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LIBER 7762 PAGE 742

AGREEMENT - EASEMENT - RESTRICTIONS

This instrument made this 26//day of JUNE, 19/8, by and between the undersigned Owners and THE DETROIT EDISON COMPANY, a corporation organized and existing concurrently under the laws of the states of Michigan and New York, of 2000 Second Avenue, Detroit, Michigan, 48226, hereinafter called "EDISON", and MICHIGAN HELL TELEPHONE COMPANY, a Michigan Corporation, of 1365 Cass Avenue, Detroit, Michigan, 48226, hereinafter called "HELL".

WITNESSETH:

| من الله الله الله الله الله الله الله الل |
|---|
| WHEREAS, Owners are erecting apartments known as PEBBLIS CREEK PHASE |
| THE Amo IV on land in the Townswip of WEST Bloam FIELD, |
| County of OAK LAND , State of Michigan, as described in Appendix "A", |
| attached hereto and made a part hereof, and EDISON and BELL will install their |
| electric and communication facilities underground except necessary above ground |
| equipment. |
| NOW SUPPLEMENT in consideration of the system promises and comments |

NOW, THEREFORE, in consideration of the mutual promises and covenants for the installation of underground utility service made by the parties hereto, it is hereby agreed:

- (1) The installation, ownership and maintenance of electric services and the charges to be made therefor shall be subject to and in accordance with the Orders and Rules and Regulations adopted from time to time by the Michigan Public Service Commission.
- (2) Owners must certify to EDISON and BELL that the easements are graded to within four (4") inches of final grade before the underground facilities are installed.
- (3) Owners further agree that if subsequent to the installation of the utility facilities of EDISON and RELL, it is necessary to repair, move, modify, rearrange or relocate any of their facilities to conform to a new plot plan or change of grade or for any cause or changes attributable to public authority having jurisdiction or to Owners action or request, Owners will pay the cost and expense of repairing, moving, rearrangement or relocating said facilities to EDISON and EELL upon receipt of a statement therefor. Further, if the lines or facilities of EDISON and HELL are damaged by acts of negligence on the part of the Owners or by contractors engaged by Owners, repairs shall be made by the utilities named herein at the cost and expense of the Owners and shall be paid to EDISON or BELL upon receiving a statement therefor. Owners are defined as those persons owning the land at the time damage occurred.
- (4) Owners hereby grant to EDISON and HELL easement for electric and communication underground services in land herein described. When utility lines are installed, this instrument shall be re-recorded with an "as installed" drawing showing the location of utility facilities in relation to building lines and indicating the easements by their centerlines. Easements herein granted shall be six (6') feet in width unless otherwise indicated on said drawing. However, secondary electric service and communication entrance line locations, as shown on an "as installed" drawing are not guaranteed; actual locations can be determined after contact with utilities.
- (5) Owners to pay the cost of conduit for electric and/or communication facilities to accommodate patios or similar site conditions.
- (6) Easements herein granted are subject to the following restrictions and additional conditions:
- a. Said easements shall be subject to Orders of and the Rules and Regulations adopted from time to time by the Michigan Public Service Commission.
- b. Owners will place survey stakes indicating <u>building plot</u> lines and property lines before trenching.

THIS INSTRUMENT IS RE-RECORDED WITH "AS INSTALLED" DRAWING AS STIPULATED IN PARAGRAPH 4.

XIV

DRAFTED BY AND RETURN TO.
M. HARTMAN, MICHIGAN BELL
660 PLAZA DRIVE ROOM 1510
DETROIT, MICHIGAN 18226

BRAFTED BY: AND RETURN TO.
CHARLES V.CLARHAN
BRCHIGAN BELL KELEPHONE CO.
833 STEPHENSON WWY. RM. 301
THOY. MICHIGAN 48034

K. (1.52 OF WAS 1-5. 3/892

\$13.00

- c. No shrubs or foliage shall be permitted on Owners land within five (5') feet of front door of transformers or switching cabinet enclosures.
- d. Sanitary sewers shall be installed prior to installation of electric and communication lines. Sewer, water and gas lines may cross easements granted for electric and communication lines, but shall not be installed parallel within said easements.
- e. Owners shall make no excavations nor erect any structures within the easements identified on the "as installed" drawing. No excavations for fences shall be allowed within the limits of the utility easements provided for electric and communication lines unless prior written approval is secured from the utilities.
- f. Owners to provide for clearing the easements of trees, large stumps, and obstructions sufficiently to allow trenching equipment to operate. Owners to pay to utility concerned the extra trenching costs involved if trenching is required while ground is frozen.
- g. EDISON and BELL shall have the right of access at all times upon premises for the purposes of contructing, repairing and maintaining their electric and communication lines and facilities.
- h. Any of the undersigned who are vendors on land contracts wherein a portion of the lands described herein are being sold shall not be liable to RELL or EDISON unless and until the interest of the vendees, under any such contracts, have been forfeited and damage to utility lines and equipment occurs after such forfeiture.

The provisions of this instrument shall run with the land and shall be binding upon and inure to the benefit of the respective heirs, administrators, executors, personal representatives, successors and assigned of the parties hereto.

IN WITNESS WHEREOF, the parties hereto have set their hands and seals on the day and year first above written.

IN THE PRESENCE OF:

THE DETROIT EDISON COMPANY

BARBARA ANN MAHER

ROBERT R. TEWKSBURY, DIREC Real Estate and Rights of Way Dept.

Assistant Secretary

-- ON YAW TO THEIR LEGITORS WAY NO. --

MICHIGAN BELL TELEPHONE COMPANY

Staff Supervisor, Right of Way (Authorized Signature)

COUNTY OF WAYNE

| On this 20th day of July 1978 before me, the |
|---|
| subscriber, a Notary Public in and for said County, personally appeared |
| Robert R. Tewksbury and Irene C. Kata |
| to me personally known, who being by me duly sworn, did say that they are the |
| Director, Real Estate and Rights of Way and Assistant Secretary |
| of THE DETROIT EDISON COMPANY, a corporation organized and existing concurrently |
| under the laws of Michigan and New York, and that the seal affixed to said |
| instrument is the corporate scal of the said corporation, and that said instrument |
| was signed in behalf of said corporation by authority of its Board of Directors and Robert R. Tewksbury and Irene C. Kata |
| acknowledged said instrument to be the free act and deed of said corporation. |
| |
| My Commission Expires: 8-23-78 |
| Notary Public BARBARA ANN MAHER |
| |
| Wayne of County, Michigan |
| |
| |
| STATE OF MICHIGAN) |
|) ss |
| COUNTY OF OAKLAND) |
| On this 29.714. day of June, 1928, before me, the |
| subscriber, a Notary Public in and for said County, appeared ROBERT K. CROWHURST. |
| to me personally known, who being by me duly sworn, did say that he is STAFIE |
| SUPERVISOR NIW authorized by and for MICHIGAN HELL TELEPHONE COMPANY |
| a Michigan Corporation, and that the said instrument was signed in behalf of said |
| corporation, by authority of its Board of Directors, and ROBERT K. CROWHURST |
| acknowledged said instrument to be the free act and deed of said corporation. |
| My Commission Expires: Dec. 19.1908 (Washer Public CHARLES V. CLAPHAN |

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State of Michigan
County of Oakland

| On this 26 day of June 1978, before me | appeared |
|---|------------------|
| Robert R. Jones and | |
| to me personally known, who being by me severally duly sworn, did say to | nat theyex he is |
| x are respectively Vice President/Operations and | |
| of Pebblecreek Village Company a corporation created and | existing |
| under the laws of the State of Michigan and that the said instrument was | • |
| and the said Robert R. Jones and | |
| acknowledged the said instrument to be the free act and deed of the said | 1 . |
| Pebblecreek Village Company | |
| My commission expires: 8/23/81 Notary Publy Jane Yanny Oakland County, Mich | nigan |

APPENDIX "A"

PEBBLECREEK VILLAGE COMPANY, a Michigan Corporation, following described parcel: PART OF THE S.W. \(\frac{1}{4}\) OF SECTION 34, T. 2 N., R. 9 E., WEST BLOOMFIELD TWP., OAKLAND COUNTY, MICHIGAN DESCRIBED AS BEGINNING AT A POINT DISTANT S.89041' 30"W. 703.00 FEET ALONG THE S. LINE OF SAID SECTION 34 SAID LINE ALSO BEING THE CENTERLINE OF 14 MILE RD. AND N.0003'40"E. 60.00 FEET TO THE NORTH R/W LINE OF SAID 14 MILE RD. FROM THE S. \(\frac{1}{4}\) CORNER OF SAID SECTION 34; THENCE FROM SAID POINT OF BEGINNING CONTINUING ALONG SAID R/W LINE S.89041' 30"W. 467.16 FEET; THENCE N. 36049'37"W. 75.00 FEET; THENCE N.00002'25"E. 147.00 FEET; THENCE N.39041'30"E. 129.29 FEET; THENCE S.60040'58"E. 225.92 FEET; THENCE N.89041'30"E. 129.29 FEET; THENCE S.60040'58"E. 225.92 FEET; THENCE N.89041'30"E. 286.00 FEET; THENCE S.0003'40"W. 489.00 FEET TO THE POINT OF BEGINNING AND CONTAINING 6.809 ACRES MORE OR LESS.

PEBBLE CREEK VILLAGE COMPANY A Michigan Corporation 3475 Lone Pine West Bloomfield, Michigan

F E

Joye Gravilla

laler form

Robert R. Jones Vice President/Operations

BY

CHARLES BY CAND PATURE TO:
CHARLES IV. CAPHAN
WHITE THE THE THE SHEENE CO.
O THE FACTOR WINE RECEIVED

TO THE THE POST OF THE GLOWN

AGREEMENT FOR UNDERGROUND ELECTRIC DISTRIBUTION SYSTEM FOR RESIDENTIAL SUBDIVISIONS, MOBILE HOME PARKS, CONDOMINIUMS AND APARTMENT HOUSE COMPLEXES

| AGREEMENT, made this 13 day of July | , 1978 , between The |
|--|------------------------------|
| Detroit Edison Company, hereinafter called the "Company" and | Herman Frankel |
| Organization, with offices at 3475 Lone Pine Road, Wes | t Bloomfield, Michigan |
| hereinafter called the "Developer". | |
| WHEREAS, the Developer desires the Company to | |
| volt secondary service to12 | -lots/buildings numbered |
| 72 thru 33 in | the development known as |
| Pebble Creek II, Phase 3 | |
| (hereinafter called the "Development") located in Township | 2N , Range 9E , |
| Section 34, West Bloomfield Township, Oaklan | d County, Michigan. If |
| not already so recorded, the plat of said Development shall be | recorded by the Developer |
| in the Office of the Register of Deeds of Oakland | County, |
| Michigan. The approximate location of said underground ele | etric distribution system is |
| shown on the Company's Department Order Drawing #A | -64126 |
| datedApril 7, 1978, a copy of which | drawing is attached hereto |
| and made a part hereof as Attachment A. | |
| WHEREAS, the Company, pursuant to the applical Public Service Commission, is permitted to require payment: | |

NOW, THEREFORE, in consideration of the mutual promises as hereinafter set forth, the Company and the Developer agree as follows:

constructing the underground electric distribution system.

The Company, subject to the provisions of this Agreement, shall furnish, install, own and maintain an underground electric distribution system consisting of primary and secondary underground cables, transformers and associated equipment, and any other underground or overhead line extension facilities which are required in connection therewith, but not including service connections, to make available alternating current, 60 hertz, single phase electric service to lots/buildings in the Development. Said underground distribution system shall be designed and installed so that the Company may serve streetlighting luminaires therefrom. The character and location of all streetlighting equipment, if installed by the Company, and all equipment constituting the underground electric distribution system shall conform to specifications prepared by the Company. Streetlighting service is not covered by this Agreement and, if provided by the Company, shall be the subject of separate agreement between the Company and the governmental body requesting such service. Said underground electric distribution system shall be used for furnishing the Company's service to the Developer and to such other persons along such underground electric distribution system, or beyond the same, as may become customers of the Company; provided, however, that such underground electric distribution system shall remain a separate, distinct unit for the purposes of this Agreement and any further extension therefrom shall not be a part of nor have any effect upon this Service connections between such underground electric distribution system and houses/buildings or other structures to be served therefrom are not covered by this Agreement and shall be the subject of separate agreements between the Company and parties requesting such service connections.

- The Developer shall provide, at no expense to the Company, rough grading (within four inches of finished grade) so that the underground electric distribution system and the streetlighting cables, if any, can be properly installed in relation to the finished grade level. After rough grading, the Developer shall install and maintain, at no expense to the Company, permanent survey stakes indicating all property lines in the Development. Developer shall also install and maintain final grade stakes along the route of the trench and at the location of all above grade equipment. Developer agrees that the average ground elevation within six feet of any cable, conduit, wire, conductor or other underground facility will thereafter be maintained at a level not to exceed four inches above or below the finished grade level established at the time of installation of said underground facilities. Developer further agrees that changes in the ground surface elevation in excess of the limits herein prescribed may be permitted upon written consent of the Company. No later than five days prior to the start of construction that has been scheduled for July 28, 1978, the Developer will deliver to the Company an executed Certificate of Grade certifying the completion of grading in accordance with the foregoing and Developer's payment in the amount specified as "Total Payment Required" on said Attachment D.
- 9. If the Company, in its sole judgment, determines that all of the customers (or their equivalent) upon which the "Company's Share of Cost" (Attachment D) is based, will not be prepared to receive electric service upon the expected date of completion of construction of the underground electric distribution system, the Company may, upon written notice of the Developer, postpone commencement of construction of said system and delay the date electric service will be available to the Developer. Construction of the underground electric distribution system will begin when the Company, in its sole judgment, determines that all of such customers will be prepared to receive electric service on or before the date of the anticipated completion of the construction of the said system. In the event of such postponement by the Company, the Developer may upon five (5) days written notice to the Company, terminate this Agreement. In the event of such termination, the Company will refund, without interest, all payments made by the Developer hereunder.
- by the Developer arising out of the Company's inability to perform its obligations under this Agreement, where such inability arises from an event of Force Majeure. As used in this Agreement, the term Force Majeure shall include, but not be limited to, weather, labor disputes, unavailability of materials, equipment and supplies, strikes, sabotage, acts of the Developer, or any event not within the control of the Company, and which, by the exercise of reasonable diligence, the Company is unable to prevent.
- II. This Agreement, all payments and refunds hereunder, and the construction and operation of the underground electric distribution system, shall be subject to such of the Company's Standard Rules and Regulations as may be applicable, including, but without limitation, Rule B-3.3, entitled "Extension of Service" and Rule B-3.4, entitled "Underground Distribution Systems". All changes in the Company's Standard Rules and Regulations occurring subsequent to the date of this Agreement, for purposes of this Agreement, shall be deemed to have occurred prior to the date hereof, shall be applicable to this Agreement and shall supersede the affected terms and provisions hereof.
- ground electric distribution system, changes in the Company's Standard Rules and Regulations cause an increase or decrease in "Total Payment Required", Attachment D, Developer agrees to execute an Amendment to this Agreement reflecting such changes and pay all additional charges to the Company prior to the commencement of construction of the system. The Company agrees to refund any decreases to the Developer. Upon the failure of the Developer to execute such Amendment and pay to the Company the amount

- The Developer shall provide, at no expense to the Company, rough grading (within four inches of finished grade) so that the underground electric distribution system and the streetlighting cables, if any, can be properly installed in relation to the finished grade level. After rough grading, the Developer shall install and maintain, at no expense to the Company, permanent survey stakes indicating all property lines in the Development. Developer shall also install and maintain final grade stakes along the route of the trench and at the location of all above grade equipment. Developer agrees that the average ground elevation within six feet of any cable, conduit, wire, conductor or other underground facility will thereafter be maintained at a level not to exceed four inches above or below the finished grade level established at the time of installation of said underground facilities. Developer further agrees that changes in the ground surface elevation in excess of the limits herein prescribed may be permitted upon written consent of the Company. No later than five days prior to the start of construction that has been scheduled for July 28, 1978 , the Developer will deliver to the Company an executed Certificate of Grade certifying the completion of grading in accordance with the foregoing and Developer's payment in the amount specified as "Total Payment Required" on said Attachment D. iteminet.
- 9. If the Company, in its sole judgment, determines that all of the customers (or their equivalent) upon which the "Company's Share of Cost" (Attachment D) is based, will not be prepared to receive electric service upon the expected date of completion of construction of the underground electric distribution system, the Company may, upon written notice of the Developer, postpone commencement of construction of said system and delay the date electric service will be available to the Developer. Construction of the underground electric distribution system will begin when the Company, in its sole judgment, determines that all of such customers will be prepared to receive electric service on or before the date of the anticipated completion of the construction of the said system. In the event of such postponement by the Company, the Developer may upon five (5) days written notice to the Company, terminate this Agreement. In the event of such termination, the Company will refund, without interest, all payments made by the Developer hereunder.
- by the Developer arising out of the Company's inability to perform its obligations under this Agreement, where such inability arises from an event of Force Majeure. As used in this Agreement, the term Force Majeure shall include, but not be limited to, weather, labor disputes, unavailability of materials, equipment and supplies, strikes, sabotage, acts of the Developer, or any event not within the control of the Company, and which, by the exercise of reasonable diligence, the Company is unable to prevent.
- IL. This Agreement, all payments and refunds hereunder, and the construction and operation of the underground electric distribution system, shall be subject to such of the Company's Standard Rules and Regulations as may be applicable, including, but without limitation, Rule B-3.3, entitled "Extension of Service" and Rule B-3.4, entitled "Underground Distribution Systems". All changes in the Company's Standard Rules and Regulations occurring subsequent to the date of this Agreement, for purposes of this Agreement, shall be deemed to have occurred prior to the date hereof, shall be applicable to this Agreement and shall supersede the affected terms and provisions hereof.
- ground electric distribution system, changes in the Company's Standard Rules and Regulations cause an increase or decrease in "Total Payment Required", Attachment D, Developer agrees to execute an Amendment to this Agreement reflecting such changes and pay all additional charges to the Company prior to the commencement of construction of the system. The Company agrees to refund any decreases to the Developer. Upon the failure of the Developer to execute such Amendment and pay to the Company the amount

of such increase prior to the commencement of construction of the system, the Company may terminate this Agreement. In the event of such termination, the Company will refund, without interest, all payments made by the Developer hereunder.

- 13. Any assignment of this Agreement other than an assignment of the right to receive refund of the Advance pursuant to Paragraph 3 hereof, in whole or in part, by operation of law or otherwise, without the prior written consent of the Company, shall be void.
- 14. All notices required hereunder shall be in writing. Notices to the Company shall be sent by United States mail or delivered in person to:

| | THE DETROIT EDISON COMPANY ATTENTION: DIVISION MANAGER | |
|----------------------|---|--|
| | 30400 Telegraph Road | |
| | Birmingham , Michigan, 48010 | |
| Notices to the Devel | oper shall be sent by United States mail or delivered in person to: | |
| | Herman Frankel Organization | |
| | 3475 Lone Pine Road | |
| | West Bloomfield, Michigan 48033 | |

Either party may at any time change the title or address to which notices to it are to be mailed or delivered by giving written notice of such change to the other party.

15. This Agreement supersedes all previous representations, negotiations, understandings or agreements, either written or oral, between the parties hereto or their representatives pertaining to the subject matter hereof, and constitutes the sole and entire agreement between the parties hereto.

IN WITNESS WHEREOF, the parties hereto have hereunto set their hands on the day and year first above written.

THE DETROIT EDISON COMPANY

Leonard P. Lucas

Its Director, Service Planning

DEVELOPER Herman Frankel Organization

Robert Jones

The Was Breeddent

Vice President

ATTACHMENT C

SCHEDULE OF REFUNDS

- (1) The Company will refund to the Developer the sum of \$500.00 for each additional residential customer(s) and two times the actual annual revenue of other customers directly connected to the extension whether by secondary voltage lines or limited purpose primary voltage lines.* Refunds will not be made until the original customer or their equivalent are actually connected to the extension.
- Refunds under part 1 of this Attachment C shall be made without interest for a fiveyear period which begins the first day of the month subsequent to the first full billing period after the date the service is energized. The Company shall have no further obligation to refund any remaining portion of the advance. Any unrefunded advance will be considered a permanent contribution in aid of construction. The total amount refunded cannot exceed the amount of the advance under any conditions.
 - *A limited purpose primary line is a lateral extension of not more than 250' on the customers property connects: to a financed line extension and is installed to serve an individual customer or group of customers from a single transformer installation.

COMPUTATION OF NON-REFUNDABLE CONTRIBUTION

| | front lot feet x \$1.75 per front lot foot = | \$_ | -0- |
|--|---|-------------------|-----------------------|
| | rks, Condominiums and Apartment House | | |
| Complexes /544 | | | 2933.60 |
| 1,566 | trench feet x \$1.90 per trench foot = | \$_ | -2,975.0 0 |
| 325 E | KVA of installed transformer capacity x \$4.00 | \$_ | 1,300.00 |
| n <mark>onrefu</mark> ndable co Company's Judgi | Paragraph 2 of the Agreement, additional ontributions may be required where, in the ment, practical difficulties exist. The con- | | |
| tributions for the | ese practical difficulties amount to | \$_ | -0- |
| Where the Dev | ese practical difficulties amount to reloper requires winter construction (see additional nonrefundable contribution is | \$_ \$_ | -0- -0- |
| Where the Dev Paragraph 4) ar | ese practical difficulties amount to reloper requires winter construction (see additional nonrefundable contribution is | \$_ \$_ \$_ | |
| Where the Dev Paragraph 4) ar | ese practical difficulties amount to reloper requires winter construction (see additional nonrefundable contribution is amount of | \$_ \$_ \$_ | -0- |

ATTACHMENT D

AGREEMENT NUMBER C378J877

COMPUTATION OF UNDERGROUND ELECTRIC DISTRIBUTION LINE EXTENSION ADVANCE AND CONTRIBUTION FOR RESIDENTIAL DEVELOPMENTS

| Estimated Direct Construction Cost | \$_4,698.00 |
|--|--------------------------------------|
| Minus - Company's Share of Cost | \$_2,500.00 |
| Refundable Line Extension Advance | \$0- |
| Plus - Nonrefundable Contribution as required by Rule B-3.4 (See Attachment C) | 4233.€≎ \$ 4,275.0 0 |
| TOTAL PAYMENT REQUIRED | \$ -4,275,00 - 4237.60 |

RAV

DATE: July 13, 1978

| DATE: July 13, 1976 | |
|--|--|
| Hemman Frankel Organization | |
| 3475 Lone Pine Road | |
| West Bloomfield, Michigan 48033 | |
| RE: Pebble Creek II - Phase 3 | |
| Gentlemen: | |
| project, it is necessary that the c | onstruction date for the above named conditions of the grade in the area of cannot start until this is accomplished. |
| Please sign and return two copies or retain the third copy for your file | |
| · | Very truly yours, |
| | Service Planner |
| CT: dp | Service Planner |
| Litab | 7/14/78 |
| | Date |
| | |
| | YY YY |
| C-E-R-T-I-F-I- | C-A-T-E |
| all grading in utility easements an | C-A-T-E Ify to the Detroit Edison Company that ad/or the routes of the underground relopment has been completed within four |
| piece of above grade equipment, ind A copy of the Detroit Edison Compan | il be placed at the location of each licating the final grade to be achieved. by underground construction drawing No. at is in my/our possession and will be |
| • • | Nama Liller Chris- |
| | Title UP Ofinance. |
| | Name Lilent form Title UP Of MARIN. Name PERSIARUN VILLAGE CA |
| | Title |

Date

7-21.78

