BLUE WATER BAVARIAN VILLAGE CONDOMINIUM PHASE II

Detroit Edison

### Right of Way Agreement



LIBER 7771 PAGE 413

APRIL 9

For valuable consideration, the receipt of which is hereby acknowledged, the undersigned hereby grant and convey to 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 and the MICHIGAN BELL TELEPHONE COMPANY, a Michigan corporation, of 444 Michigan Avenue, Detroit, Michigan 48226 hereinafter referred to as "UTILITIES", the easement and right to erect, lay, maintain, reconstruct and replace underground facilities consisting of wires, cables, conduits, fixtures and appurtenances including the necessary above ground equipment, connections, poles and accessories which may from time to time be required in, under, upon, over and across the land located in the <u>Township</u> of <u>Springfield</u> <u>Oakland</u> County, Michigan, and more particularly described on the attached Appendix "A", with the full right to the UTILITIES of ingress and egress upon said land for the purposes of this grant, and the further right to trim, cut down or otherwise control brush and trees within the easements herein described.

Said easements shall be <u>Ten (10)</u> feet in width unless otherwise indicated and their route is described as follows:

The exact location of said easements will be as shown on a drawing to be recorded within 90 days after construction.

In order to provide for the proper maintenance and protection of UTILITIES, the undersigned covenant and agree that:

- 1. The easements will be graded to within four (4) inches of final grade before the UTILITIES lines are installed and this ground elevation must be maintained after installation of utilities to avoid the pooling of water in, on or around above ground UTILITIES' equipment.
- 2. No buildings or structures other than UTILITIES equipment are to be placed within the easements herein granted. No excavation is to be permitted within said easement without approval of UTILITIES.
- 3. If the lines or facilities of UTILITIES are damaged by the acts of Owners, their agents, employes or contractors, repairs shall be made by the Utility company so damaged at the cost and expense of Owners. Owners are defined as those persons owning the land at the time the damage occurred.
- 4. No shrubs or foliage shall be planted or grown within five (5) feet of the front door of transformers or switching cabinet enclosures. UTILITIES shall not be responsible to Owners for damages to or removal of trees or plant life planted in front of said door or within the easement causing an interference with UTILITIES maintenance of their equipment.

THIS GRANT is declared to be binding upon the heirs, successors, lessees, licenses and assigns of the parties hereto.

IN WITNESS WHEREOF, the undersigned have hereunto set their hand and seal on this date.

Witnesses:

Grantors:

BAVARIAN VILLAGE CONDOMINIUM DEVELOPERS

Michigan Limited Partnership

Prepared By: Omer V. Racine

The Detroit Edison Company

30400 Telegraph Road

Birmingham, Michigan 48010

Gengral Partner

Parther

Address: 1450 American Center

Southfie de Michigan 48034

"This easement is re-recorded for purposes of showing the planned "as installed" centerlines of easements granted as shown on drawing attached hereto. DE 963-4187 10-79 CS (D.E. U.R.D -MBT)

YAM

RETURN TO

J. A. ROBERTSON

THE DETROIT EDISON COMPANY
30400 TELEGRAPH ROAD, 272 OAKDH
BIRMINGHAM, MICHIGAN 48010

LIBER 7791 PAGE 604

LIBER 7771 PAGE 414

STATE OF MICHIGAN

SS:

COUNTY OF OAKLAND

Personally came before me this 9th day of April 1980 Keith A. Lawrence, General Partner, and Jerome Jay Allen, General Partner of the above named limited partnership to me known to be the persons who executed the foregoing instrument and to me known to be such partners and acknowledged that they executed the foregoing instrument as such partners as the free act and deed of said limited partnership.

Notary Public

County, Michigan

DEBORAH S. JEROLAMON

Notary Public, Some County, Mich.
Acting in County Mich.
My Commission Expires August 26, 1980

My Commission Expires:

APPENDIX "A"

Land in the Township of Springfield, County of Oakland, State of Michigan, described as follows: Part of the West 1/2 of the North-West 1/4 of Section 24, and part of the West 1/2 of the South-West 1/4 of Section 13, Town 4 North, Range 8 East, Springfield Township, Oakland County, Michigan, described as: Beginning at the West 1/4 corner of said Section 24, thence North 88°52'04" East, 1331.41 feet; thence North 0°16'00" West, 1785.22 feet; thence North 31°44'53" East, 230.76 feet; thence North 57°29'01" West, 349.04 feet; thence North 35°26'30" East, 100.00 feet; thence North 57°29'01" West, 100.00 feet; thence North 35°26'30" East, 200.00 feet to the southwesterly line of the Dixie Highway (120 feet wide); thence North 57°29'01" West, along said line, 303.52 feet to the point of beginning of the lands herein described; thence South 32°30'59" West, 388.00 feet; thence South 27°29'01" East, 69.28 feet; thence South 32°30'59" West, 58.44 feet; thence South 62°30'59" West, 120.00 feet; thence South 32°30'59" West, 58.44 feet; thence South 62°30'59" West, 52.63 feet; thence South 62°30'59" West, 80.00 feet; thence North 89°49'09" West, 387.14 feet to the West line of said Section 24; thence North 0°10'50" East, along said West line, 269.46 feet; thence North 67°36'00" East, 400.44 feet; thence North 22°24'00" West, 143.47 feet; thence along a curve to the left of radius 1353.32 feet (long chord bears North 25°17'43" West, 123.00 feet); thence North 27°54'00" West, 206.30 feet; thence North 85°25'20" East, 149.78 feet, thence South 57°26'30" East, 120.00 feet; thence North 34°15'20" East, 411.82 feet to the southwesterly line of the Dixie Highway; thence South 57°29'01" East along said line, 390.00 feet to the point of beginning, and containing 11.682 acres, more or less.

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APPROVED

BLDG. & PROP.
DEPT.

DIV. ORG.
INS. DEPT.
LEGAI. DEPT.
RE & RIW DEPT.
SYSTEM ENG.
DEPT.

TAX DEPT.

RETURN TO

J. A. ROBERTSON

THE DETROIT EDISON COMPANY

30400 TELEGRAPH ROAD, 272 OAKDH
BIRMINGHAM, MICHIGAN 43010

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

AGREEMENT, made this <u>4</u> day of <u>March</u> , 19_8	<sub>ப</sub> ு, between The
Detroit Edison Company, hereinafter called the "Company" and K & L Con Inc., with offices at 5410 Maple Park Drive, Suite 2, Flint, Mi	struction, chigan
hereinafter called the "Developer".	
WHEREAS, the Developer desires the Company to furnish a	
volt secondary service to2   tots/buil 9030 thru 9101 Bavarian Way in the develop	dings numbered oment known as
Blue Water Bavarian Village	
(hereinafter called the "Development") located in Township 4N, Section 24, Springfield Township, Oakland Coun	ity, Michigan. If
not already so recorded, the plat of said Development shall be recorded by in the Office of the Register of Deeds of	
Michigan. The approximate location of said underground electric distribusions on the Company's Department Order Drawing #A-63815	ition system is
dated <u>February 8, 1980</u> , a copy of which drawing is and made a part hereof as Attachment A.	attached hereto

WHEREAS, the Company, pursuant to the applicable Orders of the Michigan Public Service Commission, is permitted to require payment from the Developer prior to constructing the underground electric distribution system.

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

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 Agreement. 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.

- Upon the execution of this Agreement, the Developer will pay to the mined in the "Computation of Underground Electric Distribution Line Extension Advance and Contribution for Residential Developments," Attachment D, which is attached hereto and made part hereof. It is the Developer's share of the cost, after deducting the allowance for the investment which the Company is authorized to make under its line extension policy. Said "Total Payment" includes a nonrefundable contribution as reflected in "Computation of Underground Electric Distribution Line Extension Advance and Contibution for Residential Developments", computed in accordance with Rule B-3.3 and Rule B-3.4 of the Company's Standard Rules and Regulations as now filed with the Michigan Public Service Commission. No portion of said nonrefundable contribution shall be refunded (except as provided in Paragraphs 9 and 12 hereof) nor any interest paid thereon by the Company. A nonrefundable contribution in addition to that provided herein may be required where, in the Company's judgment, practical difficulties (not considered in determining said nonrefundable contribution) exist, such as but not limited to water conditions, rock near the surface, or where there are requirements for deviation from the Company's filed construction standards.
- 3. In regard to any amount identified as "Refundable Line Extension Advance" in said "Computation of Underground Electric Distribution Line Extension Advance and Contribution for Residential Developments", the Company will refund to the Developer in accordance with the "Schedule of Refunds", Attachment C, which is attached hereto and made a part hereof. No refund shall be made in excess of said refundable amount and said amount shall bear no interest. Any portion of said amount remaining unrefunded at the expiration of the fifth 12-month period commencing on the first day of the month following the first full billing period after which the service was energized, shall be retained permanently by the Company.
- 4. Without limiting the generality of the last sentence of Paragraph 2 hereof, if said underground electric distribution system or any portion thereof is to be installed during the period beginning December 15, and ending March 31, both inclusive, the Developer shall pay the Company, prior to installation of said system or portion thereof, an additional contribution (winter charge) of \$\frac{1.00}{2.000}\$ per trench foot for the portion of the said system installed during the period beginning December 15 and ending March 31, both inclusive, unless the Developer has signed this Agreement and paid the Total Payment Required, Attachment D, prior to November 1.
- 5. The Developer will provide to the Company, easements six feet (6') in width or larger widths if required due to field conditions, for the installation of the underground electric distribution system, which will be subsequently platted or provided by a separate easement instrument. Said easements shall include, but not by way of limitation, right of way for streetlighting in the Development by means of underground facilities.
- 6. The Developer agrees that where sewer lines parallel electric and communication lines, sewer taps shall be extended into each lot for a distance of one (1) foot beyond the easement limits.
- 7. The further maintenance of the underground electric distribution system in the proposed easements does not include repair of damage to said system caused by the Developer, its contractors, agents, employees, successors and assignees. If such damage should occur to said system, Developer will reimburse the Company for all costs arising out of any such damage.
- 8. Developer agrees that community antenna systems or other cable systems will not be installed in the same trench with Company and telephone cables without a separate written agreement.

- (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 Company 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 final grade. 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 \_\_\_\_March\_19\_, 1980\_\_\_\_\_\_\_\_, 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.
- (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.
- 12. 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, entitles "Extension of Service" and Rule B-3.4, entitles "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 occured prior to the date hereof, shall be applicable to this Agreement and shall supercede 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.

- 14. 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.
- 15. 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 Developer	shall be sent by United States mail or delivered	in person to:
·	K & L Construction, Inc.	
,	5410 Maple Park Drive - Suite 2	
	Flint Michigan 49507	

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.

16. This Agreement supercedes 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	
By Leonard P. Lucas	_
Its Director of Service Planning	
DEVELOPER K & L Construction, Inc	٠.

#### ATTACHMENT C

#### SCHEDULE OF REFUNDS

- 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 connected 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 =	\$ <u></u>	-0-
Mobile Home Parks, Condominiums and Apartment House Complexes		
670 trench feet x \$1.90 per trench foot =	\$	1,273.00
100 KVA of installed transformer capacity x \$4.00	\$	400.00
As defined in Paragraph 2 of the Agreement, additional nonrefundable contributions may be required where, in the Company's Judgment, practical difficulties exist. The con-	-	
tributions for these practical difficulties amount to	\$ <u> </u>	-0-
Where the Developer requires winter construction (see		
Paragraph 4) an additional nonrefundable contribution is required in the amount of	\$	-0-
		1,673.00

#### **ATTACHMENT D**

AGREEMENT NUMBER

C180J037

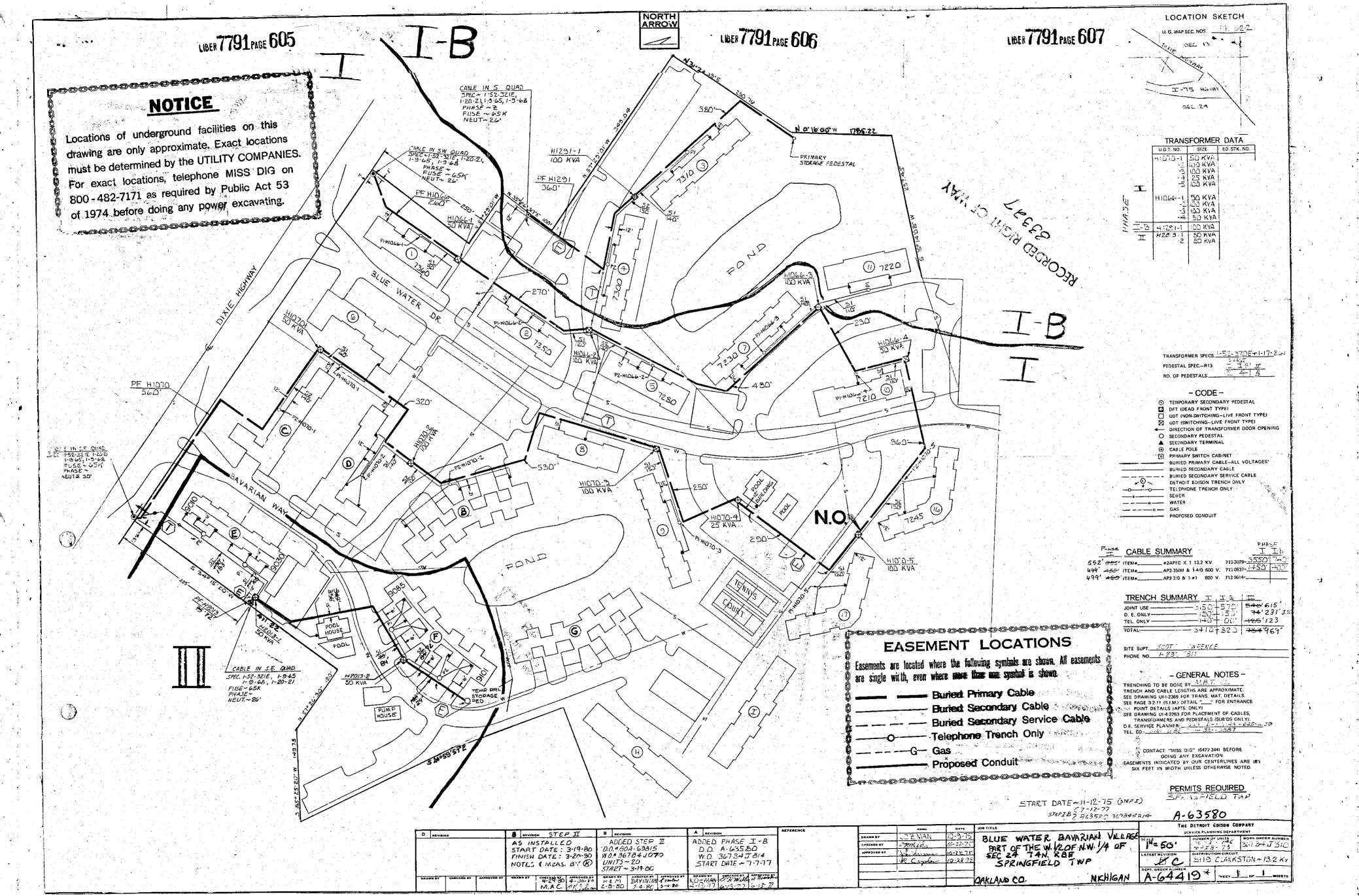
## COMPUTATION OF UNDERGROUND ELECTRIC DISTRIBUTION LINE EXTENSION ADVANCE AND CONTRIBUTION FOR RESIDENTIAL DEVELOPMENTS

Estimated Direct Construction Cost	\$	2,365.00
to supply developments.)		<del>-</del> '
Minus - Company's Share of Cost	\$	1,000.00
Refundable Line Extension Advance	\$_	-0-
Plus - Nonrefundable Contribution as required by Rule B-3.4 (See Attachment C)	\$_	1,673.00
TOTAL PAYMENT REQUIRED	\$	1,673.00



DATE: March 4, 1980	
K & L Construction, Inc.	_
5410 Maple Park Drive - Suite 2	
Flint, Michigan 48507	<u>_</u>
RE: Blue Water Bavarian Village	· · · · · · · · · · · · · · · · · · ·
Gentlemen:	
Pursuant to establishing a field construction of that the conditions of the grade in the area of cothis is accomplished.	date for the above named project, it is necessary onstruction be determined. Work cannot start until
Please sign and return two copies of the Cer	tificate below. You may retain the third copy for
your file.	Very truly yours,
	Jerry Daymian
	SERVICE PLANNER  March 5, 1980  DATE
JD:dp	
	<b>.</b>
CERT	IFICATE
I/We, the undersigned, hereby certify to the leasements and/or the routes of the undergrour been completed within four (4) inches of final groups.	Detroit Edison Company that all grading in utility and facilities on the above subject development has rade.
I/We further agree that a stake will be placed a ment, indicating the final grade to be achieved.	at the location of each piece of above grade equip A copy of the Detroit Edison Company underground
construction grawing No. A-63815 will be used for this purpose.	_ for this development is in my bur possession and
	Name Kull A Tille
	TITLE PARTNER
•	Name Cot a faculum
	0-0-4-0

APPLICATION FOR U.R.D. EASEMENT	1 HE & HW PATE 1-17-80 0. 08 80-	<u> </u>
TO: JAMES ROBERTSON	Application No	
DISTRICT DAKLAND DIVISION	/ Date /-/5-80	
We have included the following necessary material and infor	ormation:	
MATERIAL: A. Subdivision		
<ol> <li>Copy of complete final proposed plat, or</li> <li>Recorded plat</li> </ol>		
<ul><li>a. Site plan</li><li>b. Title information (deed, title committment, contra</li></ul>	ract, or title search)	
B. Other than subdivision		
1. Property description.		
<ol> <li>Site plan.</li> <li>Title information (deed, title committment, contract w</li> </ol>	with title committment, or title search).	-
INFORMATION:	CLUSTER NOI AND 5	
1. Project name BLUE WATER BAVARIAN	1 CONDOS County OAKLAND	
City/Township Village SPRINGFIELD TW	Section No. 13	
Type of Development Subdivision	Mobile Home Park	
Aportment Complex	ex Other CONDOMINIUM	
2. Nome of Owner K& L CONSTRUCTION,	INC: Phone No. 232-78/1 }	<u> </u>
Address 5410 MAPLE PARK DR S	SUITE 2 FLINT MICH 48507 . E	•
Owner's Representative SCOTT LAWRENCE	E Phone No. 232-7811	
3. Date Service is Wanted		
4. Entire project will be developed at one time	YES NO	
5. Cable poles on property	···· YES □ NO	
6. Joint eosements required		S. W.
a. Name of other utilities		i Ü
b. Other utility engineer names, addresses, phone numb	bers: JIM O'BERRY MBT	<u>ئ</u> ے۔
		1
7. Part of subdivision is fed from overhead service	☐ YES ☐ NO	
Lot No.	<del> </del>	
8. Additional information or comments:		-
	,	
NOTE: Trenching letter 🔲 attached 🛛 will be submitt	tied later. Class And And A	
•	JERRY DAYINIAN	
	— <del></del>	



RECORDED RIGHT OF WAY NO. 33327

R33327

RETURN TO

J. A. ROBERTSON

THE DETROIT EDISON COMPANY

30400 TELEGRAPH ROAD, 272 OAKDH
BIRMINGHAM, MICKIGAN 4.010