

FARMINGTON TWP
Sec 94

94 240265

LISC# 14954730
GRANT OF UTILITY EASEMENT

THIS GRANT OF UTILITY EASEMENT (this "Agreement") is made and entered into as of this 22 day of October, 1993, by and between Gatefarm Limited Partnership, d/b/a Gatefarm of Delaware Limited Partnership, a Delaware limited partnership ("Grantor") and THE DETROIT EDISON COMPANY, a Michigan corporation (the "Grantee").

RECITALS:

The following recitals of fact are a material part of this Agreement:

1.25.00 MISCELLANEOUS RECORDING
\$ 2.00 REINDEMENTATION
7-SEP 94 9:15 A.M. RECEIPT# 218
PAID RECORDED - OAKLAND COUNTY
LYNN W. HELM, DEEDS REGISTER DEEDS

A. Grantor is the owner of that certain parcel of land in the City of Farmington Hills, Oakland County and State of Michigan, legally described on Exhibit A attached hereto and by this reference made a part hereof (the "Property").

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B. Grantor desires to grant, and Grantee desires to receive upon and subject to the terms and conditions herein provided, an easement to construct, reconstruct, modify, add to, operate, and maintain, overhead utility line facilities consisting of wood poles, guys, anchors, wires, cables, transformers and accessories on, over and upon the real property described on Exhibit B attached hereto (the "Easement Premises").

[Handwritten initials]

NOW, THEREFORE, in consideration of the foregoing, the sum of Ten Dollars (\$10.00) paid by Grantee to Grantor, the mutual covenants and agreements of the parties hereto and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereby agree as follows:

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1. Recitals Incorporated by Reference. The provisions of the aforestated recital paragraphs are, by this reference, herein incorporated as if they had been set forth in the text of this Agreement in full.

2. Grant of Easement. Subject to the terms of this Agreement and to all matters and conditions of record, Grantor hereby grants, gives and conveys to Grantee, its successors and assigns, for the purposes herein stated and for no other purpose, an easement to reconstruct, modify and operate and maintain, overhead utility line facilities consisting of wood poles as depicted on Exhibit C, guys, anchors, wires, cables, transformers and accessories on, over and upon the real property described on Exhibit B attached hereto ("the Easement Premises"), together with the right, permission and authority to: (a) enter upon such portions of the Easement Premises as may be reasonably necessary for such herein above specified purposes and exercising the rights and performing the obligations of Grantee in accordance with the terms of this Agreement and in compliance with all applicable laws; (b) enter (in a reasonable manner) upon such portions of the Property outside of the Easement Premises as are approved by Grantor and as shall be reasonable and necessary for the purpose of access to the Easement Premises to exercise the rights and perform

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O.K. -S.R.

the obligations of Grantee herein in accordance with the terms of this Agreement; and (c) from time to time and subject to Paragraph 10 hereof, with Grantor's written consent, remove obstructions on the Easement Premises which may injure Grantee, its agents, employees or contractors, or unreasonably interfere with Grantee's use of the Easement Premises for the purposes herein granted. The easement granted hereunder shall terminate upon Grantee's relocation of the underground communication systems.

3. **Notice of Work.** Grantee shall give Grantor forty-eight (48) hours prior notice of its commencement of work on the Easement Premises except in the event of an emergency, (in which event notice will be communicated as soon as reasonably practicable before or after work is commenced). To the maximum extent possible, Grantee shall conduct its work upon the Easement Premises with minimal interference to Grantor's business and the use of parking areas upon and around the Easement Premises.

4. **Reservations of Rights.** Subject to the terms of this Agreement, Grantor reserves the following rights with respect to the Easement Premises:

(a) The right to use and improve the surface areas of the Easement Premises and the non-exclusive right to use the subsurface areas of the Easement Premises for any reason and in such manner as Grantor shall deem proper, in its sole discretion, including without limitation, the operations of Grantor's parking facilities; and

(b) The right to grant additional access, utility or other easements over and upon, and the right to grant others the right to use, the Easement Premises consistent with and with no interference to Grantee's rights hereunder.

5. **Covenants Run with Land.** All provisions of this Agreement, including the benefits and burdens, shall run with the land and are binding upon and insure to the benefit of all parties having or acquiring any right, title or interest in or to any portion of, or interest or estate in, the Property and their respective successors, grantees and assigns.

6. **Release of Claims; Indemnity.** Grantee assumes sole and entire responsibility for any and all loss of life, injury to persons or damage to property (wherever such property may be located) that may be sustained directly or indirectly due to the activities, operations or use of the Easement Premises including, without limitation, any such loss, injury or damage due to the construction, maintenance, restoration, operation, replacement or repair of the above ground and underground wires, cables, conduits, fixtures and appurtenances or any improvements thereto) by Grantee, its agents, employees and contractors, and for those claiming through any of them (collectively, the "Grantee Group"). Grantee, for itself and for those claiming through Grantee, hereby releases Grantor, its officers, directors, beneficiaries, partners, employees, agents, mortgagees, licensees, contractors, guests and invitees (and their respective officers, directors, partners,

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employees, agents, mortgagees, licensees, contractors, guests and invitees, subsidiaries, affiliates, successors, grantees and assigns) (collectively the "Grantor Indemnities") from any and all liability, loss, claims, demands, liens, damages, penalty, fines, interest, costs and expenses (including, without limitation, reasonable attorneys' fees and litigation costs incurred by the Grantor Indemnitees in connection therewith) and for injury to persons, damage, destruction of theft of property, that may arise (directly or indirectly) from operations on, or the use of, the Easement Premises (including, without limitation, any such liability loss, claims, demands, liens, damages, penalty, fines, interest, costs and expenses that may arise as a result of the construction, maintenance, restoration, operation, replacement or repair of the underground wires, cables, conduits and fixtures and appurtenances or any improvements thereto) by Grantee Group except that caused directly by the negligence of Grantor or its agents.

7. **Covenants of Grantee.** Grantee covenants and agrees (a) not to construct, erect, maintain or permit any structure, installation, facility or improvement of any kind or nature whatsoever on or above the surface of the Easement Premises, other than the overhead utility line facilities as described in Section 2, Grant of Easement, and as shown on Exhibit C, (b) to restore, at its sole cost and expense, the Easement Premises, the Property if affected by Grantee or its agents, contractors or subcontractors and all adjacent areas to their original condition as it existed immediately preceding the commencement of any construction, maintenance or repair work performed by Grantee thereon in accordance with the terms of this Agreement to the reasonable satisfaction of Grantor; any such restoration shall be completed within the Time Limitation; (c) not to generate, release, store, bury or deposit any Hazardous Materials in, beneath, above or upon the Easement Premises or use in the construction or operation of any underground wires, conduits, cables or fixture and appurtenances, any Hazardous Materials. For purposes of the Agreement, "Hazardous Materials" shall mean and include any flammable explosives, petroleum (including crude oil), radioactive materials, asbestos, polychlorinated biphenyls, hazardous wastes, toxic substances, and any other wastes or materials regulated under any federal, state or local law, ordinance or regulation pertaining to toxic or hazardous substances, wastes or materials. However, Hazardous Materials does not include the preservatives that manufacturers apply to wood poles that Grantee purchases; and (d) not to damage, disturb or prevent the full use or maintenance of those easements of record that may be adjacent to, overlapping with or perpendicular to Grantee's easement parcel, as required under the terms of such easements.

8. **Non-Interference by Grantee.** Grantee hereby agrees not to interfere with the use and enjoyment of the Easement Premises by Grantor or its invitee guests, licensees, tenants and patrons. Furthermore, Grantee hereby agrees not to interfere with the use of any easement hereafter granted on, under above or across the Property or any portion of the Easement Premises or with any other use of the Easement Premises so long as such easement, the use

thereof or any other use does not materially interfere with Grantee's rights hereunder.

9. No Lien. Grantee shall not permit any lien to stand against the Easement Premises, the Property or any improvements thereon for any labor or materials in connection with work of any character performed or claimed to have been performed on the Easement Premises or the Property at the direction or sufferance of any member for the Grantee Group. In the event of any such lien attaching to the Easement Premises, the Property or any improvements thereon, Grantee shall immediately take all reasonable steps to have such lien released and failure by Grantee shall constitute a breach of this Agreement.

10. Compliance with Laws. All construction, maintenance, alteration, replacement, operation and repairs of the Easement Premises by Grantee shall comply with all applicable laws, statutes, building codes and regulations.

11. Actions to Enforce Easement. If Grantee or its successors or assigns, violate or threaten to violate any part of this Agreement, Grantor, or its respective successor or assign, shall have the right to enjoin such violation or threatened violation in any Michigan court of competent jurisdiction and to recover damages. If Grantor, its successor or assign, brings an action in any Michigan court to enforce any provision of this Agreement, the prevailing party shall be entitled to reasonable attorney fees and all costs, which sums shall be included in any judgment entered in favor of the prevailing party.

12. Notices. All notices and other communications given pursuant to this Agreement shall be in writing and shall be deemed delivered when personally delivered, on the first day following delivery to an overnight courier service or on the third day after deposit in the U.S. mail as registered or certified mail, return receipt requested, postage prepaid, as follows:

if to Grantor: Gatefarm Limited Partnership
c/o Reichmann International, L.P.
520 Madison Avenue
New York, New York 10002
Attention: Hannah Waldman, Esq.

if to Grantee: Detroit Edison
26801 Northwestern Hwy.
Southfield, MI 48034
Attention: John J. Thomas 145 SFLD

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Addressees and addresses may be changed by the parties by notice given in accordance with the provisions hereof.

13. **Administrative Fee.** Grantee agrees to pay to Grantor, as a condition of the granting of this easement, the sum of \$500.00 as a non-refundable administrative fee upon the execution and delivery of this easement.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the day and year first above written.

ATTEST:

By: Hannah Wald HANNAH WALD
Its: Secretary

GRANTOR:

Gatefarm Limited Partnership

By: Gatefarm Corp.,
General Partner

By: [Signature]
Leonard Chazen, President

ATTEST:

By: John J. Thomas John J. Thomas
Its: Principal Engineer
Detroit Edison
Oakland Division

GRANTEE:

The Detroit Edison Company,
A Michigan Corporation

By: Ron A. May Ron A. May
Its: Director-South Oakland Service Center

Witnesses: (type or print name below signature)

[Signature]
DONNA MARIA FIANAGAN
[Signature]
THERESA A. MILLER

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Acknowledged before me in New York
County, New York, on November 9,
1993 by Leonard Chazen, the
President of Gatefarm Corp., a Delaware
Corporation, the general partner of Gatefarm Limited
Partnership.

CYNTHIA A. HARRIOTT
NOTARY PUBLIC, STATE OF NEW YORK
NO. 41-4896751
QUALIFIED IN QUEENS COUNTY
COMMISSION EXPIRES MAY 26, 1995

Notary's Stamp _____
(Notary's Name, County, and Date
Commission Expires)

Notary's Signature Cynthia A. Harriott

Witnesses: (type or print name below signature)

Pamela Wallingford
PAMELA WALLINGFORD

Annie P. Grimmitt
ANNIE P. GRIMMETT

Acknowledged before me in Oakland County, Michigan, on October
28, 1993, by Ron A. May, the Director of South Oakland Service
Center of The Detroit Edison Company, a Michigan Corporation,
for the Michigan Corporation.

ANNIE P. GRIMMETT
Notary Public, Oakland County, MI
My Commission Expires Oct. 3, 1996

Notary's Stamp _____
(Notary's Name, County, and Date
Commission Expires)

Notary's Signature Annie P. Grimmitt

Prepared by and return to: John J. Thomas, Principal Engineer,
Detroit Edison Company, 30400 Telegraph Road, Suite 210,
Birmingham, Michigan 48025

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EXHIBIT "A"Legal Description of Property

Land in the City of Farmington Hills, County of Oakland, State of Michigan, described as:

A Part of the Northeast 1/4 of Section 14, Town 1 North, Range 9 East, City of Farmington Hills, Oakland County, Michigan, more particularly described as commencing at the Northeast corner of said Section 14; thence North 89 degrees 20 minutes 30 seconds West 566.31 feet, along the North line of said Section 14 and the centerline of Twelve Mile Road, to the point of beginning; thence South 0 degrees 39 minutes 30 seconds West 220.00 feet; thence South 89 degrees 20 minutes 30 seconds East 262.28 feet; thence South 0 degrees 24 minutes 45 seconds West 437.00 feet; thence South 88 degrees 58 minutes 05 seconds East 245.00 feet; to the West line of Middlebelt Road (60 feet 1/2 right-of-way); thence South 0 degrees 24 minutes 45 seconds West 100.01 feet, along the West line of said Middlebelt Road; thence North 88 degrees 58 minutes 05 seconds West 345.10 feet; thence South 0 degrees 24 minutes 45 seconds West 1349.00 feet; thence North 89 degrees 20 minutes 30 seconds West 61.04 feet; to a point on the Northerly line of I-696; thence North 64 degrees 22 minutes 00 seconds West 942.91 feet along the Northerly line of said I-696; thence Due North, 1707.34 feet, to the North line of said Section 14 and the centerline of said Twelve Mile Road; thence South 89 degrees 20 minutes 30 seconds East 765.13 feet, along the North line of said Section 14 and the centerline of said Twelve Mile Road, to the point of beginning; excepting therefrom, the Northerly 60.00 feet as conveyed to the Board of County Road Commissioners, Oakland County, as recorded in Liber 6475, Page 644, of Oakland County Records. .

23-14-226-028

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EXHIBIT "B"

THE "EASEMENT PREMISES"

The Southerly 12 feet of the following described property:

Land in the City of Farmington Hills, County of Oakland, State of Michigan, described as:

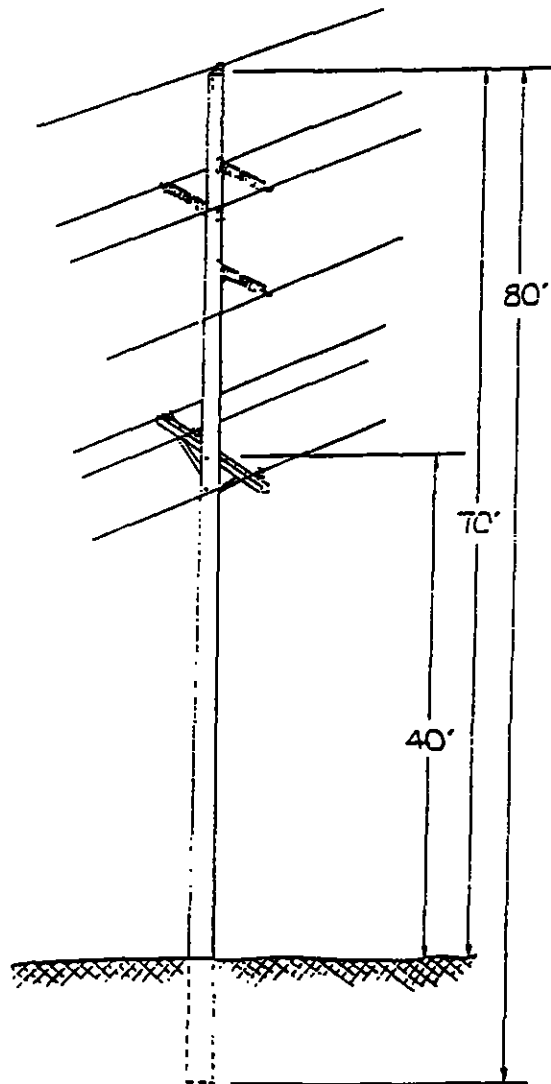
A part of the Northeast one-quarter (1/4) of Section 14, Town 1 North, Range 9 East, City of Farmington Hills, Oakland County, Michigan, more particularly described as commencing at the Northeast corner of said Section 14; thence North 89°20'30" West 566.31 feet, along the North line of said Section 14 and the centerline of Twelve Mile Road, to the point of beginning; thence South 00°39'30" West 220.00 feet; thence South 89°20'30" East 262.28 feet; thence South 00°24'45" West 437.00 feet; thence South 88°58'05" East 245.00 feet; to the West line of Middlebelt Road (60 feet 1/2 right-of-way); thence South 00°24'45" West 100.01 feet, along the West line of said Middlebelt Road; thence North 88°58'05" West 345.10 feet; thence South 00°24'45" West 1349.00 feet; thence North 89°20'30" West 61.04 feet; to a point on the Northerly line of I-696; thence North 64°22'00" West 942.91 feet along the Northerly line of said I-696; thence due North, 1707.34 feet, to the North line of said Section 14 and the centerline of said Twelve Mile Road; thence South 89°20'30" East 765.13 feet, along the North line of said Section 14 and the centerline of said Twelve Mile Road, to the point of beginning; excepting therefrom, the Northerly 60.00 feet as conveyed to the Board of County Road Commissioners, Oakland County, as recorded in Liber 6475, Page 644, of Oakland County Records. Sidwell No. 23-14-226-028.

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City of Farmington Hills Electrical Reliability Project

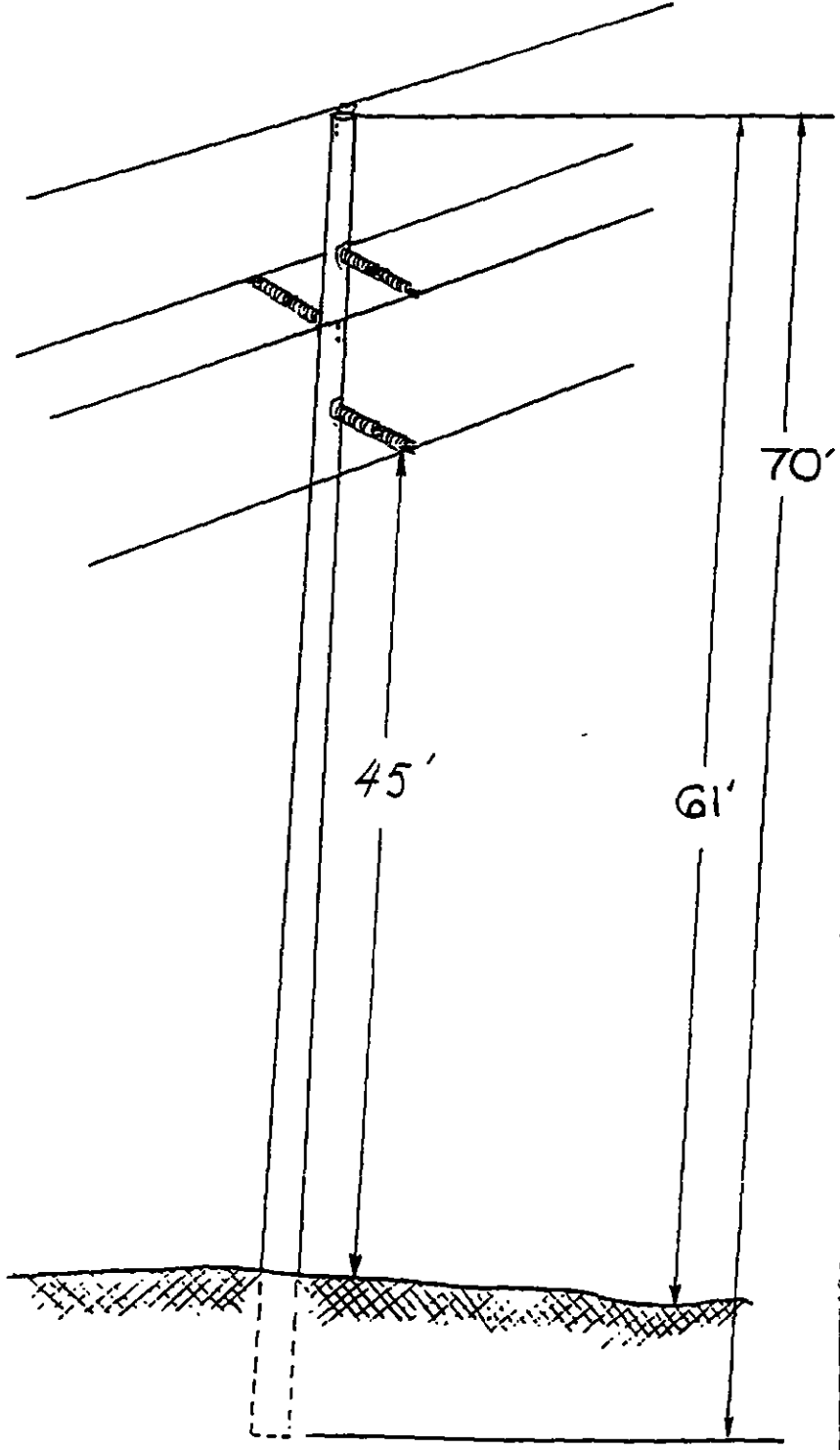
120 KV LINE Route Selection Alternatives



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Detroit Edison Company

14954rc739



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