannot be cured with the 30-day period, provided the defaulting party has commenced to cure within the 30-day period and diligently pursues a cure at all times thereafter until the default or material breach is cured. In the event of any litigation between the parties regarding the Easement, the prevailing party shall be entitled to recover reasonable attorney's fees from the non-prevailing party.
17. Third Party Beneficiary. Nothing in this grant of Easement nor any act of the undersigned parties shall be deemed or construed to create any relationship of third party beneficiary, of principal or agent, of limited or general partners, of joint venture, or of any association whatsoever between the parties hereto.
18. Construction. The undersigned parties have contributed to the drafting of this Easement. In the event of a controversy, dispute or contest over the meaning, interpretation, validity or enforceability of this Easement or any of its terms or conditions, there shall be no inference, presumption or conclusion drawn whatsoever against any party hereunder by virtue of that party having drafted this Easement or any portion thereof.
19. Severability. If any provision of this Easement shall be deemed by a court of competent jurisdiction to be invalid or unenforceable, the remainder of this Easement shall not be affected thereby and shall remain in full force and effect.
20. Venue. This Agreement shall be construed and enforced in accordance with the laws of Manitowoc County and the State of Wisconsin.
21. Date. This Agreement shall be dated and effective and binding as of the date of the last execution.

Federal-Mogul Corporation

City of Manitowoc

Thomas McCarty, Plant Manager

Justin M. Nickels, Mayor

Kelly Wimmer, Plant Controller

Jennifer Hudon, City Clerk/Deputy
Treasurer

STATE OF WISCONSIN)

)ss.

MANITOWOC COUNTY

Personally came before me this _____ day of _____, 2014, the above signed Thomas McCarty and Kelly Wimmer, for Federal Mogul, and to me known who executed the foregoing instrument in their capacity as such officer of said corporation, by its authority.

Notary Public
Manitowoc County, Wisconsin
My commission (expires)(is): _____

STATE OF WISCONSIN)

)ss.

MANITOWOC COUNTY

Personally came before me this _____ day of _____, 2014, the above named Justin M. Nickels and Jennifer Hudon, and to me known as Mayor and City Clerk for the City of Manitowoc WI, a Wisconsin Municipal Corporation, and acknowledged that they executed the foregoing instrument as such Officers of said City, by its authority.

Notary Public
Manitowoc County, Wisconsin
My commission (expires)(is): _____

This instrument was drafted by City Attorney Kathleen M. McDaniel