

Detroit  
Edison

Joint Underground Residential Distribution  
Right of Way Agreement

B643388

LIBER 05264PG905

LIBER 04780PG926

November 29, 1989

For good and valuable consideration of system betterment, the undersigned hereby grant and convey to CONSUMERS POWER COMPANY, a Michigan corporation of 212 West Michigan Avenue, Jackson, Michigan, THE DETROIT EDISON COMPANY, a Michigan corporation of 2000 Second Avenue, Detroit, Michigan, MICHIGAN BELL TELEPHONE COMPANY, a Michigan corporation of 444 Michigan Avenue, Detroit, Michigan, and Comcast Cable Television, a Delaware corporation of 6065 Wall Street, Sterling Heights, MI 48078, hereinafter referred to collectively as "GRANTEE", the right to erect, lay, maintain, reconstruct, add to and replace underground facilities consisting of wires, cables, conduits, fixtures, piping, venting, gas facilities and appurtenances including the necessary above ground equipment, connections, poles and accessories required to provide gas, electric and communication services with the usual services, connections and accessories in, under, upon, over and across the property located in the Township of Shelby, County of Macomb, State of Michigan, and more particularly described on the attached Appendix "A"; with the full right to the GRANTEE of ingress and egress upon said property for the purposes of this grant, and the further right to trim, cut down or otherwise control brush and trees within the right of way herein described.

Said right of way shall be 10 feet in width unless otherwise indicated and the 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

RECORDED IN MACOMB COUNTY  
RECORDS AT: 8:30 A.M.  
DEC - 5 1991

*Edna M. Hill*  
CLERK - REGISTER OF DEEDS  
MACOMB COUNTY, MICHIGAN

RECORDED IN MACOMB COUNTY  
RECORDS AT: 1:21 P.M.  
DEC 12 1989

*Edna M. Hill*  
CLERK - REGISTER OF DEEDS  
MACOMB COUNTY, MICHIGAN

RECORDED RIGHT OF WAY NO. 42442

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

1. The right of way will be graded to within four inches of final grade before the GRANTEE'S lines are installed and this ground elevation must be maintained after installation of utilities to avoid the pooling of water in, on or around GRANTEE'S above ground equipment.
2. No buildings or structures other than GRANTEE'S equipment are to be placed within the right of way herein granted. No excavation is to be permitted within said right of way without approval of GRANTEE.
3. No shrubs or foliage shall be planted or grown within eight feet of the front door of transformers or switching cabinet enclosures. GRANTEE 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 right of way causing an interference with GRANTEE'S maintenance of their equipment.
4. If the lines or facilities of GRANTEE are damaged by the acts of owners, their agents, employees 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 property at the time the damage occurred.

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

IN WITNESS WHEREOF, the undersigned have hereunto set their hand(s) on the date of this agreement.

Witnesses:  
X *Robert D. Gargaro, Jr.*  
Robert D. Gargaro, Jr.  
*Donetta M. Hobart*  
Donetta M. Hobart

Grantors:  
OAK HILL II LIMITED PARTNERSHIP  
a Michigan Limited Partnership  
BY: *Thomas J. Dart*, General Partner  
*Thomas J. Dart*  
Thomas J. Dart, President

Prepared by: & return to:  
Michael J. McCabe  
15600 - 19 Mile Road  
Mt. Clemens, MI 48044

Address: 36150 Dequindre, Suite 200  
Sterling Heights, MI 48310

Being Re-Recorded to include Appendix B

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**Acknowledgement-Individual**

(LIBER 04780PG927)

STATE OF MICHIGAN

County of \_\_\_\_\_ )SS

LIBER 05264PG906

On this \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_, the foregoing instrument was acknowledged before me, a notary public in and for said county, by \_\_\_\_\_

Notary Public, \_\_\_\_\_ County, Michigan

My commission expires \_\_\_\_\_

**Acknowledgement-Individual**

STATE OF MICHIGAN

County of \_\_\_\_\_ )SS

On this \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_, the foregoing instrument was acknowledged before me, a notary public in and for said county, by \_\_\_\_\_

Notary Public, \_\_\_\_\_ County, Michigan

My commission expires \_\_\_\_\_

**Acknowledgement-Corporation**

STATE OF MICHIGAN

County of \_\_\_\_\_ )SS

On this \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_, the foregoing instrument was acknowledged before me, a notary public in and for said county, by \_\_\_\_\_

whose title(s) is /are \_\_\_\_\_

of \_\_\_\_\_, a \_\_\_\_\_ corporation, on behalf of the corporation.

Notary Public, \_\_\_\_\_ County, Michigan

My commission expires \_\_\_\_\_

**Acknowledgement-Partnership**

STATE OF MICHIGAN

County of MACOMB )SS

On this 29th day of November, 19 89, the foregoing instrument was acknowledged before me, a notary public in and for said county, by Thomas J. Dart, President, Dart Properties, General Partner

(a) general/managing partner(s), on behalf of Oak Hill II Limited Partnership, a Michigan Limited partnership.

Jeri Anne Sidener  
Jeri Anne Sidener  
Notary Public, Macomb County, Michigan

My commission expires 3-16-91

RECORDED RIGHT OF WAY NO. 42442

Oakhill - Phase 2

LEGAL DESCRIPTION - Combined Property

A part of the S.W. 1/4 of Section 32, T.3N., R.12E., Shelby Township, Macomb County, Michigan, being more particularly described as: Beginning at a point on the South line of Section 32, distant N. 87° 49' 20" E., 678.39 feet from the S.W. corner of said Section 32; thence N. 03° 02' 24" W., 1256.20 feet to the centerline of West Utica Road (66 feet wide); thence along said centerline of West Utica Road, N. 76° 18' 19" E., 671.46 feet; thence S. 03° 02' 37" E., 33.59 feet to a point on the South line of West Utica Road (66 feet wide); thence N. 76° 10' 11" E., 80.00 feet along said South line of West Utica Road; thence S. 03° 02' 37" E., 387.93 feet; thence N. 76° 10' 11" E., 374.19 feet; thence N. 04° 12' 24" W., 386.52 feet to the South line of West Utica Road; thence along said South line N. 76° 10' 11" E., 67.84 feet; thence S. 02° 28' 31" E., 1360.38 feet; thence S. 87° 49' 20" W., 491.53 feet; thence S. 03° 02' 37" E., 100.00 feet to a point on the South line of Section 32; thence along said South line S. 87° 49' 20" W., 660.05 feet to the point of beginning. Containing 1,383,782 square feet or 31.767 acres. Subject to the rights of the public in the Northerly 33 feet of the Westerly 671.46 feet for West Utica Road.

Date: December 17, 1991

To: Record Center  
2310 WCB

From: Michael J. McCabe *MJM*  
Sr. Real Estate and Rights of Way Representative  
Macomb Division

Subject: Right of Way Agreement for Underground Residential  
Distribution for Oak Hill Apartments, Phase II, Step I,  
located in part of the Southwest 1/4 of Section 32, T3N, R12E,  
Shelby Township, Macomb County, Michigan.

Attached for Records Center is the executed Right of Way Agreement dated November 29, 1989, and other pertinent papers for the above named project.

Easement for this project was requested by Anthony Garnatz, Service Planner, Macomb Division. The Agreement was negotiated by Michael J. McCabe, Representative of Real Estate and Rights of Way, Macomb Division.

Detroit Edison Company, Comcast Cable Television and Michigan Bell Telephone Company made this agreement with Oak Hill Limited Partnership Thomas J. Dart the developers of Oak Hill Apartments, Phase II, Step I.

Please make the attached papers a part of the recorded Rights of Way file.

MJM/caw

Attachment

RECORDED RIGHTS OF WAY NO. 42442

