

For good and valuable consideration, the easement and right is hereby granted to The Detroit Edison Company, a corporation organized and existing concurrently under the laws of the states of Michigan and New York, 2000 Second Avenue, Detroit, Michigan and the Michigan Bell Telephone Company, a Michigan Corporation, 444 Michigan Avenue, Detroit, Michigan hereinafter called "utilities" their successors and assigns, to construct, reconstruct, operate and maintain their underground and overhead, wires, cables, conduits, poles, manholes, fixtures, terminals, cabinets and equipment over, under and across property in the City of Farmington Hills, County of Oakland, State of Michigan, described as follows: Beginning at a point on the E line of said Sec. 8, said E line also being the W line of GUY POOLEY SUBDIVISION as recorded in Liber 88, Page 13 of Oakland County Records, said point located distant Due S along said E line 1254.53 Ft. from the N.E. corner of said Sec. 8, thence continuing Due S 740.0 Ft., thence N 89°21'45" W 354.99 Ft. to the Easterly boundary of DUNBAR OAKS NO. 1 Sub. as recorded in Liber 153, Pages 35 & 36 of Oakland County Records, thence along the Easterly and Southerly boundary of said sub. the following 9 courses and distances; N 00°38'15" E 152.85 Ft. and N 29°26'42" W 60.17 Ft. and N 24°31'09" W 117.17 Ft. & N 43°50'17" E 59.88 Ft. and Due N 336.01 Ft. and N 3°34'35" E 90.18 Ft. and Due E 139.64 Ft. & S 49°32'41" E 69.35 Ft. & Due E 191.96 Ft. to the point of beginning.

The rights hereby granted include the right of access to and from the easement and to trim, cut down and control trees, brush and bushes either within the easement or upon the lands of the grantor adjoining the easement which, in the utilities opinion, at any time interfere with the construction, maintenance and operation of said utilities facilities.

The width and location of the easements will be 6 feet unless otherwise indicated on the attached drawing. SEE APPENDIX B"

To provide for the proper maintenance and protection of the utilities facilities the undersigned covenants and agrees that:

1. The easements are graded to within 4 inches of final grade before the utilities lines are installed and this ground elevation will be maintained after installation of utilities to avoid the pooling of water in, on or around above ground utilities.
2. No buildings or structures other than Utilities equipment are to be placed within the easement herein granted.
3. No shrubs or foliage shall be planted or grown within (5) five feet of the front door of transformers or switching cabinet enclosures.

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 and seal this 20th day of March, 1979.

WITNESSES:

Dalia L. Carsackkar
DALIA L. CARSACKKAR

Dennis J. Bligh
DENNIS J. BLYGH

F & M ASSOCIATES
GRANTORS: A MICHIGAN CO-PARTNERSHIP
BY: A.J. MACKSEY COMPANY, PARTNER

Alfred J. Macksey, JR. President

William P. Fyke Co-Partner

Ben F. Fyke Co-Partner

STATE OF MICHIGAN

Address: 32910 West Thirteen Mile Road

COUNTY OF OAKLAND

Farmington Hills, Michigan, 48018

The foregoing instrument was acknowledged before me this date March 20, 1979 by Alfred J. Macksey, Jr., president of A.J. Macksey Company, William Phillip Fyke and Ben E. Fyke, partners on behalf of F & M Associates, a Michigan Co-Partnership

Notary Public Dalia L. Carsackkar
DALIA L. CARSACKKAR
Oakland County, Michigan

My Commission Expires 11-19-80

RECORDED RIGHT OF WAY NO. 33074

DRAFTED BY: AND RETURN TO
J. DOUGLAS ROY
MICHIGAN BELL TELEPHONE CO.
338-STEPHENSON HWY., Rm. 301
TROY, MICHIGAN 48064

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

AGREEMENT, made this 5 day of March, 1979, between The Detroit Edison Company, hereinafter called the "Company" and A. J. Macksey Company, with offices at 32910 W. Thirteen Mile Road, Farmington Hills, Michigan hereinafter called the "Developer".

WHEREAS, the Developer desires the Company to furnish a 120/240 volt secondary service to 14 lots/~~buildings~~ numbered 71 to 84 in the development known as Dunbar Oaks No. 2 (hereinafter called the "Development") located in Township 1N, Range 9E, Section 8, City of Farmington Hills, Oakland 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 electric distribution system is shown on the Company's Department Order Drawing # A-64672 dated _____, a copy of which drawing is attached hereto and made a part hereof as Attachment A.

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:

L 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.

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33074

2. Upon the execution of this Agreement, the Developer will pay to the Company \$ 4,512.00. This amount is the "Total Payment Required" as determined 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 Contribution 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 \$ 1.00 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 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 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.

7. 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.

8. 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 May 20, 1979, 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.

10. The Company shall not be responsible for any losses or damages incurred 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.

11. 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.

12. If at any time prior to the commencement of construction of the underground 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 Developer shall be sent by United States mail or delivered in person to:

A. J. Macksey Company

32910 W. Thirteen Mile Road

Farmington Hills, Michigan 48018

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

By John Thomas

Its Acting Director, Service Planning

DEVELOPER FAM Associates
A. J. Macksey Company, Partner

By [Signature]

Its 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.
- (2) Refunds under part 1 of this Attachment C shall be made without interest for a five-year 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

(a)	Single Home Subdivisions		
	<u>1,410</u> front lot feet x \$1.75 per front lot foot =		\$ <u>2,468.00</u>
(b)	Mobile Home Parks, Condominiums and Apartment House Complexes		
	_____ trench feet x \$1.90 per trench foot =		\$ <u>-0-</u>
	_____ KVA of installed transformer capacity x \$4.00		\$ <u>-0-</u>
(c)	As defined in Paragraph 2 of the Agreement, additional nonrefundable contributions may be required where, in the Company's Judgment, practical difficulties exist. The contributions for these practical difficulties amount to		\$ <u>-0-</u>
(d)	Where the Developer requires winter construction (see Paragraph 4) an additional nonrefundable contribution is required in the amount of		\$ <u>-0-</u>
	TOTAL		\$ <u>2,468.00</u>

ATTACHMENT D

AGREEMENT NUMBER C179J385

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

Estimated Direct Construction Cost	\$ <u>4,512.00</u>
(Excludes engineering overhead costs and administrative cost. When applicable, includes cost of system extensions required to supply developments.)	
Minus - Company's Share of Cost	\$ <u>-0-</u>
(\$500.00 for each residential unit to be immediately served when the underground electric distribution system is completed.) (See B Attached)	
Refundable Line Extension Advance	\$ <u>2,044.00</u>
(See Schedule of Refunds - Attachment C)	
Plus - Nonrefundable Contribution as required by Rule B-3.4 (See Attachment C)	\$ <u>2,468.00</u>
TOTAL PAYMENT REQUIRED	\$ <u>4,512.00</u>

**Detroit
Edison**

2000 Second Avenue
Detroit, Michigan 48226
(313) 237-8000

DATE: March 5, 1979

A. J. Macksey Company

32910 W. Thirteen Mile Road

Farmington Hills, Michigan 48018

RE: Dunbar Oaks Subdivision No. 2

Gentlemen:

Pursuant to establishing a field construction date for the above named project, it is necessary that the conditions of the grade in the area of construction be determined. Work cannot start until this is accomplished.

Please sign and return two copies of the Certificate below. You may retain the third copy for your file.

Very truly yours,

George White
Service Planner

MARCH 6, 1979
Date

GW:dp

C-E-R-T-I-F-I-C-A-T-E

I/We, the undersigned, hereby certify to the Detroit Edison Company that all grading in utility easements and/or the routes of the underground facilities on the above subject development has been completed within four (4) inches of final grade.

I/We further agree that a stake will be placed at the location of each piece of above grade equipment, indicating the final grade to be achieved. A copy of the Detroit Edison Company underground construction drawing No. A-64672 for this development is in my/our possession and will be used for this purpose.

Name *[Signature]*

Title *Partner*

Name *William Phillips*

Title *Partner*

Date _____

RECORDED BY FILE NO.

33074

APPLICATION FOR RIGHT OF WAY
DE FORM MS 80 5-74 55

PLEASE SECURE RIGHT OF WAY AS FOLLOWS.

DATE March 3, 1980

LOCATION GRAND RIVER AND DRAKE

APPLICATION NO. 0-6918

CITY OR VILLAGE FARMINGTON HILLS

DEPT ORDER NO _____

O F W NO _____

TOWNSHIP _____ COUNTY OAKLAND

BUDGET ITEM NO _____

DATE BY WHICH RIGHT OF WAY IS WANTED _____

INQUIRY NO. _____

THIS R/W IS _____ % OF TOTAL PROJECT NO. _____ ACCUM. _____ %.

JOINT RIGHT OF WAY REQUIRED YES NO

NOTE: Identify on print or sketch the subdivisions as to section location and liber and page.

KIND AND DESCRIPTION OF RIGHT OF WAY REQUESTED RECORDABLE RIGHTS OF WAY FOR UNDERGROUND DISTRIBUTION

PURPOSE OF RIGHT OF WAY TO PROVIDE R/W FOR DETROIT EDISON CABLE IN CUSTOMER INSTALLED CONDUIT

SIGNED [Signature]

OAKLAND
OFFICE

SERVICE PLANNING
DEPARTMENT

REPORT OF REAL ESTATE AND RIGHTS OF WAY DEPT.

Recordable Right-of-Way secured as shown on the attached sketch.

Contacts by Paul E. Lagrou, Real Estate, Rights of Way & Claims.

RECORDED RIGHT OF WAY NO.

33075

Ser.Pln. 1
PERMITS IN RECORD CENTER 1 R.E. & R/W DEPT, FILE _____ GRANTOR Beztak Corp.

NO. OF PERMITS 1 NO. OF STRUCTURES _____ NO. OF MILES _____ PERMITS TO MBT _____

DATE 5-14-80 SIGNED [Signature]

JAMES A. ROBERTSON

3-4-80 WD 4-1-80

