


**AGENDA**  
**ISHPEMING CITY COUNCIL REGULAR MEETING**  
**Wednesday, July 11, 2018, at 7:00 p.m.**  
**Ishpeming City Hall Conference Room, 100 E. Division Street, Ishpeming MI**  
**City Hall Telephone Number: (906) 485-1091**

1. Call to Order
2. Pledge of Allegiance
3. Roll Call
4. Public Comment
5. Approval of Agenda
6. Agenda Comment
7. Consent Agenda
  - a. Minutes of Previous Meeting (June 1<sup>st</sup>, June 6<sup>th</sup>, June 13<sup>th</sup>, and June 25<sup>th</sup>)
  - b. Approval of Disbursements (Mayor Juidici and Councilman Koski)
  - c. Special Event Application: Neighborhood Nights Out 2018: Month of August
  - d. Special Event Application: 15<sup>th</sup> Annual Swim Teal Lake for Diabetes: 7/28/18
  - e. Special Event Application: VFW Bean Bag Brawl: 8/18/18
  - f. Special Event Application: RAMBA UPCROSS All Crawl Cyclocross: 10-6-18
  - g. Special Event Application: Red Earth Classic: 7/28/18
  - h. Special Event Application: Marji Gesick 100: 9/21-23, 2018
  - i. Reappoint Kaitlyn Feldbauer to fill three year term on Building Authority
  - j. Confirm reappoint David Aeh and Tracy Magnuson to 4 year terms on the DDA
  - k. Confirm appointment of John Carlson to a 4 year term on the DDA
8. Monthly Financial Statement Report
9. 2017 Deficit Elimination Plan
10. Presentation on Project Empire: John Iacoangeli and Jessica Flores
11. Discussion of Malton Road Development
12. Public hearing for purchase of adjoining vacant lots from the Royal Pub
13. Public hearing for the vacation of the North/South alley across from the Ishpeming High School
14. USDA Water Improvement Project
  - a. Change Order #5, Contract I
  - b. Discussion of NMU Electrical Service for Repeater
  - c. Change Order #4, Contract II
  - d. Rural Development Draw #9
  - e. Change Order #3, Contract III
  - f. Pay Application #7, Contract III
  - g. Proposal for additional engineering for Contract III
15. Pearl Street Paving
16. Second Reading of Amendment to Ordinance 12-100, Water Ordinance
17. Second Reading of Amendment to Ordinance 10-100, Owning and Keeping of Dogs and Cats
18. Second Reading of Amendment to Ordinance 10-300, Regulate the Feeding of Wild Animals
19. First Reading of Amendment to Ordinance #2-400, Regulation of Fireworks
20. Appointment of substitute attorney in absence of City Attorney
21. Law Enforcement Services Agreement with UP Health Systems Bell
22. Agreement with the Lake Superior Community Partnership
23. OHM Advisors City Hall Roof Replacement Proposal
24. City of Escanaba Request – Dark Store

25. Set Special Meeting for 2017 Audit Presentation and to finalize 2019 Goals and Capital Improvement Projects
26. Old Business
27. New Business
28. Mayor and Council Reports
29. Manager's Report
30. Attorney's Report
31. Adjournment



Mark Slown  
City Manager

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CITY OF ISHPEMING

SPECIAL EVENT APPLICATION

Please complete this application and return it to the City Manager's Office at least 30 calendar days prior to the starting date of the event.

Organization's

Name Marquette County Triad Phone 315-2607

Organization Address 184 U.S. Hwy 41, E.

Organization's Agent Julie Shaw Phone 315-2607

Agent's Title Coordinator

Agent's Address Same as above

Event Name Marquette County's Neighbors Night Out 2018

Event purpose Promote crime prevention activities and neighborhood camaraderie.

Event Dates Month of August 2018

Event Times TBD

Event Location TBD

1. Type of Event:

- ☐ City Operated Event      ☒ Co-Sponsored Event  
☐ Other Non-Profit Event      ☐ Other For-Profit Event  
☐ Political or Ballot Issue Event

2. Annual Event: Is this event expected to occur next year? ☒ YES ☐ NO

If yes, you can reserve a date for next year with this application. To reserve dates for next year, please provide the following information:

Normal Event Schedule August

Next year's Specific Dates: Month of August 2019

3. An Event Map [Is] [Is Not] attached. If your event will use streets and/or sidewalks (for a parade, run, etc.) or will use multiple locations, please attach a complete map showing the assembly and dispersal locations and the route plan. Also please show any streets or parking lots that you are requesting to be blocked off.

4. Vendors: Food Concessions? [Yes] ☒ No Other vendors? [Yes] ☒ No

5. Event signs: Will this event include the use of signs? [Yes] ☒ No

6. Other Requests: Close 1 Block of W. Empire St  
and/or other blocks as requested.

7. CERTIFICATION AND SIGNATURE: I understand and agree on behalf of the sponsoring organization that:

a. A certificate of Insurance must be provided which names the City of Ishpeming as an additional named insured party on the policy.

b. Event organizers and participants will be required to sign Indemnification Agreement forms.

c. All food vendors must be approved by the Marquette County Health Department and each food vendor must provide the City with a Certificate of Insurance which names the City as an additional named insured on the policy.

d. All liquor vendors must obtain a liquor license for the event which must be approved by the Michigan Liquor Control Commission and must provide the City with a Certificate of Insurance which names the City as an additional named insured on the policy.

e. The approval of this special event may include additional requirements based on the City's review of this application in accordance with the City's Special Event Policy. The event will be operated in conformance with the written confirmation of approval.

f. The organization will provide a security deposit for the estimated fees as may be required by the City and will promptly pay any billing for City services which may be rendered.

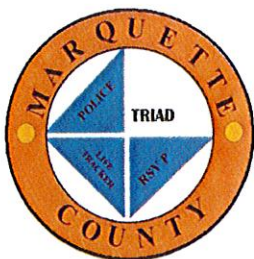
As the duly authorized agent of the organization, I hereby apply for approval of this Special Event, affirm the above understandings, and agree that my sponsoring organization will comply with the City's Special Event Policy, the terms of the Written Confirmation of Approval, and all other City requirements, ordinance and other laws which apply to this Special Event.

4/27/18  
Date

Stu Skangl  
Signature of Organization's Agent  
City of Ishpeming

Return this Application at least thirty (30) days prior to the first day of the event to:

City Manager's Office  
City Hall  
E. Division Street  
Ishpeming, Michigan 49849



**Marquette County TRIAD** 184 U.S. 41 East Negaunee, MI 49866 Phone: 315-2607

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May 24, 2018

Dear Friends:

Planning is underway for "Neighbors Night Out," formerly known as National Night Out. Will you consider hosting an August Neighbors Night Out or Noon Out party this year? Parties can take place any time in the first two weeks of August. This is Marquette County's 21st year of Night Out celebrations. Last year an estimated 3,000 county residents participated in 19 registered parties.

Neighbors Night Out is an opportunity to keep Marquette County a safe place for our neighbors and children to live. The introduction of National Night Out in 1984 - "America's Night Out Against Crime" - began an effort to promote involvement in crime prevention activities, police-community partnerships, neighborhood camaraderie and sends a message to criminals letting them know that neighborhoods are organized and fighting back. Residents are encouraged to reach out to their neighbors - Neighbors Night Out is a wonderful opportunity to get people of all ages involved in their community.

If you choose to host a Neighbors Night Out party, please complete the enclosed form and return it by July 21. Information about registered parties is forwarded to emergency personnel, and also allows us to keep track of how many different parties take place and the approximate number of people participating. Family-friendly, alcohol-free block parties, neighborhood potlucks and cookouts; even all-out community celebrations are being planned.

Marquette County's law enforcement and emergency agencies are given a schedule of parties. **We encourage you to contact emergency personnel in your area directly** if you would like them to visit your party. (Please see the attached page for the names and contact information for police, fire and ambulance in your area.) Barring emergencies or staff shortages, we are hopeful police and fire personnel may be available to visit your party to introduce themselves and answer questions about home security and overall neighborhood safety. **Parties are responsible to follow city or township rules for barricading streets.**

Thanks to community leaders and great neighbors like you, the program continues to flourish with neighbors making new connections each year. Please call Julie Shaw at 315-2607 if you have any questions, suggestions or need any help organizing your party.

Sincerely,

Sheriff Greg Zyburt  
Marquette County Sheriff's Department  
225-8435

F/Lt. Clint Michelin  
Michigan State Police  
475-9922

Julie Shaw  
TRIAD/RSVP  
315-2607

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CITY OF ISHPEMING

SPECIAL EVENT APPLICATION

Please complete this application and return it to the City Manager's Office at least 30 calendar days prior to the starting date of the event.

Organization's

Name U.P. Diabetes Outreach Network Phone 906-273-1120

Organization Address 1025 Commerce Drive, Suite B

Organization's Agent Kristen Cambensy Phone 906-360-6906

Agent's Title UPDON Office Manager

Agent's Address 1135 County Road 492

Event Name 15th Annual Swim Teal Lake: Benefit for Diabetes

Event purpose Fundraiser event for UPDON

Event Dates Saturday, July 28th, 2018

Event Times 7:30 am- 2:00 pm

Event Location Al Quaal Lower Lodge/Teal Lake

1. Type of Event:

- ☐ City Operated Event      ☐ Co-Sponsored Event
- ☒ Other Non-Profit Event      ☐ Other For-Profit Event
- ☐ Political or Ballot Issue Event

7/21/15

2. Annual Event: Is this event expected to occur next year? [YES] <sup>X</sup> [NO]

If yes, you can reserve a date for next year with this application. To reserve dates for next year, please provide the following information:

Normal Event Schedule 16th Annual Swim Teal Lake: Benefit for Diabetes

Next year's Specific Dates: Saturday, July 27th, 2019

3. An Event Map [Is] <sup>X</sup> [Is Not] attached. If your event will use streets and/or sidewalks (for a parade, run, etc.) or will use multiple locations, please attach a complete map showing the assembly and dispersal locations and the route plan. Also please show any streets or parking lots that you are requesting to be blocked off.

4. Vendors: Food Concessions? [Yes] <sup>X</sup> [No] Other vendors? [Yes] <sup>X</sup> [No]

5. Event signs: Will this event include the use of signs? [Yes] <sup>X</sup> [No]

6. Other Requests: \_\_\_\_\_

7. CERTIFICATION AND SIGNATURE: I understand and agree on behalf of the sponsoring organization that:

- a. A certificate of Insurance must be provided which names the City of Ishpeming as an additional named insured party on the policy.
- b. Event organizers and participants will be required to sign Indemnification Agreement forms.
- c. All food vendors must be approved by the Marquette County Health Department and each food vendor must provide the City with a Certificate of Insurance which names the City as an additional named insured on the policy.
- d. All liquor vendors must obtain a liquor license for the event which must be approved by the Michigan Liquor Control Commission and must provide the City with a Certificate of Insurance which names the City as an additional named insured on the policy.
- e. The approval of this special event may include additional requirements based on the City's review of this application in accordance with the City's Special Event Policy. The event will be operated in conformance with the written confirmation of approval.
- f. The organization will provide a security deposit for the estimated fees as may be required by the City and will promptly pay any billing for City services which may be rendered.

As the duly authorized agent of the organization, I hereby apply for approval of this Special Event, affirm the above understandings, and agree that my sponsoring organization will comply with the City's Special Event Policy, the terms of the Written Confirmation of Approval, and all other City requirements, ordinance and other laws which apply to this Special Event.

6/27/2018  
Date

Kristen Carlsberg  
Signature of Organization's Agent

Return this Application at least thirty (30) days prior to the first day of the event to:

City Manager's Office  
City Hall  
E. Division Street  
Ishpeming, Michigan 49849

CITY OF ISHPEMING

SPECIAL EVENT APPLICATION

Please complete this application and return it to the City Manager's Office at least 30 calendar days prior to the starting date of the event.

Organization's Name V.F.W. Post 4573 - Ishp. Phone 486-4856

Organization Address 310 Bank St., Ishp.

Organization's Agent Stu Skauge Phone 485-4831

Agent's Title Event Coordinator

Agent's Address 458 OAK ST., Ishp.

Event Name BEAN BAG BRAWL

Event purpose Funcl Raiser - Veteran Programs

Event Dates SAT. Aug. 18, 2018

Event Times Noon - 7 pm

Event Location V.F.W. - WEST Parking Lot - 310 Bank St.

1. Type of Event:

☐ City Operated Event

☒ Co-Sponsored Event w/ city

☒ Other Non-Profit Event

☐ Other For-Profit Event

☐ Political or Ballot Issue Event

2. Annual Event: Is this event expected to occur next year? ☒ YES ☐ NO

If yes, you can reserve a date for next year with this application. To reserve dates for next year, please provide the following information:

Normal Event Schedule \_\_\_\_\_

Next year's Specific Dates: Aug 2019

3. An Event Map [Is] [Is Not] attached. If your event will use streets and/or sidewalks (for a parade, run, etc.) or will use multiple locations, please attach a complete map showing the assembly and dispersal locations and the route plan. Also please show any streets or parking lots that you are requesting to be blocked off.

4. Vendors: Food Concessions? ☒ Yes ☐ No Other vendors? ☐ Yes ☐ No

5. Event signs: Will this event include the use of signs? ☐ Yes ☒ No

6. Other Requests: close Bank St From 3rd St. To 2nd St.

7. CERTIFICATION AND SIGNATURE: I understand and agree on behalf of the sponsoring organization that:

a. A certificate of Insurance must be provided which names the City of Ishpeming as an additional named insured party on the policy.

b. Event organizers and participants will be required to sign Indemnification Agreement forms.

c. All food vendors must be approved by the Marquette County Health Department and each food vendor must provide the City with a Certificate of Insurance which names the City as an additional named insured on the policy.

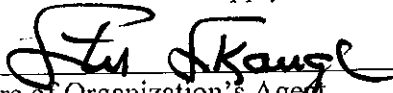
d. All liquor vendors must obtain a liquor license for the event which must be approved by the Michigan Liquor Control Commission and must provide the City with a Certificate of Insurance which names the City as an additional named insured on the policy.

e. The approval of this special event may include additional requirements based on the City's review of this application in accordance with the City's Special Event Policy. The event will be operated in conformance with the written confirmation of approval.

f. The organization will provide a security deposit for the estimated fees as may be required by the City and will promptly pay any billing for City services which may be rendered.

As the duly authorized agent of the organization, I hereby apply for approval of this Special Event, affirm the above understandings, and agree that my sponsoring organization will comply with the City's Special Event Policy, the terms of the Written Confirmation of Approval, and all other City requirements, ordinance and other laws which apply to this Special Event.

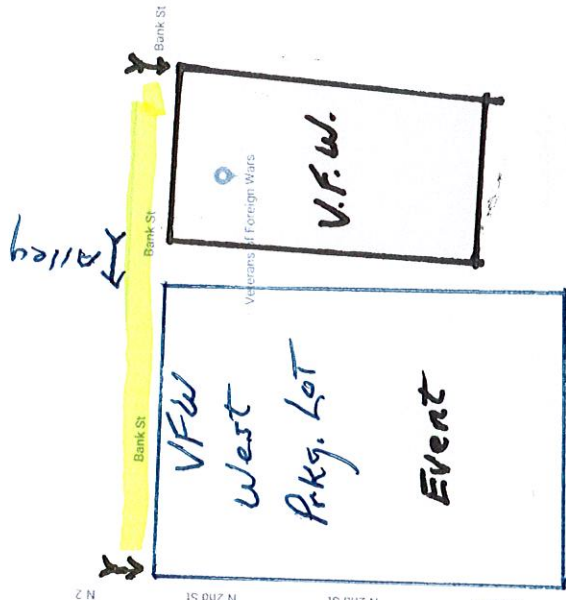
6/25/18  
Date

  
Signature of Organization's Agent

Return this Application at least thirty (30) days prior to the first day of the event to:

City Manager's Office  
City Hall  
E. Division Street  
Ishpeming, Michigan 49849

Google Maps



Google

Map data ©2018 Google 20 ft

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CITY OF ISHPEMING

SPECIAL EVENT APPLICATION

Please complete this application and return it to the City Manager's Office at least 30 calendar days prior to the starting date of the event.

Organization's Name RAMBA/UPCROSS Phone 906-360-1929

Organization Address 25 Heidi Dr. Marquette 49855

Organization's Agent Andrew Koval Phone 906-360-1929

Agent's Title President - UPCROSS or Danny Hill, President RAMBA  
906-236-2876

Agent's Address Same

Event Name All ~~the~~ Crawl! Cyclocross at ~~Quaal~~ Al Quaal

Event purpose RAMBA fundraiser - all race proceeds

go to trails. Part of a 10 race Series in MQT, Houghton & Keweenaw Counties

Event Dates October 6, 2018

Event Times 10am - 6pm

Event Location Al Quaal Rec Area

1. Type of Event:

☐ City Operated Event

☒ Co-Sponsored Event

☐ Other Non-Profit Event

☐ Other For-Profit Event

☐ Political or Ballot Issue Event

2. Annual Event: Is this event expected to occur next year? ☒ [YES] ☐ [NO]

If yes, you can reserve a date for next year with this application. To reserve dates for next year, please provide the following information:

Normal Event Schedule Every fall

Next year's Specific Dates: Sept. - Nov. TBD

3. An Event Map [Is] ☒ [Is Not] attached. If your event will use streets and/or sidewalks (for a parade, run, etc.) or will use multiple locations, please attach a complete map showing the assembly and dispersal locations and the route plan. Also please show any streets or parking lots that you are requesting to be blocked off.

4. Vendors: Food Concessions? [Yes] ☒ [No] Other vendors? [Yes] ☒ [No]

5. Event signs: Will this event include the use of signs? ☒ [Yes] ☐ [No] Temp. banners - day of race

6. Other Requests: pavillion, bathrooms, race in progress  
signs, park roads, fields, trails. 6 barricades, 24 cones. Close Mather Gate

7. CERTIFICATION AND SIGNATURE: I understand and agree on behalf of the sponsoring organization that:

a. A certificate of Insurance must be provided which names the City of Ishpeming as an additional named insured party on the policy.

b. Event organizers and participants will be required to sign Indemnification Agreement forms.

c. All food vendors must be approved by the Marquette County Health Department and each food vendor must provide the City with a Certificate of Insurance which names the City as an additional named insured on the policy.

d. All liquor vendors must obtain a liquor license for the event which must be approved by the Michigan Liquor Control Commission and must provide the City with a Certificate of Insurance which names the City as an additional named insured on the policy.

e. The approval of this special event may include additional requirements based on the City's review of this application in accordance with the City's Special Event Policy. The event will be operated in conformance with the written confirmation of approval.

f. The organization will provide a security deposit for the estimated fees as may be required by the City and will promptly pay any billing for City services which may be rendered.

As the duly authorized agent of the organization, I hereby apply for approval of this Special Event, affirm the above understandings, and agree that my sponsoring organization will comply with the City's Special Event Policy, the terms of the Written Confirmation of Approval, and all other City requirements, ordinance and other laws which apply to this Special Event.

6/6/18  
Date

Stacey Kangas for Andrew Karal  
Signature of Organization's Agent

Return this Application at least thirty (30) days prior to the first day of the event to:

City Manager's Office  
City Hall  
E. Division Street  
Ishpeming, Michigan 49849

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City Manager Slown, Mayor <sup>Judice</sup>~~Wanvik~~ and City Council.

I hope this email finds you doing well. We hope that you are enjoying the holiday season and wanted to wish you a Happy New Year! I am writing you today to first off say thank for all that you have done to facilitate a partnership with the Red Earth Classic over the first three years. We have been working very hard to promote and grow our race.

In three years, we have grown to 265 racers and 550 local festival attendees in addition to the racers. We currently have over 100 racers signed up on our wait list for the July 16th, 2016 race! We are expecting 400 - 500 racers this year and are working on a band lineup that will keep people around the west-end of marquette county for the night / weekend.

Because of the support that the City of Ishpeming has given, we have been able to make this happen. We are looking at getting a bigger name band to headline the music festival the night of the race this year.

Our mission is to "Help to make Ishpeming and Negaunee a Premier Mountain Biking Destination" and with your help we are several steps closer to achieving that in three short years. We have done the following;

- Launched the YMBDP of Ishpeming and Negaunee - It is a FREE youth mountain biking clinic and group ride that happens weekly on Tuesdays in Negaunee throughout the summer months. We had over 40 kids enrolled in 2015.

- Launched Kids Bike Rodeo and Helmet Give Aways - With the help of the Elks Clubs we held our second annual bike rodeo. We have salvaged and refurbished over 15 bicycles to give to less fortunate kids in the area.

- We have donated over \$2500 to the Ishpeming Ski Club towards their youth cross country ski and ski jumping programs.

- We have donated over \$800 to Great Lakes Recovery Center through our annual Fall Bike-A-Thon that gathers youth and pledges from individuals.

- We have helped to showcase the mining heritage in our area by winding the race by and through some old and currently operational mines.

- We have spent thousands of dollars with local businesses and currently have one employee who does trail maintenance starting in the spring of 2016.

7(j)

With growth comes added cost. We get an overwhelming amount of support from local small business now that they are seeing the economic impact of the race and overall increase in mountain biking traffic. We have brought notoriety to the trail system up here and the businesses are behind what we are doing.

Last year, as you know we got Cognition Brewing Company and Jackson's Pit to take the lead Title Sponsorship on the 32 mile race and festival. Eagle Mine was the Title on the 20 mile race, Honor CU took the 12, UPHP sponsored the Junior Classic and mBank rounded things off sponsoring the Sunday Enduro race.

We would like the City of Ishpeming to support us again this year. It would help us take another step forward if you could make this happen. In addition to a full day of racing and bands again in 2016, we plan to get 3-5 vendors selling food at the festival in addition to the beer tent.

The entire event will be heavily promoted again just as the 2015 "Bikes, Burgers, Beer and Bluegrass" event was. We have close to 1500 FaceBook fans currently and our race is growing to a national audience because of the difficulty level and the scenery!

Please let me know if you would like to meet to discuss this further. Nothing is changing within the City of Ishpeming city limits this year except the fact that we no longer need barricades from the DPW or their staff to put them out and pick them up. We will do it ourselves. Again, thank you for your support in the past and we hope to work with you again in 2016 in any capacity.

Best regards,



**Justin Koski**

Executive Director

U.S. Ski and Snowboard Hall of Fame and Museum

Race Director ~ Red Earth Classic

[Justin@SkiHall.com](mailto:Justin@SkiHall.com)

Office: 906.485.6323

Cell: 906.235.1670

CITY OF ISHPEMING

SPECIAL EVENT APPLICATION

Please complete this application and return it to the City Manager's Office at least 30 calendar days prior to the starting date of the event.

Organization's Name Red Earth Classic Phone (906) 235-1670  
Organization Address 767 S. Pine St. Ishpeming, MI 49849  
Organization's Agent Justin Koski / Tom Clark Phone (906) 235-1670  
Agent's Title Race Directors  
Agent's Address 767 S. Pine St. Ishpeming, MI  
Event Name Red Earth Classic  
Event purpose Help to make Ishpeming: Negunee a premier  
mountain biking destination: encourage healthy living in our area's  
youth through the sport of mountain biking.  
Event Dates 7/28/16  
Event Times 8am - Noon  
Event Location Jackson Mine Park (Negunee)

1. Type of Event:

- ☐ City Operated Event    ☒ Co-Sponsored Event  
☐ Other Non-Profit Event    ☐ Other For-Profit Event  
☐ Political or Ballot Issue Event

7/21/15

2. Annual Event: Is this event expected to occur next year? ☒ YES ☐ NO

If yes, you can reserve a date for next year with this application. To reserve dates for next year, please provide the following information:

Normal Event Schedule Same as

Next year's Specific Dates: Unknown

3. An Event Map ☒ [Is] ☐ [Is Not] attached. If your event will use streets and/or sidewalks (for a parade, run, etc.) or will use multiple locations, please attach a complete map showing the assembly and dispersal locations and the route plan. Also please show any streets or parking lots that you are requesting to be blocked off. (Attached)

4. Vendors: Food Concessions? ☒ Yes ☐ No Other vendors? ☒ Yes ☐ No

5. Event signs: Will this event include the use of signs? ☒ Yes ☐ No

6. Other Requests: None. We do not need ANYTHING from the City of Ishpeming this year. Negaunee provides it all for us.

7. CERTIFICATION AND SIGNATURE: I understand and agree on behalf of the sponsoring organization that:

a. A certificate of Insurance must be provided which names the City of Ishpeming as an additional named insured party on the policy. (Same as last year. Will provide a copy)

b. Event organizers and participants will be required to sign Indemnification Agreement forms.

c. All food vendors must be approved by the Marquette County Health Department and each food vendor must provide the City with a Certificate of Insurance which names the City as an additional named insured on the policy. Yes.

d. All liquor vendors must obtain a liquor license for the event which must be approved by the Michigan Liquor Control Commission and must provide the City with a Certificate of Insurance which names the City as an additional named insured on the policy. Yes.

e. The approval of this special event may include additional requirements based on the City's review of this application in accordance with the City's Special Event Policy. The event will be operated in conformance with the written confirmation of approval. We will review.

f. The organization will provide a security deposit for the estimated fees as may be required by the City and will promptly pay any billing for City services which may be rendered.

We do not require any City Service, supplies or items. It should be NO-

7/21/15

## Exhibit B

### INDEMNIFICATION AND INSURANCE AGREEMENT

The Red Earth Classic agree(s) to defend, indemnify and hold harmless the City of Ishpeming, from any claim, demand, suit, loss, cost of expense or any damage which may be asserted, claimed or recovered against or from the City of Ishpeming by reason of any damage to property, personal injury or bodily injury, including death, sustained by any person whomsoever and which damage, injury or death arises out of or is incident to or in any way connected with the performance of this contract and regardless of which claim, demand, damage, loss, cost of expense is caused in whole or in part by the negligence of the City of Ishpeming or by third parties, or by the agents, servants, employees or factors of any of them.

It is further understood and agreed that the City of Ishpeming, including all elected and appointed officials, all employees and volunteers, all boards, commissions and/or authorities and their board members, employees and volunteers shall be an Additional insured on the organization's liability insurance policy. It is further understood and agreed that by naming the City of Ishpeming as an additional insured, coverage afforded is considered to be primary and any other insurance the City of Ishpeming may have in effect shall be considered secondary and/or excess.

It is further understood and agreed that the organization's liability insurance policy shall be Comprehensive General Liability including contractual coverage with limits in an amount of at least One Million (\$1,000,000) Dollars per occurrence, One Million (\$1,000,000) Dollars aggregate bodily injury and One Million (\$1,000,000) Dollars aggregate property damage or One Million (\$1,000,000) Dollars Combined Single Limit.

It is further understood and agreed that the Certificate of Insurance shall be delivered to the City of Ishpeming, Office of the City Manager, at least forty-five (45) days prior to the scheduled event. In the event that the organization fails to comply with this requirement, the City of Ishpeming will take reasonable steps as may be necessary to advise the organization and the general public that the event will not occur.

Signature: \_\_\_\_\_

Date: \_\_\_\_\_

Witness: \_\_\_\_\_

7/21/2015



[illegible]

July 1, 2018

To: Ishpeming City Council

Hello. I am submitting our event permit for the 4<sup>th</sup> Marji Gesick scheduled for September 21<sup>st</sup> – 23<sup>rd</sup>. We are expecting record numbers this year with the race field breaking 800 for the first time!

In 2018 we would like to hold the event packet pick-up in Ishpeming – bringing 1,000 people into town Friday night before the main event Saturday.

I would also like to discuss how long we can keep the finish line up on Sunday. Last year we had racers on course until 9:30am. They were out there for 27-hours!

**Below is a timeline of the event. I look forward to discussing all of this with you on July 11<sup>th</sup>.**

|                                      |   |
|--------------------------------------|---|
| Thursday, September 20 <sup>th</sup> | 100-Mile Ultra Run Packet Pick-up (location & time TBD)   |
| Friday, September 21 <sup>st</sup>   | Marji Gesick Packet Pick-up (Ishpeming, 5-9PM)            |
| Saturday, September 22 <sup>nd</sup> | Marji Gesick 100 Start (Forestville, 7:30AM)              |
| Saturday, September 22 <sup>nd</sup> | Marji Gesick 50 and 20 Start (Marquette Mountain, 9:00AM) |
| Saturday, September 22 <sup>nd</sup> | Finish Line/Celebration Zone (Ishpeming, 12-10PM)         |
| Sunday, September 23 <sup>rd</sup>   | Race ends (Time TBD)                                      |

Todd Poquette  
906 Adventure Team, President  
Marji Gesick 100, Race Director

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CITY OF ISHPEMING

SPECIAL EVENT APPLICATION

Please complete this application and return it to the City Manager's Office at least 30 calendar days prior to the starting date of the event.

Organization's Name 906 ADVENTURE TEAM Phone 906-743-0034  
Organization Address 143 W. HEVEN AVE  
Organization's Agent Todd Porcino Phone 906-743-0034  
Agent's Title President  
Agent's Address 51 LINDA ST. MARQUETTE, MI  
Event Name MARJI BESICK  
Event purpose MOUNTAIN BIKE / ULTRA RUN EVENT  
  
Event Dates SEPTEMBER 21-23, 2018  
Event Times FRIDAY 5-9PM, SATURDAY 12PM-? SUNDAY finish  
Event Location REFERENCE MAPS

1. Type of Event:

- ☐ City Operated Event      ☐ Co-Sponsored Event  
☒ Other Non-Profit Event      ☐ Other For-Profit Event  
☐ Political or Ballot Issue Event

7/21/15

2. Annual Event: Is this event expected to occur next year? ☒ [YES] [NO]

If yes, you can reserve a date for next year with this application. To reserve dates for next year, please provide the following information:

Normal Event Schedule \_\_\_\_\_

Next year's Specific Dates: Sept 20-22, 2019

3. An Event Map [Is] [Is Not] attached. If your event will use streets and/or sidewalks (for a parade, run, etc.) or will use multiple locations, please attach a complete map showing the assembly and dispersal locations and the route plan. Also please show any streets or parking lots that you are requesting to be blocked off.

4. Vendors: Food Concessions? ☒ [Yes] [No] Other vendors? ☒ [Yes] [No]

5. Event signs: Will this event include the use of signs? ☒ [Yes] [No]

6. Other Requests: \_\_\_\_\_

7. CERTIFICATION AND SIGNATURE: I understand and agree on behalf of the sponsoring organization that:

a. A certificate of Insurance must be provided which names the City of Ishpeming as an additional named insured party on the policy.

b. Event organizers and participants will be required to sign Indemnification Agreement forms.

c. All food vendors must be approved by the Marquette County Health Department and each food vendor must provide the City with a Certificate of Insurance which names the City as an additional named insured on the policy.

d. All liquor vendors must obtain a liquor license for the event which must be approved by the Michigan Liquor Control Commission and must provide the City with a Certificate of Insurance which names the City as an additional named insured on the policy.

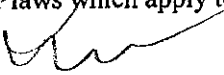
e. The approval of this special event may include additional requirements based on the City's review of this application in accordance with the City's Special Event Policy. The event will be operated in conformance with the written confirmation of approval.

f. The organization will provide a security deposit for the estimated fees as may be required by the City and will promptly pay any billing for City services which may be rendered.

7/21/15

As the duly authorized agent of the organization, I hereby apply for approval of this Special Event, affirm the above understandings, and agree that my sponsoring organization will comply with the City's Special Event Policy, the terms of the Written Confirmation of Approval, and all other City requirements, ordinance and other laws which apply to this Special Event.

7-1-13  
Date

  
Signature of Organization's Agent

Return this Application at least thirty (30) days prior to the first day of the event to:

City Manager's Office  
City Hall  
E. Division Street  
Ishpeming, Michigan 49849

7/21/15

## Exhibit B

### INDEMNIFICATION AND INSURANCE AGREEMENT

The 906 ADVENTURE TEAM agree(s) to defend, indemnify and hold harmless the City of Ishpeming, from any claim, demand, suit, loss, cost of expense or any damage which may be asserted, claimed or recovered against or from the CITY OF ISHPERING by reason of any damage to property, personal injury or bodily injury, including death, sustained by any person whomsoever and which damage, injury or death arises out of or is incident to or in any way connected with the performance of this contract and regardless of which claim, demand, damage, loss, cost of expense is caused in whole or in part by the negligence of the City of Ishpeming or by third parties, or by the agents, servants, employees or factors of any of them.

It is further understood and agreed that the City of Ishpeming, including all elected and appointed officials, all employees and volunteers, all boards, commissions and/or authorities and their board members, employees and volunteers shall be an Additional insured on the organization's liability insurance policy. It is further understood and agreed that by naming the City of Ishpeming as an additional insured, coverage afforded is considered to be primary and any other insurance the City of Ishpeming may have in effect shall be considered secondary and/or excess.

It is further understood and agreed that the organization's liability insurance policy shall be Comprehensive General Liability including contractual coverage with limits in an amount of at least One Million (\$1,000,000) Dollars per occurrence, One Million (\$1,000,000) Dollars aggregate bodily injury and One Million (\$1,000,000) Dollars aggregate property damage or One Million (\$1,000,000) Dollars Combined Single Limit.

It is further understood and agreed that the Certificate of Insurance shall be delivered to the City of Ishpeming, Office of the City Manager, at least forty-five (45) days prior to the scheduled event. In the event that the organization fails to comply with this requirement, the City of Ishpeming will take reasonable steps as may be necessary to advise the organization and the general public that the event will not occur.

Signature: \_\_\_\_\_

Date: 7-1-18

Witness: \_\_\_\_\_

7/21/2015



# 2018 MARJI GESICK

## INCIDENT & EMERGENCY ACTION PLAN

**Self-Supported:** This race operates as a self-supported adventure. Road rules apply. The race does not operate aid stations. Volunteers do not cover road crossings. Racers are on their own and must fend for themselves. They can receive food/water from friends or family but no other assistance is permissible unless received from a fellow racer.

### Event Staff:

#### Event Director

Name: Todd Poquette  
Mobile Number: 906-748-0034

#### Trail Director

Name: Danny Hill

#### Registration/Timing Czar

Name: Chris Andersen

#### Celebration Zone Director

Name: Todd Poquette

#### Jackson Mine Park/Aid Station Contact

Name: Stacie Poquette, Chris Holm

#### GPX & Technology

Name: Matt Beardsley

### Course Officials (responsibilities):

1. Provide a properly signed course.
  2. Provide accurate GPX files for race day.
-

3. Advise racers of the self-supported ethos and potential risks and danger associated with the event.
4. Locate racer drop bags at the race transition point in Negaunee (Jackson Mine Park).
5. Provide accurate and up to date information in the weeks leading up to the race.
6. Respond to and answer racer questions leading up to the race – on race day racers are on their own.
7. Notify local law enforcement agencies, central dispatch and search and rescue of race operations the weekend of the event.

**Allocation of Resources:**

1. First Aid Kits, blankets/additional clothing, at key checkpoint in Negaunee (this is the only confirmed aid-station in the race).
2. Mobile phones with all race officials on racecourse.
3. Race Number plates: allocated to participants before the event.
4. Race sweep to confirm the course is clear of riders.

**Search and Rescue:**

1. All emergency response will be handled by Marquette County Search and Rescue.
2. In case of emergency all calls will be directed to 911 with central dispatch handling asset coordination.

**Event and Traffic Management Signage**

Marji Gesick course signage, traffic management signage and safety signage will be strategically placed throughout the course route. Signage will be up the day prior to the event and removed the day following the event. All racers will be advised "Road Rules" apply – traffic will not stop for racers, bikes must yield to traffic.

We cannot stress enough that signage can be torn down, blow down or be eaten by wild animals. We cannot guarantee the presence of signage on race day. All participants are advised to bring working GPS units and an ability to manage their navigation needs. They are also advised road rules apply and that they must obey all traffic laws on course.

**Competitor Briefing**

Athletes will be briefed prior to the race start.

Race brief will include course details; identify known hazards, race rules and emergency procedures. In the event of a significant injury, athletes are to use their phone to contact 911. In the event of no coverage they should relay information to the nearest course official or aid-station.

**Volunteer Briefing**

Volunteers will be briefed prior to the race. Race brief will include course details; identify known course hazards, race rules and emergency procedures. In the event of a significant injury they will be advised to contact 911.

**Media**

The sole person to communicate to the media will be the race director.

**Emergency Access for Medical Professionals**

Course design allows access for emergency medical staff and emergency vehicles at several points throughout the route. Search and Rescue will determine what form of assistance/evacuation is required.

**In the event of an accident or injury**

1. All race participants will be notified at the race briefing that if an accident occurs, to contact 911 or a race course official who will then contact 911 and notify them of the accident, location and circumstances.
2. Non-threatening or minor injuries should be reported directly to the Race Director or other another course official.

**Aid-Stations**

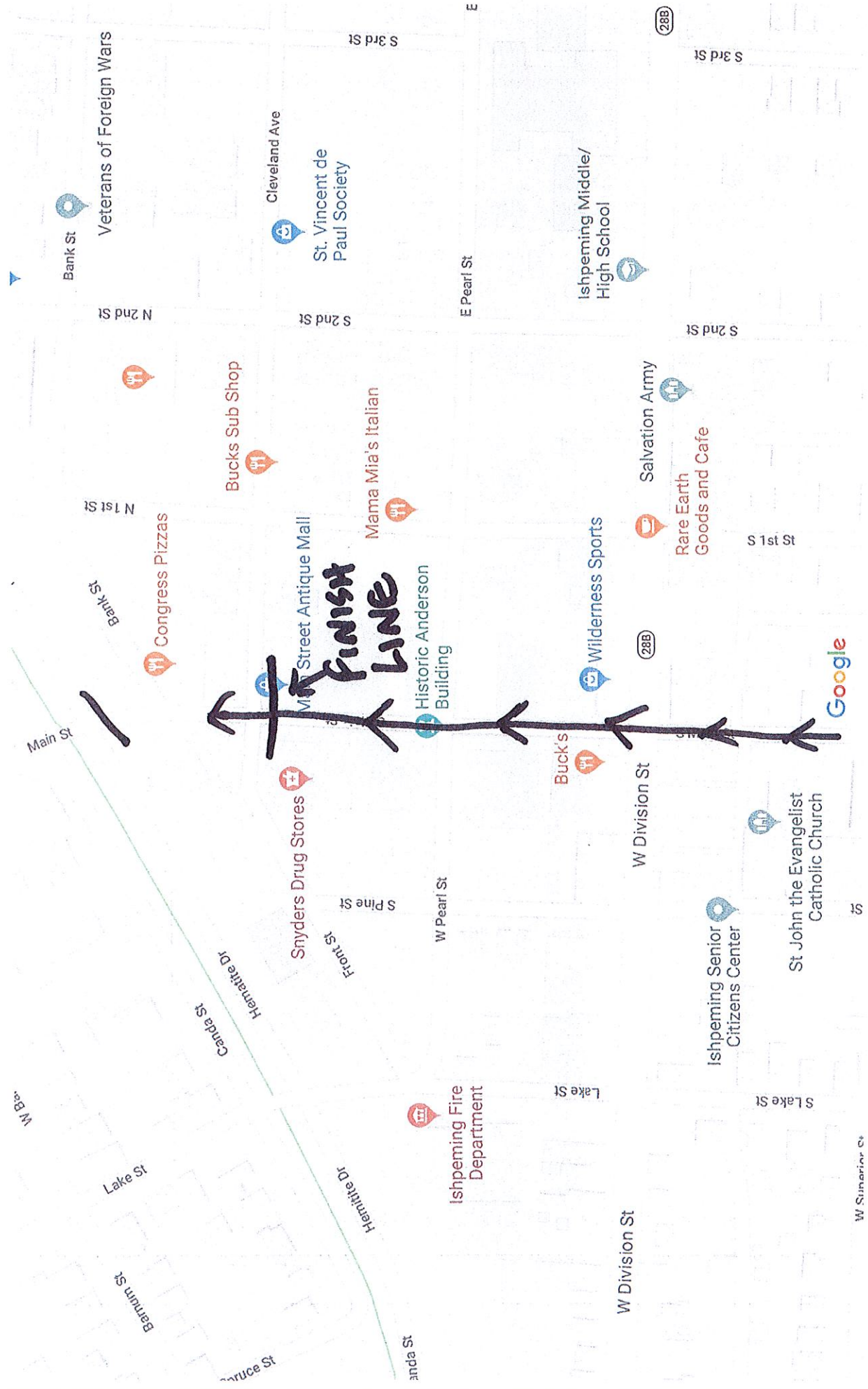
One Aid-station will be established across the race route to provide fluids, food, heat and shelter if necessary for participants.

**Self Supported Ethos**

The Marji Gesick is operated as Self Supported. At the time of arrival for the race(s) competitors have been educated no one is out there to save them, they are on their own and they need to be fully prepared to coordinate their personal support. Support from family and friends will be allowed but will not be facilitated in any way by the race committee. The MG100 is an adventure race and only those individuals fully aware of and comfortable with the potential risks of such an endurance event should attempt.

---

# RACE ROUTE + FINISH LINE



United S  
Postal S

FRIDAY  
NIGHT  
5-9 PM  
PACKET  
PICK-UP

N 1st St

Old-Ish A

Redeem Support Club

Rob's CARS (C  
Auto Repair

Bucks Sub Shop

Marquette County  
Pawn & Estate Sales

Mama Mia's Italian

Willey's Tire Shop

Map data ©2018

Hematite Dr

Rainbow Bar

Wyatt's World

Hematite Dr

Main St

Hematite Dr

Congress Pizzas

Jack's Tee Peel Bar

Anttila's Towing

Hematite Dr

Hairiliatus

mBank

Main Street Antique Mall

Snyders Drug Stores

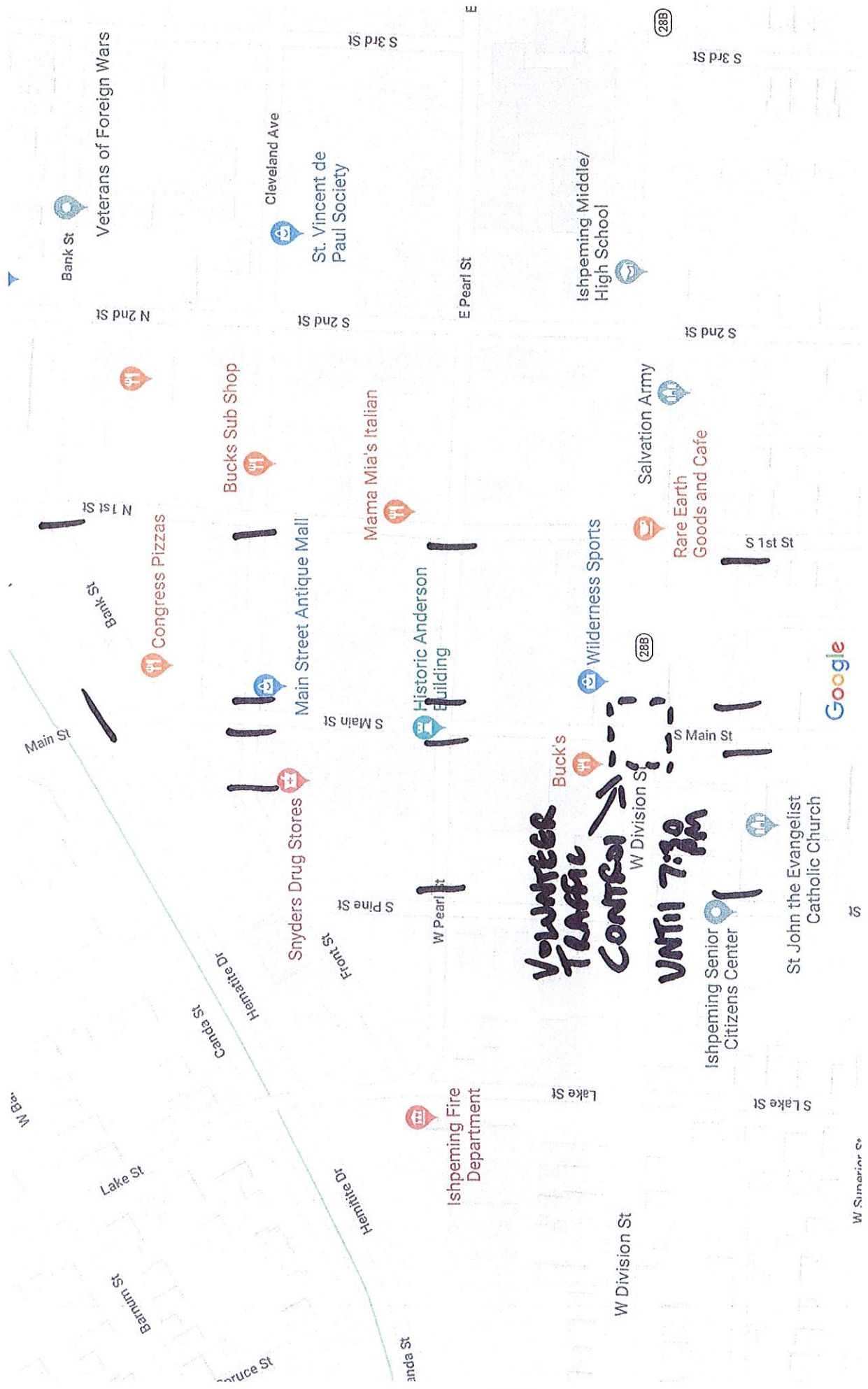
Main Street School  
of Cosmetology

Google

own Service

re's Barber Shop

96th District  
Court Probation



Volunteer  
Traffic  
Control

UNTIL 7:30

Shpeming Senior  
Citizens Center

St John the Evangelist  
Catholic Church



W. Superior C+

CITY OF ISHPeming  
 POOLED CASH REPORT (FUND 999)  
 AS OF: JUNE 30TH, 2018

8

| FUND ACCOUNT#        | ACCOUNT NAME  | BEGINNING<br>BALANCE | CURRENT<br>ACTIVITY | CURRENT<br>BALANCE |
|----------------------|---------------|----------------------|---------------------|--------------------|
| <u>CLAIM ON CASH</u> |               |                      |                     |                    |
| 101-000-009-000      | CLAIM ON CASH | 2,002,698.21 (       | 72,332.23)          | 1,930,365.98       |
| 202-000-009-000      | CLAIM ON CASH | 169,712.67           | 35,733.26           | 205,445.93         |
| 203-000-009-000      | CLAIM ON CASH | 166,238.12           | 36,734.95           | 202,973.07         |
| 206-000-009-000      | CLAIM ON CASH | 42,475.51 (          | 813.00)             | 41,662.51          |
| 211-000-009-000      | CLAIM ON CASH | 232,544.61 (         | 8,000.00)           | 224,544.61         |
| 220-000-009-000      | CLAIM ON CASH | ( 29,051.03)         | 0.00 (              | 29,051.03)         |
| 226-000-009-000      | CLAIM ON CASH | 244,833.06           | 2,573.65            | 247,406.71         |
| 247-000-009-000      | CLAIM ON CASH | ( 46,529.37)         | 0.00 (              | 46,529.37)         |
| 248-000-009-000      | CLAIM ON CASH | 223,330.78 (         | 4,170.58)           | 219,160.20         |
| 268-000-009-000      | CLAIM ON CASH | 46,215.25            | 0.00                | 46,215.25          |
| 271-000-009-000      | CLAIM ON CASH | ( 2,318.65)          | 0.00 (              | 2,318.65)          |
| 401-000-009-000      | CLAIM ON CASH | 634,967.88 (         | 14,000.00)          | 620,967.88         |
| 404-000-009-000      | CLAIM ON CASH | 0.00                 | 0.00                | 0.00               |
| 590-000-009-000      | CLAIM ON CASH | 1,414,564.26         | 60,915.00           | 1,475,479.26       |
| 591-000-009-000      | CLAIM ON CASH | ( 594,826.67)        | 155,222.05 (        | 439,604.62)        |
| 661-000-009-000      | CLAIM ON CASH | <u>231,354.35 (</u>  | <u>17,012.24)</u>   | <u>214,342.11</u>  |
| TOTAL CLAIM ON CASH  |               | 4,736,208.98         | 174,850.86          | 4,911,059.84       |
|                      |               | =====                | =====               | =====              |

## List of Funds:

|                                  |  |
|----------------------------------|--|
| Fund 101 - General Fund          | Fund 274 - Revolving Loan              |
| Fund 202 - Major Street Fund     | Fund 401 - Public Improvement Fund     |
| Fund 203 - Local Street Fund     | Fund 590 - Sewer Fund                  |
| Fund 206 - Fire Fund             | Fund 591 - Water Fund                  |
| Fund 211 - Firefighter Longevity | Fund 661 - Motor Pool Equipment Fund   |
| Fund 220 - Lake Bancroft Fund    | Fund 701 - Trust & Agency              |
| Fund 226 - Garbage Fund          | Fund 703 - Tax Collection              |
| Fund 247 - Building Authority    | Fund 711 - Cemetery Perpetual Care     |
| Fund 248 - DDA                   | Fund 712 - Cemetery Care Fund          |
| Fund 268 - Library Special Fund  | Fund 732 - Act 345 Police/Fire Pension |
| Fund 271 - Library State Aid     |  |

| Fund               | Share of<br>Pooled<br>Cash | Revenue         | Expense         | NI/NL          | Fund Balance    | Projected<br>12/31/2018<br>Fund Balance |
|--------------------|----------------------------|-----------------|-----------------|----------------|-----------------|---|
| 101 - General      | \$ 1,930,365.98            | \$ 2,039,553.79 | \$ 1,437,932.49 | \$ 601,621.30  | \$ 1,487,282.90 | \$ 726,210.00                           |
| 202 - Major Street | \$ 205,445.93              | \$ 377,704.57   | \$ 289,985.04   | \$ 87,719.53   | \$ 205,445.93   | \$ 297,217.00                           |
| 203 - Local Street | \$ 202,973.07              | \$ 182,970.82   | \$ 162,153.80   | \$ 20,817.02   | \$ 202,973.07   | \$ 191,376.00                           |
| 226 - Garbage      | \$ 247,406.71              | \$ 215,657.62   | \$ 271,945.72   | \$ (56,288.10) | \$ 247,698.82   | \$ 210,917.00                           |
| 401 - Public Imp   | \$ 620,967.88              | \$ 512,115.32   | \$ 123,483.32   | \$ 388,632.00  | \$ 620,967.88   | \$ 295,891.00                           |
| 590 - Sewer        | \$ 1,475,479.26            | \$ 735,421.57   | \$ 554,430.19   | \$ 180,991.38  | \$ 9,178,835.95 | \$ 9,413,677.00                         |
| 591 - Water        | \$ (439,604.62)            | \$ 995,899.02   | \$ 578,000.38   | \$ 417,898.64  | \$ 4,196,591.04 | \$ 4,063,782.00                         |

## Notes:

1. All fringe benefits are paid from the General Fund and then allocated back to other funds based on a fringe benefit rate on a quarterly basis. The 1st Quarter 2018 has been recorded.

2. - Depreciation expense has been recorded in the Sewer & Water Funds through June 2018.

3. State revenue sharing in the General Fund has been recorded through April 2018.

Paid by the state in 2-month increments with a 2-month lag.



# Memorandum

**To:** City Council  
**CC:** Mark Slown, City Manager  
**From:** Jim Lampman, Finance Director  
**Date:** 07/05/2018  
**Re:** Annual update to the Deficit Elimination Plan

---

The Water Fund had a deficit reported in the 2015 audit report, and the City of Ishpeming submitted to the Michigan Department of Treasury a multi-year deficit elimination plan, which Treasury approved on September 1, 2016. Treasury requires that the deficit be eliminated within five years of the occurrence, in this case December 31, 2020, and Treasury requires an annual update to the deficit elimination plan. Failure to eliminate the deficit within five years and/or failure to file an annual update to the deficit elimination plan will trigger the financial emergency processes set forth by the State of Michigan under the Local Fiscal Stability and Choice Act (Act 436 of 2012). **The City of Ishpeming has until July 28, 2018 to file an updated deficit elimination plan and certified resolution to Treasury or Treasury “may withhold 25% of the local unit’s State Incentive Payments or payments issued under 1971 PA 140, the Glenn Steil State Revenue Sharing Act of 1971. Once withheld, payments are released not when a plan and certified resolution have been field, but when a plan and certified resolution have been evaluated and certified by Treasury.”**

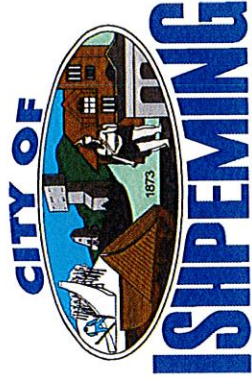
Management is presenting the following updated deficit elimination plan for action:

The deficit in the Water Fund largely stems from three different issues; (1) two terrible back-to-back winters that resulted in freezing pipes and mains causing significant damage to the water system infrastructure, (2) the approximately \$500,000 non-participating water system infrastructure replacement that took place as part of the US 41 and connector round-a-bout projects, (3) and the roughly \$800,000 in upfront engineering costs on the USDA Rural Development (RD) Water System Improvement Project. The RD costs were reimbursed to the City when the bond closed in July 2017.

Fiscal year 2017 ended with a reportable deficit in the Water Fund of \$(534,648), which is \$27,426 better than the projected deficit of \$(562,074). The original multi-year plan that was filed for fiscal year 2015 and approved by Treasury estimated fiscal year 2016 with a deficit of \$(1,117,187), and the actual deficit came in at \$(1,078,057), which is \$39,130 better than the projected deficit. These results show that the annual deficit elimination plan updates submitted to Treasury are realistic and on track to eliminate the deficit by 2020.

Council enacted a 12% increase to the water rates in January 2018 in accordance with the deficit elimination plan, and 2019 and 2020 currently have factored in a 5% increase each of those years as established by ordinance.

I respectfully request you approve the annual update to the Water Fund deficit elimination plan so as the City of Ishpeming remains compliant with the Michigan Department of Treasury. Please feel free to contact me should you have any questions.



**City of Ishpeming**  
 100 E. Division St.  
 Ishpeming, MI 49849  
 Phone: 906-485-1091 Fax: 906-485-6246  
[www.ishpemingcity.org](http://www.ishpemingcity.org)

### Deficit Elimination Resolution for Water Fund

Councilman \_\_\_\_\_ moved, Councilman \_\_\_\_\_ seconded that;

WHEREAS, the City of Ishpeming Water Fund has a **\$(534,648) deficit on December 31, 2017**; and

WHEREAS, Act 275 of the Public Acts of 1980 requires that a Deficit Elimination Plan be formulated by the local unit of government and filed with the Michigan Department of Treasury;

NOW THEREFORE, IT IS RESOLVED that the City of Ishpeming Water Fund Deficit Elimination Plan:

|   | Note | Deficit Year<br>2015 | Year 1<br>2016 |                | Year 2<br>2017 |                | Year 3<br>2018 | Year 4<br>2019 | Year 5<br>2020 |
|---|------|----------------------|----------------|----------------|----------------|----------------|----------------|----------------|----------------|
|   |      |                      | Approved Plan  | Actual         | Approved Plan  | Actual         |                |                |                |
| <b>Unrestricted Net Position<br/>(Deficit) Jan. 1</b> | 1    | \$ (1,532,950)       | \$ (1,764,071) | \$ (1,764,071) | \$ (2,829,098) | \$ (2,829,098) | \$ (2,186,033) | \$ (2,611,146) | \$ (2,949,586) |
| <b>Revenue</b>  |      |                      |                |                |                |                |                |                |                |
| License & permits                                     |      | 200                  | 100            | 100            | -              | 300            | 100            | 100            | 100            |
| Charges for services:                                 |      |                      |                |                |                |                |                |                |                |
| Turn on/off fees                                      |      | 12,055               | 8,000          | 3,890          | 3,800          | 3,830          | 3,800          | 3,800          | 3,800          |
| Public notice of disconnect                           |      | -                    | -              | 9,500          | 2,000          | 2,000          | -              | -              | -              |
| Meter repair  |      | -                    | 500            | -              | -              | -              | -              | -              | -              |
| Metered water sales                                   | 2    | 1,446,488            | 1,390,000      | 1,550,281      | 1,876,500      | 2,005,212      | 2,101,680      | 2,206,764      | 2,317,102      |
| Rebates & other credits                               | 2    | \$ (36,465)          | \$ (8,000)     | \$ (52,217)    | \$ (44,000)    | \$ (66,182)    | \$ (44,000)    | \$ (44,000)    | \$ (44,000)    |

|   | Note | Deficit Year<br>2015 | Year 1<br>2016 |               | Year 2<br>2017 |               | Year 3<br>2018 | Year 4<br>2019 | Year 5<br>2020 |
|---|------|----------------------|----------------|---------------|----------------|---------------|----------------|----------------|----------------|
|   |      |                      | Actual         | Approved Plan | Actual         | Approved Plan |                |                |                |
|   |      | \$                   | 3,155          | \$ 1,500      | \$ 225         | \$ -          | \$ 75          | \$ -           | \$ -           |
| Other sales   |      |                      | 600            | 300           | -              | -             | 760            | -              | -              |
| Connection fees                                       |      |                      | 38,905         | 39,000        | 32,757         | 33,000        | 33,080         | 33,000         | 33,000         |
| Penalties   |      |                      | 64             | 500           | -              | -             | -              | -              | -              |
| Interest income                                       |      |                      | 3,542          | 3,200         | 7,530          | 3,500         | 3,704          | 3,665          | 3,600          |
| Miscellaneous income                                  |      |                      |                |               |                |               |                |                |                |
| Loan proceeds - USDA Rural Development                | 3    | -                    |                | -             |                | 5,400,000     | 2,452,000      |                | -              |
| Grant proceeds - USDA Rural Development               | 3    | -                    |                | -             | -              | -             |                |                | -              |
|   |      | 1,470,559            | 1,437,116      |               | 1,552,066      | 7,276,817     | 4,434,779      | 2,203,264      | 2,313,602      |
| <b>Total Revenue</b>                                  |      |                      |                |               |                |               |                |                |                |
| <b>Expenditures</b>                                   |      |                      |                |               |                |               |                |                |                |
| Personnel services                                    | 4    | 697,528              | 522,040        |               | 586,500        | 592,050       | 702,387        | 730,763        | 745,379        |
| Contractual services                                  | 4    | 573,756              | 564,300        |               | 499,292        | 627,500       | 440,141        | 525,000        | 525,000        |
| Supplies  | 4    | 92,113               | 84,000         |               | 78,131         | 84,000        | 79,774         | 85,000         | 85,000         |
| Utilities   | 5    | 13,134               | 18,500         |               | 15,031         | 18,500        | 11,721         | 19,770         | 20,165         |
| Equipment rentals                                     | 6    | 146,744              | 211,000        |               | 162,160        | 181,000       | 156,774        | 170,000        | 170,000        |
| Other expenses  | 6    | 45,014               | 72,705         |               | 96,604         | 74,950        | 63,703         | 77,000         | 77,000         |
| Depreciation  | 7    | 73,853               | 76,000         |               | 73,525         | 76,000        | 86,193         | 300,076        | 300,076        |
| MDOT Water Main Project - will capitalize             | 8    | -                    | 578,500        |               | 517,734        | -             | -              | -              | -              |
| USDA Water System Replacement Project will capitalize | 3    | 131,376              | 450,000        |               | 661,641        | 4,606,983     | 1,720,225      | -              | -              |
| USDA Water System Replacement Loan Interest Payment   | 3    | \$ -                 | \$ -           | \$ -          | \$ -           | \$ 95,413     | \$ 14,359      | \$ 189,285     | \$ 182,994     |

|   | Note | Deficit Year<br>2015 | Year 1<br>2016 |             | Year 2<br>2017 |             | Year 3<br>2018 | Year 4<br>2019 | Year 5<br>2020 |
|---|------|----------------------|----------------|-------------|----------------|-------------|----------------|----------------|----------------|
|   |      |                      | Approved Plan  | Actual      | Approved Plan  | Actual      |                |                |                |
| USDA Water System Replacement Loan Principal Payment                  | 3    | \$ -                 | \$ -           | \$ -        | \$ -           | \$ -        | \$ 145,000     | \$ 148,000     | \$ 151,000     |
| <b>Total Expenditures</b>   |      | 1,775,533            | 2,579,061      | 2,690,618   | 6,358,413      | 3,275,277   | 11,771,434     | 2,241,780      | 2,256,614      |
|   |      |                      |                |             |                |             |                |                |                |
|   |      |                      |                |             |                |             |                |                |                |
| Add back depreciation (Net Investment in Capital Assets Net Position) | 7    | 73,853               | 76,000         | 73,525      | 76,000         | 86,193      | 300,076        | 300,076        | 300,076        |
|   |      |                      |                |             |                |             |                |                |                |
| Subtract Restricted for Debt Service                                  | 7    | -                    | -              | -           | -              | 602,630     | 600,000        | 600,000        | 600,000        |
|   |      |                      |                |             |                |             |                |                |                |
| <b>Unrestricted Net Position (Deficit) Dec. 31</b>                    |      | (1,764,071)          | (2,830,016)    | (2,829,098) | (1,834,694)    | (2,186,033) | (2,611,146)    | (2,949,586)    | (3,192,522)    |

|   |    |             |             |             |             |             |              |             |             |
|---|----|-------------|-------------|-------------|-------------|-------------|--------------|-------------|-------------|
| <b>CA-CL (Deficit) Jan. 1</b>             |    | 110,142     | (51,242)    | (51,242)    | (1,078,057) | (1,078,057) | (534,648)    | (343,270)   | (199,093)   |
| Revenues                                  |    | 1,470,559   | 1,437,116   | 1,552,066   | 7,276,817   | 4,434,779   | 11,646,245   | 2,203,264   | 2,313,602   |
| Expenditures                              |    | (1,775,533) | (2,579,061) | (2,690,618) | (6,358,413) | (3,275,277) | (11,771,434) | (2,241,780) | (2,256,614) |
| Add back depreciation                     |    | 73,853      | 76,000      | 73,525      | 76,000      | 86,193      | 300,076      | 300,076     | 300,076     |
| Net change in deferred outflows - pension | 9  | (143,953)   | -           | (19,378)    | (20,000)    | 55,372      | (20,000)     | (20,000)    | (20,000)    |
| Net change in compensated absences        | 9  | (10,332)    | -           | (13,022)    | (15,000)    | (12,419)    | (15,000)     | (15,000)    | (15,000)    |
| Net change in pension liability           | 9  | 224,022     | -           | 70,612      | -           | 39,082      | -            | -           | -           |
| USDA required reserves:                   |    |             |             |             |             |             |              |             |             |
| Net change in Construction Account        | 10 | -           | -           | -           | -           | (167,572)   | -            | -           | -           |
| Net change in O&M                         | 10 | -           | -           | -           | (373,988)   | (413,600)   | (12,408)     | (12,769)    | (13,141)    |

|  | Note | Deficit Year<br>2015 | Year 1<br>2016        |                       | Year 2<br>2017      |                     | Year 3<br>2018      | Year 4<br>2019      | Year 5<br>2020   |
|--|------|----------------------|-----------------------|-----------------------|---------------------|---------------------|---------------------|---------------------|------------------|
|  |      |                      | Approved Plan         | Actual                | Approved Plan       | Actual              |                     |                     |                  |
| Net change in Bond & Interest Redemption | 10   | -                    | -                     | -                     | (52,152)            | (185,668)           | 133,023             | (488)               | (527)            |
| Net change in Bond Reserve               | 10   | -                    | -                     | -                     | (8,400)             | (8,500)             | (33,600)            | (33,600)            | (33,600)         |
| Net change in Repair, Replacement, & Imp | 10   | -                    | -                     | -                     | (8,881)             | (8,981)             | (35,525)            | (35,525)            | (35,525)         |
| <b>CA-CL (Deficit) Dec. 31</b>           |      | <b>\$ (51,242)</b>   | <b>\$ (1,117,187)</b> | <b>\$ (1,078,057)</b> | <b>\$ (562,074)</b> | <b>\$ (534,648)</b> | <b>\$ (343,270)</b> | <b>\$ (199,093)</b> | <b>\$ 40,178</b> |

## Notes to the Deficit Elimination Plan

**Note 1:** As enumerated in Note AA in the 2015 audit report, the net position in the Water Fund was restated as of December 31, 2014 resulting from the adoption of GASB No. 68 and GASB No. 71.

**Note 2:** 2015 -While not as bad as the 2013/2014 winter, the 2014/2015 winter continued with freezing temperatures resulting in water main breaks and credits to customers for "let-runs" to prevent pipes from freezing. The City of Ishpeming began the let-runs for customers early in the winter to try to head off an issue. While the staff tried to appropriately account for and credit all accounts, these were just estimates which may have resulted in higher than normal metered water sale revenues. Management lowered the budget for metered water sales revenue for 2016, and , as of August 15, 2016, the City has recorded \$801,630 of the \$1,390,000 budget, which is 58%; the City is approximately 62% through the budget year. The winter 2015/2016 was more of a normal winter which did not necessitate the extensive let-runs for the City's utility customers or the extensive water main repairs required in the previous two winters.

2016 -Management has recommended increasing the water rates 35% in 2017, 15% in 2018, and 5% in 2019. The rate increase is two-fold: (1) to meet the water sales revenue required by the USDA to repay the debt issued to improve the water system in 2017 and 2018, and (2) to satisfy the elimination of deficit in the Water Fund within the required five-year timeframe. However, these are estimates at this time. Management has commissioned GEI Consultants to perform a rate study to assist the City of Ishpeming in setting the appropriate rates to meet the aforementioned goals.

2017 -City Council approved the 35% rate increase, which took effect January 1, 2017. Management recommends a 12% rate increase for fiscal year 2018, 5% in 2019, and 5% in 2020. The rate increase is two-fold: (1) to meet the water sales revenue required by the USDA to repay the debt issued to improve the water system in 2017 and 2018, and (2) to satisfy the elimination of deficit in the Water Fund within the required five-year timeframe. While the water system improvement project costs are beginning to solidify, the expenses for future years continue to be largely based on estimates and projections.

2018 -City Council approved the 12% rate increase, which took effect January 1, 2018. Management recommends a 5% rate increase for fiscal year 2019 and 5% in 2020 as set by ordinance. The rate increase is two-fold: (1) to meet the water sales revenue required by the USDA to repay the debt issued to improve the water system in 2017 and 2018, and (2) to satisfy the elimination of deficit in the Water Fund within the required five-year timeframe. While the water system improvement project costs are beginning to solidify, the expenses for future years continue to be largely based on estimates and projections.

**Note 3:** The City of Ishpeming is working with the USDA to replace up to 40% of the aged water system. Management expects this to be a two year project beginning in 2017 and ending in 2018. The USDA has committed \$8,980,000 in low-interest loans with another \$3,020,000 in grant funding. The loan funds must be exhausted prior to utilizing the grant funds, so management is anticipating the grant funds will not be available until 2018. The City of Ishpeming closed on the USDA bond in July 2017 with groundbreaking commencing soon after. Roughly 10% of the project was completed in 2017 with the remaining 90% of construction anticipated to be completed in 2018.

**Note 4:** 2015-As enumerated in Note 2 above, the 2014/2015 winter was unseasonably cold resulting in a large number of water main breaks, which led to increased personnel services in 2015 to repair the breaks. As the 2015/2016 winter was closer to an average winter, there were not as many water main breaks leading to reduced personnel costs.

2016- As of August 15, 2016, the City of Ishpeming has \$302,881 in personnel costs in the Water Fund, which is 58% of the budget. The City of Ishpeming is approximately 62% through the budget year. Management assumed a 2% increase to personnel costs in each of the following years.

2017- As of June 30, 2017, the City of Ishpeming has \$238,500 in personnel costs in the Water Fund, which is 40% of the budget. The City of Ishpeming is approximately 50% through the budget year. Management assumed a 2% increase to personnel costs in each of the following years.

2018- As of June 30, 2018, the City of Ishpeming is approximately 50% through the budget year. Management assumed a 2% increase to personnel costs in each of the following years. As of a May 31, 2018 review of the budget, city council approved budget amendments at the June 6, 2018 regular council meeting.

**Note 5:** The City of Ishpeming conservatively budgeted in 2016 a higher than 2015 utility usage with a 3% increase in each of the following years.

**Note 6:** The City of Ishpeming anticipates an increase to Equipment Rentals and Other Expenses in 2017 and 2018 as the preparation and work begins on the USDA funded water system improvement project progresses. Management expects Equipment Rentals to decrease in 2019 while Other Expenses remains relatively flat. Note that Equipment Rentals are combined with Other Expenses line item in the audit report.

**Note 7:** The City of Ishpeming anticipates an increase to depreciation expense in 2018 when the capitalized improvements to the water system are put into service.

**Note 8:** The City of Ishpeming has contracted with the Michigan Department of Transportation to replace the water liens beneath the US Hwy 41 round-about and connector round-a-bout MDOT is constructing in the City of Ishpeming during 2016. The MDOT project was completed as of the end 2016, and all project costs were capitalized.

**Note 9:** For fiscal year 2015, the City of Ishpeming implemented GASB 68, which required the City of Ishpeming to report the net pension liability for the unfunded portion of its pension plan, in addition to the employee compensated absences already being reported. The unfunded portion of the net pension liability will be calculated by MERS whereby MERS presents an actuarial report on an annual basis and the net change will impact Current Assets minus Current Liabilities. It is not possible to determine at this time the future impact of these changes will have on the deficit.

**Note 10:** As required by the bond ordinance approved by City Council on June 28, 2017, the City of Ishpeming established four bank accounts in the Water Fund required by the USDA Rural Development to provide for repayment of the bond and for operation and maintenance of the system. These accounts will be listed as non-current assets and the net annual change in balances will impact Current Assets minus Current Liabilities.

**Operation and Maintenance Account (O&M)** - Revenues shall be transferred each quarter of the Fiscal Year, commencing upon the effective date of this Ordinance, from the Receiving Account to the Operation and Maintenance Account to pay the reasonable and necessary current expenses of administration and operating and maintaining the System for the ensuing quarter.

**Bond and Interest Redemption** - Revenues shall be transferred each quarter of the Fiscal Year from the Receiving Account, before any other expenditures or transfer therefrom, and deposited in the Bond and Interest Redemption Account for payment of principal of and interest on the Series 2017 Bond and to fund the Bond Reserve Account, in the amounts and at the times specified.

**Bond Reserve** - Commencing with the Fiscal Year quarter beginning on October 1, 2017, there shall be withdrawn from the Receiving Account on the first day of each Fiscal Year quarter and set aside in and transferred to the Bond Reserve Account, after provision has been made for the Operation and Maintenance Account, the sum of at least \$8,400 per quarter (\$33,600 annually) until there is accumulated in such account the lesser of the sum of \$336,000 or the Reserve Amount for the Series 2017 Bond. Except as hereinafter provided, no further deposits shall be made into the Bond Reserve Account pursuant to the requirements of this Ordinance once the lesser of the sum of \$336,000 or the Reserve Amount for the Series 2017 Bond has been deposited therein.

BE IT FURTHER RESOLVED that the City of Ishpeming Finance Director, James R. Lampman, CPA, submits the Deficit Elimination Plan to the Michigan Department of Treasury for certification.

## **Malton Road Development Proposal – 2018**

This issue was one of the items discussed at the joint meeting with the Ishpeming City Council, Downtown Development Authority and Planning Commission. At their next regular meeting on June 4<sup>th</sup>, Planning Commissioners discussed the basic tenets to differentiate this proposal from the 2015 Hematite Heights Phase 1 concept (attached for reference).

The proposal was to be sent to local contractors and developers to solicit their response. Commissioners encouraged the Council to distribute to potential respondents outside the immediate area and include the Upper Peninsula, Northern Wisconsin and Lower Michigan. The background for the 2018 proposal was to utilize the current Zoning Map without any topographic information which would allow respondents to obtain their own elevation data and analysis. The development area was to be expanded to provide more opportunity for capitalization and return on utility investments and to encourage flexibility for respondents. Notes were to be added generalizing the proximity of existing Water and Sanitary utilities along with the potential for zoning district revisions. Presently, the Deferred Development District could support limited commercial usage based upon Conditional Use application and approval. Contact information for respondents seeking further information was to be included.

Commissioners felt it was the proper prerogative of the Council to establish potential financial terms, timeframes, distribution and phasing for the solicitation. Commissioners also had mixed opinions regarding any Municipal statement addressing the status of the applicability of Phase One or Phase Two Environmental status. This tract of land was purchased as is from Cleveland Cliffs with the City of Ishpeming assuming responsibility for the environmental condition.

As in 2015, the Ishpeming Planning Commission has completed the task delegated by the Council and provided their part of the development process for Hematite Heights. The next steps in preparation and disseminating the Malton Road Development Proposal involve financial aspects and policy decisions that are best addressed by elected officials.



Alan K. Pierce, Zoning Administrator

JUL 03 2018

# DEVELOPMENT PROPOSAL

## CONTACT INFORMATION:

City of Ishpeming  
100 E. Division St.  
Ishpeming MI 49849

City Manager, Mark Sloan (906) 485-1091 ext. 204  
[citymanager@ishpemingcity.org](mailto:citymanager@ishpemingcity.org)  
Zoning Administrator, Al Pierce (906) 485-1091 ext. 206  
[zoning@ishpemingcity.org](mailto:zoning@ishpemingcity.org)

JUN 07 2018



Lake Bacon

Fifth St

Park St

Wabash St

Maurice St

Michigan St

Empire St

Vine St

Sixth St

New York St

Vine St

Seventh St

Eighth St

Vine St

E. New York St

Ninth St

Wabash St

NW 1/4 SW 1/4

SW 1/4 NW 1/4

SE 1/4 NW 1/4

APPROXIMATE LIMITS OF DEVELOPMENT AREA

SR

WABASH HEIGHTS SUBDIVISION  
Water / Sanitary Sewer available

Outlot

APPROXIMATE LIMITS OF DEVELOPMENT AREA

Malton Rd

APPROXIMATE LIMITS OF DEVELOPMENT AREA

ASSESSOR'S PLAT OF E. NEW YORK STREET

Water available

SW 1/4 SW 1/4

NE 1/4 SW 1/4

SE 1/4 SW 1/4

CITY OF NEGAUNEE SANITARY GRAVITY / FORCE MAIN SEWER CONNECTION POSSIBLE

ZONING DISTRICTS CAN BE REVISED AS REQUIRED



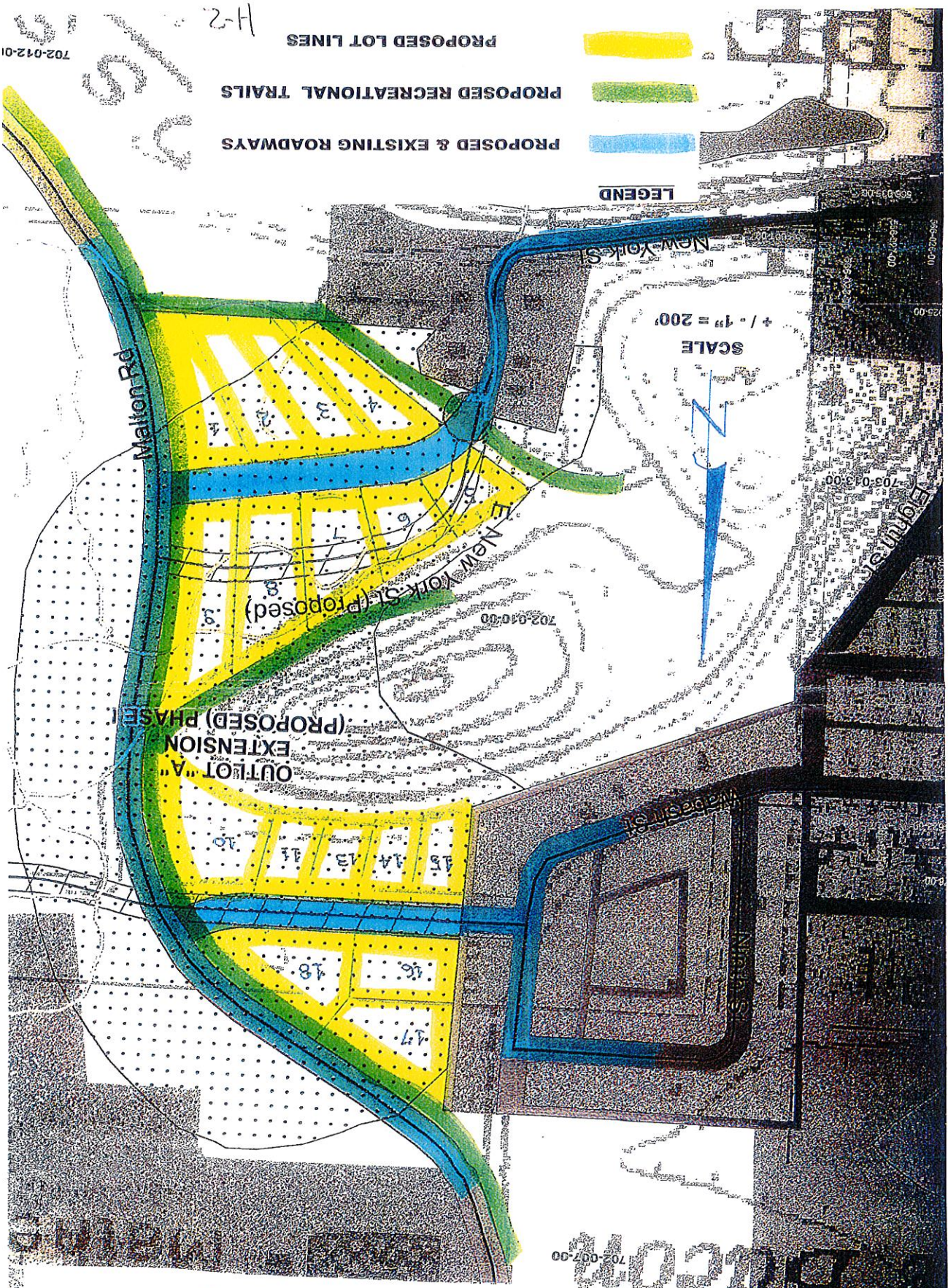
JUN 07 2018

# PROPOSED HEMATITE HEIGHTS PHASE I

MARCH 24, 2015

702-007-00

702-007-00



PROPOSED LOT LINES

PROPOSED RECREATIONAL TRAILS

PROPOSED & EXISTING ROADWAYS

LEGEND

SCALE  
1" = 200'

Malton Rd

New York St

New York St (Proposed)

OUTLOT "A" (PROPOSED) EXTENSION

Malton St

Malton St

H-2  
702-012-01

12

**CITY OF ISHPEMING**

**NOTICE OF PUBLIC HEARING**

Notice is hereby given that a public hearing will be held by the Ishpeming City Council on Wednesday, July 11, 2018 at 7:00 p.m. in the Council Chambers at Ishpeming City Hall, 100 E. Division Street, to consider oral or written comments regarding sale of the following described public property in the City of Ishpeming:

201 E. DIVISION STREET  
ORIGINAL PLAT CITY OF ISHPEMING S. 62' OF LOT 55

207 E. DIVISION STREET  
ORIGINAL PLAT CITY OF ISHPEMING LOT 57 AND 6'3" OF  
ALLEY ADJACENT TO LOT 57

Written comments may be submitted to the City Manager's Office at 100 E. Division Street prior to the meeting. Questions may be directed to the City Manager's office at the above address or 906/485-1091, Ext. 203.

**CITY OF ISHPEMING****NOTICE OF PUBLIC HEARING**

Notice is hereby given that a public hearing will be held by the Ishpeming City Council on Wednesday, July 11, 2018 at 7:00 p.m. in the Council Chambers at Ishpeming City Hall, 100 E. Division Street, to consider oral or written comments regarding the proposed vacation of the following described public property in the City of Ishpeming:

The Twenty (20) foot wide alley between Lots 97 and 98, Cleveland Iron Mining Company's Addition to the City of Ishpeming reserving a Fifteen (15) foot wide easement for maintenance, service, and repair for existing underground utilities.  
(Alley between the two lots across from the Ishpeming High School).

Written comments may be submitted to the City Manager's office at 100 E. Division Street prior to the meeting. Questions may be directed to the City Manager's office at the above address or 906/485-1091, Ext. 203.

Hi Mark,

With all of the items on the July agenda, I wanted to break down information provided, so that council could more easily see what they were acting on.

1. Change Order 5 – Contract I
  - a. This bulk of this change order is to add quantity to repave full width those areas in 8<sup>th</sup> addition where construction caused the roads to degrade beyond salvage.
2. Change Order 4 – Contract II
  - a. This change order adds quantity for storm sewer on Superior Street. The original storm sewer had very short, 3' sections. Because of this, the storm sewer fell apart in many areas where we dug next to it, and spot repairs were not feasible. Similarly, the existing structures also fell apart as we neared them.
  - b. The SCADA system, in order to function for all of the sites in the City (including the Bell Hospital booster station), will need an additional "repeater". This basically bounces the signal from the site to the master control station at the DPW. The price is to supply and mount a repeater on the Cliffs C Shaft building. (This will also require a contract with NMU to connect to their power source for \$50/year)
3. Meeting Action/Pay Applications
  - a. The contractor has requested payment for stored materials of aggregate for each of the contracts. The specifications state that stored materials shall be "secured at the site". In previous application, the City agreed to pay stored materials for water main secured within Lindberg's Ishpeming property. For this work, they have provided aerial photos and measurements of the materials, and will allow access to the site for verification.
  - b. As a reminder, stored materials is a temporary payment made to cover the contractor's material costs, only until the material is incorporated into the work. Once that occurs the stored material is taken out of the overall balance. For instance, in Contract I to date, \$870,000 worth of material has been stored, of which \$370,000 has been incorporated into the work, leaving \$500,000 worth of material stored at this time. That number will be \$0 at the end of the project.
4. RD Water Budget/Contingency
  - a. Prior to these actions, the contingency was \$198,000.
  - b. After these actions, the contingency will be \$148,000.
  - c. In addition, there is approximately \$100,000 worth of work on South Pine Street that can be removed from the project if required.
5. Change Order No. 3 – Contract III
  - a. Rural Development declined to pay for any tank removal costs. These costs are being incorporated into Contract III
  - b. Additional Sidewalk Removal and Replacement was identified along the 1<sup>st</sup>/2<sup>nd</sup>/Pearl Street corridor, outside of the project scope. Previously approved in general by council.

- c. Additional Costs to pulverize and repave the south side of Pearl Street, from Main Street to 4<sup>th</sup> Street.
6. Engineering Proposal – Contract III
- a. The bulk of this proposal is for the engineering services required to assist the City with the process to have the discovered storage tanks removed. The City was ultimately saved a large amount of potential future sampling and investigation fees, based on coordination with the regulatory agencies, our environmental consultant, the City attorney, and the City Manager. We also saved approximately \$2,000 in disposal fees by finding a closer waste management site. In addition to our own specialty services, GEI brought in a subconsultant for sampling services and covered shipping costs, lab fees, and other incidentals in order to expedite the process.
  - b. The other item included at this time is effort expended to properly plan the lighting and conduit for the additional work on 1<sup>st</sup>/2<sup>nd</sup> and Pearl Streets. This was included in the expected budget when we informed the City of the estimated costs to do the conduit.

As always, I will be at the council meeting to answer any questions, or if you have questions ahead of the meeting, please do not hesitate to contact me at [mstoor@geiconsultants.com](mailto:mstoor@geiconsultants.com) or (906) 284-3552.

14(a)

Change Order No. 5

Date of Issuance: \_\_\_\_\_ Effective Date: \_\_\_\_\_  
 Owner: **City of Ishpeming** Owner's Contract No.: \_\_\_\_\_  
 Contractor: \_\_\_\_\_ Contractor's Project No.: \_\_\_\_\_  
 Engineer: **GEI Consultants of Michigan, P.C.** Engineer's Project No.: **1508090**  
 Project: **RD Water System Improvements** Contract Name: **Contract I**

The Contract is modified as follows upon execution of this Change Order:

Description: Add quantities to reflect actual quantities to date, including additional paving in half road areas where pavement was degraded, additional rock excavation in Alternate A areas, additional storm sewer and additional bulkheads. No additional Engineering is required by this Change Order.

Attachments: *Change Order Summary*

| CHANGE IN CONTRACT PRICE  | CHANGE IN CONTRACT TIMES<br>[note changes in Milestones if applicable]  |
|---|---|
| Original Contract Price:<br><br>\$ <u>3,066,628.00</u>  | Original Contract Times:<br>Substantial Completion: <u>October 1, 2018</u><br>Ready for Final Payment: <u>November 14, 2018</u><br>days or dates                                      |
| [Increase] [Decrease] from previously approved Change Orders No. <u>1</u> to No. <u>4</u> :<br><br>\$ <u>1,366,347.35</u> | [Increase] [Decrease] from previously approved Change Orders No. <u>1</u> to No. <u>4</u> :<br>Substantial Completion: <u>15</u><br>Ready for Final Payment: <u>0</u>                 |
| Contract Price prior to this Change Order:<br><br>\$ <u>4,432,975.35</u>  | Contract Times prior to this Change Order:<br>Substantial Completion: <u>October 16, 2018</u><br>Ready for Final Payment: <u>November 14, 2018</u><br>days or dates                   |
| [Increase] [Decrease] of this Change Order:<br><br>\$ <u>17,941.63</u>  | [Increase] [Decrease] of this Change Order:<br>Substantial Completion: <u>7</u><br>Ready for Final Payment: <u>0-7</u> <i>MA</i><br>days or dates                                     |
| Contract Price incorporating this Change Order:<br><br>\$ <u>4,450,961.98</u>   | Contract Times with all approved Change Orders:<br>Substantial Completion: <u>October 23, 2018</u><br>Ready for Final Payment: <u>November 14, 2018</u> <i>21/MA</i><br>days or dates |

RECOMMENDED:  
By: *[Signature]*  
Title: **Engineer (if required)  
Project Manager**  
Date: 07/02/18

ACCEPTED:  
By: \_\_\_\_\_  
Title: **Owner (Authorized Signature)**  
Date: \_\_\_\_\_

ACCEPTED:  
By: *[Signature]*  
Title: **Contractor (Authorized Signature)  
Project Manager**  
Date: 7/2/18

Approved by Funding Agency (if applicable)

By: \_\_\_\_\_  
Title: \_\_\_\_\_

Date: \_\_\_\_\_

14(C)

Change Order No. 4

Date of Issuance:

Effective Date:

Owner: **City of Ishpeming**

Owner's Contract No.:

Contractor:

Contractor's Project No.:

Engineer: **GEI Consultants of Michigan, P.C.**

Engineer's Project No.: **1508090**

Project: **RD Water System Improvements**

Contract Name: **Contract II**

The Contract is modified as follows upon execution of this Change Order:

Description: Change Order for additional sanitary sewer quantity to repair broken sanitary sewer near summit street. Also for additional storm sewer and storm structure quantity due to collapsed storm sewer on Superior Street during construction. Replacement of push bore water service with standard water service construction on Superior and Lake Street. Also to add repeater for SCADA signal to reach from booster station to DPW.  
Attachments: Change Order Summary

| CHANGE IN CONTRACT PRICE  | CHANGE IN CONTRACT TIMES<br>[note changes in Milestones if applicable]  |
|---|---|
| Original Contract Price:<br><br>\$ <u>4,256,816.06</u>  | Original Contract Times:<br>Substantial Completion: <u>October 1, 2018</u><br>Ready for Final Payment: <u>November 14, 2018</u><br>days or dates                                      |
| [Increase] [Decrease] from previously approved Change Orders No. <u>1</u> to No. <u>3</u> :<br><br>\$ <u>1,650,917.06</u> | [Increase] [Decrease] from previously approved Change Orders No. <u>1</u> to No. <u>3</u> :<br>Substantial Completion: <u>15</u><br>Ready for Final Payment: <u>0</u>                 |
| Contract Price prior to this Change Order:<br><br>\$ <u>5,907,733.12</u>  | Contract Times prior to this Change Order:<br>Substantial Completion: <u>October 16, 2018</u><br>Ready for Final Payment: <u>November 14, 2018</u><br>days or dates                   |
| [Increase] [Decrease] of this Change Order:<br><br>\$ <u>32,071.25</u>  | [Increase] [Decrease] of this Change Order:<br>Substantial Completion: <u>8</u><br>Ready for Final Payment: <u>8-8</u> <i>MS</i><br>days or dates                                     |
| Contract Price incorporating this Change Order:<br><br>\$ <u>5,939,804.37</u>   | Contract Times with all approved Change Orders:<br>Substantial Completion: <u>October 24, 2018</u><br>Ready for Final Payment: <u>November 14, 2018</u> <i>22 MS</i><br>days or dates |

RECOMMENDED:  
By: *[Signature]*  
Title: **Engineer (if required)**  
Project Manager  
Date: 07/02/18

ACCEPTED:  
By: \_\_\_\_\_  
Title: **Owner (Authorized Signature)**  
Date: \_\_\_\_\_

ACCEPTED:  
By: *[Signature]*  
Title: **Contractor (Authorized Signature)**  
Project Manager  
Date: 7/2/18

Approved by Funding Agency (if applicable)

By: \_\_\_\_\_  
Title: \_\_\_\_\_

Date: \_\_\_\_\_

14(d)

City of Ishpeming  
City Council Meeting Action  
Rural Development Water System Improvements Project  
Ninth Draw

**SUBJECT: Approval of Payments for RD Water System Improvements Project**

It was moved by \_\_\_\_\_  
and  
seconded by \_\_\_\_\_  
that the City proceed with paying A. Lindberg and Sons, Inc \$1,743,867.71; and GEI  
Consultants of Michigan, PC \$65,430.71.

City Council Member:

|                       |          |          |             |
|-----------------------|----------|----------|-------------|
| <u>Joseph Juidici</u> | _____AYE | _____NAY | _____ABSENT |
| <u>Justin Koski</u>   | _____AYE | _____NAY | _____ABSENT |
| <u>Karl Lehmann</u>   | _____AYE | _____NAY | _____ABSENT |
| <u>Stuart Skauge</u>  | _____AYE | _____NAY | _____ABSENT |
| <u>Mike Tonkin</u>    | _____AYE | _____NAY | _____ABSENT |

BY:

\_\_\_\_\_  
Tammie Leece, City Clerk

DATE: July 11, 2018

ESTIMATE OF FUNDS NEEDED  
FOR  
30-Day Period Commencing  
Ninth Draw

Name of Borrower City of Ishpeming - RD Water System Improvements

| Items                         | Amount of Funds |
|-------------------------------|-----------------|
| Development .....             | \$ 1,743,867.71 |
| Contract or Job No. <u>I</u>  |                 |
| Contract or Job No. <u>II</u> |                 |
| Contract or Job No. _____     |                 |
| Land and Rights-of-Way .....  |                 |
| Legal Services .....          |                 |
| Engineering Fees .....        | 65,430.71       |
| Interest .....                |                 |
| Equipment .....               |                 |
| Contingencies .....           |                 |
| Refinancing .....             |                 |
| Initial O & M .....           |                 |
| Other .....                   |                 |
| TOTAL .....                   | \$ 1,809,298.42 |

Prepared by City of Ishpeming

By Joseph Juidici, Mayor

*Name of Borrower*

Date 7/11/18

Approved by \_\_\_\_\_

Date \_\_\_\_\_

*According to the Paperwork Reduction Act of 1995, an agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a valid OMB control number. The valid OMB control number for this information collection is 0575-0015. The time required to complete this information collection is estimated to average 1 hour per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information.*

**CITY OF ISHPEMING  
RD WATER SYSTEM IMPROVEMENTS  
BREAKDOWN OF COSTS  
ESTIMATE OF FUNDS NEEDED RD FORM 440-11 NINTH DRAW  
GEI PROJECT #1508090**

**1. Construction**

**Contract I \$ 524,549.23** (See attached Pay Application)

**Contract II \$ 1,219,318.48** (See attached Pay Application)

**Total Construction ==> \$ 1,743,867.71**

**2. Resident Engineering (Budget Amount: \$630,000)**

**Total Resident Engineering ==> \$ 65,430.71** (See attached invoices)

**Total All Categories Seventh Draw ==> \$ 1,809,298.42**

**CITY OF ISHPEMING**  
**RD WATER SYSTEM IMPROVEMENTS**  
**INVOICE SUMMARY**  
**ESTIMATE OF FUNDS NEEDED RD FORM 440-11 NINTH DRAW**  
**GEI PROJECT #1508090**

**1. Construction**

| Pay App No.     | Invoice Date | Invoice Amount  | Progress Billing No. | Billed to Date  |
|-----------------|--------------|-----------------|----------------------|-----------------|
| Contract I - 8  | 5/22/2018    | \$ 524,549.23   | 7                    | \$ 1,992,660.87 |
| Contract II - 7 | 5/22/2018    | \$ 1,219,318.48 | 6                    | \$ 2,438,636.96 |

**Total Construction==> \$ 1,743,867.71**

**2. Resident Engineering (Budget Amount: \$630,000)**

**Task 1002**

| Invoice No. | Invoice Date | Invoice Amount | Progress Billing No. | Billed to Date |
|-------------|--------------|----------------|----------------------|----------------|
| 5004829     | 6/20/2018    | \$ 65,430.71   | 29                   | \$ 219,274.31  |

**Total Billed ==> \$ 65,430.71**

14(e)

Change Order No. 3

Date of Issuance: \_\_\_\_\_ Effective Date: \_\_\_\_\_  
 Owner: **City of Ishpeming** Owner's Contract No.: \_\_\_\_\_  
 Contractor: **A. Lindberg and Sons** Contractor's Project No.: \_\_\_\_\_  
 Engineer: **GEI Consultants of Michigan, P.C.** Engineer's Project No.: **1508090**  
 Project: **RD Water System Improvements** Contract Name: **Contract III**

The Contract is modified as follows upon execution of this Change Order:

Description: Change order to add quantities for additional sidewalk removal and replacement on 1<sup>st</sup> Street, 2<sup>nd</sup> Street, and Pearl Street. Add payment for underground storage tank removal. Add payment for pulverizing and repaving Pearl Street from Main to 4<sup>th</sup> Street.

Attachments: Change Order Summary

| CHANGE IN CONTRACT PRICE  | CHANGE IN CONTRACT TIMES<br>[note changes in Milestones if applicable]   |
|---|--|
| Original Contract Price:<br>\$ <u>565,602.50</u>  | Original Contract Times:<br>Substantial Completion: <u>October 1, 2018</u><br>Ready for Final Payment: <u>November 14, 2018</u><br>days or dates                         |
| [Increase] [Decrease] from previously approved Change Orders No. <u>1</u> to No. <u>1</u> :<br>\$ <u>130,701.90</u> | [Increase] [Decrease] from previously approved Change Orders No. <u>2</u> to No. <u>2</u> :<br>Substantial Completion: <u>15</u><br>Ready for Final Payment: <u>0</u>    |
| Contract Price prior to this Change Order:<br>\$ <u>696,304.40</u>  | Contract Times prior to this Change Order:<br>Substantial Completion: <u>October 16, 2018</u><br>Ready for Final Payment: <u>November 14, 2018</u><br>days or dates      |
| [Increase] [Decrease] of this Change Order:<br>\$ <u>60,498.90</u>  | [Increase] [Decrease] of this Change Order:<br>Substantial Completion: <u>7</u><br>Ready for Final Payment: <u>7</u><br>days or dates                                    |
| Contract Price incorporating this Change Order:<br>\$ <u>756,803.30</u>   | Contract Times with all approved Change Orders:<br>Substantial Completion: <u>October 23, 2018</u><br>Ready for Final Payment: <u>November 21, 2018</u><br>days or dates |

|                                      |  |   |
|--------------------------------------|--|---|
| RECOMMENDED:                         | ACCEPTED:                                  | ACCEPTED:                                       |
| By: <u>[Signature]</u>               | By: _____                                  | By: <u>[Signature]</u>                          |
| Title: <b>Engineer (if required)</b> | Title: <b>Owner (Authorized Signature)</b> | Title: <b>Contractor (Authorized Signature)</b> |
| Date: <u>07/02/2018</u>              | Date: _____                                | Date: <u>7/2/18</u>                             |
|                                      |  | Title: <u>Project Manager</u>                   |

Approved by Funding Agency (if applicable)

By: \_\_\_\_\_ Date: \_\_\_\_\_  
 Title: \_\_\_\_\_



ENGINEERS JOINT CONTRACT  
DOCUMENTS COMMITTEE

# Contractor's Application for Payment No. 7

|                       |                              |                         |                                   |
|-----------------------|------------------------------|-------------------------|-----------------------------------|
| Application Period:   | 5/21/2018 - 6/24/18          | Application Date:       | 6/27/2018                         |
| To (Owner):           | City of Ishpeming            | Via (Engineer):         | GEI Consultants of Michigan, P.C. |
| Project:              | RD Water System Improvements |                         |                                   |
| Owner's Contract No.: |                              | Engineer's Project No.: | 1508090                           |


## Application For Payment Change Order Summary

| Approved Change Orders | Number | Additions    | Deductions | 1. ORIGINAL CONTRACT PRICE                                | \$            |
|------------------------|--------|--------------|------------|---|---------------|
|                        | #001   | \$4,500.00   |            | 2. Net change by Change Orders                            | \$            |
|                        | #002   | \$126,201.90 |            | 3. Current Contract Price (Line 1 ± 2)                    | \$            |
|                        |        |              |            | 4. TOTAL COMPLETED AND STORED TO DATE                     | \$            |
|                        |        |              |            | (Column F on Progress Estimate)                           | \$            |
|                        |        |              |            | 5. RETAINAGE:   |               |
|                        |        |              |            | a. 5% X \$ 142,511.28 Work Completed                      | \$ 7,125.56   |
|                        |        |              |            | b. 5% X \$ 50,613.63 Stored Material                      | \$ 2,530.68   |
|                        |        |              |            | c. Total Retainage (Line 5a + Line 5b)                    | \$ 9,656.25   |
|                        |        |              |            | 6. AMOUNT ELIGIBLE TO DATE (Line 4 - Line 5c)             | \$ 183,468.66 |
|                        |        |              |            | 7. LESS PREVIOUS PAYMENTS (Line 6 from prior Application) | \$ 178,264.49 |
|                        |        |              |            | 8. AMOUNT DUE THIS APPLICATION                            | \$ 5,204.17   |
|                        |        |              |            | 9. BALANCE TO FINISH, PLUS RETAINAGE                      | \$            |
|                        |        |              |            | (Column G on Progress Estimate + Line 5 above)            | \$ 512,835.73 |

## Contractor's Certification

The undersigned Contractor certifies that to the best of its knowledge: (1) all previous progress payments received from Owner on account of Work done under the Contract have been applied on account to discharge Contractor's legitimate obligations incurred in connection with Work covered by prior Applications for Payment; (2) title of all Work, materials and equipment incorporated in said Work or otherwise listed in or covered by this Application for Payment will pass to Owner at time of payment free and clear of all Liens, security interests and encumbrances (except such as are covered by a Bond acceptable to Owner indemnifying Owner against any such Liens, security interest or encumbrances); and (3) all Work covered by this Application for Payment is in accordance with the Contract Documents and is not defective.

|     |   |       |           |
|-----|---|-------|-----------|
| By: |  | Date: | 6/27/2018 |
|-----|---|-------|-----------|

|                    |   |  |          |
|--------------------|---|--|----------|
| Payment of:        | \$ 5,204.17   | (Line 8 or other - attach explanation of the other amount) | 07/02/18 |
| is recommended by: |  | (Engineer)   | (Date)   |
| Payment of:        | \$  | (Line 8 or other - attach explanation of the other amount) |          |
| is approved by:    |   | (Owner)  | (Date)   |
| Approved by:       |   | Funding Agency (if applicable)                             | (Date)   |

14(g)



Consulting  
Engineers and  
Scientists

July 2, 2018  
Project No. 1508090

Mr. Mark Slown  
City of Ishpeming  
100 W. Division Street  
Ishpeming, MI 49849

**RE: Proposal for additional services required by Contract III**

Dear Mr. Slown:

Per our discussion, GEI is pleased to provide this proposal for additional engineering services for added work to be constructed as a part of Contract III. This includes those items that the City wishes to consider installing without funding through Rural Development, yet as a part of the construction process.

Those services performed to date involve the underground storage tanks, for which Rural Development has declined to cover the removal costs, as well as the evaluation and siting of new conduit for street lighting within 1<sup>st</sup>/2<sup>nd</sup>/Pearl Street corridor.

**Scope of Services**

***Tasks Performed to Date:***

**Underground Storage Tanks**

1. Review existing tank condition.
2. Assist City attorney with liability investigation.
3. Perform sampling and lab testing required to properly certify waste.
4. Coordinate with MDEQ and LARA for proper disposal procedures.
5. Coordinate specialty contractor requirements for existing project.
6. Prepare removal specifications.
7. Prepare tank registration.
8. Contact Disposal Sites.
9. Prepare waste generator paperwork.
10. Document tank removal.
11. Review secondary found tank on 1<sup>st</sup> Street (because of type of tank and empty condition, after review, this was found not to require registration or specialty contract work).

**Lighting**

1. Meet onsite to evaluate future lighting layout, including light location, electrical drop location, conduit sizing requirements, and handhole locations for future access.

***Future Tasks:***

If the City wishes GEI to perform any further additional services under this agreement, GEI will inform the City that the work is additional, and obtain permission from the City to begin work on any additional tasks prior to doing so.

**Fees and Schedule**

Based on the services outlined above, work performed under this agreement will be on a time and materials basis. For work performed to date, we are still awaiting invoices from hired services, including field sampling and lab services. However, the fees for work to date will not exceed **\$10,000**. Fees for future tasks, if necessary, shall be communicated when obtaining permission.

**Terms and Conditions**

If the City would like to proceed with the above-mentioned scope of services for Professional Engineering Services, please sign and date both copies of the enclosed agreement. Please return one (1) copy to our office and keep the other copy for your file.

If you have any questions regarding this proposal or need any additional information, please do not hesitate to contact me at (906) 214-4147 or [mstoor@geiconsultants.com](mailto:mstoor@geiconsultants.com).

Sincerely,

GEI CONSULTANTS OF MICHIGAN, P.C.



Mark F Stoor, P.E.  
Project Manager



Jeff Bal, P.E.  
Vice President/Branch Manager

MFS:plw

c: GEI File

## STANDARD PROFESSIONAL SERVICES AGREEMENT

### 1. AGREEMENT.

This Agreement is made and entered into by and between GEI Consultants of Michigan, P.C. (GEI),  
990 Lalley Road, Iron River, MI 49935 and \_\_\_\_\_  
City of Ishpeming \_\_\_\_\_  
100 E. Division Street, Ishpeming MI 49849 \_\_\_\_\_

By this Agreement, the parties do mutually agree as follows:

### 2. SCOPE OF SERVICES.

GEI shall perform the services described herein and in **Exhibit A**. Additional services may be added to this agreement by authorization of the City of Ishpeming and GEI Consultants, through task orders.

### 3. EFFECTIVE DATE.

The effective date of this Agreement shall be the latter of the acceptance dates indicated in Article 16, Acceptance. Acceptance of this Agreement by both parties shall serve as GEI's Notice to Proceed with the services described in **Exhibit A**.

### 4. TIMES FOR RENDERING SERVICES.

- a) GEI shall endeavor to perform the services under this Agreement in an orderly and efficient manner, consistent with the schedule or milestone dates provided in **Exhibit A**.
- b) GEI shall not be responsible for delays caused by factors beyond GEI's reasonable control. When such delays beyond GEI's reasonable control occur, CLIENT agrees that GEI shall not be responsible for damages, nor shall GEI be deemed in default of this Agreement.

### 5. COMPENSATION.

- a) CLIENT agrees to pay GEI in accordance with the payment terms provided in **Exhibit B**.
- b) GEI will submit invoices monthly or upon completion of a specified scope of service in accordance with GEI's standard invoicing practices, or as otherwise provided in **Exhibit B**.
- c) Payment is due upon receipt of the invoice. Payments will be made by either check or electronic transfer to the address specified by GEI, and will reference GEI's invoice number.
- d) Interest will accrue at the rate of 1% per month of the invoiced amount in excess of 30 days past the invoice date, or as otherwise provided in **Exhibit B**.
- e) In the event of a disputed or contested invoice, only that portion so contested will be withheld from payment, and the undisputed amounts will be paid.

### 6. PERFORMANCE STANDARDS.

- a) GEI will perform its services under this Agreement in a manner consistent with that degree of skill and care ordinarily exercised by members of GEI's profession currently practicing in the same locality under similar conditions. GEI makes no other warranties or representations, either expressed or implied, regarding the services provided hereunder.
- b) GEI shall correct deficiencies in services or documents provided under this Agreement without additional cost to CLIENT; except to the extent that such deficiencies are directly attributable to deficiencies in CLIENT-furnished information.
- c) Unless otherwise specifically indicated in writing, GEI shall be entitled to rely, without liability, on the accuracy and completeness of information provided by CLIENT, CLIENT's consultants and contractors, and information from public records, without the need for independent verification.

### 7. INSURANCE.

- a) GEI will carry the types and amounts of insurance in the usual form as provided in **Exhibit C**.
- b) Upon written request of CLIENT, GEI will furnish Certificates of Insurance indicating the required coverages and conditions.

- c) It is understood and agreed that the following shall be Additional Insured: The City of Ishpeming, including all elected and appointed officials, all employees and volunteers, all boards, commissions, and/or authorities and their board members, employees, and volunteers. It is understood by naming the City of Ishpeming as additional insured, coverage afforded is considered to be primary and any other insurance the City of Ishpeming may have in effect shall be considered secondary or in excess.

## 8. ALLOCATION OF RISKS.

- a) Indemnification. To the fullest extent permitted by law, GEI agrees to indemnify and hold CLIENT harmless from and against any liabilities, claims, damages, and costs (including reasonable attorney's fees) to the extent caused by the negligence or willful misconduct of GEI in the performance of services under this Agreement.
- b) Limitation of Liability. To the fullest extent permitted by law, the total liability, in the aggregate, of GEI and its officers, directors, employees, agents, and independent professional associates and consultants, and any of them, to CLIENT and any one claiming by, through or under CLIENT, for any and all injuries, claims, losses, expenses, or damages whatsoever arising out of or in any way related to GEI's services, the project or this Agreement, will not exceed ~~the total compensation received by GEI under this Agreement, or available proceeds from GEI's insurance, whichever is less.~~ This limitation will apply regardless of legal theory, and includes but is not limited to claims or actions alleging negligence, errors, omissions, strict liability, breach of contract, breach of warranty of GEI or its officers, directors, employees, agents or independent professional associates or consultants, or any of them. ~~CLIENT further agrees to require that all contractors and subcontractors agree that this limitation of GEI's liability extends to include any claims or actions that they might bring in any forum.~~
- c) Consequential Damages. GEI and CLIENT waive consequential damages, including but not limited to damages for loss of profits, loss of revenues, and loss of business or business opportunities, for claims, disputes or other matters in question arising out of or relating to this Agreement.

## 9. CONFIDENTIALITY.

- a) Unless compelled by law, governmental agency or authority, or order of a court of competent jurisdiction, or unless required pursuant to a subpoena deemed by GEI to be duly issued, or unless requested to do so in writing by CLIENT, GEI agrees it will not convey to others any proprietary non-public information, knowledge, data or property relating to the business or affairs of CLIENT or of any of its affiliates, which is in any way obtained by GEI during its association with CLIENT. GEI further agrees to strive to limit, to a "need to know" basis, access by its employees to information referred to above.
- b) Unless compelled by law, governmental agency or authority, or order of a court of competent jurisdiction, or unless required pursuant to a subpoena deemed by CLIENT to be duly issued, CLIENT will not release to its employees or any other parties any concepts, materials, or procedures of GEI deemed by GEI to be proprietary and so explained to CLIENT.

## 10. OWNERSHIP OF DOCUMENTS.

Drawings, diagrams, specifications, calculations, reports, processes, computer processes and software, operational and design data, and all other documents and information produced in connection with the project as instruments of service (Project Documents), regardless of form, will be confidential and the proprietary information of GEI, and will remain the sole and exclusive property of GEI whether the project for which they are made is executed or not. CLIENT retains the right to use Project Documents for the furtherance of the project consistent with the express purpose(s) of the Project Documents, and for CLIENT's information and reference in connection with CLIENT's use and occupancy of the project. Any use of Project Documents for purposes other than those for which they were explicitly prepared shall be at CLIENT's sole risk and liability. CLIENT agrees to defend, indemnify, and hold GEI harmless from and against any claims, losses, liabilities, and damages arising out of or resulting from the unauthorized use of Project Documents.

## 11. TERMINATION AND SUSPENSION.

- a) This Agreement may be terminated by CLIENT for any reason upon 10 days written notice to GEI.
- b) This Agreement may be terminated by GEI for cause upon 30 days written notice to CLIENT.

- c) In the event that this Agreement is terminated for any reason, CLIENT agrees to remit just and equitable compensation to GEI for services already performed in accordance with this Agreement, subject to the limitations given in this Article 11, Termination and Suspension.
- d) In the event Client terminates this Agreement for cause, in determining just and equitable compensation to GEI for work already performed, CLIENT may reduce amounts due to GEI by amounts equal to additional costs incurred by CLIENT to complete the Agreement scope. Such additional costs incurred by CLIENT may include but are not limited to: (1) the additional costs incurred by CLIENT to engage another qualified consultant to complete the unfinished scope; and (2) CLIENT's labor costs and expenses to demobilize and remobilize its personnel to the site to coordinate with the new consultant.
- e) GEI may suspend any or all services under this Agreement if CLIENT fails to pay undisputed invoice amounts within 90 days following invoice date, by providing a 10-day written notice to CLIENT, until payments are restored to a current basis. In the event GEI engages counsel to enforce overdue payments, CLIENT will reimburse GEI for all reasonable attorney's fees and court costs related to enforcement of overdue payments, provided that CLIENT does not have a good faith dispute with the invoice. CLIENT will indemnify and save GEI harmless from any claim or liability resulting from suspension of the work due to non-current, undisputed payments.

## 12. DISPUTE RESOLUTION.

Both parties agree to submit any claims, disputes, or controversies arising out of or in relation to the interpretation, application, or enforcement of this Agreement to non-binding mediation pursuant to the Rules for Commercial Mediation of the American Arbitration Association, as a condition precedent to litigation or any other form of dispute resolution.

## 13. GENERAL CONSIDERATIONS.

- a) Authorized Representatives. The following individuals are authorized to act as CLIENT's and GEI's representatives with respect to the services provided under this Agreement:

|             |                        |
|-------------|------------------------|
| For Client: | Mark Slown             |
|             | 100 E. Division Street |
|             | Ishpeming, MI 49849    |
| For GEI:    | Mark Stoor             |
|             | 990 Lalley Road        |
|             | Iron River, MI 49935   |

- b) Nothing in this Agreement shall be construed as establishing a fiduciary relationship between Client and GEI.
- c) Notices. Any notice required under this Agreement will be in writing, submitted to the respective party's Authorized Representative at the address provided in this Article 13, General Considerations. Notices shall be delivered by registered or certified mail postage prepaid, or by commercial courier service. All notices shall be effective upon the date of receipt.
- d) Controlling Law. This Agreement is to be governed by the laws of the State of Michigan.
- e) Survival. All express representations, indemnifications, or limitations of liability included in the Agreement will survive its completion or termination for any reason. However, in no event shall indemnification obligations extend beyond the date when the institution of legal or equitable proceedings for professional negligence would be barred by an applicable statute of repose or statute of limitations.
- f) Severability. Any provision or part of this Agreement held to be void or unenforceable under any law or regulation shall be deemed stricken and all remaining provisions shall continue to be valid and binding upon GEI and CLIENT.
- g) Waiver. Non-enforcement of any provision by either party shall not constitute a waiver of that provision, nor shall it affect the enforceability of that provision or of the remainder of this Agreement.
- h) Headings. The headings used in this Agreement are for general reference only and do not have special significance.
- i) Certifications. GEI shall not be required to sign any documents, no matter by whom requested, that would result in GEI having to certify, guaranty, or warrant the existence of conditions or the suitability or

performance of GEI's services or the project, that would require knowledge, services or responsibilities beyond the scope of this Agreement.

- j) Third Parties. Nothing contained in this Agreement shall create a contractual relationship with, or a cause of action in favor of, a third party against either CLIENT or GEI. GEI's services hereunder are being performed solely for the benefit of CLIENT, and no other entity shall have any claim against GEI because of this Agreement or GEI's performance of services hereunder.

#### 14. ADDITIONAL PROVISIONS.

- a) If Field Services are provided under this Agreement, the additional provisions included in **Exhibit D** shall apply. Field Services are defined as services performed on property owned or controlled by CLIENT, any federal, state, or local government or governmental agency, or other third party, and include, but are not limited to: site inspection, site investigation, subsurface investigation, sample collection, or sample testing.
- b) If the services of a Licensed Site Professional (LSP) or Licensed Environmental Professional (LEP) are provided under this Agreement, the additional provisions included in **Exhibit E** shall apply.
- c) If Engineering Design Services are provided under this Agreement, the additional provisions included in **Exhibit F** shall apply.
- d) If Opinions of Probable Construction Cost are provided under this Agreement, the additional provisions included in **Exhibit G** shall apply.
- e) If Construction Services are provided under this Agreement, the additional provisions included in **Exhibit H** shall apply.

#### 15. EXHIBITS.

The following Exhibits are attached to and made a part of this Agreement:

- |   |   |
|---|---|
| ✓ | Exhibit A, Scope of Services and Schedule   |
| ✓ | Exhibit B, Payment Terms  |
| ✓ | Exhibit C, Insurance  |
| ✓ | Exhibit D, Special Provisions for Field Services  |
| ✓ | Exhibit E, Special Provisions for Services of Licensed Site/Environmental Professionals |
| ✓ | Exhibit F, Special Provisions for Engineering Design Services                           |
| ✓ | Exhibit G, Special Provisions for Opinions of Probable Construction Costs               |
| ✓ | Exhibit H, Special Provisions for Construction Services                                 |

#### 16. ACCEPTANCE.

The parties hereto have executed this Agreement as of the dates shown below.

For CLIENT:

By: \_\_\_\_\_  
(Signature)

Mark Slown  
(Print Name)

City Manager  
(Title)

\_\_\_\_\_  
(Date)

For GEI:

By:   
(Signature)

Mark F. Stoor  
(Print Name)

Senior Project Manager  
(Title)

July 2, 2018  
(Date)



Approved as to Form:

By: \_\_\_\_\_  
Bonnie L. Hoff, Attorney At Law

\_\_\_\_\_  
(Date)

**STANDARD PROFESSIONAL SERVICES AGREEMENT**  
**EXHIBITS A - H****EXHIBIT A****Scope of Services and Schedule**

See attached proposal/letter dated July 2, 2018.

**EXHIBIT B****Payment Terms**

Project will be billed in accordance with this agreement, and the amount billed will not exceed the amount referenced in the attached proposal letter dated July 2, 2018.

**EXHIBIT C****Insurance**

GEI will carry the following types and amounts of insurance:

- A. Worker's Compensation and Employer's Liability (statutory):
  - 1. In accordance with the laws of the state(s) in which services are performed.
- B. Commercial General Liability (CGL) Insurance:
  - 1. Bodily Injury and Property Damage Combined: \$1,000,000 per occurrence and in aggregate.
  - 2. Including explosion, underground drilling excavation, and collapse hazards.
  - 3. Including an endorsement providing Additional Insured Status to CLIENT under the policy.
- C. Comprehensive Automobile Insurance:
  - 1. Bodily Injury and Property Damage Combined: \$1,000,000 per accident.
  - 2. Includes all owned, non-owned, and hired vehicles used in connection with the services under this Agreement.
- D. Professional Liability Insurance:
  - 1. \$1,000,000 per claim and in aggregate.

**EXHIBIT D****Special Provisions for Field Services**

- A. Right of Entry. CLIENT agrees to furnish GEI with right-of-entry and a plan of boundaries of the site where GEI will perform its services. If CLIENT does not own the site, CLIENT represents and warrants that it will obtain permission for GEI's access to the site to conduct site reconnaissance, surveys, borings, and other explorations of the site pursuant to the scope of services in the Agreement. GEI will take reasonable precautions to minimize damage to the site from use of equipment, but GEI is not responsible for damage to the site caused by normal and customary use of equipment. The cost for restoration of damage that may result from GEI's operations has not been included in GEI's fee, unless specifically stated in **Exhibit B**.
- B. Underground structures. CLIENT will identify locations of buried utilities and other underground structures in areas of subsurface exploration. GEI will take reasonable precautions to avoid damage to the buried utilities and other underground structures noted. If locations are not known or cannot be confirmed by CLIENT, then there will be a degree of risk to CLIENT associated with conducting the exploration. In the absence of confirmed underground structure locations, CLIENT agrees to accept the risk of any damages and losses resulting from the exploration work.
- C. Presence of Hazardous Materials. If the services under this Agreement do not include services relating to hazardous waste, oil, asbestos, or other hazardous materials, as defined by federal, state, or local laws or regulations, and if such materials are discovered during GEI's work, CLIENT agrees to negotiate appropriate revisions to the scope, schedule, budget, terms, and conditions of this Agreement. When such hazardous materials are suspected, GEI will have the option to stop work, without financial penalty, until a modification to this Agreement is made or a new Agreement is reached. If a mutually satisfactory Agreement cannot be reached between both parties, this Agreement will be terminated, and CLIENT agrees to pay GEI for all services rendered up to the date of termination, including any costs associated with termination.

- D. Disposal of Samples and Wastes Containing Regulated Contaminants. In the event that samples collected by GEI or provided by CLIENT, or wastes generated as a result of site investigation activities, contain or potentially contain substances or constituents which are or may be regulated contaminants as defined by federal, state, or local statutes, regulations, or ordinances, including but not limited to samples or wastes containing hazardous materials, said samples or wastes remain the property of CLIENT and CLIENT will have responsibility for them as a generator. If set forth in the Agreement, GEI will, at CLIENT's expense, perform necessary testing, and either (a) return said samples and wastes to CLIENT, or (b) using a manifest signed by CLIENT as generator, have said samples and/or wastes transported to a location selected by CLIENT for disposal. CLIENT agrees to pay all costs associated with the storage, transport and disposal of said samples and/or wastes. Unless otherwise provided in the Agreement, GEI will not transport, handle, store, or dispose of waste or samples or arrange or subcontract for waste or sample transport, handling, storage, or disposal. CLIENT recognizes and agrees that GEI is working as a bailee and at no time assumes title to said waste or samples or any responsibility as generator of said waste or samples.
- E. Contribution of Hazardous Materials. CLIENT agrees that GEI has not contributed to the presence of hazardous wastes, oils, asbestos, biological pollutants such as molds, fungi, spores, bacteria, and viruses, and by-products of any such biological organisms, or other hazardous materials that may exist or be discovered in the future at the site. GEI does not assume any liability for the known or unknown presence of such materials. GEI's scope of services does not include the investigation or detection of biological pollutants such as molds, fungi, spores, bacteria, and viruses, and by-products of any such biological organisms. CLIENT agrees to indemnify and hold harmless GEI, its subconsultants, subcontractors, agents, and employees from and against all claims, damages, losses, and costs (including reasonable attorneys' fees) that may result from the detection, failure to detect, or from the actual, alleged, or threatened discharge, dispersal, release, escape, or exposure to any solid, liquid, gaseous or thermal irritant, asbestos in any form, or contaminants including smoke, vapor, soot, fumes, acids, alkalis, chemicals, waste, oil, hazardous materials, or biological pollutants. CLIENT's obligations under this paragraph apply unless such claims, damages, losses, and expenses are caused by GEI's sole negligence or willful misconduct.

## EXHIBIT E

### Special Provisions for Services of Licensed Site/Environmental Professionals

For services under this Agreement that require the engagement of a Licensed Site Professional (LSP) or a Licensed Environmental Professional (LEP) registered with and subject to the laws and regulations promulgated by the state in which the services are provided (collectively the LSP/LEP Program), the following will apply:

- A. Under the LSP/LEP Program, the LSP/LEP owes professional obligations to the public, including, in some instances, a duty to disclose the existence of certain contaminants to the state in which the services are provided.
- B. CLIENT understands and acknowledges that in the event that the licensed professional's obligations under the LSP/LEP Program conflict in any way with the terms and conditions of this Agreement or the wishes or intentions of CLIENT, the licensed professional is bound by law to comply with the requirements of the LSP/LEP Program. CLIENT recognizes that the licensed professional is immune from civil liability resulting from any such actual or alleged conflict.
- C. CLIENT agrees to indemnify and hold GEI harmless from any claims, losses, damages, fines, or administrative, civil, or criminal penalties resulting from the licensed professional's fulfillment of the licensed professional's obligations under the LSP/LEP Program.

## EXHIBIT F

### Special Provisions for Engineering Design Services

- A. Design Without Construction Phase Services. CLIENT understands and agrees that if GEI's services under this Agreement include engineering design and do not include Construction-Related Services, then CLIENT:
  1. Assumes all responsibility for interpretation of the construction Contract Documents.
  2. Assumes all responsibility for construction observation and review.
  3. Waives any claims against GEI that may be in any way connected thereto.

For purposes of this Agreement, Construction-Related Services include, but are not limited to: construction observation; review of the construction contractor's technical submittals; review of the construction contractor's progress; or other construction-phase services.

**B. Use of Documents.**

1. The actual signed and sealed hardcopy construction Contract Documents including stamped drawings, together with any addenda or revisions, are and will remain the official copies of all documents.
2. All documents including drawings, data, plans, specifications, reports or other information recorded on or transmitted as Electronic Files are subject to undetectable alteration, either intentional or unintentional, due to transmission, conversion, media degradation, software error, human alteration, or other causes.
3. Electronic Files are provided for convenience and informational purposes only and are not a finished product or Contract Document. GEI makes no representation regarding the accuracy or completeness of any accompanying Electronic Files. GEI may, at its sole discretion, add wording to this effect on electronic file submissions.
4. CLIENT waives any and all claims against GEI that may result in any way from the use or misuse, unauthorized reuse, alteration, addition to, or transfer of the Electronic Files. CLIENT agrees to indemnify and hold harmless GEI, its officers, directors, employees, agents, or subconsultants, from any claims, losses, damages or costs (including reasonable attorney's fees) which may arise out of the use or misuse, unauthorized reuse, alteration, addition to, or transfer of Electronic Files.

**EXHIBIT G**

**Special Provisions for Opinions of Probable Construction Costs**

GEI's Opinions of Probable Construction Cost provided under this Agreement are made on the basis of GEI's experience and qualifications, and represent GEI's best judgment as an experienced and qualified professional generally familiar with the industry. However, since GEI has no control over the cost of labor, materials, equipment or services furnished by others, or over a contractor's methods of determining prices, or over competitive bidding or market conditions, GEI cannot and does not guarantee that proposals, bids or actual construction costs will not vary from Opinions of Probable Construction Cost prepared by GEI.

If CLIENT wishes greater assurance as to probable construction costs, CLIENT agrees to employ an independent cost estimator.

**EXHIBIT H**

**Special Provisions for Construction Services**

In accordance with the scope of services under this Agreement, GEI will provide personnel to observe the specific aspects of construction stated in the Agreement and to ascertain that construction is being performed, in general, in accordance with the approved construction Contract Documents.

- A. GEI cannot provide its opinion on the suitability of any part of the work performed unless GEI's personnel make measurements and observations of that part of the construction. By performing construction observation services, GEI does not guarantee the contractor's work. The contractor will remain solely responsible for the accuracy and adequacy of all construction or other activities performed by the contractor, including: methods of construction; supervision of personnel and construction; control of machinery; false work, scaffolding or other temporary construction aids; safety in, on, or about the job site; and compliance with OSHA and construction safety regulations and any other applicable federal, state, or local laws or regulations.
- B. In consideration of any review or evaluation by GEI of the various bidders and bid submissions, and to make recommendations to CLIENT regarding the award of the construction Contract, CLIENT agrees to hold harmless and indemnify GEI for all costs, expenses, damages and attorneys' fees incurred by GEI as a result of any claims, allegations, administrative proceedings, or court proceedings arising out of or relating to any bid protest or such other action taken by any person or entity with respect to the review and evaluation of bidders and bid submissions or recommendations concerning the award of the construction Contract. This paragraph will not apply if GEI is adjudicated by a court to have been solely negligent or to have actually engaged in intentional and willful misconduct without legitimate justification, privilege, or immunity; however, CLIENT will be obligated to indemnify GEI until any such final adjudication by a court of competent jurisdiction.

**Cathy Smith**

---

**From:** Stoor, Mark <mstoor@geiconsultants.com>  
**Sent:** Wednesday, June 27, 2018 4:09 PM  
**To:** City Manager  
**Cc:** DPW Director; Fabbri, Brian; Cathy Smith; Jim Lampman  
**Subject:** Pearl Street Paving South Half - Main to 4th Street  
**Attachments:** 1508090\_RD\_Pavement\_Half\_Addition\_Pearl.pdf

Hi Mark,

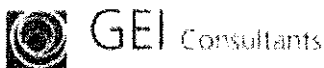
Attached is the estimated cost to pulverize and repave the south half of Pearl Street from Main Street to 4<sup>th</sup> Street. If you have any questions, please do not hesitate to contact me.

My intent is to pull together as many of the additional costs that either need council consideration (such as this one), or have been approved in general (storage tank removal and conduit) into a complete change order for Contract III in advance of the next council meeting. In the meantime, if you have any questions, please do not hesitate to contact me.

Thank you,

Mark

Mark F. Stoor, P.E.  
Senior Project Engineer



GEI Consultants of Michigan, P.C.  
230 North Washington Square, Suite 201 Lansing, MI 48933  
T: 517.803.4603 M: 906.284.3552  
[www.geiconsultants.com](http://www.geiconsultants.com) | [vCard](#) | [map](#) | [LinkedIn](#) | [Twitter](#) | [Facebook](#)

**City of Ishpeming**  
**Rural Development Water System Improvements**  
**Additional Paving - Estimate of Costs - Downtown**  
**GEI Job #1508090**

Pearl Street - 4"

| Item No. | Item Description                                      | Unit Price | Unit | QTY     | Extension    |
|----------|---|------------|------|---------|--------------|
| R-0710   | Bituminous Mixture, MDOT 13A - Leveling Course - Base | \$ 59.50   | TON  | 195.66  | \$ 11,640.00 |
| R-0720   | Bituminous Mixture, MDOT 13A - Top Course - Base      | \$ 61.00   | TON  | 195.66  | \$ 11,940.00 |
|          |   |            |      |         |              |
| D-0830   | Adjust Structure Cover - Base                         | \$ 50.00   | EA   | 9.00    | \$ 450.00    |
|          |   |            |      |         |              |
| CO-0001  | Pulverize + Grade                                     | \$ 4.75    | SYD  | 1870.00 | \$ 8,880.00  |
|          |   |            |      |         |              |

Total \$ 32,900.00

AN ORDINANCE TO ESTABLISH A WATER AND SEWER UTILITY IN THE CITY OF ISHPEMING

THE CITY OF ISHPEMING ORDAINS:

Section 12-101. There is hereby established a Water and Sewer Utility in the City of Ishpeming. This includes the supplying of water; the maintenance of water pumping station; the construction and maintenance of water mains, control valves, and fire hydrants; the maintenance of the water storage tank; the construction and maintenance of sanitary sewer mains and manholes; and providing sanitary sewage lift stations.

Section 12-102. The Annual Fee Schedule adopted by the Ishpeming City Council shall apply to those benefited by the services provided.

1. (a) For a property connected to the City water utility, which has a meter for registering water consumption, see Annual Fee Schedule adopted by the Ishpeming City Council for rates.  
  
(b) For purposes of subsection (a) above, a property is considered to be connected to the City water utility" if (1) the property is actually using City supplied water, (2) the property is physically connected to the City water distribution system and could receive City supplied water, whether or not the property is actually using any City supplied water, or (3) water service to the property has been discontinued due to non-payment of water or sewer charges or by request.
2. For a user of both water and/or sewer services who is authorized to be without a water meter pursuant to Section 12-103.8 of this Ordinance, a monthly charge shall be established for the use of such services by the Ishpeming City Council based upon the recommendation of the Water and Sewer Utility. The Water and Sewer Utility, in making its recommendation to the City Council, shall consider, at a minimum, the number of persons in the household or structure receiving the services, whether the services are being used for residential or commercial purposes, the number and type of connections within the household or structure, and water consumption of similarly situated and similarly constituted households or structures.
3. (a) See Annual Fee Schedule for the permit fee to install a tap from a City water main.  
  
(b) If the City performs the tap, the tapping fee to connect a 5/8" line or a 1" line or a line greater than 1" to a City water main shall be billed to the permit holder according to the Annual Fee Schedule. All excavation, construction, and restoration work, including road and sidewalk restoration shall be the responsibility of the property owner. All work shall be performed according to City standards.  
  
(c) See Annual Fee Schedule for the tapping fee to connect a 5/8" line or a 1" or larger line to a City water main, if a private contractor does the work.  
  
(d) The charges and fees imposed under this Subsection 3 only apply to water lines installed from the main to the curb stop valve.

4. The consumers of water and/or the users of the sewage disposal facilities shall pay their bills to the City Treasurer within twenty-five (25) days after the billing date shown on their bills. Any bill not paid within twenty-five (25) days after the billing date shall be considered a delinquent bill, and a penalty as stated in the Annual Fee Schedule shall be applied and collected on each delinquent bill per month.
5. Water service may be discontinued whenever a water or sewer account has not been paid in full within twenty-five (25) days after the billing date provided. However, that service shall be discontinued if an account with respect to which an affidavit has been filed under MCL 123.165(5) and MCL 141.121(3) has a delinquency greater than the amount of the tenant's security deposit or if the tenant's account has been delinquent for a period of forty-five (45) days or more. Service shall not be restored until such time as all amounts stated on the bill have been paid in full, in addition to payment of the appropriate charges for issuing the Public Notice of Disconnect, and for closing and opening the street shut-off valve or stop-cock which are stated in the Annual Fee Schedule.

(a) See Annual Fee Schedule for the charge for opening or closing a street stop cock. See Annual Fee Schedule for the charge for removing a water meter serviced by a 5/8" line or less; and the charge for removing a water meter serviced by a line greater than 5/8"; provided, however that the provisions of this sentence shall only apply when the water meter is removed for the convenience of the consumer and not because of any leakage, breakage, or defect in the meter; provided that such fee shall include reinstallation of the meter when removed for the convenience of the customer. See Annual Fee Schedule for the overtime charge for the above services.

(b) In the event that any user or consumer of water experiences a freeze-up of underground water lines or pipes during the winter months, the City Water Utility may provide thawing service from the water main to curb stop valve at no charge to the customer. See Annual Fee Schedule to thaw a water service from the curb stop valve to the water meter.

(c) No consumer, user or service receiving water from the City Water Utility shall be authorized to "let-run" the water in any property during the winter months unless written permission has been issued by the Operator in Charge.

Before the Operator in Charge shall issue such permission to let-run, the user or consumer shall make a request therefor and shall establish to the satisfaction of the Operator in Charge that the water lines in question cannot be prevented from freeze-up by wrapping in insulation, attachment of heat cables, or the application of any other reasonable means which the Operator in Charge may direct in an effort to alleviate a freeze-up problem. The Operator in Charge is specifically authorized to direct that the user or consumer requesting a "let-run" shall insulate the water lines or attach heat cables thereto, or take such other reasonable precautions to prevent freeze-ups, at the expense of the person requesting the "let-run".

In the event that any property, consumer, user or service shall "let-run" water without written permission of the Operator in Charge, such service shall be

billed for all water and sewer service actually consumed at the regular rate for such service.

6. New users of the City of Ishpeming Water and Sewer Utility shall deposit with the City a "guarantee deposit", which shall be continuously held by the City as a guarantee of payment for water used, in an amount determined by the Annual Fee Schedule.

This "guarantee deposit" may be credited to the users account two years from the date the deposit is made, providing the user shall have paid all water and sewer bills timely and providing the user has otherwise established credit with the City of Ishpeming to the satisfaction of the City. Established credit for purposes of this Ordinance section, means that the user paid the water and sewer utility bill timely for the prior twelve months and having not received two or more Public Notices of Disconnect in the prior 12 months. The City may apply all or any portion of the guarantee deposit to delinquent water, sewer, or landfill charges.

A guarantee deposit may be required from existing users based on a repeated pattern of non-payment which would be determined by receiving two or more Public Notices of Disconnect.

7. No person, firm, or corporation shall be permitted or allowed to install a 5/8" water meter in the City of Ishpeming; all such work shall be done only by City personnel. There shall be no charge for the installation of any water meter serviced by a 5/8" line or less except in cases described in Section 12-103.4 and 12-103.5. For each water meter installed on a line 1" or greater, the owner of the property shall hire a licensed plumber for installation of the meter subject to City review and approval.

Section 12-103. Users of the water and/or sewage disposal system in the City of Ishpeming shall be subject to the following rules and regulations:

1. No person shall tap any water main without first having obtained a permit from the Utility Billing Clerk nor shall any person not duly authorized bore or tap any pipe, open any hydrant or stop-cock or interfere with any part of the water system of the City.
2. All applications for a water tapping permit must be made to the Utility Billing Clerk by the owner of the property or some person duly authorized by the owner, and such application must fully describe the locality where it is desired to tap the main and the various users to which the water is to be supplied.
3. In case of misrepresentation in such application for a permit to tap any main, use of water without permit, willful or needless waste of water by allowing a constant flow from faucet or otherwise, or the failure to comply with any other term or provision of this ordinance, the service may be shut off.
4. Where the consumer of water is on metered service, the City will supply the meter and outside reader dial owned by the City. The consumer must provide a suitable place for the meter and outside reader dial satisfactory to the City. The consumer shall see that the meter and outside reader dial are protected from damage, accident or frost and shall permit no person other than an

authorized employee of the City Water and Sewer Utility to remove, inspect or tamper with the same. Cost of repairs shall be according to the Annual Fee Schedule.

5. The consumer, in case of leakage, breakage, or defect of the meter, shall immediately notify the Water and Sewer Utility. The Water and Sewer Utility will make all repairs to the water meter, and the actual cost of such repairs or replacement will be charged to the property served if the damage is caused by hot water, freezing, or any other neglect on the part of the consumer to safeguard the meter in a reasonable way.
6. The various officers of the Water and Sewer Utility or any person by them delegated shall have free access to all parts of any building where the water meter and the outside reader dial are used to examine pipes and fixtures and to ascertain whether there is an unnecessary waste of water.
7. The Water and Sewer Utility shall have full authority to further restrict and to order the discontinuance of the use of water as above provided, and to make such further regulations, when it finds in its judgment that it is necessary to do so for the protection of the water supply of the City.
8. Any water service in the City shall have a water meter installed.

In the event that the owner, tenant, lessee or agent in charge of any property having water service does not have a water meter installed the City Attorney shall be authorized to commence an appropriate action in the Marquette County Circuit Court to secure a mandatory injunction requiring a meter installation; alternatively, that water to such property may be shut off until a meter is installed.

9. (a) The City shall be responsible for repairing or correcting all leaks in the water distribution system which occur on all mains and on all lateral lines up to and including each curb stop. The owner of each property served by the City Water Utility shall be responsible for repairing or correcting all leaks in the water distribution system which occur between the curb stop and the water meter which records water consumption on the property; provided, however, that in the event that it is determined that any leak or break in a water line on private property originated on or was caused by conditions existing on public property, and through no fault of the owner of the structure being served, the City Council may waive the payment requirement of this Subsection (a) in whole or in part, and in such cases the City Council shall indicate by resolution the grounds for such waiver; provided, however, that under no circumstances shall the City Council grant such waiver where the failure of any water line on private property is due primarily to old age, to ordinary wear and tear, to improper installation or to the use of improper materials or backfill.
- (b) Anything to the contrary notwithstanding in Section 12-103.9(a) above, under no circumstances shall the City be responsible for the cost of repairs or maintenance to any water line if it is determined that the condition requiring repair or maintenance was caused by the negligence or wrongful act of another, in which event the person responsible therefor shall be fully liable to the City for the cost of repairs.

(c) If the City learns or has reason to believe that there is a break or a leak in a water line between the curb stop and the customer's water meter or a break or a leak in any water line at any point downstream of the water meter, including a break or a leak anywhere in the house or property being served by the City Water Utility, the City shall send written notice thereof, by certified mail, return receipt requested, to the person in whose name the water meter is registered. The written notice shall identify the problem or suspected problem, and shall require that the leak or break in the water line be repaired within five (5) business days after receipt of the written notice. If the customer or other person responsible for payment of the water bills at the property in question fails or refuses to have the repairs completed within the time specified in the written notice, then a service fee (see Annual Fee Schedule) shall be imposed on the account for each and every day after the fifth (5th) day that the repairs are not made, for the water loss to the system. If the repairs are not completed within the time specified in the written notice, the City may also, at its discretion, discontinue water service to the property until such time the repairs are made. In the event of an emergency, or if the City determines that there is a significant amount of water loss to the system due to the leak, the City shall have the authority to immediately discontinue water service to the property irrespective of whether or not written notice has been given as provided herein.

(d) All water service lines existing on the date of enactment of this Ordinance Amendment deemed substandard by the City designated representative shall be replaced by the owner of the property within one (1) year of the date of discovery of the substandard condition. Written notice shall be sent by the City by certified mail, return receipt requested, to both the property owner and the person in whose name the water meter is registered. If the customer or other person responsible for payment of the water bills at the property in question fails or refuses to have the repairs completed within the time specified in the written notice, then a service fee (see Annual Fee Schedule) shall be imposed on the account. If the repairs are not completed within the time specified in the written notice, the City may also, at its discretion, discontinue water service to the property until such time as the repairs are made.

(e) The City will not reconnect to any water service lines found to contain lead as this is deemed to be an imminent health and safety concern. In the event that lead water service lines are discovered by the City, the property owner shall be notified and informed of the mandatory requirement to replace such service lines with materials acceptable to the City. Lead service lines must be replaced by the property owner as soon as possible for water service to be restored. Written notice shall be sent by the City by certified mail, return receipt requested, to both the property owner and the person in whose name the water meter is registered.

Section 12-104. Violation of any of the provisions of this ordinance shall constitute a municipal civil infraction. A person, firm or corporation determined to be responsible or responsible "with explanation" for a municipal civil infraction shall be subject to a civil fine, see Annual Fee Schedule. A municipal civil infraction action brought for any violation of this ordinance shall follow the procedures set forth in Act No. 12, P.A. 1994, as amended, and a Defendant charged with a municipal civil infraction violation shall have all of the rights, duties, responsibilities and obligations set forth therein.

Section 12-105. This Ordinance, as amended, shall take effect and be in force from and after the date of most recent amendment.

|                             |                            |                           |
|-----------------------------|----------------------------|---------------------------|
| Adopted: June 21, 1978      | Amended: February 5, 1997  | Amended: January 7, 2015  |
| Amended: September 6, 1978  | Amended: December 17, 1997 | Amended: November 9, 2016 |
| Amended: August 8, 1979     | Amended: December 9, 1998  |                           |
| Amended: January 7, 1981    | Amended: November 8, 2000  |                           |
| Amended: May 6, 1981        | Amended: October 3, 2001   |                           |
| Amended August 5, 1981      | Amended: November 6, 2002  |                           |
| Amended: June 9, 1982       | Amended: November 9, 2005  |                           |
| Amended: February 8, 1984   | Amended: November 8, 2006  |                           |
| Amended: April 18, 1984     | Amended: October 3, 2007   |                           |
| Amended: September 19, 1984 | Amended; May 6, 2009       |                           |
| Amended: December 26, 1984  | Amended: October 7, 2009   |                           |
| Amended: January 29, 1986   | Amended: December 15, 2010 |                           |
| Amended: July 9, 1986       | Amended: January 4, 2012   |                           |
| Amended: June 14, 1989      | Amended; March 7, 2012     |                           |
| Amended: December 27, 1990  | Amended: May 5, 2012       |                           |
| Amended: June 9, 1993       | Amended: June 6, 2012      |                           |
| Amended: June 8, 1994       | Amended: December 18, 2012 |                           |
| Amended: June 7, 1995       | Amended: November 6, 2013  |                           |
| Amended:                    |                            |                           |

ORDINANCE NO. 10-100

AN ORDINANCE RELATIVE TO THE OWNING AND KEEPING OF DOGS AND CATS WITHIN THE CITY OF ISHPERING, PROHIBITING THE RUNNING AT LARGE OF DOGS OR CATS, PROVIDING FOR THE IMPOUNDING OF DOGS AND CATS, PROVIDING FOR THE DISPOSAL OF DOGS AND CATS, REQUIRING OWNERS TO CLEAN UP ANIMAL EXCREMENT, AND PROVIDING FOR THE VIOLATION HEREOF

THE CITY OF ISHPERING ORDAINS:

Section 10-101. It shall be unlawful for any person to keep animals within the City, except for domestic pets. It shall be unlawful for anyone to own or harbor any exotic animal.

Section 10-102. Domestic pet includes dogs, cats, or animals customarily kept or housed inside dwellings as household pets.

Section 10-103. Exotic animal means any live monkey, alligator, crocodile, raccoon, skunk, fox, bear, sea mammal, venomous snake, member of the feline species other than domestic cat, member of the canine species other than domestic dog, or any other animal that would require a standard of care and control greater than that required for customary household pets sold by commercial pet shops.

Section 10-~~104~~ ~~101~~. It shall be unlawful for any person, firm or corporation to own, keep, possess, harbor or have the care or charge of any dog, male or female, or unsexed, of the age of six (6) months or over within the City of Ishpeming unless the dog shall wear a collar to which is attached the license tag provided for by the laws of the State of Michigan.

Section 10-~~105~~ ~~102~~.

- (a) It shall be unlawful for any person, firm or corporation owning, possessing or having charge of any dog or cat, whether licensed or unlicensed, to permit or suffer such animal to stray or leave the premises of the owner or person in charge of such animal, unless such animal is kept on leash at all times. Notwithstanding the foregoing, under no circumstances shall any dog or cat be brought into the Ishpeming Cemetery unless said animal is at all times kept inside a motor vehicle.
- (b) It shall be unlawful for any person, firm or corporation owning, possessing, or having charge of any dog or cat, whether licensed or unlicensed under the laws of the State of Michigan, to permit said dog or cat to eliminate any excrement or fecal matter upon the property of any other person or upon any public sidewalk, street, alley, park, parking lot, way, or other public property, and to fail to pick up and dispose of such excrement in a garbage can or designated trash receptacle.
- (c) It shall be unlawful for any person walking or riding a horse or mule or operating any wagon or carriage being pulled by a horse or mule, and for the owner of a horse or mule, to permit such animal to eliminate any excrement or fecal matter upon the property of any other person or upon any public sidewalk, street, alley, park, parking lot, way, or any other publicly owned property and to fail to pick up and dispose of such excrement in a garbage can, in a designated trash receptacle, or upon the property of the owner of the animal. This subsection shall not apply to any horse or mule being used in any parade

authorized by the City of Ishpeming.

Section 10-~~106~~ 103. Any dog or cat which has strayed or left the premises of the owner or person in charge thereof, and which is not kept on leash at all times, is hereby declared to be a nuisance, and may be impounded ~~by the City dog warden or animal control officer, or~~ by any member of the Ishpeming Police Department.

Section 10-~~107~~ 104. ~~The City Manager shall appoint a Dog Warden for the City of Ishpeming and sufficient Deputy Dog Wardens who, along with the Police Department, will be needed to enforce this ordinance, and such Dog Warden and Deputy Dog Wardens shall be paid in a manner determined by the City Manager. The City Manager shall also provide~~ arrange for suitable shelter for the keeping of any dogs or cats impounded ~~with Ishpeming Township Pound or UPAWS. or make suitable arrangements for the care and feeding of impounded dogs or cats.~~

Section 10-~~108~~ 105.

- (a) Any dog or cat impounded under and by virtue of the terms of this ordinance shall be kept for a period of ~~three (3)~~ seven (7) days, unless said dog or cat is under observation for rabies, when said dog or cat shall be kept for a sufficient length of time to satisfy the requirements for observation by the Health Department of Marquette County. The owner or person in charge of said dog or cat may recover possession of said dog or cat from the ~~Dog Warden,~~ Police Department ~~or the person or agency in charge of said dog or cat while impounded by paying the rate~~ sum of Twenty-five (\$25.00) Dollars for the first day of impoundment and Fifteen (\$15.00) Dollars per day thereafter. ~~as set in the Annual Fee Schedule adopted by the Ishpeming City Council.~~ Dogs or cats not claimed by their owner or person in charge within the seven (7) days, will be transferred from the Ishpeming Township Pound to UPAWS. ~~The rates for transfer are set in the City Annual Fee Schedule.~~ ~~the period allowed shall be disposed of in a humane manner.~~ Any money collected for the impounding, care and keeping of said dog or cat shall be paid by the person collecting the same to the City Treasurer at least monthly.
- (b) Any dog or cat that has bitten any person shall be seized by the Ishpeming Police Department ~~or Ishpeming Dog Warden~~ and placed under the observation of a veterinarian for a ten (10) day observation period. After the ten (10) day observation period, if the dog or cat so impounded shows signs of or is suspected of being infected with rabies, the dog or cat shall be destroyed in a humane manner, and the head of the animal shall be removed and forwarded as provided by health authorities to the State laboratory in Lansing for further analysis. If said animal is not infected with rabies, it shall be returned to the owner. All costs connected with impoundment and veterinarian fees for services to the animal shall be paid by the owner of the animal. ~~If, after the ten-day detention period, the owner fails or refuses to pay all costs and fees within five (5) days after being advised of same, the animal shall be destroyed in a humane manner and the owner shall still be liable to the City for such costs and fees.~~
- (c) When there are reasonable grounds to believe that a dog or cat has bitten any person, and the owner or ~~eustodian~~ person in charge thereof refuses to deliver said animal to the Ishpeming Police Department ~~or the Ishpeming Dog Warden or Deputy Dog Warden~~ for purposes of impoundment, after due demand therefore has been made, any member of the Ishpeming Police Department ~~or the Ishpeming Dog~~

Warden having knowledge of such refusal, may sign a Complaint against said owner or eustodian **person in charge**, in the manner provided by law, for a violation of this Ordinance.

If a Complaint is signed for refusal of the owner or eustodian **person in charge** of the dog or cat to deliver said animal to the officer making demand therefore, and the court having jurisdiction over such matter is satisfied that there is probable cause to believe that such animal has bitten or may have bitten any person, the Court shall be authorized to issue a search warrant empowering the Ishpeming Police Department to search the property, or home, building, outbuilding or other place where such animal may be kept, and to seize such animal for purposes of delivering it to a veterinarian for purposes of observation as set forth in subsection (b) above. The procedure for the issuance of such a search warrant shall be governed by the provisions of Act No. 189 of the Public Acts of 1966, as amended, being Michigan Statutes Ann. (28.1259 (1) et. seq. (M.C.L.A.) 780.651 et. seq.)

Section 10-**109** ~~106~~. Violation of any of the provisions of this ordinance shall constitute a municipal civil infraction. A person, firm or corporation determined to be responsible or responsible "with explanation" for a municipal civil infraction shall be subject to a civil fine, **see Annual Fee Schedule**. ~~of not more than One Hundred (\$100.00) Dollars plus costs, and if applicable, damages and expenses as provided by law.~~ A municipal civil infraction action brought for any violation of this ordinance shall follow the procedures set forth in Act No. 12, P.A. 1994, as amended, and a Defendant charged with a municipal civil infraction violation shall have all of the rights, duties, responsibilities and obligations set forth therein.

Section 10-**110** ~~107~~. This ordinance is declared to be necessary for the protection of the public health, safety, welfare, and peace of the people of the City of Ishpeming, and is not to be construed as a substitute for the provisions of the State Dog Law, but shall be considered to be supplementary thereto.

Section 10-**111** ~~108~~. This ordinance shall become effective upon legal publication.

Adopted: September 4, 1974

Amended: October 5, 1977

Amended: June 17, 1987

Amended: August 9, 1989

Amended: June 8, 1994

Amended: February 19, 1997

Amended: July 9, 2008

Amended: October 7, 2009

Amended: May 8, 2013

**Amended:**

ORDINANCE NO. 10-300

AN ORDINANCE TO REGULATE THE FEEDING OF WILD ANIMALS

THE CITY OF ISHPEMING ORDAINS:

Section 10-301. Definitions.

- a) "Animal" as used in this Ordinance shall include all wild raccoons, porcupines, skunks, rodents, rabbits, crows, pigeons, seagulls, mice, rats, fowl, waterfowl, gophers, groundhogs, moles, deer, bear, wolverines, badgers, and every other wild mammal.
- b) "Feed" as used in this Ordinance shall include every method whereby any person shall place food, garbage, food scraps, fruits, nuts, honey, vegetables, any food or animal by-products, wheat, corn, meal, grain, sorghum, alfalfa, lard, grease, or any animal rendering, or any other substance of any type out of doors, or inside any structure, whether in a container or otherwise, where such substance is accessible to or used by any animal as a source of food or nourishment.

Section 10-302. Prohibited Conduct.

It shall be unlawful for any person to feed any animal in any area in the City of Ishpeming. This prohibition shall not apply to the feeding of songbirds or squirrels, so long as the food placed for these creatures is not accessible to or consumed by any four (4) legged animal or by any crows, seagulls, or pigeons.

Section 10-303. Penalty.

~~Every person violating the provisions of this Ordinance shall be guilty of a misdemeanor, punishable by a fine not to exceed One Hundred (\$100.00) Dollars or imprisonment in the Marquette County Jail for a period not to exceed ninety (90) days, or by both such fine and imprisonment.~~

Violation of any of the provisions of this ordinance shall constitute a municipal civil infraction. A person, firm or corporation determined to be responsible or responsible "with explanation" for a municipal civil infraction shall be subject to a civil fine, see Annual Fee Schedule. A municipal civil infraction action brought for any violation of this ordinance shall follow the procedures set forth in Act No. 12, P.A. 1994, as amended, and a Defendant charged with a municipal civil infraction violation shall have all of the rights, duties, responsibilities and obligations set forth therein.

Section 10-304. Effective Date.

This ordinance is hereby adopted as an emergency ordinance, and shall be effective upon publication.

Adopted: October 12, 1998

Amended:

## ORDINANCE NO. 2-400

## FIREWORKS

AN ORDINANCE PROVIDING FOR THE REGULATION OF THE IGNITION,  
DISCHARGE AND USE OF CONSUMER FIREWORKS

~~AN ORDINANCE TO PREVENT THE SALE OF ANY CARTRIDGE OF ANY FORM OR  
MATERIAL, OR ANY PISTOL, GUN, GIANT OR CANNON FIRE CRACKERS, OR  
OTHER MECHANICAL CONTRIVANCE, WITHIN THE CORPORATE LIMITS OF THE  
CITY OF ISHPEMING~~

THE CITY OF ISHPEMING ORDAINS:

~~Section 2-401. That no person shall sell, give or furnish to any child under the age of thirteen years, any cartridge of any form or material, or any pistol, gun, giant or cannon fire cracker, or other mechanical contrivance, specially arranged for the explosion of the same, within the corporate limits of the City of Ishpeming.~~

~~Section 2-402. Any person violating any of the provisions of the foregoing ordinance, shall be punished by a fine not less than \$10.00 nor more than \$50.00, or imprisonment in the County Jail of the County of Marquette, or the City Jail of said City, for not to exceed 90 days, or both such fine and imprisonment in the discretion of the court.~~

~~Section 2-403. It shall be unlawful for any person under the age of 13 years to have in possession or use any of the articles named in Section 2-401 of this ordinance.~~

~~Section 2-404. This ordinance shall take effect on June 30th, A.D. 1910.~~

**SECTION 1. PURPOSE.**

The purpose of this ordinance is to provide for the regulation of the ignition, discharge and use of consumer fireworks, as allowed under the Michigan Fireworks Safety Act, MCL 28.451 et seq., as amended.

**SECTION 2. DEFINITIONS.**

As used in this section, the following terms shall be defined as follows:

(1) APA Standard 87-1 means 2001 APA Standard 87-1, Standard for Construction and Approval for Transportation of Fireworks, Novelties, and Theatrical Pyrotechnics, published by the American Pyrotechnics Association of Bethesda, Maryland.

(2) Consumer fireworks means fireworks devices that are designed to produce visible effects by combustion, that are required to comply with the construction, chemical composition, and labeling regulations promulgated by the United States Consumer Product Safety

Commission under 16 CFR Parts 1500 and 1507, and that are listed in APA Standard 87-1, 3.1.2, 3.1.3, or 3.5. Consumer fireworks do not include low-impact fireworks.

(3) Fireworks mean any composition or device, except for a starting pistol, a flare gun, or a flare, designed for the purpose of producing a visible or audible effect by combustion, deflagration, or detonation. Fireworks consist of consumer fireworks, low-impact fireworks, articles pyrotechnic, display fireworks, and special effects.

(4) Low-impact fireworks mean ground and handheld sparkling devices as that phrase is defined under APA Standard 87-1, 3.1.1.1 to 3.1.1.8 and 3.5.

(5) Minor means an individual who is less than 18 years of age.

(6) National holiday. The following are legal public holidays:

- a. New Year's Day, January 1.
- b. Birthday of Martin Luther King, Jr., the third Monday in January.
- c. Washington's Birthday, the third Monday in February.
- d. Memorial Day, the last Monday in May.
- e. Independence Day, July 4.
- f. Labor Day, the first Monday in September.
- g. Columbus Day, the second Monday in October.
- h. Veteran's Day, November 11.
- i. Thanksgiving Day, the fourth Thursday in November.
- j. Christmas Day, December 25.

### SECTION 3. IGNITION, DISCHARGE AND USE.

(1) A person shall not ignite, discharge, or use consumer fireworks at any time other than permitted hours on the day preceding, the day of, or the day after a national holiday.

(2) A person shall not ignite, discharge, or use consumer fireworks between the hours of 1:00 a.m. and 8:00 a.m. on the day preceding, the day of, or the day after a national holiday.

### SECTION 4. POSSESSION OF CONSUMER FIREWORKS BY MINOR.

A minor shall not possess consumer fireworks.

### SECTION 5. DETERMINATION OF VIOLATION; SEIZURE.

If a police officer determines that a violation of this section has occurred, the officer may seize the consumer fireworks as evidence of the violation.

### SECTION 6. PENALTY.

Any person in violation of any section of Section 3 shall be guilty of a municipal civil infraction and shall be subject to payment of a civil fine as provided in the schedule below.

(1) *First violation.* Any person who admits responsibility for, or who is found responsible for, a violation of Section 1 shall be subject to a civil fine of \$100.

(2) *Second violation.* Any person who admits responsibility for, or who is found responsible for, a second violation of Section 3, in any 12-month period shall be subject to a civil fine of \$500.

(3) Following final disposition of a finding of responsibility for violating this section, the City may dispose of or destroy any consumer fireworks retained as evidence in that prosecution.

(4) In addition to any other penalty, a person that is found responsible for a violation of this section shall be required to reimburse the City for the costs of storing, disposing of, or destroying consumer fireworks that were confiscated for a violation of this section.

#### SECTION 7. EFFECTIVE DATE

This ordinance shall become effective after publication in accordance with the Charter of the City of Ishpeming.

Adopted: June 8, 1910

Amended: August 8, 2018

## LAW ENFORCEMENT SERVICES AGREEMENT

This Law Enforcement Services Agreement is made effective on the last date indicated below on the signature lines (the "Effective Date") by and between Acquisition Bell Hospital, LLC d/b/a UP Health System Bell ("Facility") and City of Ishpeming, a Michigan Municipal Corporation ("City").

### 1. PURPOSE

By this Agreement, City shall provide law enforcement services (the "Services"), including those Services described below, for Facility on Facility property located at 901 Lakeshore Drive, Ishpeming, Michigan 49849.

### 2. POLICE OFFICER-REQUIREMENTS

As used in this Agreement, Police Officers ("PO") will: meet the minimum standards of the **Michigan Commission on Law Enforcement Standards (MCOLES) in accordance with P.A. 203 to become a certified police officer**; have earned a minimum of an Associate's Degree; **will be sworn in and possess arrest powers**; possess a valid Michigan operator's permit and have a driving record which meets City's standards for Public Safety Officers; will meet the standards set forth by MCOLES necessary to perform the essential functions of the position; and successfully pass drug screening test(s) as mandated by the MCOLES. In addition, City will endeavor to hire and train POs who are polite, courteous, tactful, and helpful in dealing with the public.

### 3. SCHEDULE

3.1. City shall provide the Services to Facility for a minimum of fourteen (14) hours per week. The schedule of Services will be mutually agreed upon in advance by the parties.

3.2. If, in the event of unforeseen schedule problems, City is unable to provide an PO for the mutually agreed upon scheduled, City shall notify Facility at least twenty (24) hours in advance.

### 4. ADMINISTRATIVE RESPONSIBILITY

4.1. City shall have full authority and responsibility over hiring, training, discipline, scheduling, and assignment of personnel assigned to perform and to supervise Services provided under this Agreement. City shall have full discretion and authority to assign priority service among conflicting services demands at any given time.

### 5. PROCEDURES

5.1. The PO shall carry out the essential job functions as a Police Officer while adding support and security to the Facility and keep Facility management and police services aware of possible security hazards as they become know.

5.2. Facility will provide a work area and computer for the PO to use to complete required reports during their shift.

5.3. Not later than fourteen (14) days prior to its effective date, Facility shall furnish City a complete copy of any proposed new or revised procedures, which would affect the PO Services.

## **6. INCIDENT REPORTING**

City will provide Facility with copies of all reports concerning any incident occurring on Facility property. In addition, City will maintain all statistical data required by state and federal law.

## **7. FEES**

Facility shall pay City an annual fee of Twenty-Five Thousand and 00/100 Dollars (\$25,000.00) for Services provided pursuant to this Agreement ("Fee"). Such Fee shall be payable in equal twelve (12) month installments of Two Thousand Eighty-Three and 33/100 Dollars (\$2,083.33) within fifteen (15) days after the first of each month.

## **8. INSURANCE AND INDEMNIFICATION**

8.1. Neither party or its officers and employees shall be considered the agents of the other for any purpose.

8.2. Both parties shall keep and maintain for themselves, and for any employees, agents or representatives providing Services pursuant to this Agreement, general liability insurance coverage in a minimum amount of One Million Dollars (\$1,000,000) per occurrence, Three Million Dollars (\$3,000,000) in the aggregate. City shall obtain and maintain usual and customary policies of insurance applicable to Services being performed under the Agreement, including worker's compensation insurance. City shall furnish at Facility's request a Certificate of Insurance evidencing the aforementioned coverage within ten (10) days of such request. City shall immediately notify Facility of any cancellation or material changes to such insurance policy. Facility may immediately terminate this Agreement if City breaches this provision.).

8.3. Facility shall report all PO accidents and injuries to City and its carriers shall have the right, but no obligation or responsibility, to inspect Facility's place of business at all reasonable times and insure compliance with this Section and the terms of this Agreement.

8.4. City and Facility agree that, except where conflicts prevent same, they shall render to each other such assistance as may reasonably be expected and to cooperate in good faith with each other in order to insure the proper and adequate defense of any claim, action, suit or proceeding brought by any third party.

## **9. TERM**

This Agreement shall be in effect commencing on the date of execution as set forth above and shall continue for a period of one (1) year, ("Initial Term). This agreement will automatically renew for successive twelve (12) month periods after the expiration of the Initial Term (an "Extended Term"), unless terminated pursuant to Section 12 below.

## **10. TERMINATION**

Either party may terminate this Agreement without penalty or cause, by written notice of intent to terminate delivered to the other party no later than sixty (60) days prior to the effective date of such termination.

## **11. AMENDMENTS**

City and Facility may, from time to time, agree to amend this Agreement or any of the provisions or schedules attached to this Agreement; provided, however, that all amendments shall be in writing, and signed by an authorized representative of each party.

## **12. COMPLETE AGREEMENT**

This Agreement represents the complete and integrated understanding of the parties with respect to all particulars covered herein. All prior agreements, written and oral are hereby cancelled. No prior written or oral representation, negotiation, or statement which conflicts with the terms of this Agreement shall be considered to in any way modify, abridge, or invalidate any provision in this Agreement and no evidence of such shall be admitted in any proceeding in which the terms and application of this Agreement are at issue.

## **13. GOVERNING LAW/ARBITRATION**

13.1. This Agreement shall be governed and constructed in accordance with the laws of the state of Michigan.

13.2. No civil action concerning any controversy or claim arising out of or relating to this Agreement or the breach thereof, shall be instituted before any court and all such controversies or claims shall be submitted to final and binding arbitration in Marquette, Michigan, before a single arbitrator in accordance with the rules of the American Arbitration Association, and judgment upon the award rendered may be entered in any court having jurisdiction thereof.

## **14. UNENFORCEABLE PROVISIONS**

If any provision of this Agreement is held to be invalid, void, or unenforceable, the remainder of the provisions of this Agreement shall remain in full force and effect and shall in no way be affected, impaired or invalidated and this Agreement shall be constructed as if such invalid, void, or unenforceable provision were omitted.

## **15. NOTICE.**

Any notice required or desired to be given in respect to this Agreement shall be deemed to be given upon the earlier of (i) actual delivery to the intended recipient or its agent, (ii) upon the third business day following deposit in the United States mail, postage prepaid, certified or registered mail, return receipt requested, or (iii) the first business day after a confirmed overnight delivery. Any such notice shall be delivered to the respective addresses set out below:

Facility: UP Health System Bell  
901 Lakeshore Drive  
Ishpeming, MI 49849  
Attention: Chief Executive Officer

## 16. SIGNATURES.

Each of the undersigned hereby certifies:

1. As of the date of the signatures below, this Agreement constitutes a binding agreement to perform services as of the Effective Date and may be executed in one or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument;
2. The compensation arrangement is established at fair market value for the services to be rendered and this Agreement is for services that are needed and reasonable in scope;
3. Until the Agreement is listed in Facility's Master Contract Database, no payment shall be made nor services accepted under this Agreement; and
4. Upon the Effective Date of this Agreement, the parties agree to ensure that no payments are made and no services rendered beyond the terms of this Agreement.

|  |
|--|
| <b>FACILITY:</b><br>Acquisition Bell Hospital, LLC d/b/a UP Health System Bell |
| By:  |
| Title:   |
| Date:  |

|                                   |
|-----------------------------------|
| <b>CITY:</b><br>City of Ishpeming |
| By:                               |
| Title:                            |
| Date:                             |



## **AGREEMENT BETWEEN THE CITY OF ISHPEMING AND THE LAKE SUPERIOR COMMUNITY PARTNERSHIP, INC.**

This Agreement is entered into this 12th day of July, 2018, by and between the City of Ishpeming, a municipal corporation, pursuant to MCL 45.3, located at 100 E. Division Street, Ishpeming, MI 49849, and the Lake Superior Community Partnership, Inc., (LSCP) a non-profit 501(c) 6 corporation in the State of Michigan, located at 501 S. Front Street, Marquette, MI 49855.

WHEREAS, the City desires to assist and retain local industrial and commercial enterprises, encourage new enterprises, and create/retain jobs for all income ranges; and,

WHEREAS, the LSCP has been established to implement and carry out community and economic development; and,

WHEREAS, the City has encouraged the privatization of the City's economic development effort but still maintains a strong interest in accomplishing the public goals of economic development; and,

WHEREAS, the City wishes for economic development efforts to continue and goals to be attained; and,

WHEREAS, the City is empowered under the statutes of the State of Michigan to contract for services with private corporations for the advancement of a public purpose; and,

NOW, THEREFORE, the parties agree as follows:

1. Economic development services to be provided by the LSCP:
  - a. Apprise the City Council via written reports and/or presentation(s) on current issues affecting the economic environment of the county. Conduct data and policy analyses and provide technical support when requested by the Ishpeming City Council and/or City Manager;
  - b. Develop reports of an economic development nature, maintain databases in order to compile and assimilate requested information, conduct trend analysis to determine the impact of various changes at

the local, regional, state, federal, and international levels upon the county;

- c. Conduct follow-up action to assure the needs of potential businesses considering relocation or expansion within the city are met, act as the contact for individuals or companies seeking information on available buildings and building sites, incentives, and other economic development agencies within the city in an equitable manner;
  - d. Remain current on pertinent research and literature of economic development and local government issues, and continuously update knowledge and skills that are necessary for the proficient functioning of the economic development effort;
2. Tasks to be performed by the LSCP for City of Ishpeming (shown in Attachment A) will be updated each year if the City chooses to renew the agreement and will be included as an attachment to the agreement.
3. The City will pay the LSCP the amount of \$5,415 dollars with payments to be made in equal quarterly installments for measurable progress in accomplishing economic development and marketing activities as described in Attachment A.
4. General Terms and Conditions of the Agreement
  - a. In performance of this Agreement, the LSCP shall be acting in the capacity of an independent contractor and not as an agent, employee, partner, joint venture or associate of the City. The LSCP shall be solely responsible for the means, methods, techniques, sequences and procedures utilized in full performance of this agreement.
  - b. The LSCP shall comply with all federal, state and county requirements, including, but not limited to, MCL 141.421-141.440A (the ***Uniform Budgeting and Accounting Act***).
  - c. At least quarterly, the LSCP shall provide updates to the City regarding progress toward accomplishing the goals set out in this agreement.
  - d. An independent financial audit of LSCP shall be made available for review and inspection by the City Manager and City Council on an annual basis.
  - e. City of Ishpeming shall have a seat on the LSCP Board of Directors.

## **Attachment A**

### **2018-19 Agreed Upon Tasks**

- a. Provide retention/expansion visits to a minimum of 15 businesses in the City of Ishpeming. Follow up with any business development services required to assist them.
- b. Market available private sites & properties within the city to site selector database a minimum of 2 times per year.
- c. Highlight The City of Ishpeming's amenities in one of LSCP's site selector bimonthly newsletter.
- d. Provide a mutually agreed upon data research project.
- e. Provide to appropriate staff and council members weekly legislative updates.
- f. Support the City's economic development initiatives as agreed upon.
- g. Provide the City a draft Economic Development Strategy document and assist the City in successfully implementing the economic development strategy.



## **Municipal Tiers/Value Packages**

### **Full Service**

| Description of Full Service  | Cost for Full Service   |                   |       |                   |         |              |         |                |       |                  |         |                   |       |                |         |                    |         |                |          |                    |         |                     |       |               |         |                   |         |                 |         |                   |         |                   |       |                |         |                  |       |                 |       |                |       |                |       |                      |         |
|--|---|-------------------|-------|-------------------|---------|--------------|---------|----------------|-------|------------------|---------|-------------------|-------|----------------|---------|--------------------|---------|----------------|----------|--------------------|---------|---------------------|-------|---------------|---------|-------------------|---------|-----------------|---------|-------------------|---------|-------------------|-------|----------------|---------|------------------|-------|-----------------|-------|----------------|-------|----------------|-------|----------------------|---------|
| <p><b><u>Membership Base Rate:</u></b><br/>Based on 50% of taxable value and 50% of population.</p> <p><b><u>Full Service Includes:</u></b></p> <ul style="list-style-type: none"> <li>• Marketing Opportunities</li> <li>• Economic Development Services <ul style="list-style-type: none"> <li>○ Listing of Available Site</li> <li>○ Entrepreneurial Assistance</li> <li>○ Site Selection</li> <li>○ Business Retention</li> <li>○ Prospect Management</li> </ul> </li> <li>• Networking Opportunities</li> <li>• Seminars &amp; Workshops</li> <li>• Website Listing (includes logo, web link, social media links and map)</li> <li>• Moderator Services</li> <li>• Weekly Legislative Updates</li> <li>• Lobbying Support</li> <li>• Grant Writing</li> <li>• Grant Research</li> <li>• Convener for Multiple Groups/Activities</li> <li>• Planning</li> <li>• Workman's Compensation Insurance Group Rate</li> <li>• Advanced Economic Development Services</li> <li>• Eligible to sit on various LSCP committees</li> <li>• One (1) eblast per year</li> <li>• One (1) Quarterly Luncheon ticket</li> <li>• Marketing collateral in the LSCP Lobby</li> </ul> | <table> <tr><td>Champion Township</td><td>\$381</td></tr> <tr><td>Chocolay Township</td><td>\$6,392</td></tr> <tr><td>Ely Township</td><td>\$1,938</td></tr> <tr><td>Ewing Township</td><td>\$220</td></tr> <tr><td>Forsyth Township</td><td>\$5,772</td></tr> <tr><td>Humboldt Township</td><td>\$648</td></tr> <tr><td>Ishpeming City</td><td>\$5,415</td></tr> <tr><td>Ishpeming Township</td><td>\$3,494</td></tr> <tr><td>Marquette City</td><td>\$22,233</td></tr> <tr><td>Marquette Township</td><td>\$5,227</td></tr> <tr><td>Michigamme Township</td><td>\$783</td></tr> <tr><td>Negaunee City</td><td>\$3,950</td></tr> <tr><td>Negaunee Township</td><td>\$3,379</td></tr> <tr><td>Powell Township</td><td>\$1,568</td></tr> <tr><td>Republic Township</td><td>\$1,500</td></tr> <tr><td>Richmond Township</td><td>\$825</td></tr> <tr><td>Sands Township</td><td>\$2,304</td></tr> <tr><td>Skandia Township</td><td>\$860</td></tr> <tr><td>Tilden Township</td><td>\$944</td></tr> <tr><td>Turin Township</td><td>\$156</td></tr> <tr><td>Wells Township</td><td>\$648</td></tr> <tr><td>West Branch Township</td><td>\$1,366</td></tr> </table> | Champion Township | \$381 | Chocolay Township | \$6,392 | Ely Township | \$1,938 | Ewing Township | \$220 | Forsyth Township | \$5,772 | Humboldt Township | \$648 | Ishpeming City | \$5,415 | Ishpeming Township | \$3,494 | Marquette City | \$22,233 | Marquette Township | \$5,227 | Michigamme Township | \$783 | Negaunee City | \$3,950 | Negaunee Township | \$3,379 | Powell Township | \$1,568 | Republic Township | \$1,500 | Richmond Township | \$825 | Sands Township | \$2,304 | Skandia Township | \$860 | Tilden Township | \$944 | Turin Township | \$156 | Wells Township | \$648 | West Branch Township | \$1,366 |
| Champion Township  | \$381   |                   |       |                   |         |              |         |                |       |                  |         |                   |       |                |         |                    |         |                |          |                    |         |                     |       |               |         |                   |         |                 |         |                   |         |                   |       |                |         |                  |       |                 |       |                |       |                |       |                      |         |
| Chocolay Township  | \$6,392   |                   |       |                   |         |              |         |                |       |                  |         |                   |       |                |         |                    |         |                |          |                    |         |                     |       |               |         |                   |         |                 |         |                   |         |                   |       |                |         |                  |       |                 |       |                |       |                |       |                      |         |
| Ely Township   | \$1,938   |                   |       |                   |         |              |         |                |       |                  |         |                   |       |                |         |                    |         |                |          |                    |         |                     |       |               |         |                   |         |                 |         |                   |         |                   |       |                |         |                  |       |                 |       |                |       |                |       |                      |         |
| Ewing Township   | \$220   |                   |       |                   |         |              |         |                |       |                  |         |                   |       |                |         |                    |         |                |          |                    |         |                     |       |               |         |                   |         |                 |         |                   |         |                   |       |                |         |                  |       |                 |       |                |       |                |       |                      |         |
| Forsyth Township   | \$5,772   |                   |       |                   |         |              |         |                |       |                  |         |                   |       |                |         |                    |         |                |          |                    |         |                     |       |               |         |                   |         |                 |         |                   |         |                   |       |                |         |                  |       |                 |       |                |       |                |       |                      |         |
| Humboldt Township  | \$648   |                   |       |                   |         |              |         |                |       |                  |         |                   |       |                |         |                    |         |                |          |                    |         |                     |       |               |         |                   |         |                 |         |                   |         |                   |       |                |         |                  |       |                 |       |                |       |                |       |                      |         |
| Ishpeming City   | \$5,415   |                   |       |                   |         |              |         |                |       |                  |         |                   |       |                |         |                    |         |                |          |                    |         |                     |       |               |         |                   |         |                 |         |                   |         |                   |       |                |         |                  |       |                 |       |                |       |                |       |                      |         |
| Ishpeming Township   | \$3,494   |                   |       |                   |         |              |         |                |       |                  |         |                   |       |                |         |                    |         |                |          |                    |         |                     |       |               |         |                   |         |                 |         |                   |         |                   |       |                |         |                  |       |                 |       |                |       |                |       |                      |         |
| Marquette City   | \$22,233  |                   |       |                   |         |              |         |                |       |                  |         |                   |       |                |         |                    |         |                |          |                    |         |                     |       |               |         |                   |         |                 |         |                   |         |                   |       |                |         |                  |       |                 |       |                |       |                |       |                      |         |
| Marquette Township   | \$5,227   |                   |       |                   |         |              |         |                |       |                  |         |                   |       |                |         |                    |         |                |          |                    |         |                     |       |               |         |                   |         |                 |         |                   |         |                   |       |                |         |                  |       |                 |       |                |       |                |       |                      |         |
| Michigamme Township  | \$783   |                   |       |                   |         |              |         |                |       |                  |         |                   |       |                |         |                    |         |                |          |                    |         |                     |       |               |         |                   |         |                 |         |                   |         |                   |       |                |         |                  |       |                 |       |                |       |                |       |                      |         |
| Negaunee City  | \$3,950   |                   |       |                   |         |              |         |                |       |                  |         |                   |       |                |         |                    |         |                |          |                    |         |                     |       |               |         |                   |         |                 |         |                   |         |                   |       |                |         |                  |       |                 |       |                |       |                |       |                      |         |
| Negaunee Township  | \$3,379   |                   |       |                   |         |              |         |                |       |                  |         |                   |       |                |         |                    |         |                |          |                    |         |                     |       |               |         |                   |         |                 |         |                   |         |                   |       |                |         |                  |       |                 |       |                |       |                |       |                      |         |
| Powell Township  | \$1,568   |                   |       |                   |         |              |         |                |       |                  |         |                   |       |                |         |                    |         |                |          |                    |         |                     |       |               |         |                   |         |                 |         |                   |         |                   |       |                |         |                  |       |                 |       |                |       |                |       |                      |         |
| Republic Township  | \$1,500   |                   |       |                   |         |              |         |                |       |                  |         |                   |       |                |         |                    |         |                |          |                    |         |                     |       |               |         |                   |         |                 |         |                   |         |                   |       |                |         |                  |       |                 |       |                |       |                |       |                      |         |
| Richmond Township  | \$825   |                   |       |                   |         |              |         |                |       |                  |         |                   |       |                |         |                    |         |                |          |                    |         |                     |       |               |         |                   |         |                 |         |                   |         |                   |       |                |         |                  |       |                 |       |                |       |                |       |                      |         |
| Sands Township   | \$2,304   |                   |       |                   |         |              |         |                |       |                  |         |                   |       |                |         |                    |         |                |          |                    |         |                     |       |               |         |                   |         |                 |         |                   |         |                   |       |                |         |                  |       |                 |       |                |       |                |       |                      |         |
| Skandia Township   | \$860   |                   |       |                   |         |              |         |                |       |                  |         |                   |       |                |         |                    |         |                |          |                    |         |                     |       |               |         |                   |         |                 |         |                   |         |                   |       |                |         |                  |       |                 |       |                |       |                |       |                      |         |
| Tilden Township  | \$944   |                   |       |                   |         |              |         |                |       |                  |         |                   |       |                |         |                    |         |                |          |                    |         |                     |       |               |         |                   |         |                 |         |                   |         |                   |       |                |         |                  |       |                 |       |                |       |                |       |                      |         |
| Turin Township   | \$156   |                   |       |                   |         |              |         |                |       |                  |         |                   |       |                |         |                    |         |                |          |                    |         |                     |       |               |         |                   |         |                 |         |                   |         |                   |       |                |         |                  |       |                 |       |                |       |                |       |                      |         |
| Wells Township   | \$648   |                   |       |                   |         |              |         |                |       |                  |         |                   |       |                |         |                    |         |                |          |                    |         |                     |       |               |         |                   |         |                 |         |                   |         |                   |       |                |         |                  |       |                 |       |                |       |                |       |                      |         |
| West Branch Township   | \$1,366   |                   |       |                   |         |              |         |                |       |                  |         |                   |       |                |         |                    |         |                |          |                    |         |                     |       |               |         |                   |         |                 |         |                   |         |                   |       |                |         |                  |       |                 |       |                |       |                |       |                      |         |



## Basic Service

| Description of Basic Service  | Cost for Basic Service |           |
|---|------------------------|-----------|
| <ul style="list-style-type: none"> <li>• Workman's Compensation Insurance Group Rate</li> <li>• Marketing Opportunities</li> <li>• Economic Development Services               <ul style="list-style-type: none"> <li>○ Listing of Available Sites</li> <li>○ Entrepreneurial Assistance</li> <li>○ Site Selection</li> <li>○ Business Retention</li> <li>○ Prospect Management</li> </ul> </li> <li>• Networking Opportunities</li> <li>• Seminars &amp; Workshops</li> <li>• Website Listing</li> <li>• Moderator Services</li> <li>• Marketing collateral in the LSCP lobby</li> <li>• Eligible to sit on various LSCP committees</li> </ul> | Champion Township      | \$ 190    |
|   | Chocolay Township      | \$ 3,196  |
|   | Ely Township           | \$ 969    |
|   | Ewing Township         | \$ 110    |
|   | Forsyth Township       | \$ 2,886  |
|   | Humboldt Township      | \$ 324    |
|   | Ishpeming City         | \$ 2,707  |
|   | Ishpeming Township     | \$ 1,747  |
|   | Marquette City         | \$ 11,116 |
|   | Marquette Township     | \$ 2,613  |
|   | Michigamme Township    | \$ 391    |
|   | Negaunee City          | \$ 1,975  |
|   | Negaunee Township      | \$ 1,689  |
|   | Powell Township        | \$ 784    |
|   | Republic Township      | \$ 750    |
|   | Richmond Township      | \$ 412    |
|   | Sands Township         | \$ 1,152  |
|   | Skandia Township       | \$ 430    |
|   | Tilden Township        | \$ 472    |
|   | Turin Township         | \$ 78     |
|   | Wells Township         | \$ 324    |
|   | West Branch Township   | \$ 683    |
|   |                        |           |

\*Service fees will be evaluated on scope of project request and are typically \$25 per hour/administrative and \$40 per hour/professional services.

\*\*Townships paying the full service membership rate are entitled to both Basic and Additional Service packages.



July 3, 2018

Mr. Mark Slown  
City Manager  
City of Ishpeming  
100 E. Division Street  
Ishpeming, MI 49849

RE: Professional Services Proposal  
City Hall Roof Replacement

Dear Mr. Slown:

We would like to thank you for the opportunity to submit a proposal for professional services for the City Hall Roof Replacement. We have prepared the following project understanding and scope of services based on our understanding of the project.

#### **PROJECT UNDERSTANDING**

The roof on City Hall was damaged in a storm and is in need of replacement. It is our understanding that the replacement of the asphalt shingles and some other storm damaged items are eligible for coverage to be replaced under the City's insurance policy. This project includes the replacement of the asphalt shingles and several roof vents (to be replaced in-kind). The existing sheet metal roofing will remain in place.

#### **SCOPE OF SERVICES**

Our scope of professional services includes the following tasks:

##### **Final Design and Construction Documents**

During the construction document stage, OHM will develop a detailed set of construction documents for distribution to potential contractors for pricing.

- ▶ Prepare a technical specification identifying for the replacement roof products and scope of work.
- ▶ Review information with owner at the Ishpeming City Hall.
- ▶ Make changes as needed from owner comments.
- ▶ Distribute specification and scope of work to contractors for pricing.
- ▶ Assist the client in the construction bidding/contracting process including: distributing bidding documents, conducting pre-bid meeting, and issuing pre-construction addenda.
- ▶ Respond to field contractor questions in writing during the bidding process.
- ▶ Attend bid opening and review all received bid packages for completeness.
- ▶ Provide bid tabulation to the client.

##### **Construction Administration - Office Services**

Construction administration services will begin immediately following the award of a contract to a contractor. OHM will provide organized information to outline the progress of the project from contractor initiation to completion of final punch list items.

- ▶ Coordinate the professional staff, consultants, and all other project related resources by distribution of written documentation.
- ▶ Monitor, evaluate and provide administrative action to achieve timely processing of shop drawings submittals and will maintain records of request for information, requested changes, and shop drawing submittals for future reference.



- ▼ Provide timely responses to field questions.
- ▼ Perform a final site walk through and prepare and distribute a final punch list when contractor has identified substantial completion.

#### Construction Administration – Field Services

OHM will perform field services during the project's construction. We assume that the construction would be initiated in September be completed by October. Our experienced field staff will provide accurate and timely information to the owner as needed to assure proper communication.

- ▼ Perform bi-monthly site visits to evaluate the contractor's progress and verify the contractor's request for payments.
- ▼ Perform monthly progress meetings with contractor, sub-contractor and owner's representative to review and coordinate issues and construction schedule.
- ▼ Perform a final punch list walkthrough with the contractor and an owner's representative to verify the facility is acceptable for owner occupancy.

#### Reimbursable Expenses

The following services, including professional time associated to implement, are not included in our proposal fee and will be considered reimbursable expenses.

- ▼ Full-Time Construction Inspections.

These services will only be implemented should the final scope of the project require them.

#### COMPENSATION AND SCHEDULE

The above mentioned services would be performed on a lump sum basis in accordance with the attached Standard Terms & Conditions for a fee of **Fourteen Thousand Eight Hundred (\$14,800)**.

Upon approval from you, we are available to begin work on your project immediately.

Should you find this agreement acceptable, please execute both copies and return a copy to us for our files. This proposal will be valid for 60 days.

We look forward to working with you on a successful project.

Sincerely,

Tracie Williams, PE, LEED AP  
Principal/ Director

Enclosures: *Standard Terms and Conditions*  
Cc: File

**Professional Services**

Accepted By: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_

## STANDARD TERMS and CONDITIONS

1. THE AGREEMENT – These Standard Terms and Conditions and the attached Proposal or Scope of Services, upon their acceptance by the Owner, shall constitute the entire Agreement between Orchard, Hiltz & McClimment, Inc. (OHM), a registered Michigan Corporation, and the Owner. The Agreement shall supersede all prior negotiations or agreements, whether written or oral, with respect to the subject matter herein. The Agreement may be amended only by mutual agreement between OHM and the Owner and said amendments must be in written form.

2. SERVICES TO BE PROVIDED – OHM will perform the services as set forth in the attached proposal or scope of services which is hereby made a part of the Agreement.

3. SERVICES TO BE PROVIDED BY OWNER – The Owner shall at no cost to OHM:

- a) Provide OHM personnel with access to the work site to allow timely performance of the work required under this Agreement.
- b) Provide to OHM within a reasonable time frame, any and all data and information in the Owners possession as may be required by OHM to perform the services under this Agreement.
- c) Designate a person to act as Owners representative who shall have the authority to transmit instructions, receive information, and define Owner policies and decisions as they relate to services under this Agreement.

4. PERIOD OF SERVICE – The services called for in this Agreement shall be completed within the time frame stipulated in the Proposal or Scope of Services, or if not stipulated shall be completed within a time frame which may reasonably be required for completion of the work. OHM shall not be liable for any loss or damage due to failure or delay in rendering any service called for under this agreement resulting from any cause beyond OHM's reasonable control.

5. COMPENSATION – The Owner shall pay OHM for services performed in accordance with the method of payment as stated in the Proposal or Scope of Services. Method of compensation may be lump sum, hourly; based on a rate schedule, percentage of the construction cost, or cost plus a fixed fee. The Owner shall pay OHM for reimbursable expenses for subconsultant services, equipment rental or other

special project related items at a rate of 1.15 times the invoice amount.

6. TERMS OF PAYMENT – Invoices shall be submitted to the Owner not more often than monthly for services performed during the preceding period. Owner shall pay the full amount of the invoice within thirty days of the invoice date. If payment is not made within thirty days, the amount due to OHM shall include a charge at the rate of one percent per month from said thirtieth day.

7. LIMIT OF LIABILITY – In the performance of professional services under this Agreement, OHM shall exercise that degree of skill, care and diligence that would be exercised by a reasonably skilled and prudent architectural and engineering firm practicing in the same or in a similar sized community elsewhere in the State of Michigan; provided, however, that OHM's liability for professional negligence or malpractice shall not exceed the sum of One Million (\$1,000,000.00) Dollars, and OHM represents that it has in effect and will maintain in effect professional liability insurance in an amount not less than One Million (\$1,000,000.00) Dollars applicable to any claims that might arise out of its performance of service under this Agreement.

8. ASSIGNMENT – Neither party to this Agreement shall transfer, sublet, or assign any duties, rights under or interest in this Agreement without the prior written consent of the other party.

9. NO WAIVER – Failure of either party to enforce, at anytime, the provisions of this Agreement shall not constitute a waiver of such provisions or the right of either party at any time to avail themselves of such remedies as either may have for any breach or breaches of such provisions.

10. GOVERNING LAW – The laws of the State of Michigan will govern the validity of this Agreement, its interpretation and performance.

11. DOCUMENTS OF SERVICE – The Owner acknowledges OHM's reports, plans and construction documents as instruments of professional services. Nevertheless, the plans and specifications prepared under this Agreement shall become the property of the Owner upon completion of the work and payment in full of all monies due OHM, however, OHM shall have the unlimited right to use such drawings, specifications and reports and the intellectual

property therein. The Owner shall not reuse or make any modifications to the plans and specifications without prior written authorization by OHM. In accepting and utilizing any drawings or other data on any electronic media provided by OHM, the Owner agrees that they will perform acceptance tests or procedures on the data within 30 days of receipt of the file. Any defects the Owner discovers during this period will be reported to OHM and will be corrected as part of OHM's basic Scope of Services.

12. TERMINATION – Either party may at any time terminate this Agreement upon giving the other party 7 calendar days prior written notice. The Owner shall within 45 days of termination, pay OHM for all services rendered and all costs incurred up to the date of termination in accordance with compensation provisions in this Agreement.

13. OHM'S RIGHT TO SUSPEND ITS SERVICES

– In the event that the Owner fails to pay OHM the amount shown on any invoice within 60 days of the date of the invoice, OHM may, after giving 7 days notice to the Owner, suspend its services until payment in full for all services and expenses is received.

14. OPINIONS OF PROBABLE COST – OHM's preparation of Opinions of Probable Cost represent OHM's best judgment as a design professional familiar with the industry. The Owner must recognize that OHM has no control over costs or the prices of labor, equipment or materials, or over the contractor's method of pricing. OHM makes no

warranty, expressed or implied, as to the accuracy of such opinions as compared to bid or actual cost.

15. JOB SITE SAFETY – Neither the professional activities of OHM, nor the presence of OHM or our employees and subconsultants at a construction site shall relieve the General Contractor or any other entity of their obligations, duties, and responsibilities including, but not limited to, construction means, methods, sequences, techniques or procedures necessary for performing, superintending or coordinating all portions of the work of construction in accordance with the contract documents and the health or safety precautions required by any regulatory agency. OHM has no authority to exercise any control over any construction contractor or any other entity or their employees in connection with their work or any health or safety precautions. The Owner agrees that the General Contractor is solely responsible for jobsite safety, and warrants that this intent shall be made clear in the Owners agreement with the General Contractor. The Owner also agrees that OHM shall be indemnified and shall be made additional insureds under the General Contractors general liability insurance policy.

16. DISPUTE RESOLUTION – In an effort to resolve any conflicts that arise during the design or construction of the project or following the completion of the project, the Owner and OHM agree that all disputes between them arising out of or relating to this Agreement shall be submitted to non-binding mediation, unless the parties mutually agree otherwise.



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June 29, 2018

Dear Michigan Municipal Leaders:

Two months ago, I requested that you join the City of Escanaba's fight to permanently change the State of Michigan's acceptance of the "Dark Store Theory."

The Court of Appeals' decision *Menard Inc. v City of Escanaba*, 315 Mich App 512 (2016), questioned the Tax Tribunal's adoption of the "dark store theory," which reduces the assessed values of "big box" stores in Michigan far below any assessed values elsewhere in the in the United States or Canada. Indeed, the City of Escanaba's current assessment is within the range of *settlements* that Menard is reaching in other states.

Although the Court of Appeals reversed the Tribunal's *Menard* decision, the Court asked the Tribunal to provide a thorough analysis of the market dynamics underlying the "dark store theory," which the parties may establish using studies, valuation reports, and a nearly unlimited assembly of data and testimony. Recognizing the importance of this case, the Tribunal designated *three* Tribunal members (judges) to hear the evidence and determine, once and for all, the treatment of big box appeals in Michigan. The hearing is an opportunity that will likely never reoccur for any local unit litigating against a big box or similar property.

National retailers have been waiting and preparing for the *Menard* remand hearing due to its long-term implications. We are aware of one retailer study that analyzed over 200 sales of big box stores nationwide to demonstrate that deed-restrictions do not affect the sale price. Responding to that study (and likely others like it) will require access to expensive databases and significant expert research and analysis. Escanaba is aware that it cannot simply "show up" for this critical hearing. It must provide what the Tribunal and the Court of Appeals are looking for: a comprehensive study of the Dark Store Theory. Because of this, the issues on remand far exceed the scope and detail of a typical valuation disclosure in a Tribunal case. The City appreciates that it is fighting on behalf of all other taxing units in the state.

The Michigan Department of Treasury recognizes the magnitude of the work involved and has agreed to share some of the City's expenses for expert work; however, the State's assistance is less than half of the anticipated expert witness expenses. Townships, cities, and two counties have also contributed to the City's expenses, and the City is encouraged by their support. But the potential costs are daunting and may eclipse funding sources. The City estimates that it will need to raise \$200,000 from sources outside the City to ensure that the City and its local cost-sharing units can cover litigation through the conclusion of the hearing. To date, the City has received \$30,000 in assistance from other local units. The City will need additional funds quickly because extensive evidence must be compiled and submitted to the Tribunal in early August.

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**Mission Statement:**



Enhancing the enjoyment and livability of our community by providing quality municipal services to our citizens.  
*The City of Escanaba is an equal opportunity employer and provider.*

Rest assured, local units are authorized to support litigation of statewide significance, even if the local unit is not a party. See MCL 211.43; *Hess v. Cannon and Grattan Townships*, 265 Mich. App. 582, 696 N.W.2d 742 (2005). Alternatively, local units can make a donation to the legal defense funds of the MTA or the MML, or directly to MAC. These groups have agreed to collect and remit the contributions to aid in fighting the *Menard* case. The City has agreed not to spend those contributions until it has received enough funding to wage the fight. If the funds collected exceed the City's costs, the City will refund the excess pro-rata to those local units that joined this fight.

As the *Menard* case proceeds, the City may be approached with settlement offers from the taxpayer. The City is mindful that if it were to settle, all local units in this state would lose a unique opportunity to end the dark store war once and for all. Other local units would then be forced to litigate the meaning of the *Menard* decision without the benefit of precedent in *the Tribunal* that the forthcoming remand hearing could have established. **Because of the impact of a settlement on other local units, the City will refund all contributions if it settles the case.**

This fight is a fight for all local units and not Escanaba's fight alone, as no single local unit can afford the challenge alone. The MTA, MML and MAC are pleased to support the local units' position in this matter and have been actively engaged in seeking support, answering questions, working with the State, and assisting with the unique legal issues that this important case presents. Feel free to contact us or those organizations if you have questions.

Sincerely,

A handwritten signature in blue ink that reads "Patrick Jordan". The signature is fluid and cursive, with the first name "Patrick" and last name "Jordan" clearly distinguishable.

Patrick S. Jordan  
City Manager, City of Escanaba  
(906) 786-9402