

EASEMENT

CN PIN No. 4770711a File No. L-167-103

Grand Trunk Western Railroad Incorporated (the "Railroad") a Delaware corporation, with offices at 2800 Livernois, Troy, Michigan 48007-5025, and the Detroit Edison Company ("the Grantee"), with offices at 2000 Second Avenue, Detroit, Michigan 48226-1279, enter into the following agreement:

WHEREAS, the Grantee desires to plan, install, construct, use, maintain, inspect, repair, renew and remove, as the case may be, an overhead electric wire crossing ("the Facility") along the route and parcels of land hereinafter described; and

WHEREAS, the Railroad is willing to grant to the Grantee a non-exclusive easement for the Facility on, along, above or underneath the Railroad's right-of-way and property at such location, hereinafter described at Railroad Mile Post 25.97, Romeo Subdivision, City of Rochester, Oakland County, and State of Michigan.

NOW, THEREFORE, in consideration of the sum of Three Thousand Dollars (\$3,000.00), the receipt of which is hereby acknowledged by the Railroad, the Railroad grants to the Grantee, its successors and assigns, a perpetual non-exclusive easement for the sole purpose of installing, constructing, using, maintaining, inspecting,

54413
RECORDED RIGHT OF WAY NO.

case may be, the Facility on, along, above or underneath the Railroad's right-of-way and premises described as follows:

"An easement the centerline of which crosses Railroad's 100 foot wide right of way at a point 355 feet easterly of the centerline of Mill Street, as measured along the centerline of Railroad's Main Track in the NW 1/4 of Section 14, T3N, R11E, City of Rochester, Avon Township, Oakland County, Michigan."

The foregoing easement is granted on the following terms and conditions:

1. Prior to any installation being undertaken, the Grantee shall furnish the Railroad the plans and details of the proposed construction which shall be subject to the acceptance and written approval of the Railroad's District Engineer. Any underground Facility shall be at a minimum depth of 5 feet 6 inches below the base of rail and 4' below bottom of any ditches or drainage culverts. Any overhead Facility shall have a minimum clearance of 25 feet above the top of rail.
2. All the planning, installing, construction, maintenance, repair, renewal or removal, as the case may be, of the Facility, including the furnishing of all labor, materials, tools and equipment, shall be performed by the Grantee at its sole cost and expense.
3. Any planning, installing, construction, maintenance, repair, renewal or removal shall be performed without any damage to the Railroad's property, including, but not by way of limitation, changes to the roadbed or surface, subsidence of its lands, and without any interference with the operation of the Railroad.

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4. Neither the Grantee nor its contractors shall cross over the Railroad's tracks with any equipment except at public crossings. The Grantee shall not allow any equipment, including crane booms, to work any closer than twenty (20) feet from the nearest rail.

5. The Grantee shall give notice to the Railroad's Engineer in Troy, MI at 248.740.6540 or 248.740.6278 not less than seventy-two (72) hours, excluding Saturdays, Sundays and holidays, before beginning any work or making any inspections, repairs, replacements, renewals or removals to the Facility to allow Railroad to assign a flagman; provided, however, that emergency repairs required to preserve life or property may be made with notice less than seventy-two (72) hours. Grantee shall not perform any work on Railroad property unless a flagman is present or deemed not necessary by Railroad. All inspections, repairs, replacements, renewals or removals of the Facility shall be conducted in such manner as in the sole judgment of the Railroad's District Engineer will in no way interfere with the proper and safe operation, use and enjoyment of the property and railroad of the Railroad or the poles, wires, conduits or other equipment located on the property of the Railroad. Upon completion of the work, Railroad property disturbed during the work shall be restored to the same or as good a condition as it was prior to doing such work.

6. During the installation, maintenance, inspection, repair, renewal and removal of the Facility and during any activity involving the easement conveyed, the Grantee, at its own cost and expense, shall reimburse the Railroad for inspection, flagging expenses and any other expenses resulting from the construction,

RECORDED RIGHT OF WAY NO. 54413

maintenance, repair, replacement, renewal or removal of the Facility, on receipt of bills therefor.

7. If the Grantee has any work permitted herein performed by a contractor, the dealings of the contractor shall be handled through the Grantee and not directly with the Railroad; and contracts entered into by and between the Grantee and the contractor relative to said work shall be subject to all the terms and conditions of this easement agreement.

8. To the extent permitted by law, the Grantee hereby agrees to indemnify, defend and to hold the Railroad harmless against any and all construction liens, and all other claims, liabilities, damages and expenses asserted against Railroad as a result of, or in any way related to, the Grantee's occupation and use of the easement area and operations conducted thereon by or on behalf of the Grantee pursuant to the easement agreement; provided, however, that the Grantee shall not be responsible for any claims, liabilities or damages resulting solely from the intentional or negligent acts of the Railroad.

9. The Grantee acknowledges that installing its Facility on the right-of-way of the Railroad provides some risk that the Facility may be damaged in the course of train operations. Therefore, notwithstanding any other language in this easement agreement to the contrary, the Grantee releases the Railroad from any loss, damage and/or claim the Grantee may have against the Railroad resulting from derailments or other accidents of a similar catastrophic nature, from vibration or other activities of the Railroad in the ordinary course of its operations.

RECORDED RIGHT OF WAY NO. 54413

10. Upon the request of Railroad, the Grantee shall deliver or cause to be delivered to the Railroad a certified copy of an insurance policy or policies naming Grand Trunk Western Railroad Incorporated as additional insured and containing terms acceptable to the Railroad prior to the commencement of any work on Railroad property. Coverage shall be provided with limits of liability in the amount of Two Million Dollars (\$2,000,000.00) combined single limit per occurrence for bodily injury, death and property damage with an aggregate limit of Six Million Dollars (\$6,000,000.00) per year to insure the obligations for indemnity assumed by the Grantee under the provisions of this agreement. The insurance herein specified shall be with an acceptable insurance company authorized to do business in the state in which the Facility is located and shall be kept in effect until all work required to be performed under the terms of this easement agreement is completed to the satisfaction of the Railroad's District Engineer. The insurance coverage shall contain the following endorsement:

"It is hereby agreed that thirty (30) days' prior written notice of cancellation, expiration, or termination of coverage provided by this policy shall be given to the Grand Trunk Western Railroad Incorporated, Property Management Department, 2800 Livernois, Suite 300, Troy, MI 48083-1222."

If the insurance is canceled, the Grantee shall cease operations as of the date of cancellation, remove all of its equipment and materials from Railroad property and shall not resume operations until a new insurance policy is in force and delivered to the Railroad. It is agreed that the furnishing of the insurance shall not be deemed to be a limitation of the liability of the Grantee, but shall be deemed additional security to the

54413

Railroad. The Railroad reserves the right to change the insurance requirements contained herein to reflect changes in laws, claims and accident experiences.

The Grantee may, at its option, self insure the foregoing insurance requirement and if it chooses to do so shall provide the Railroad with a self insurance certificate.

11. The parties agree to the following environmental indemnification language:

A. Definitions

1. "Hazardous Materials," as used in this article, is as defined in 42 USC 6901 et seq, and any regulations promulgated pursuant thereto.

2. "Pollutants," as used in this article, is as defined in 33 USC 1251 et seq, and any regulations promulgated pursuant thereto.

3. "Contamination" includes both Hazardous Materials and Pollutants.

B. Grantee agrees to indemnify and save harmless the Railroad, its officers and directors, employees and agents (each and all hereinafter "Indemnitees"), from and against any and all liabilities, penalties, fines, forfeitures, demands, claims, causes of action, suits, and costs and expenses incidental thereto (including cost of defense, settlement, and attorneys' fees), which Indemnitees may hereafter suffer, incur, be responsible for or pay out as a result of any governmental or private order, directive, administrative proceeding, rule, regulation, law, statute, ordinance or suit to cease, desist and refrain from all activities relating to the handling, treatment, storage, removal, extraction and disposal of pollutants or hazardous materials in the

RECORDED RIGHT OF WAY NO. 54413

water or soil and/or ground water of the Easement area, or as a result of bodily injuries (including death) to any person, damage (including loss of use) to any property (public or private), pollution or contamination of or adverse effects on the environment, or any violation or alleged violation of laws, statutes, ordinances, orders, rules or regulations of any governmental entity or agency, caused by or arising out of any Pollutants or Hazardous Materials in the water or soil or ground water of the Railroad's right-of-way and caused by Grantee's acts or omissions or Grantee's Facility.

12. It is expressly understood and agreed that the easement herein granted shall in no way preclude the full, free and complete use of the right-of-way and property of the Railroad for the installation and maintenance of railroad tracks thereon and the operation of locomotives, trains and cars thereover; and for any other purpose or use by the Railroad that does not interfere with the Grantee's ability to install, operate and maintain the Facility, and that the Railroad shall at all times have the full, free and unobstructed use of the said right-of-way and property.

13. If the Grantee abandons this Easement, it shall provide written notice to the Railroad of such abandonment and furnish to the Railroad a recordable release of easement.

14. In the event of abandonment or discontinued use of the Facility, the Railroad shall have the right to determine which, if any, of the abandoned Facility may be allowed to remain on the Railroad's premises and under what circumstances or which must be removed from the Railroad's premises. In any event, the Grantee will,

RECORDED EASEMENT NO. 54413

at its sole cost and expense, comply with the Railroad's written determination and restore the land to a neat and level condition satisfactory to the Railroad's District Engineer within sixty (60) days following such delivery of written determination.

15. If Railroad changes the grade or alignment of its tracks, installs new tracks or makes additions to or modifications to its existing tracks, Railroad shall notify Grantee in writing of such changes, installations, additions, or modifications, as the case may be. Grantee shall, at its sole cost and expense, and within 30 days from the date of such notice or such longer period of time as may be reasonably necessary for Grantee to acquire approval from an appropriate regulatory agency for a line relocation, commence to relocate, strengthen, support, or otherwise protect or modify the Facility and thereafter promptly complete such work, (any such requested action hereinafter referred to as "Modifications"). Where available, and if necessary, Railroad shall provide so much of its land to Grantee for such Modifications without additional compensation from Grantee. If any governmental agency requires the Grantee to make temporary or permanent Modifications, such Modifications shall be done at no expense to Grantor. All construction in connection with any Modifications shall comply with the terms and condition of this Agreement.

With respect to Modifications, the cost and expense of which is Grantee's responsibility, Railroad agrees that Grantee shall be given an opportunity to seek alternative methods, reasonably acceptable to Railroad, which would eliminate the necessity of relocating the Facilities, or reduce the cost and expense thereof, including

54413

but not limited to the acquisition of additional land at Grantee's sole cost and expense, which could accommodate the relocation or improvement of Railroad's operations.

16. a. This Inductive Interference paragraph applies solely to inductive interference between Grantee's Facility and Railroad's railroad track(s), structures, power lines or poles, train control system, communication, signal or other wires, electrical or electronic apparatus ("Railroad's Equipment").

b. Grantee at its own expense, will at all times, maintain in the electrical system in which Grantee's Facility is a part, the general coordinative methods which are applicable to supply circuits and their equipment as prescribed or specified, as follows:

- i. The latest existing amendment or successor publication to the Association of Principles and Practices for Inductive Coordination of electric Supply and Communications Systems;
- ii. The latest applicable publication of Electrical Power Research Institute (EPRI);
- iii. Applicable data or conclusions from the AAR/EPRI Corridor or other applicable EPRI computer Program; and
- iv. Data or conclusions produced jointly by the AAR and EPRI.

In all cases, the latest of the above will prevail, provided it has been made known to Grantee.

c. If Railroad believes these general coordinative methods are not sufficient to avoid inductive interference by Grantee, Railroad shall cooperate with Grantee to determine what specific coordinative methods of providing the best

54413
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engineering solutions are required. The specific methods so determined shall be put into effect and Grantee shall bear the cost of the methods, irrespective of whether the methods are applied to the supply, communication or signal circuits.

d. This agreement does not require methods be applied to preclude occasional disruption to Railroad's Equipment from events such as power system faults, except if the methods are jointly prescribed or specified by the Association of American Railroads and the Electric Power Research Institute. Nevertheless, Grantee is responsible for the cost of repairing damage to Railroad's Equipment directly caused by these events.

e. If Grantee's Facility is proven, according to paragraph b, to cause disruptive inductive interference to Railroad's equipment, then Grantee shall promptly remedy disruptive inductive interference as a result of the presence of Grantee's Facility. If Grantee fails to do so immediately, then Railroad may do so in the most cost effective way, and Grantee agrees to reimburse to Railroad the full cost and expense of the remedy.

17. The Grantee shall have the right, from time to time and at no additional cost, to cut, trim remove, destroy, or otherwise control any trees and brush that may, in Grantee's opinion, interfere or threaten to interfere with or be hazardous to the Facilities. All trees and brush cut or trimmed by Grantee shall be removed from the premises by Grantee. The method used by Grantee to destroy and control trees and brush shall be approved by the Railroad's District Engineer. Grantee shall not use spraying as a method for tree and brush control.

RECORDED RIGHT ON FILE NO. 54413

RECORDED RIGHT OF WAY NO. 54413

APPROVED		DATE
FM & S		
EM & D		
INSURANCE		
LEGAL	<i>YARR</i>	<i>9/15/97</i>
CRS		
ENERGY DELIVERY		
TAX		
Project Number		

DO 6039 RX 4718

proposed Line Crossing Over Grand Trunk Western RR
Rochester Hills
Existing Permit Number 2 4718

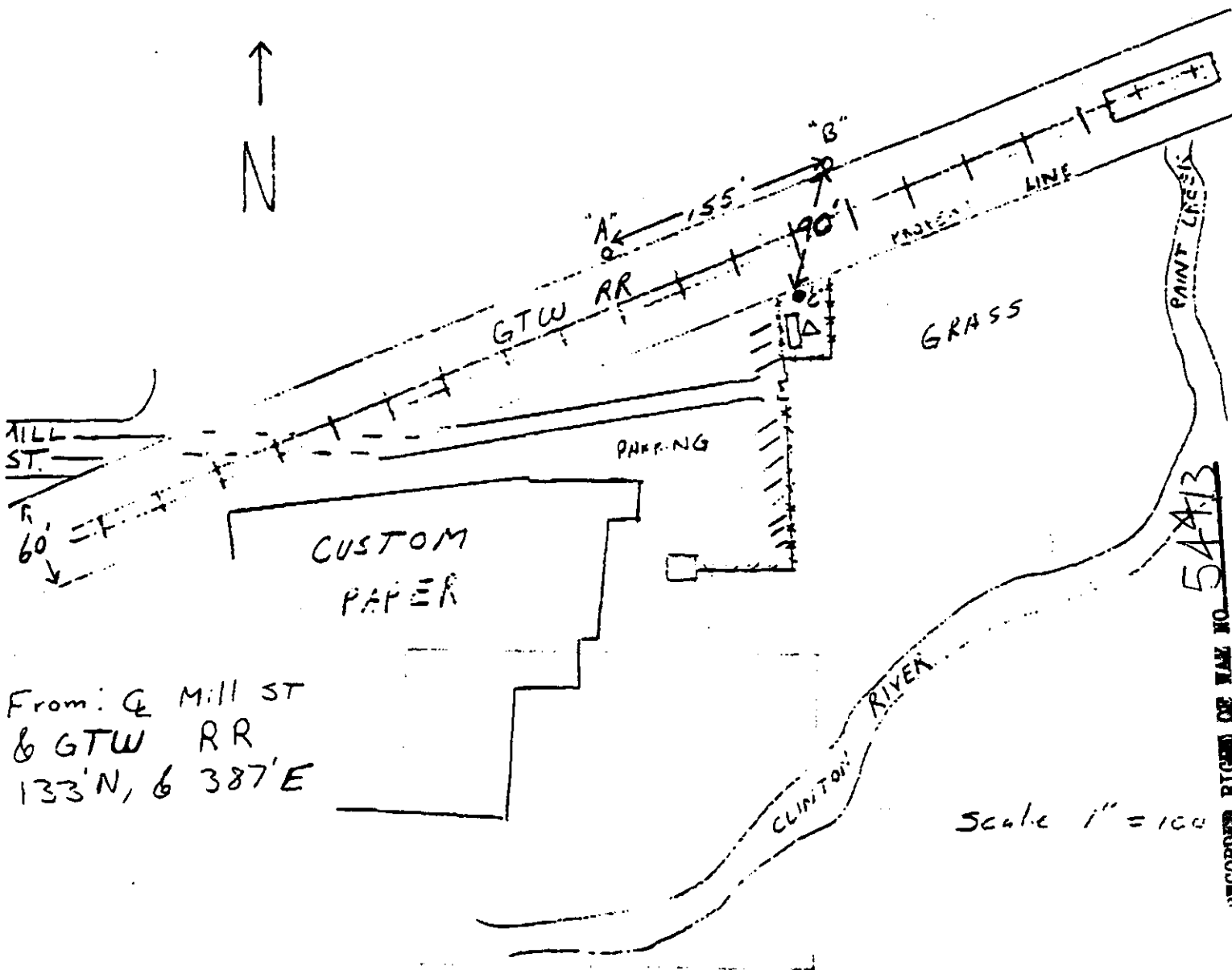
City of _____

Section 14 NW 1/4 Township AVON T 3N R RUE County Oakland

Refer to Section 12 of Overhead Lines Construction Standards for minimum clearance chart. The Railroad Permit Application (DE 963-6064) shall be submitted along with this permit.

Span	Span Length	Lowest Conductor Over R.R. Tracks	Stringing Sag At 60 = F	Sag Table	Rule Span	Final Sag Ratio
3-C	90'		9"	I	90'	1.38

signed By _____ Division _____
 checked By _____ Date _____



From: Q Mill ST
& GTW RR
133'N, & 387'E

Scale 1" = 100'

CORPORATE REAL ESTATE SERVICES

Location Project No.: BO0019
OCCPT/RX No.: RX4718

Date: October 3, 1997
To: Jocelyn C. McKeldin
Records Center
From: Tom Wilson *sw*
Subject: Overhead Crossing of Railroad Land

Attached are papers related to a new easement agreement between Detroit Edison and Grand Trunk Western Railroad Incorporated, 2800 Livernois, Suite 300, Troy, Michigan 48007-5025. The right of way is located approximately 133 feet north and 387 feet east of Mill Street/ railroad intersection, at MP 25.97, in the NW ¼ of Section 14, City of Rochester, Avon Township, Oakland County, Michigan.

This easement agreement was required for an overhead line to serve an AT & T site. The AT & T check of \$3,000.00 for the easement was sent to Grand Trunk on September 11, 1997.

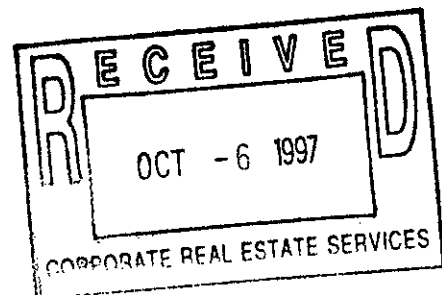
The Service Center, is hereby notified to do the requested work. **Note: All construction work associated with crossings of railroad tracks requires that you notify the operating railroad as to the actual date of construction, in advance of any work.**

The agreement dated September 16, 1997 provides for a one time payment of \$3,000.00 for the easement.

Please incorporate copies of these papers into a new railroad Records Center ROW File.

Attachments

cc: George H. Hathaway
Judith A. Persley
Robert Piggery



54413
RECORDED RIGHT OF WAY NO.

AT & T WIRELESS SERVICES
7900 XERXES AVE., S., SUITE 301
BLOOMINGTON, MN 55431


17-2100
910
160234447375

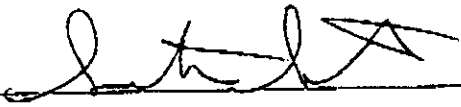
5082

DATE 9/11/97

PAY TO THE ORDER OF GRAND TRUNK WESTERN RAILROAD \$ 3000.00

THREE THOUSAND 00/100 DOLLARS

 **First Bank Minneapolis**
First Bank National Association
First Bank Place
Minneapolis, MN 55480

MEMO 3343 EASEMENT 

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RECORDED RISE OF TAX NO 544/3