

THIS INSTRUMENT IS RE-RECORDED WITH "AS INSTALLED" DRAWING AS STIPULATED IN PARAGRAPH 4; AGREEMENT - EASEMENT - RESTRICTIONS

This instrument made this 6TH day of SEPTEMBER, 1977, by and between the undersigned Owners and THE DETROIT EDISON COMPANY, a corporation organized and existing concurrently under the laws of the states of Michigan and New York, of 2000 Second Avenue, Detroit, Michigan, 48226, hereinafter called "EDISON", and MICHIGAN BELL TELEPHONE COMPANY, a Michigan Corporation, of 1365 Cass Avenue, Detroit, Michigan, 48226, hereinafter called "BELL".

WITNESSETH:

WHEREAS, Owners are erecting apartments known as WALLED LAKE VILLA LOHA, on land in the CITY of WALLED LAKE

County of OAKLAND, State of Michigan, as described in Appendix "A", attached hereto and made a part hereof, and EDISON and BELL will install their electric and communication facilities underground except necessary above ground equipment.

NOW, THEREFORE, in consideration of the mutual promises and covenants for the installation of underground utility service made by the parties hereto, it is hereby agreed:

- (1) The installation, ownership and maintenance of electric services and the charges to be made therefor shall be subject to and in accordance with the Orders and Rules and Regulations adopted from time to time by the Michigan Public Service Commission.
(2) Owners must certify to EDISON and BELL that the easements are graded to within four (4") inches of final grade before the underground facilities are installed.
(3) Owners further agree that if subsequent to the installation of the utility facilities of EDISON and BELL, it is necessary to repair, move, modify, rearrange or relocate any of their facilities to conform to a new plot plan or change of grade or for any cause or changes attributable to public authority having jurisdiction or to Owners action or request, Owners will pay the cost and expense of repairing, moving, rearrangement or relocating said facilities to EDISON and BELL upon receipt of a statement therefor.
(4) Owners hereby grant to EDISON and BELL easement for electric and communication underground services in land herein described.
(5) Owners to pay the cost of conduit for electric and/or communication facilities to accommodate patios or similar site conditions.
(6) Easements herein granted are subject to the following restrictions and additional conditions:
a. Said easements shall be subject to Orders of and the Rules and Regulations adopted from time to time by the Michigan Public Service Commission.
b. Owners will place survey stakes indicating building plot lines and property lines before trenching.

DRAFTED BY AND RETURN TO: M. HARTMAN, MICHIGAN BELL 660 PLAZA DRIVE ROOM 1510 DETROIT, MICHIGAN 48226

3/28/76 CHARLES V. CLAPHAN MICHIGAN BELL TELEPHONE CO. 333 STEPHENSON HWY., RM. 301 TROY, MICHIGAN 48064

900 \$15.00

APARTMENTS Page 2

c. No shrubs or foliage shall be permitted on Owners land within five (5') feet of front door of transformers or switching cabinet enclosures.

d. Sanitary sewers shall be installed prior to installation of electric and communication lines. Sewer, water and gas lines may cross easements granted for electric and communication lines, but shall not be installed parallel within said easements.

e. Owners shall make no excavations nor erect any structures within the easements identified on the "as installed" drawing. No excavations for fences shall be allowed within the limits of the utility easements provided for electric and communication lines unless prior written approval is secured from the utilities.

f. Owners to provide for clearing the easements of trees, large stumps, and obstructions sufficiently to allow trenching equipment to operate. Owners to pay to utility concerned the extra trenching costs involved if trenching is required while ground is frozen.

g. EDISON and BELL shall have the right of access at all times upon premises for the purposes of constructing, repairing and maintaining their electric and communication lines and facilities.

h. Any of the undersigned who are vendors on land contracts wherein a portion of the lands described herein are being sold shall not be liable to BELL or EDISON unless and until the interest of the vendees, under any such contracts, have been forfeited and damage to utility lines and equipment occurs after such forfeiture.

The provisions of this instrument shall run with the land and shall be binding upon and inure to the benefit of the respective heirs, administrators, executors, personal representatives, successors and assigned of the parties hereto.

IN WITNESS WHEREOF, the parties hereto have set their hands and seals on the day and year first above written.

IN THE PRESENCE OF:

THE DETROIT EDISON COMPANY

Mary Ann Klos
MARY ANN KLOS

By Robert R. Tewksbury
ROBERT R. TEWKSBURY, DIRECTOR
Real Estate and Rights of Way Dept.

L. Katherine Hayes
L. KATHERINE HAYES

By Irene C. Kata
IRENE C. KATA ASST. SECRETARY

MICHIGAN BELL TELEPHONE COMPANY

Charles V. Claphan
CHARLES V. CLAPHAN

By Robert R. Tewksbury
ROBERT R. TEWKSBURY
Staff Supervisor, Right of Way
(Authorized Signature)

Douglas Roy
DOUGLAS ROY

WALLED LAKE VILLA LIMITED DIVIDEND HOUSING ASSOCIATION
A Michigan Limited Partnership

By Bud Cline
Bud Cline, General Partner

Laurette J. Dittenber
Laurette J. Dittenber

Shirley E. Halverson
Shirley E. Halverson

DRAFTED BY: AND RETURN TO:
CHARLES V. CLAPHAN
MICHIGAN BELL TELEPHONE CO.
333 STEPHENSON HWY., RM. 301
TROY, MICHIGAN 48064

RECORDED
INDEXED
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MICHIGAN BELL TELEPHONE CO.
RECORDS SECTION
SEP 16 1977

STATE OF MICHIGAN)
) SS
COUNTY OF WAYNE .)

(LIBER 7038 PAGE 68) LIBER 7762 PAGE 719

On this 20th day of September, 1977, before me, the subscriber, a Notary Public in and for said County, personally appeared

Robert R. Tewksbury and Irene C. Kata
to me personally known, who being by me duly sworn, did say that they are the
Director, R/E & R/W Dept. and Assistant Secretary

of THE DETROIT EDISON COMPANY, a corporation organized and existing concurrently under the laws of Michigan and New York, and that the seal affixed to said instrument is the corporate seal of the said corporation, and that said instrument was signed in behalf of said corporation by authority of its Board of Directors and Robert R. Tewksbury and Irene C. Kata acknowledged said instrument to be the free act and deed of said corporation.

My Commission Expires: _____

T. Katherine Hayes
Notary Public

T. KATHERINE HAYES
Notary Public, Oakland County, Mich.
Acting in Wayne
My Comm. Expires February 10, 1980

_____ County, Michigan

STATE OF MICHIGAN)
) SS
COUNTY OF OAKLAND)

On this 12th day of SEPT, 1977, before me, the subscriber, a Notary Public in and for said County, appeared ROBERT K. CRIVHUES

to me personally known, who being by me duly sworn, did say that he is STATE SUPERVISOR R/W authorized by and for MICHIGAN BELL TELEPHONE COMPANY a Michigan Corporation, and that the said instrument was signed in behalf of said corporation, by authority of its Board of Directors, and ROBERT K. CRIVHUES acknowledged said instrument to be the free act and deed of said corporation.

My Commission Expires: Dec. 19, 1978

Charles V. Claphan
Notary Public CHARLES V. CLAPHAN

LIVINGSTON County, Michigan

STATE OF MICHIGAN)
) SS
COUNTY OF OAKLAND)

On this 6th day of September, 1977, before me, a Notary Public, personally appeared BUD CLINE to me personally known, who being by me duly sworn, did say that he is a General Partner of the partnership known as WALLED LAKE VILLA LDHA, a Michigan Limited Partnership, which executed the within instrument and that he acknowledged said instrument to be the free act and deed of said Partnership.

My Commission expires: February 14, 1978

Shirley E. Halverson
Notary Public
Wayne County, Michigan
Notary Public, Wayne County, Mich.
Acting in Oakland County, Mich.
My Commission Expires Feb. 14, 1978

RECORDED RIGHT OF WAY NO. 31286

Legal Description of Walled Lake Villa MSHDA Development No. 015

A parcel of land in part of the W. 1/2 of the S.W. 1/4 of Sec. 34, T.2N, R8E, City of Walled Lake, Oakland Co., Michigan: Beginning at a point on the west line of said Sec. 34, distant N.0°14'52" W. 240.0 ft. from the S.W. corner of said Sec. 34; thence continuing N.0°14'52"W. along said west line 1071.30 ft.; thence N. 89°59'E. 570.60 ft; thence S.0°25' W. 55.35 ft.; thence N. 88°53' E. 150.88 ft.; thence S. 0°01'23" E. 346.07 ft.; thence S.89°51'E. 385.41 ft.; thence S.0°25'W. 240.0 ft.; thence S. 89° 51'E. 240.0 ft. to a point on the centerline of Pontiac Trail also the west line of Jenny Park Subdivision (Liber 59 Page 4); thence S.0°25'W 425.85 ft. along said centerline and in part the west line of said Jenny Park Subdivision; thence N. 89°35'W. 33.0 ft.; thence S.45°19'30"W. 307.73 ft.; thence S.0°12'W. 33.0 ft. to a point on the south line of said Sec. 34; thence N.89°48'W. 644.14 ft. along said south sec. line, also the centerline of Pontiac Trail; thence N.0°14'52"W. 240.0 ft.; thence N. 89°48'W. 440.0 ft. to the point of beginning and containing 29.89 acres more or less.

WALLED LAKE VILLA Limited Dividend Housing Assoc. A Michigan Limited Partnership

Witness:

Laurette J. Dittenber

Bud Cline General Partner

Shirley E. Halverson

DRAFTED BY: AND RETURN TO: CHARLES V. CLAPHAN MICHIGAN BELL TELEPHONE CO. 333 STEPHENSON HWY., RM. 301 TROY, MICHIGAN 48064

Notary Public Shirley E. Halverson

1978 SEP 4 PM 1 55

RECORDED RIGHT OF WAY NO. 51285

STATE OF MICHIGAN)) SS COUNTY OF Oakland)

On this 6th day of September, 1977, before me, a Notary Public personally appeared BUD CLINE to me personally known, who being by duly sworn, did say that he (is, was) (a) General Partner(s) of the partnership known as WALLED LAKE VILLA LDHA a Michigan limited-partnership which executed the within instrument and that he acknowledged said instrument to be the free act and deed of the said partnership.

My Commission Expires: February 14, 1978

Shirley E. Halverson Notary Public Shirley E. Halverson

Wayne County, Michigan SHIRLEY E. HALVERSON Notary Public, Wayne County, Mich. Acting in Oakland County, Mich. My Commission Expires Feb. 14, 1978

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

AGREEMENT, made this 26th day of October, 1977, between The Detroit Edison Company, hereinafter called the "Company" and I.B.F. Electrical Contracting, with offices at 7130 Tuxedo, Detroit, Michigan hereinafter called the "Developer".

WHEREAS, the Developer desires the Company to furnish a SØ 120/240 volt secondary service to 100 Townhouses lots/buildings numbered 1050 - 1234 Walled Lake Villa Drive in the development known as Walled Lake Villa Townhouses (hereinafter called the "Development") located in Township 2N, Range 8E, Section 33, City of Walled Lake, 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-63770 dated September 13, 1977, 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.

RECORDED RIGHT OF WAY NO. 31286

2. Upon the execution of this Agreement, the Developer will pay to the Company \$ 10,770.00. 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.

STANDARD RIGHT OF WAY NO. 31286

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 November 18, 1977, 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

RECORDED RIGHT OF WAY NO.

31286

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:

I.B.F. Electrical Contracting

7130 Tuxedo

Detroit, Michigan 48204

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 Leonard P. Lucas

Leonard P. Lucas

Its Director, Service Planning

DEVELOPER I.B.F. Electrical Contracting

By Donald Nowak

Donald Nowak

Its President

REC'D COPY RIGHT OF WAY NO. 31286

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		
	_____ front lot feet x \$1.75 per front lot foot =	\$	<u> -0- </u>
(b)	Mobile Home Parks, Condominiums and Apartment House Complexes		
	<u> 3,300 </u> trench feet x \$1.90 per trench foot =	\$	<u> 6,270.00 </u>
	<u> 1,050 </u> KVA of installed transformer capacity x \$4.00	\$	<u> 4,200.00 </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> 300.00 </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> 10,770.00 </u>

RECORDED RIGHT OF WAY NO. 3/286

ATTACHMENT D

AGREEMENT NUMBER C477J525

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

Estimated Direct Construction Cost	\$ <u>10,900.00</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>50,000.00</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>-0-</u>
(See Schedule of Refunds - Attachment C)	
Plus - Nonrefundable Contribution as required by Rule B-3.4 (See Attachment C)	\$ <u>10,770.00</u>
TOTAL PAYMENT REQUIRED	\$ <u>10,770.00</u>

RECORDED RIGHT OF WAY NO. 31286

**Detroit
Edison**

2000 Second Avenue
Detroit, Michigan 48226
(313) 237 6000

DATE: **October 26, 1977**

I.B.F. Electrical Contracting

7130 Tuxedo

Detroit, Michigan 48204

RE: **Walled Lake Villa Townhouses**

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,

[Signature]
Service Planner

DC:dp

10-27-77
Date

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-63770 for this development is in my/our possession and will be used for this purpose.

Name *Donald E. Vincent*
Title *President*
Name *I.B.F. ELECTRICAL*
Title *CONTRACTING INC.*
Date *11-16-77*

RECORDED FROM OF WAY NO.

31286

