

LIBER 18686 PG 728

\$ 15.00 MISCELLANEOUS RECORDING

\$ 2.00 REINDEMENTATION

9 JUL 98 9:11 A.M. RECEIPT# 47B
PAID RECORDED - OAKLAND COUNTY
LYNN D. ALLEN, CLERK/REGISTER OF DEEDS

SANITARY SEWER EASEMENT

On March 31, 1998, for one dollar ~~and other valuable consideration~~, Edison grants to Grantee a non-exclusive, permanent easement on land called the Easement Area.

"Edison" is:

The Detroit Edison Company, a Michigan corporation,
2000 Second Avenue, Detroit, Michigan 48226

"Grantee" is:

City of Novi, 45650 Grand River Avenue,
P.O. Box 759, Novi, Michigan 48376

The "Easement Area" is in Novi Township, Oakland County, Michigan described as: A strip of land 20 feet wide being a part of the SW 1/4 of Section 17, Town 1 North, Range 8 East, City of Novi, Oakland County, Michigan, the centerline of said strip being described as beginning at a point located distant north, along the north-south 1/4 line of said Section 17, a distance of 1328.27 feet from the South 1/4 corner of said Section 17; thence South 89°43'31" West 235.01 feet to the point of ending. Containing 0.108 acres, more or less. Also see Exhibit A attached and made part of this easement.

Pl 22-17-300-015

1. **Purpose** Edison grants this easement to Grantee to construct, operate, maintain, remove and replace a sanitary sewer ("Grantee's Facility").
2. **Access** Grantee has the right to use a reasonable route across Edison land to access the easement area. However, Grantee must not enter a fenced area without Edison's approval.
3. **Edison's Rights** Edison specifically reserves the right to construct, operate and maintain overhead and underground electric transmission, distribution and communication lines and associated structures and equipment ("Edison's Facilities") on, over and under the Easement Area as long as Edison's Facilities do not interfere with Grantee's Facility.
4. **Encumbrances** This easement is granted without any warranties or covenants of title, and subject to all now existing easements, restrictions and encumbrances affecting the Easement Area to which this easement would be subordinate under the recording acts or other applicable law of the State of Michigan. Furthermore, Edison may grant other encumbrances over the Easement Area which do not interfere with Grantee's Facility.
5. **Edison Damages** Grantee must pay Edison for all damages, losses or injuries to Edison's Facilities caused by Grantee, its agents, employees, servants or independent contractors while constructing, operating or maintaining Grantee's Facility.

1560
210

O.K. - KB

6. Insurance

- a. Grantee and Grantee's contractors, at their own expense, must each maintain a general liability insurance policy that is satisfactory to Edison in form and substance. The policies must cover the liability assumed in this agreement for \$500,000 each person and \$1,000,000 each occurrence bodily injury, and \$500,000 each occurrence property damage. The policies must also include explosion damage, collapse, or damage to underground property (commonly known as "XCU"). If Grantee is a governmental unit, then Grantee's contractor's policy must name Edison as an additional insured. Grantee's policy must remain in effect as long as this easement agreement remains in effect. Grantee's contractors' policies must remain in effect during the time that the contractors are working in the Easement Area.
- b. Grantee and Grantee's contractors must each give Edison's Director of Corporate Real Estate Services a Certificate of Insurance for the insurance coverage required by this agreement. The certificates must state that Edison will have 10 days written notice before any material change or cancellation becomes effective.
- c. Grantee waives Grantee's rights of recovery, Grantee's contractor's rights of recovery and their insurers' rights of subrogation against Edison for damage to Grantee's or its contractor's property used on the Easement Area.
- d. Obtaining the insurance required by this agreement would not limit or release Grantee's indemnity liability.

7. Indemnity

- a. Grantee will indemnify Edison (the Company, its officers, agents and employees) for any claims for injuries or damages to persons or property or both, and any environmental claims brought by, or fines imposed by, Federal, State or municipal environmental agencies, and any third party environmental claims, arising directly or indirectly out of the use of this Easement by Grantee (the person, company or organization, its contractors, subcontractors, lessees, licensees and any of its or their agents or employees). This includes, but is not limited to, claims arising out of Grantee's negligence, Grantee's and Edison's joint negligence, or any other person's negligence.
- b. If any claim covered by Grantee's indemnity is brought against Edison, Grantee will defend the claim at Grantee's expense. Grantee will also pay any costs (including, but not limited to, environmental clean up costs), attorney fees, or judgments that Edison incurs or is subject to in the claim.
- c. If a construction lien is placed on the Easement Area due to Grantee's activities in the Easement Area, then Grantee must discharge the lien by giving a bond or otherwise.
- d. The terms of this indemnity will survive the Termination of this easement.

8. Construction and Maintenance

- a. Grantee will construct and maintain Grantee's Facility on this easement at its sole expense. If underground work is involved, Grantee must call Miss Dig (tel: 1-800-482-7171) in accordance with Michigan Public Act 53 of 1974, as amended, before beginning any ground

breaking. Edison may inspect Grantee's Facilities during any construction or maintenance work.

- b. Grantee and its contractors must maintain at least a 20 foot clearance from Edison Facilities. Grantee must not mound dirt or change elevations which would decrease the clearance of Edison's existing electric lines to ground.
- c. Grantee must not change the natural drainage of the Easement Area.
- d. Grantee must not change either the elevation or the slope of the Easement Area without Edison's prior written permission.
- e. After Grantee completes construction of Grantee's Facility, Grantee must send "as-built" drawings of Grantee's Facility to the Principal Area Leader, Architectural/Civil/Towers, The Detroit Edison Company, 2000 Second Avenue, Room 662 G.O., Detroit, Michigan 48226. (Tel. 313-235-6898).
- f. After Grantee completes any construction or maintenance work, Grantee must back-fill any excavations with excavated material having an in-place density of at least 100 pounds per cubic foot. If excavated material is unsuitable (e.g. peat, organic material or trash), Grantee must use Michigan Department of Transportation Class II granular fill. For grassy or unpaved areas, Grantee must place backfill in 12 inch to 15 inch layers and compact each layer to 90 percent maximum density as determined by the Modified Proctor Test (ASTM D 1557). For aggregate or pavement surface, Grantee must place backfill in 9 inch maximum layers and compact each layer to 95 percent maximum density as determined by the Modified Proctor Test.
- g. After Grantee completes any construction or maintenance work, Grantee must restore Edison property as nearly as possible to its original condition. This includes grading and reseeding all disturbed lawn areas and replacing any damaged landscaping.

9. **Abandonment** If Grantee abandons any part of this easement, then within three months after the abandonment, Grantee must restore the abandoned part as nearly as possible to its original condition and give Edison a written recordable document concerning this abandonment.

10. **Mortgage** This easement is subject to an October 1, 1924, Mortgage between The Detroit Edison Company and Banker's Trust Company, a New York corporation, and all supplemental agreements to the Mortgage.

11. **Successors and Assigns** This easement runs with the land and binds and benefits Edison's and Grantee's successors and assigns.

12. **Additional Terms**

- a) Grantor will permit Grantee to use a 35 foot wide temporary construction easement on the north side of the permanent easement, and a 20 foot wide temporary construction easement on the south side of the permanent easement.

b) This easement is subject to a 36 inch gas pipeline easement that was granted in 1992 by the Grantor to Southern Michigan Oil Company. This gas pipeline is installed in the area of the proposed sewer pipeline.

Witnessed by: (type or print name under signature)

John C. Erb
John C. Erb
Karyn A. Shakerji
KARYN A. SHAKERJI
Barbara Holmes
Barbara Holmes
Mary Ann Cabadas
MARY ANN CABADAS

The Detroit Edison Company

By: Paul W. Potter
Paul W. Potter, Director
Corporate Real Estate Services

City of Novi

By: Kathleen J. McLallen
Its: KATHLEEN McLALLEN-MAYOR

Acknowledged before me in Wayne County, Michigan, on March 31, 1998, by Paul W. Potter, Director of Corporate Real Estate Services of The Detroit Edison Company, a Michigan corporation, for the corporation.
Notary's Stamp: JOHN C. ERB, Notary Public, Oakland County, MI, Acting in Wayne Co., MI, My Commission Expires Apr. 13, 2002
Notary's Signature: John C. Erb
John C. Erb

Acknowledged before me in OAKLAND County, Michigan on MAY 14, 1998, by Kathleen McLallen the Mayor of City of Novi, a Municipal corporation, for the corporation.
Notary's Stamp: MARY ANN CABADAS, NOTARY PUBLIC - OAKLAND COUNTY, MICH., MY COMMISSION EXPIRES 10-5-98
Notary's Signature: Mary Ann Cabadas

Prepared By: George H. Hathaway, Detroit Edison, 2000 Second Avenue, Detroit, Michigan 48226

RETURN TO: GARY BOJOMAN, JCK & ASSOCIATES, INC.
45650 GRAND RIVER AVE.
P.O. BOX 759
NOVI, MI 48376

