

AGREEMENT

THIS AGREEMENT, made this 15th day of April, 1963, between WILLITS WEST COMPANY, a Michigan Co-partnership, with offices at 555 West Maple Road, Birmingham, Michigan, hereinafter referred to as "DEVELOPER", and THE DETROIT EDISON COMPANY, a New York corporation, with offices at 2000 Second Avenue, Detroit 26, Michigan, hereinafter referred to as "EDISON".

WHEREAS, the DEVELOPER is the owner of land in the City of Birmingham, County of Oakland, State of Michigan, described as:

Willits Town Houses being part of Lots 57 and 59 of Map of Willits Plat in part of the Southwest 1/4 of Section 25, Town 2 North, Range 10 East, as recorded in Liber 3, Page 10 of Plats, Oakland County Records.

WHEREAS, the DEVELOPER has submitted a plot plan for the development of Willits Town Houses and desires that EDISON install its electric distribution lines for electric underground (except necessary cable pole), single phase, 4800 - 120/240 volt, three wire, 60 cycle service in easements provided in said land.

NOW, THEREFORE, in consideration of the mutual promises and covenants herein made between the DEVELOPER and EDISON, it is hereby agreed:

Responsibility of DEVELOPER

1. Record separate instrument granting a private easement for public utilities for underground service, acceptable to EDISON and Michigan Bell Telephone Company.
2. Easement must have finished grade prior to installation of underground ducts so that electrical distribution service can be properly installed in relation to finished grade.
3. All trenching, backfilling and removal of trees or shrubbery required for installation of ducts for electric lines in the private easement for public utilities shall be done at the expense of the DEVELOPER. Location of trenches in the easement and manner of backfilling to be in accordance with specifications furnished by EDISON. The backfilling shall be free or rubble and clods of hard or frozen dirt and shall not contain material which can damage emplaced conduit.
4. Furnish, install, own and maintain all 120/240 volt secondary service and all secondary cable and conduit from transformer secondary compartment to point of customer's service.

RECORDED RIGHT OF WAY NO. 22110

5. Install and wire meter cabinets (cabinets to be furnished by EDISON without expense to DEVELOPER).

6. It is expressly understood and agreed that in the event the DEVELOPER fails to perform each and every obligation imposed hereby, EDISON shall not be required to furnish electricity to said Willits Town Houses with said underground service and may without liability on its part terminate this Agreement. EDISON shall have the right to make all necessary inspections of the trench in the installation of its underground electric lines.

Responsibility of EDISON

1. EDISON will own, furnish, install and maintain the concrete pad for transformer, cable pole, transformer, meters, primary cables, primary ducts and equipment.

2. EDISON will furnish, own and maintain the meter cabinets (wiring and installation of cabinets to be done by DEVELOPER).

3. EDISON reserves the right to meter and bill each tenant of DEVELOPER individually.

In the Presence of:

Robert J. Taylor
Carol Luckenbach

WILLITS WEST COMPANY,
a Michigan So-partnership

By: Carol Luckenbach
Partner

By: Margaret S. Luckenbach
Partner

Sept. A. M. Homer
Beatrice M. Cabrera

THE DETROIT EDISON COMPANY

By: C. F. OGDEN
C. F. OGDEN
VICE PRESIDENT

RIGHT OF WAY

Restrictions and Covenants

Date: 4/15/63

27-10
25-

IN CONSIDERATION of the sum of One Dollar (\$1.00) and other valuable considerations, receipt of which is hereby acknowledged, the right is hereby granted and conveyed to THE DETROIT EDISON COMPANY, 2000 Second Avenue, Detroit, Michigan, and the MICHIGAN BELL TELEPHONE COMPANY, 1365 Cass Avenue, Detroit, Michigan, their licensees, lessees, successors and assigns to construct, operate and maintain their underground lines for transmission and distribution of electricity and communication service, including the necessary conduits, fixtures, cables, transformers and telephone terminals in easements hereinafter described and located in a parcel of land situated in the City of Birmingham, County of Oakland, State of Michigan, described as:

Willits Town Houses and located in part of Lots 57 and 59 of Map of Willits Plat in part of the Southwest 1/4 of Section 25, Town 2 North, Range 10 East, as recorded in Liber 3, Page 10 of Plats, Oakland County Records.

The easements granted herein are as marked in the heavily shaded area in the drawing of The Detroit Edison Company Underground Lines Department No. U1-1-2243, which is attached hereto and made a part hereof.

Richard H. Taylor

1963 JUN 14 PM 2 41

63 31715 OAKLAND COUNTY MICHIGAN REGISTER OF DEEDS RECORDS

with full right and authority to the grantees and their employes and the employes of their licensees, lessees, successors and assigns to enter at all times upon said premises for the purpose of constructing, re-constructing, repairing and maintaining their equipment and underground lines.

RESTRICTIONS AND COVENANTS

1. No shrubs or foliage shall be permitted on owners' property within five (5') feet of the front doors of the transformer enclosure.
2. Grantors shall own, install, maintain and replace at their own expense their own electric service conductors lying between the transformer and grantors' buildings on said land.
3. No change in final grade in or near the underground lines installed shall be made when the change in grade in the opinion of the utility interferes with the facilities installed.
4. No structures, apparatus of any kind, excavations (except for public utility purposes) shall be allowed within the utility easement herein above described. Except as

Map of Willits Plat, Lots 57-59

RETURN TO RICHARD H. TAYLOR The Detroit Edison Company 2000 SECOND AVENUE DETROIT 26, MICHIGAN

RECORDED RIGHT OF WAY NO. 22110-3.75

provided herein, the owner shall have the right to make any other use of the land subject to such easement which is not inconsistent with the right of the utility. Provided, however, that the owner shall not plant trees or large shrubs within the utility easement. The public utility shall have the right to trim or remove any trees, bushes, or plants of any kind which, in the sole opinion of the utility, interferes with the facilities thereto or is necessary for the installation, re-installation, repair, maintenance or removal of their facilities in the utility easement herein described. The trimming or removal of such trees, bushes, or plants of any kind by a public utility for the purpose set forth above shall be without liability to the utility.

5. All property ^{herein described} ~~in the subdivision~~ which will receive telephone service by connection with underground telephone facilities located in the easement shall also be subject to the following additional restrictions:

(a) Every owner of property for whose property telephone service is requested shall be responsible for furnishing at no cost to the utility the trenching and backfilling necessary for the installation, re-installation, maintenance, or repair of telephone facilities in the premises between the recorded utility easement and the housing units as required by the utility. The property owner and not the utility shall be responsible for injury or damage to persons or property caused by the trenching, existence, or backfilling of the trench.

(b) No property owner shall make any change in grade in or near easement when the change in grade, in the opinion of the utility, interferes with the facilities already installed or which may be installed in the future.

6. The foregoing restrictions and covenants shall run with the land and shall not be subject to termination without the consent of the utilities herein concerned.

In the Presence of:

Robert L. Ziegelman
ROBERT L. ZIEGELMAN
Owen A. Luckenbach
OWEN A. LUCKENBACH

WILLITS WEST COMPANY
a Michigan Co-partnership

By: Carl Luckenbach
CARL LUCKENBACH Partner

By: Margaret S. Luckenbach
MARGARET S. LUCKENBACH Partner

RECORDED RIGHT OF WAY NO. 22110

RETURN TO
RICHARD H. TAYLOR
Detroit Edison Company
1300 SECOND AVENUE
DETROIT 26, MICHIGAN

(ACCEPTED)

THE DETROIT EDISON COMPANY

By: Richard H. Taylor

RICHARD H. TAYLOR, DIRECTOR
REAL ESTATE AND RIGHTS-OF-WAY DEPARTMENT
MICHIGAN BELL TELEPHONE COMPANY

By: Carl T. Hall

Carl T. Hall
Staff Supervisor

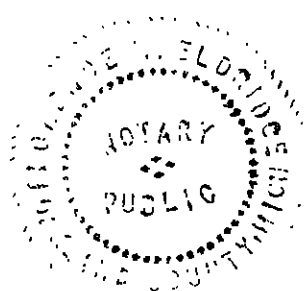
STATE OF MICHIGAN)
COUNTY OF OAKLAND) SS.

On this 15th day of April, 1963, before me, a Notary Public in and for said County, personally appeared Carl Luckenbach and Margaret S. Luckenbach, partners doing business as WILLITS WEST COMPANY, a Michigan Co-partnership, to me known and who executed the within instrument and acknowledged the same to be their free act and deed for the co-partnership.

Florence M. Eldridge

Notary Public, Oakland County, Michigan
FLORENCE M. ELDRIDGE

My Commission Expires: Jan 14, 1964



RETURN TO
RICHARD H. TAYLOR
The Detroit Edison Company
2000 SECOND AVENUE
DETROIT 26, MICHIGAN

RECORDED RIGHT OF WAY NO. 22110

April 24, 1963

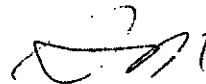
Willits West Company
555 West Maple Road
Birmingham, Michigan

Re: Willits Town Houses

Gentlemen:

Enclosed is a fully executed copy of the Agreement between you and The Detroit Edison Company for the underground electric service to Willits Town Houses.

Yours truly,

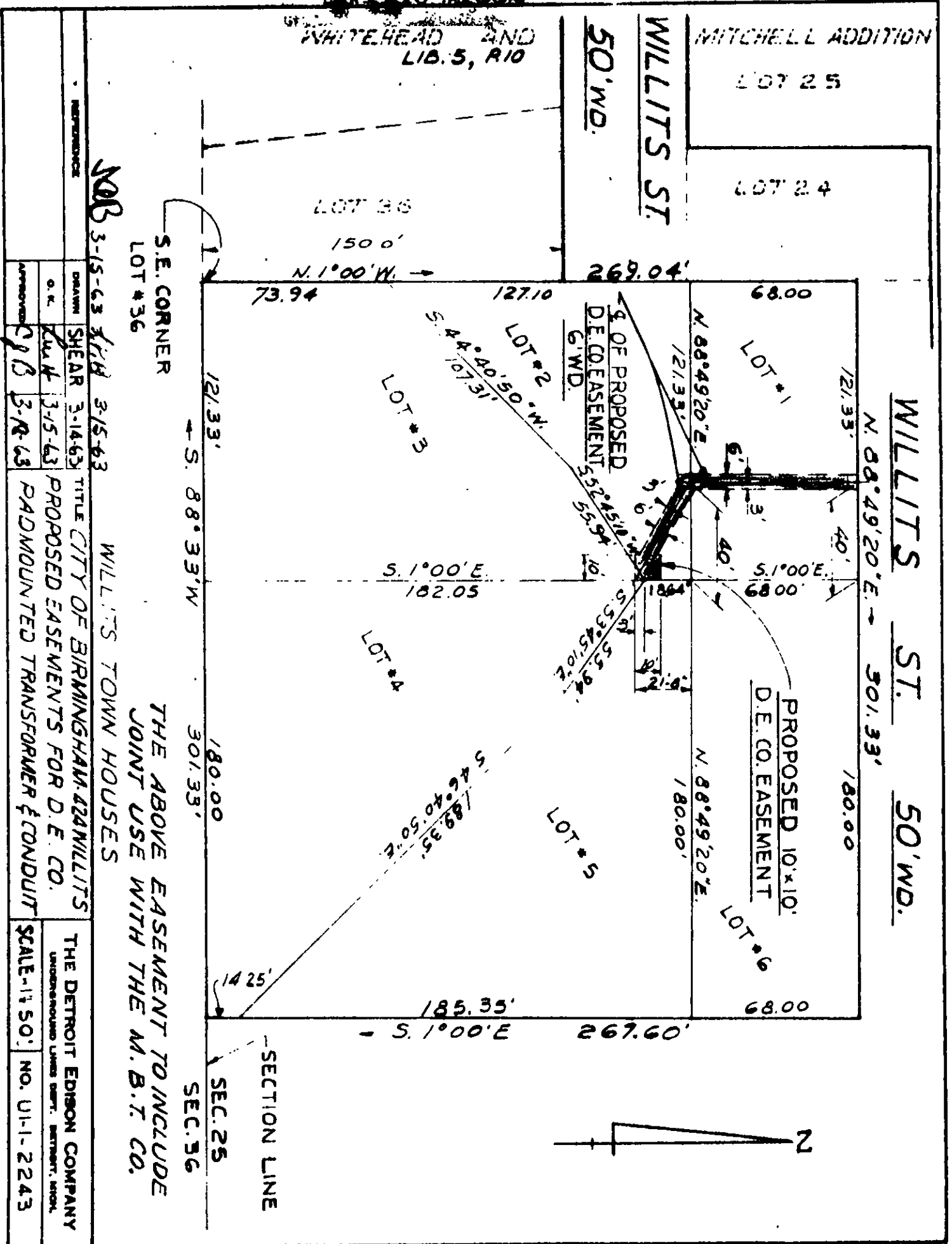


Stephen A. McNamee
Staff Attorney

SAMcN:bmc

Enclosure

RECORDED RIGHT OF WAY NO. 22110



RECORDED RIGHT OF WAY NO. 22110

NOB

3-15-63

S.E. CORNER LOT #36

WILLITS TOWN HOUSES

THE ABOVE EASEMENT TO INCLUDE JOINT USE WITH THE M.B.T. CO.

REFERENCE

DRAWN SHEAR 3-14-63

TITLE CITY OF BIRMINGHAM-424 WILLITS

THE DETROIT EDISON COMPANY

O.K. 3-15-63

PROPOSED EASEMENTS FOR D.E. CO.

UNDERGROUND LINES DEPT. BUREAU, MIOM.

APPROVED 3-18-63

PAD MOUNTED TRANSFORMER & CONDUIT

SCALE - 1" = 50' NO. U-1-2243