City of Marquette, MI

Meeting Agenda
City Commission

300 West Baraga Ave
Marquette, Michigan 49855

Monday, March 13, 2023
6:00 PM
Commission Chambers

Call to Order, Pledge of Allegiance and Roll Call

Approval of the Agenda

Announcements

Boards and Committees

1. Appointment(s)

Jamie Glenn, Parks and Recreations Advisory Board for an unexpired term ending 01-29-24
Jacqueline Wagner, Public Art Commission for an unexpired term ending 02-26-26
Sean Hobbins, Marquette Area Wastewater Treatment Advisory Board for an unexpired term ending 12-31-23
James Compton, Marquette Area Wastewater Treatment Advisory Board for an unexpired term ending 02-01-26

Public Comments - Comments may not exceed three minutes per person. Please state your name and physical address when making public comments.

Presentation(s)

2. Parks and Recreation Advisory Board, by Chair Amanda Gobert

3. Consent Agenda - Roll Call Vote

3.a. Approve the minutes of the February 27, 2023 regular Commission meeting
3.b. Approve the total bills payable in the amount of $1,372,842.07
3.c. Co-generation Overhaul Maintenance Agreement
3.d. Construction Materials Testing Services for 2023 City Construction Projects
3.e. KBIC Funding for the U.P. Children's Museum
3.f. Native Arts and Cultures Foundation, SHIFT Grant Application
3.g. Ordinance 702 - Authorized Officials
3.h. Ordinance 719 - Business Licensing - Roll Call Vote
3.i. Ordinance 721 - Black Rock Crossing Tax Exemption
3.j. Resolution Supporting SB 19 and SB 20 - Roll Call Vote

3.k. Sault Ste. Marie Tribe of Chippewa Indians Funding for the U.P. Children's Museum

3.l. Wastewater By-Pass Pump

New Business

4. Former Marquette General Hospital Redevelopment Reimbursment Agreement

5. Resolution of Intent to Sell City Property, Cliffs-Dow - Roll Call Vote

Public Comments - Comments may not exceed three minutes per person. Please state your name and physical address when making public comments.

Comments from the Commission

Comments from the City Manager

Adjournment

____

Kyle Whitney, City Clerk

If you require assistance to participate in any meeting, program or activity offered by the City of Marquette, please provide advanced notice to City of Marquette ADA Coordinator Eric Stemen at 906-225-8978 or via email at estemen@marquettemi.gov.

Agenda Date: 3/13/2023

Consent Agenda - Roll Call Vote
Approve the minutes of the February 27, 2023 regular Commission meeting

ALTERNATIVES:
As determined by the Commission.

ATTACHMENTS:

Description

- Feb. 27 minutes

City of Marquette, MI

300 West Baraga Ave
Marquette, Michigan 49855

Meeting Minutes
City Commission

Monday, February 27, 2023
6:00 PM
Commission Chambers

Call to Order, Pledge of Allegiance and Roll Call

Present: Davis, Hanley, Larson, Mayer, Ottaway, Stonehouse
Absent: Smith

Mayor Pro Tem Sally Davis moved to excuse Commissioner Jenna Smith due to illness, seconded by Commissioner Fred Stonehouse and Carried Unanimously.

Approval of the Agenda

Commissioner Jermey Ottaway moved to Approve the agenda as presented, seconded by Commissioner Michael Larson and Carried Unanimously.

Announcements

Mayor Mayer had no announcements.

Boards and Committees

1. Appointment(s)

Cary Gottlieb, Planning Commission for an unexpired term ending 02-15-2024
Steven Lawry, Planning Commission for an unexpired term ending 02-15-2026
Justin Vasseau, Board of Review for an unexpired term ending 02-01-2024

Commissioner Jermey Ottaway moved to Approve the appointments as listed, seconded by Commissioner Fred Stonehouse and Carried Unanimously.

2. Reappointment(s)

Sarah Bixby, Parks and Recreation Advisory Board for a term ending 01-29-2026
Joseph Tuccini, Marquette Brownfield Redevelopment Authority for a term ending 02-01-2026

Commissioner Jessica Hanley moved to Approve the reappointments as listed, seconded by Commissioner Fred Stonehouse and Carried Unanimously.

Public Comments - Comments may not exceed three minutes per person. Please state your name and physical address when making public comments.

Caden Reed spoke about 601 S. Lakeshore Boulevard, and said the City should consider other options at that site besides a hotel or credit union, referencing the City's current planning documents.
Orville Dishno thanked the City Commission for considering doing something with the City's surplus property in an attempt to generate additional tax revenue. He said that he understood the City Commission's recent decision to increase property taxes, but that he strongly supported an attempt to increase tax revenues by building the tax base.

3. Consent Agenda

Commissioner Jermey Ottaway moved to Approve the Consent Agenda as listed, seconded by Mayor Pro Tem Sally Davis and Carried Unanimously.

3.a. Approve the minutes of the February 13, 2023 regular Commission meeting

3.b. Approve the total bills payable in the amount of $732,539.00

3.c. Flat HRA Plan Document

3.d. Ordinance 719 - Business Licensing

3.e. Superior Watershed Partnership – Lease Agreement

New Business

4. MiNextCities Grant Agreement

Commissioner Stonehouse moved to authorize the City Manager to sign and execute the grant agreement and authorize all expenditures provided for under Attachment B of the grant agreement. This motion was seconded by Mayor Pro Tem Davis and Commissioners offered input praising the project.
Assistant City Manager Sean Hobbins then offered a presentation, providing an overview of the project.
Following the presentation, the Commission voted on the motion, which carried unanimously.

Commissioner Fred Stonehouse moved to Authorize Motion, seconded by Mayor Pro Tem Sally Davis and Carried Unanimously.

5. Manager and Attorney Compensation

Commissioner Fred Stonehouse moved to Approve the subcommittee's recommendation to provide the City Manager and City Attorney with a one-time payment equivalent to 0.5% of their base salaries. Also: increase both salaries by 2%, retroactive to October 1, 2022; direct the City Attorney to amend both contracts to reflect the new salaries; extend each of their contracts to September 30, 2025; and authorize the Mayor and Clerk to sign the amended contracts, seconded by Commissioner Jermey Ottaway and Carried Unanimously.

Public Comments - Comments may not exceed three minutes per person. Please state your name and physical address when making public comments.

Florence Namiotka said she lives on Bluff Street and that the hospital does emergency generator testing monthly and it's very loud. She said this is disruptive for the entire neighborhood and asked for some guidance on what steps she should take to move toward a solution.

Matt Luttenberger asked questions about City tax rates and how they differ between commercial and residential properties.

Comments from the Commission

Commissioner Stonehouse talked about the issues of being a landlocked community wherein a large percentage of the property is in a nontaxable status. He praised the City's public works, as well as staff efforts on the MiNextCities project approved tonight.
Commissioner Hanley said there is a need to build tax base in the City. She also said she missed the last meeting, and would prefer to see this particular process slowed down, and handled through a brief RFP process. She said she rode in a City snowplow recently and talked about the difficulties posed by cars parked around town and she urged residents to move their cars prior to nightfall when there is a significant snowfall.
Commissioner Larson congratulated Steve Lawry on his appointment to the Planning Commission, where he has served in the past, and said he will be a great asset. He praised the MiNextCities project.
Commissioner Ottaway said the City Master Plan open house was great. He also said the DDA is scheduling two meetings to discuss a downtown social district.
Mayor Pro Tem Davis expressed appreciation for the comments about the future of the Lakeshore Boulevard property and said those two comments represent the real issue: there are two real sides to this debate. The Mayor Pro Tem said she is concerned about the generator noise and hopes something can be done.
Mayor Mayer praised the recent City Master Plan Open House.

Comments from the City Manager

City Manager Karen Kovacs shared some of the history of the discussion about the hospital's generator testing and said this would be a point of discussion in the future. In response to a previous public comment, she also shared information about the state's property tax structure.

Adjournment

Mayor Mayer adjourned the meeting at 6:56 p.m.

______________________________ ______________________________

Cody O. Mayer, Mayor **Kyle Whitney, City Clerk**

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City of Marquette, MI
300 West Baraga Avenue
Marquette, MI 49855

Agenda Date: 3/13/2023

Consent Agenda - Roll Call Vote
Co-generation Overhaul Maintenance Agreement

BACKGROUND:

The Wastewater facility utilizes two Kraft combined heat and power units to provide electricity and heat. These units run 24/7 and have already accumulated over 28,000 hours. Based on the hours accumulated on the units it is expected that both will need an engine top end overhaul this budget year.

FISCAL EFFECT:

Sufficient funds are available in the Wastewater budget for the overhaul.

RECOMMENDATION:

Approve the expenditure, not to exceed $45,000, to Kraft Power for co-generation engine repair.

ALTERNATIVES:

As determined by the Commission.

ATTACHMENTS:

	Description
🗋	Quote for One Unit

KRAFTPOWER
The power of performance.

Kraft Power Corporation
2852 D and M Drive
Gaylord, MI 49735
Ph: (989) 748-4040
Fax: (989) 748-4042
Email:

Quote #:	116675
Enter Date:	02/22/2023
Printed Date:	02/22/2023

Bill To:

City of Marquette
300 W. Baraga Ave
Marquette, MI 49855

Ship To:

City of Marquette
300 W. Baraga Ave
Marquette, MI 49855

Serial Number	**Equipment Description**

Item Number	**Description**	**Quantity**	**Unit Price**	**Ext Price**
MAN06.56332.2167	toric seal 32x2,5 b-acm 1-60	6.00	$0.00	$0.00
MAN51.01804.0046	Oil Trap	1.00	$0.00	$0.00
KPP06.56936.3004	O-Ring	3.00	$0.00	$0.00
MAN06.56631.0235	seal 14,3x22x1.5-st/fkm1-80	3.00	$0.00	$0.00
KPP51.09901.0059	Gasket, Turbocharger	1.00	$0.00	$0.00
MAN51.09901.0061	gasket	1.00	$0.00	$0.00
KPP51.96501.0641	Oil Return Line Seal	2.00	$0.00	$0.00
MAN06.56631.0112	seal 26,7x34,93x2-st/fpm1-80	1.00	$0.00	$0.00
KPP06.56631.0236	Seal	1.00	$0.00	$0.00
KPP51.03100.6298	Cylinder Head	3.00	$0.00	$0.00
KPP51.03901.0391	Cylinder Head Gasket	3.00	$0.00	$0.00
KPP51.03905.0155	Valve Cover Gasket	3.00	$0.00	$0.00
KPP51.05501.7160	Oil Filter	2.00	$0.00	$0.00
KPP51.05903.0024	Gasket, Oil Suction Line	1.00	$0.00	$0.00
KPP51.96501.0639	Seal	2.00	$0.00	$0.00
KPP51.06903.0030	Coolant Pipe Seal	3.00	$0.00	$0.00
KPP51.08901.0027	Exhaust Manifold Seal	6.00	$0.00	$0.00
KPP51.08901.0095	Exhaust Manifold Seal	1.00	$0.00	$0.00
KPP51.08902.0139	Intake Pipe Seal	2.00	$0.00	$0.00
KPP51.90020.0381-SET	Cylinder Head Bolt Set of 6	6.00	$0.00	$0.00
KPP51.96601.0531	Gasket	1.00	$0.00	$0.00
KPP51.96601.0610	Gasket	2.00	$0.00	$0.00
KP-LFG40-55	Landfill Gas Oil, 55g Drum	2.00	$0.00	$0.00
SERVICECHARGE	Labor/Travel/Expenses One Tech	1.00	$8,500.00	$8,500.00
KPPEGHE-KB100	Heat Exchanger Flange Gaskets	4.00	$0.00	$0.00
FLEAF418-M	Air Filter - Primary	2.00	$0.00	$0.00
MANPARTS	MAN Top End Overhaul Parts	1.00	$12,275.00	$12,275.00
			SUBTOTAL	$20,775.00
			Taxes	$0.00
			TOTAL	**$20,775.00**

One unit

City of Marquette, MI
300 West Baraga Avenue
Marquette, MI 49855

Agenda Date: 3/13/2023

Consent Agenda - Roll Call Vote
Construction Materials Testing Services for 2023 City Construction Projects

BACKGROUND:
Construction materials incorporated into municipal projects require testing to ensure conformance with specifications. City Engineering Technicians are certified in the testing of various materials, but other testing is beyond the scope of the City equipment and personnel.

A request for proposals for construction materials testing was advertised. One firm responded. The proposal was evaluated to ensure that the scope of services meets City needs and that prices are reasonable based on previous years.

FISCAL EFFECT:
$18,000 is included within the approved FY 2023 budget for this purpose. Sufficient funds for testing services are identified for each project.

RECOMMENDATION:
Approve the construction materials testing Professional Services Contract for 2023 construction projects with GEI Consultants of Michigan, P.C. for an amount not-to-exceed $18,000, and authorize the Mayor and Clerk to sign the contract.

ALTERNATIVES:
As determined by the Commission.

ATTACHMENTS:

Description

- Consultant Proposal - Exhibit A
- GEI Insurance
- GEI Contract

Consulting
Engineers and
Scientists

February 20, 2023
Proposal No. 610043

Mr. Mikael Kilpela
City of Marquette Engineering Department
Municipal Service Center
1100 Wright Street
Marquette, Michigan 49855
mkilpela@marquettemi.gov

RE: Proposal for Construction Material Testing Services 2023
Marquette, Michigan

Dear Mr. Kilpela:

GEI Consultants of Michigan, P.C. (GEI) is pleased to provide the City of Marquette (City) with this proposal to perform materials testing services. Included in this proposal is our scope of services, labor rates, and unit price rates. We have generated our scope of services and cost estimates based on our understanding of the project as stated in the Request for Proposals (RFP) received from the City of Marquette.

Introduction

Since 1970, GEI has provided a broad array of geotechnical, environmental, civil, and ecological science and engineering consulting services to clients nationwide. Our Midwest offices are currently in the states of Michigan, Illinois, and Wisconsin, consisting of approximately 300 full-time staff members, many of which are highly experienced geotechnical engineers and materials testing technicians that have extensive local experience in Marquette.

Our Marquette office also houses our primary Midwest AMRL/AASHTO accredited, and Army Corp of Engineers validated materials testing laboratory, which provides a broad range of soil and concrete testing services.

The specific GEI office locations are as follows:

Marquette, Michigan – Responsible Office
109 W. Baraga Avenue
Marquette, MI 49855
Phone (906) 451-4021
Fax (847) 984-3532

Iron Mountain, Michigan
617 N. Stephenson Avenue, Suite 110
Iron Mountain, MI 49801
Phone (906) 828-9303
Fax (847) 984-3532

Green Bay, Wisconsin
3159 Voyager Drive, Suite A
Green Bay, WI 54311
Phone (920) 455-8200
Fax 847.984.3532

Madison, Wisconsin
406 Science Drive, Suite 404
Madison, WI 53711
Phone (608) 620-1764
Fax 847.984.3532

Iron River, Michigan
990 Lalley Road
Iron River, MI 49935
Phone (906) 214-4140
Fax (906) 214-4141

Vernon Hills, Illinois
400 N. Lakeview Parkway
Vernon Hills, IL 60061
Phone (847) 984-3401
Fax (847) 984-3532

Lansing, Michigan
401 South Washington Sq, Ste 103
Lansing, MI 48933
Phone (517) 803-4600
Fax (847) 984-3532

Plymouth, Michigan
9282 General Drive, Suite 180
Plymouth, MI 48170
Phone (734) 680-1600
Fax (847) 984-3532

Statement of Project Understanding

Based on the RFP, we understand the City of Marquette has the following projects planned for the 2023 construction season:

- Lakeshore Boulevard Phase II;
- 200 Block of East Baraga;
- Sidewalk Repair, Replacement;
- SIMP and Sanitary Sewer Lateral Replacements; and
- Other projects if they become available.

The City intends to retain a materials testing consultant to provide on-call services on an as-needed basis throughout the course of the projects. Based on our employees' previous experience with these types of services for the City, we anticipate that the City of Marquette's on-site inspector for each project will contact us as needed to schedule our services.

Scope of Services

Based on our review of the RFP, the following scope of services will likely be needed for the City's 2023 projects:

- Laboratory Concrete Testing
- Laboratory Soil and Bituminous Testing
- Field Testing of Cast-in-Place Concrete
- Michigan Cone Compaction Testing of Utility Trench Backfill, Subgrade Materials, Granular Subbase and Aggregate Base Materials
- Hot Mix Asphalt (HMA) Density Testing

Testing will be performed in accordance with MDOT and/or the City of Marquette requirements. Materials testing services are anticipated to consist of field concrete testing, compaction testing on utility trench backfill, subgrade material, subbase, and aggregate base materials. Compaction testing is also anticipated to be performed on HMA. We anticipate laboratory testing will include concrete compressive strength testing, soil grain size analyses, and extraction/gradation of HMA materials.

The GEI laboratory performing the lab testing is housed in our Marquette, Michigan office. The Marquette laboratory is AMRL/AASHTO accredited, Army Corp of Engineers validated and is registered with the State of Michigan to perform laboratory concrete testing.

Upon arrival to the construction site, GEI technicians will coordinate with the City's project inspector to confirm the items to be observed and/or tested. After performing the field work, the technician will provide verbal results to the City representative prior to returning to the office. When applicable, the technician will also transport the appropriate samples to the laboratory during each visit. During construction site visits, GEI technicians will be completing Daily Field Reports, which will summarize observations and tests conducted during the site visit.

Field and laboratory test results will be submitted by transmittal as they become available. Deliverables will be addressed to you and, with your approval, can also be sent to the appropriate project team members. The services provided will be supervised by a Registered Professional Engineer.

Project Personnel

This project will be supervised by Mr. Chris Abraham, P.E. Mr. Abraham is a licensed Professional Engineer in Michigan and has over 25 years of experience in testing, managing, and overseeing large CQA projects. He will provide coordination, review daily field reports, and test results, and distribute results to the appropriate parties. Our field services will be provided by our experienced staff of technicians.

Our staff listing, applicable certifications and contact information for the staff anticipated to be involved with this project is provided below:

Staff Title	Staff Name	Phone Number	MDOT/ACI Concrete Cert.	MDOT Density Cert.	MDOT Aggregate Base Cert.
Project Supervisor	Chris Abraham. P.E.	(906) 284-9044	-	-	-
Laboratory Manager	Sarah Grant, EIT	(586) 292-0538	Level II	Yes	Yes
Engineering Technician	Bruce Peterson, EIT	(906) 869-0454	Level I	Yes	Yes
Engineering Technician	Josh Eckert	(608) 449-6585	Level I	Yes	Yes
Engineering Technician	Tom LaFave	(906) 362-1328	Level I	-	Yes
Engineering Technician	Tye Pennala	(810) 819-0100	Level I	-	-
Engineering Technician	Joseph Roell, EIT	(906) 282-6488	Level I	-	-

Project Costs

Our services will be billed on a time-and-expense basis utilizing the rates included on the attached "2023 City of Marquette Testing Services Request for Proposals" spreadsheet. Invoices for work performed will be sent on a monthly basis. The final invoice will be provided to the City of Marquette no later than December 1, 2023. Invoices will be itemized by services performed on a project basis.

We appreciate the opportunity to submit this proposal and look forward to working with you on this project. Please call Chris Abraham at (906) 284-9044 if you have any questions.

Sincerely,

GEI CONSULTANTS OF MICHIGAN, P.C.

Sarah Grant

Sarah L. Grant, E.I.T.
Project Engineer

Chris R. Abraham, P.E.
Branch Manager/Senior Consultant

SLG/CRA:lmc

Enclosures:
2023 City of Marquette Testing Services Request for Proposals Spreadsheet

2023 City of Marquette Testing Services Request for Proposals Spreadsheet

2023 City of Marquette Testing Services Request for Proposals

Company: GEI Consultants of Michigan, P.C.

Service	Rate	Comments*
1) Technician rate	$71/hour	Technicians performing the work will be licensed to operate a
		Nuclear Density Gauge and will also hold ACI and MDOT Concrete
		Testing certifications.
2) Mileage	N/C	Mileage will not be charged for work performed within the
		Marquette City limits.
3) Compaction		
Michigan Cone Test	N/C	The cost of this test is included in the Technician hourly rate.
Density Nuclear Gauge	$25/trip	The cost of this test is included in the Technician hourly rate.
4) Concrete		
Field Testing	N/C	The cost of this test is included in the Technician hourly rate.
Compressive Strength	$23/cylinder	For specimens that undergo compressive strength testing only.
Hold	$12/cylinder	Hold or Spare cylinders that are not tested will be charged at this rate.
		(Field Testing Line Item Includes air, slump, and cylinders)
5) Aggregate		
Sieve Analysis - Sand	$110/test	
Sieve Analysis - Gravel	$140/test	
6) HMA		
Extraction with Gradation	$425/test	Includes crush count
Density Nuclear Gauge	N/C	The cost of this test is included in the Technician hourly rate
7) Reporting		Describe Reporting: Reports will generally be prepared by the Project
Administration Staff	$75/hour	Manager with assistance from Administrative Staff as necessary.
Project Manager	$115/hour	All reports will be reviewed by a licensed Professional Engineer prior to
		transmittal.
8) Expenses	Cost +10%	List Expenses:
		There are no expenses anticipated for this project.
9) Overtime		
Over 8 hours	1.25 x hourly rate	
Saturdays	"	
Sundays/Holidays	"	
10) Other*	N/A	

** Use this space and other blank lines to include any other information needed to clarify services, rates, etc.*

ACORD®

CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY): 03/01/2023

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.

IMPORTANT: If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must have ADDITIONAL INSURED provisions or be endorsed. If SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

PRODUCER
Marsh USA Inc.
1166 Avenue of the Americas
New York, NY 10036-2774

CN102051728-COD-GAWUP-23-24

CONTACT NAME: Alicia M. Lynde
PHONE (A/C, No, Ext): 860-709-7498 FAX (A/C, No):
E-MAIL ADDRESS: Alicia.M.Lynde@marsh.com

INSURED
GEI Consultants Inc. (4300)
109 W. Baraga Avenue
Marquette, MI 49855

INSURER(S) AFFORDING COVERAGE	NAIC #
INSURER A : Arch Insurance Company	11150
INSURER B : N/A	N/A
INSURER C : Arch Indemnity Insurance Company	30830
INSURER D : Allied World Surplus Lines Insurance Company	24319
INSURER E : Allied World Assurance Company (U.S.) Inc.	19489
INSURER F :	

COVERAGES **CERTIFICATE NUMBER:** NYC-010872465-08 **REVISION NUMBER:** 7

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INSR LTR	TYPE OF INSURANCE	ADDL INSD	SUBR WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS	
A	X COMMERCIAL GENERAL LIABILITY	X	X	11PKG8914314	01/01/2023	01/01/2024	EACH OCCURRENCE	$ 1,000,000
	CLAIMS-MADE [X] OCCUR			SIR - $500,000			DAMAGE TO RENTED PREMISES (Ea occurrence)	$ 300,000
	X Contractual Liability						MED EXP (Any one person)	$ 25,000
							PERSONAL & ADV INJURY	$ 1,000,000
	GEN'L AGGREGATE LIMIT APPLIES PER:						GENERAL AGGREGATE	$ 2,000,000
	X POLICY [ ] PRO-JECT [ ] LOC						PRODUCTS - COMP/OP AGG	$ 2,000,000
	OTHER:							$
A	AUTOMOBILE LIABILITY	X	X	11PKG8914314 (AOS)	01/01/2023	01/01/2024	COMBINED SINGLE LIMIT (Ea accident)	$ 1,000,000
A	X ANY AUTO			11CAB8914414 (MA)	01/01/2023	01/01/2024	BODILY INJURY (Per person)	$
	OWNED AUTOS ONLY / SCHEDULED AUTOS						BODILY INJURY (Per accident)	$
	X HIRED AUTOS ONLY / X NON-OWNED AUTOS ONLY						PROPERTY DAMAGE (Per accident)	$
							Comp / Coll Ded	$ 5,000
	UMBRELLA LIAB / OCCUR						EACH OCCURRENCE	$
	EXCESS LIAB / CLAIMS-MADE						AGGREGATE	$
	DED / RETENTION $							$
A	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY		X	14WCI8925114 (AOS)	01/01/2023	01/01/2024	X PER STATUTE / OTH-ER	
C	ANYPROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? Y/N: N (Mandatory in NH)	N / A		11WCI8914214 (FL, PA)	01/01/2023	01/01/2024	E.L. EACH ACCIDENT	$ 1,000,000
	If yes, describe under DESCRIPTION OF OPERATIONS below						E.L. DISEASE - EA EMPLOYEE	$ 1,000,000
							E.L. DISEASE - POLICY LIMIT	$ 1,000,000
D	A&E CONTR. PROF LIAB.			0312-7531	03/01/2022	05/01/2023	Each Claim / Aggr.	1,000,000
E	CONTR. POLLUTION LIAB.			0312-7536	03/01/2022	05/01/2023	Each Claim / Aggr.	1,000,000

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (ACORD 101, Additional Remarks Schedule, may be attached if more space is required)
Construction Material Testing Services 2023 (Abraham)

CERTIFICATE HOLDER

City of Marquette
1100 Wright Street
Marquette, MI 49855

CANCELLATION

SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS.

AUTHORIZED REPRESENTATIVE
of Marsh USA Inc.

Marsh USA Inc.

AGENCY CUSTOMER ID: CN102051728

LOC #: Hartford

ADDITIONAL REMARKS SCHEDULE

AGENCY	NAMED INSURED
Marsh USA Inc.	GEI Consultants Inc. (4300) 109 W. Baraga Avenue Marquette,MI 49855
POLICY NUMBER	
CARRIER / NAIC CODE	EFFECTIVE DATE:

ADDITIONAL REMARKS

THIS ADDITIONAL REMARKS FORM IS A SCHEDULE TO ACORD FORM,

FORM NUMBER: 25 FORM TITLE: Certificate of Liability Insurance

The General Liability, Automobile Liability, Contractors Pollution and Excess Liability policies provide Additional Insured status where required by written contract or agreement subject to policy terms, conditions, and exclusions.

This Insurance is Primary and Non-contributory on the General Liability, Automobile Liability, Contractors Pollution and Excess Liability subject to the policy terms, conditions, and exclusions.

Severability of interest applies where required by written contract or agreement with regards to General Liability

The General Liability, Automobile Liability, Workers Compensation, Contractors Pollution and Excess Liability policies provide Waiver of Subrogation where required by written contract or agreement.

THE PROFESSIONAL ENVIRONMENTAL CONSULTANTS LIABILITY POLICY EVIDENCED ON THIS CERTIFICATE IS A COMBINED POLICY, POLLUTION COVERAGE IS INCLUDED.

The City of Marquette, its agents, representatives, directors, officials, and employees are listed as additional insured.

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

ADDITIONAL INSURED - OWNERS, LESSEES OR CONTRACTORS - COMPLETED OPERATIONS

This endorsement modifies insurance provided under the following:

COMMERCIAL GENERAL LIABILITY COVERAGE PART
PRODUCTS/COMPLETED OPERATIONS LIABILITY COVERAGE PART

SCHEDULE

Name Of Additional Insured Person(s) Or Organization(s)	Location And Description Of Completed Operations
ANY PERSON OR ORGANIZATION WHOM YOU BECOME OBLIGATED TO INCLUDE AS AN ADDITIONAL INSURED AS A RESULT OF ANY CONTRACT OR AGREEMENT YOU HAVE ENTERED INTO.	PER THE CONTRACT OR AGREEMENT.
Information required to complete this Schedule, if not shown above, will be shown in the Declarations.	

A. Section II - Who Is An Insured is amended to include as an additional insured the person(s) or organization(s) shown in the Schedule, but only with respect to liability for "bodily injury" or "property damage" caused, in whole or in part, by "your work" at the location designated and described in the Schedule of this endorsement performed for that additional insured and included in the "products-completed operations hazard".

However:

1. The insurance afforded to such additional insured only applies to the extent permitted by law; and
2. If coverage provided to the additional insured is required by a contract or agreement, the insurance afforded to such additional insured will not be broader than that which you are required by the contract or agreement to provide for such additional insured.

B. With respect to the insurance afforded to these additional insureds, the following is added to **Section III - Limits Of Insurance:**

If coverage provided to the additional insured is required by a contract or agreement, the most we will pay on behalf of the additional insured is the amount of insurance:

1. Required by the contract or agreement; or
2. Available under the applicable Limits of Insurance shown in the Declarations;

whichever is less.

This endorsement shall not increase the applicable Limits of Insurance shown in the Declarations.

ENDORSEMENT #

This endorsement, effective 12:01 A.M. 03/01/2022 forms a part of

Policy No. CA 296-17-05 issued to GEI CONSULTANTS, INC.

By NATIONAL UNION FIRE INSURANCE COMPANY OF PITTSBURGH, PA

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

LIMITED ADVICE OF CANCELLATION PROVIDED VIA E-MAIL TO ENTITIES OTHER THAN THE FIRST NAMED INSURED

This policy is amended as follows:

In the event that the **Insurer** cancels this policy for any reason other than non-payment of premium, and

1. the cancellation effective date is prior to this policy's expiration date;

2. the **First Named Insured** is under an existing contractual obligation to notify a certificate holder when this policy is canceled (hereinafter, the "Certificate Holder(s)") and has provided to the **Insurer**, either directly or through its broker of record, the email address of a contact at each such entity; and

3. the **Insurer** received this information after the **First Named Insured** receives notice of cancellation of this policy and prior to this policy's cancellation effective date, via an electronic spreadsheet that is acceptable to the **Insurer**,

the **Insurer** will provide advice of cancellation (the "Advice") via e-mail to each such Certificate Holders within 30 days after the **First Named Insured** provides such information to the **Insurer**; provided, however, that if a specific number of days is not stated above, then the Advice will be provided to such Certificate Holder(s) as soon as reasonably practicable after the **First Named Insured** provides such information to the **Insurer**.

Proof of the **Insurer** emailing the Advice, using the information provided by the **First Named Insured**, will serve as proof that the **Insurer** has fully satisfied its obligations under this endorsement.

This endorsement does not affect, in any way, coverage provided under this policy or the cancellation of this policy or the effective date thereof, nor shall this endorsement invest any rights in any entity not insured under this policy.

The following Definitions apply to this endorsement:

1. **First Named Insured** means the Named Insured shown on the Declarations Page of this policy.
2. **Insurer** means the insurance company shown in the header on the Declarations page of this policy.

All other terms, conditions and exclusions shall remain the same.

Authorized Representative

ENDORSEMENT #

This endorsement, effective 12:01 A.M. 03/01/2022 forms a part of

Policy No. GL 518-02-76 issued to GEI CONSULTANTS, INC.

By NATIONAL UNION FIRE INSURANCE COMPANY OF PITTSBURGH, PA

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

LIMITED ADVICE OF CANCELLATION PROVIDED VIA E-MAIL TO ENTITIES OTHER THAN THE FIRST NAMED INSURED

This policy is amended as follows:

In the event that the **Insurer** cancels this policy for any reason other than non-payment of premium, and

1. the cancellation effective date is prior to this policy's expiration date;
2. the **First Named Insured** is under an existing contractual obligation to notify a certificate holder when this policy is canceled (hereinafter, the "Certificate Holder(s)") and has provided to the **Insurer**, either directly or through its broker of record, the email address of a contact at each such entity; and
3. the **Insurer** received this information after the **First Named Insured** receives notice of cancellation of this policy and prior to this policy's cancellation effective date, via an electronic spreadsheet that is acceptable to the **Insurer**,

the **Insurer** will provide advice of cancellation (the "Advice") via e-mail to each such Certificate Holders within 30 days after the **First Named Insured** provides such information to the **Insurer**; provided, however, that if a specific number of days is not stated above, then the Advice will be provided to such Certificate Holder(s) as soon as reasonably practicable after the **First Named Insured** provides such information to the **Insurer**.

Proof of the **Insurer** emailing the Advice, using the information provided by the **First Named Insured**, will serve as proof that the **Insurer** has fully satisfied its obligations under this endorsement.

This endorsement does not affect, in any way, coverage provided under this policy or the cancellation of this policy or the effective date thereof, nor shall this endorsement invest any rights in any entity not insured under this policy.

The following Definitions apply to this endorsement:

1. **First Named Insured** means the Named Insured shown on the Declarations Page of this policy.
2. **Insurer** means the insurance company shown in the header on the Declarations page of this policy.

All other terms, conditions and exclusions shall remain the same.

Authorized Representative

PROFESSIONAL SERVICES CONTRACT

THIS AGREEMENT, made this ________________ between the City of Marquette, hereinafter called the "City" and GEI Consultants of Michigan, P.C., a Michigan professional service corporation, hereinafter called "Consultant".

WITNESSETH: That for and in consideration of the payments and Agreements hereinafter mentioned the parties hereby agree as follows:

Article 1

Project Name

The name of the Project shall be Construction Materials Testing Services 2023.

Article 2

Scope of the Work

Consultant shall furnish all the material, services, supplies, tools, equipment, labor and other engineering services necessary to perform work as described in the Consultant's proposal to the City of Marquette dated February 20, 2023 (attached as Exhibit A).

Article 3

Time of Completion

The completion date of this project is December 1, 2023.

Article 4

Terms and Conditions

Consultant shall perform the services outlined in this Agreement for the stated fee arrangement.

ACCESS TO SITE:
City will arrange and provide access to each site upon which it will be necessary for Consultant to perform its work unless otherwise stated in the proposal. In the event work is required on any site not owned by the City, City represents and warrants to Consultant that City has obtained all necessary permission and authority, in writing, for Consultant to enter upon the site and conduct its work. City shall, upon request, provide Consultant with evidence of such permission as well as acceptance of the other terms and conditions set forth herein by the owner(s) and tenant(s), if applicable, of such site(s) in a form acceptable to Consultant, which Consultant also agrees to abide by. Any work performed by Consultant with respect to obtaining permission to enter upon and do work on the lands of others, as well as any work performed by Consultant pursuant to this Agreement, shall be deemed as being done

on behalf of City. Consultant shall take reasonable measures and precautions to minimize damage to each site and any improvements located thereon as the result of its work and the use of its equipment and shall reasonably restore the site to its prior condition.

FEE:
Services and reimbursable costs will be billed on a monthly basis as per the proposal requirements, but the total amount to be paid by City for such services and costs shall not exceed $18,000.

BILLINGS/PAYMENTS:
Consultant shall invoice for services rendered and reimbursable costs incurred on a monthly basis. Each invoice shall be due and payable within sixty (60) days of the date of the invoice. Invoices over sixty (60) days past due may be charged interest on the unpaid balance at the highest lawful rate as allowed under Michigan Law. Consultant may, after ten (10) days' written notice to the City, suspend performance of services until all past due amounts are paid.

INDEMNITY:
Consultant agrees, to the fullest extent permitted by law, to indemnify and hold the City harmless from any damage, liability or cost (including reasonable attorney fees and costs of defense) to the extent caused, in whole or in part, by Consultant's negligent acts, errors or omissions in the performance of professional services under this Agreement and those of consultants, sub-consultants, contractors, sub-contractors, agents, employees or others that contract with the Consultant regarding this contract or anyone for whom Consultant is legally liable.

FORCE MAJEURE:
No failure or delay in performance of this Contract, by either party, shall be deemed to be a breach thereof when such failure or delay is caused by a force majeure event including, but not limited to, any Act of God, strikes, lockouts, wars, acts of terrorism, riots, epidemics, explosions, sabotage, breakage or accident to equipment, the binding order of any court or governmental authority, or any other cause, whether of the kind herein enumerated or otherwise, not within the control of a party. In the event of a dispute between the parties with regard to what constitutes a force majeure event, the City's reasonable determination shall be controlling.

INSURANCE:
Without limiting any of its obligations and liabilities, Consultant, at its own expense, shall purchase and maintain the minimum insurance specified below with companies duly licensed or otherwise approved by the State of Michigan, and with forms reasonably satisfactory to the City. Each insurer shall have a current A.M. Best Company, Inc. rating of not less than A-VII. Use of alternative insurers requires prior approval from the City.

A. General Clauses

1. **Additional Insured.** The insurance coverage, except Workers' Compensation and Professional Liability, required by this Contract, shall name the City, its agents, representatives, directors, officials, and employees, as additional insured, and shall specify that insurance afforded the Consultant shall be primary insurance, and that any self insured retention and/or insurance coverage carried by the City or its employees shall be excess coverage, and not contributory coverage to that provided by the Consultant.

2. **Coverage Term.** All insurance required herein shall be maintained in full force and effect until Services required to be performed under the terms of this Contract are satisfactorily completed and formally accepted; failure to do so may constitute a material breach of this Contract, at the sole discretion of the City.

3. **Primary Coverage.** The Consultant's insurance shall be primary insurance as respects City and any insurance or self insurance maintained by City shall be excess of the Consultant's insurance and shall not contribute to it.

4. **Claim Reporting.** Consultant shall not fail to comply with the claim reporting provisions of the policies or cause any breach of a policy warranty that would affect coverage afforded under the policy to protect City.

5. **Waiver.** The policies for Workers' Compensation and General Liability, shall contain a waiver of transfer rights of recovery (subrogation) against City, its agents, representatives, directors, officers, and employees for any claims arising out of the work of the Consultant.

6. **Deductible/Retention.** The policies may provide coverage which contains deductibles or self-insured retentions. Such deductible or self-insured retentions shall not be applicable with respect to the coverage provided to City under such policies. The Consultant shall be solely responsible for deductible or self-insured retentions and the City may require the Consultant to secure the payment of such deductible or self-insured retentions by a surety bond or an irrevocable and unconditional letter of credit.

7. **Policies and Endorsements.** City reserves the right to request and to receive, within ten (10) working days, information on any or all of the above policies or endorsements.

8. **Certificates of Insurance.** Prior to commencing services under this Contract, Consultant shall furnish City with Certificates of Insurance, or formal endorsements as required by the Contract, issued by Consultant's insurer(s), as evidence that policies providing the required coverages, conditions, and limits required by this Contract are in full force and effect. Such certificate shall identify this Contract by referencing the project name and/or project number and shall provide for not less than thirty (30) days advance written notice by Certified Mail of Cancellation or Termination.

9. **Sub-Consultants/Contractors.** Consultant shall include all sub-consultants and sub-contractors as insured under its policies or shall furnish separate certificates and endorsements for each sub-consultant and sub-contractor.

B. Workers' Compensation

The Consultant shall carry Workers' Compensation and Employer's Liability insurance coverage as required by law and deemed necessary for its own protection.

In case services are subcontracted, the Consultant will require the sub-consultant to provide Workers' Compensation and Employer's Liability to at least the same extent as provided by Consultant.

C. Automobile Liability
Commercial/Business Automobile Liability insurance with a combined single limit for bodily injury and property damages of not less than $1,000,000 each occurrence regarding any owned, hired, and non-owned vehicles assigned to or used in performance of the Consultant services.

D. Commercial General Liability
Commercial General Liability insurance with a combined single limit of not less than $1,000,000. The policy shall be primary and include coverage for bodily injury, property damage, personal injury, products, completed operations, and blanket contractual covering, but not limited to, the liability assumed under the indemnification provisions of this Contract.

In the event the general liability insurance policy is written on a "claims made" basis, coverage shall extend for two (2) years past completion and acceptance of the Services as evidenced by annual Certificates of Insurance.

E. Professional Liability
The Consultant retained by the City, to provide the engineering services required by the Contract will maintain Professional Liability insurance covering errors and omissions arising out of the services performed by the Consultant or any person employed by him, with an unimpaired limit of not less than $1,000,000 each claim. In the event the insurance policy is written on a "Claims made" basis, coverage shall extend for two (2) years past completion and acceptance of Services as evidence by annual Certificates of Insurance.

F. Property Coverage - Valuable Papers
Property coverage on all-risk, replacement cost, agreed amount form with Valuable Papers insurance sufficient to assure the restoration of any documents, memoranda, reports, or other similar data relating to the services of the Consultant used in the completion of this Contract.

INDEPENDENT CONSULTANT:
The relationship between the City and Consultant created under this Agreement is that of principal and independent contractor. Neither the terms of this Agreement nor the performance thereof is intended to directly or indirectly benefit any person or entity not a party hereto and/or such person or entity is not intended to be or shall be construed as being a third-party beneficiary of this Agreement unless specified by name herein or in an Amendment hereto, executed by a Consultant authorized representative.

SEVERABILITY/SECTION HEADINGS/SURVIVAL/WAIVER:
In the event that any provision herein shall be deemed invalid or unenforceable, the other provisions shall remain in full force and effect, and binding upon the parties hereto. The heading or title of a section is provided for convenience and information and shall not serve to alter or affect the provisions included herein. All obligations arising prior to the termination of this Agreement and all provisions of this Agreement allocating responsibility or liability between the City and Consultant shall survive the completion of services and the termination of this Agreement. No waiver, discharge, or renunciation of any claim or right of Consultant arising out of breach of this Agreement by City shall be effective unless in writing signed by Consultant and supported by separate consideration.

OWNERSHIP OF DOCUMENTS:
All documents produced by the Consultant under this Agreement shall remain the property of the City and may be used by the City for any other endeavor without the written consent of the Consultant.

APPLICABLE LAWS:
Unless otherwise specified, the Agreement shall be governed by the laws of the State of Michigan.

PURCHASING AGENT DESIGNATION AND AUTHORITY:
Mikael H. Kilpela is designated as Purchasing Agent of City and is authorized to order minor changes in the work not involving adjustment in the Contract Sum or Time of Completion and not inconsistent with the intent of the Contract Documents. Such changes will be affected by written order signed by the Purchasing Agent and shall be binding on the City and Consultant.

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

Signed this _______ day of _______________, 2023.

OWNER
CITY OF MARQUETTE, OWNER

______________________________ Witness

______________________________ Cody O. Mayer, Mayor

______________________________ Witness

______________________________ Kyle L. Whitney, Clerk

CONSULTANT

____

____

______________________________,

______________________________ Witness

By: ______________________________

Its: VICE PRESIDENT

Address: 109 W. BARAGA AVE., MARQUETTE, MI 49855

Telephone #: 906-284-9044

APPROVED AS TO SUBSTANCE:

Karen M. Kovacs
City Manager

APPROVED AS TO FORM:

Suzanne C. Larsen
City Attorney

City of Marquette, MI
300 West Baraga Avenue
Marquette, MI 49855

Agenda Date: 3/13/2023

Consent Agenda - Roll Call Vote
KBIC Funding for the U.P. Children's Museum

BACKGROUND:
Recently the U.P. Children's Museum asked the City to serve as the fiscal pass-through agent for funding from the Keweenaw Bay Indian Community. They plan to ask the Tribe for $10,000 for Museum programs. In consideration of the City agreeing to act as a pass-through, the Museum agrees to dedicate any funds from the KBIC to the purposes set forth in the attached agreement prepared by the City Attorney.

Proceeds from the Tribe's 2% gaming revenue would be used to fund the request; gaming regulations require that a local municipality serve as the fiscal agent for such awards. This payment is not allocated to the City of Marquette government, but is a contribution to the U.P. Children's Museum.

FISCAL EFFECT:
No direct cost to the City.

RECOMMENDATION:
Approve the request to act as the fiscal intermediary for KBIC funding of $10,000 for U.P. Children's Museum programs, and authorize the City Manager to sign the attached Agreement.

ALTERNATIVES:
As determined by the Commission.

ATTACHMENTS:

Description
- U.P. Children's Museum Letter of Request
- U.P. Children's Museum Agreement

Upper Peninsula Children's Museum

123 West Baraga Avenue, Marquette, Michigan 49855 906-226-3911 fax 906-226-7065 www.upchildrensmuseum.org

February 2023

Mayor Mayer
c/o Manager Karen Kovacs
Marquette City Hall
300 W. Baraga Avenue
Marquette, Michigan 49855

Dear Mayor Mayer,

The Upper Peninsula Children's Museum would like to submit a request to the Keweenaw Bay Indian Community for its 2% disbursement through the city of Marquette and seeks the Commission's approval of such action.

The Upper Peninsula Children's Museum will be requesting $10,000 to go towards programming / exhibits supplies/staffing. A full proposal outlining the Museum and its request will be submitted to the City to pass on to KBIC or can be passed on to the Tribe directly if desired. If you would like the Museum's most recent financials or 990s I am happy to pass them along.

If you need more information, I would be very happy to supply it. Thank you so much for your kind assistance.

Sincerely,

Alexandra Dahlke

Alexandra Eisenberger
Board President
UPCM Board of Directors

AGREEMENT

This Agreement is entered into this _______ day of ___________, 2023, between the CITY OF MARQUETTE, a municipal body corporate, with offices located at 300 W. Baraga Avenue, Marquette, MI 49855 (hereinafter referred to as the "City"), and the UPPER PENINSULA CHILDREN'S MUSEUM, INC., a Michigan nonprofit corporation, located at 123 W. Baraga Avenue, Marquette, MI 49855 (hereinafter referred to as "Museum").

WHEREAS, the Museum provides programming for civic, artistic, and cultural activities within the City for the general public; and

WHEREAS, the City by virtue of MCL 117.4k of the Home Rule Cities Act is authorized to:

> "...provide for the appropriation and allocation of public funds to a public or private nonprofit institution engaged within the city in the provision of civic, artistic, and cultural activities, including but not limited to music, theater, dance, visual arts, literature and letters, architecture, architectural landscaping, and allied arts and crafts, to the general public."; and,

WHEREAS, the Marquette City Commission, has determined that the activities of the Museum are a valid purpose under the Home Rules Cities Act and is willing to enter into this Agreement with the Museum for the support of its programs, upon certain terms and conditions.

NOW, THEREFORE, the parties agree:

1. That for and in consideration of the payment by the City to the Museum of the sum of $10,000 from the Keweenaw Bay Indian Community, the Museum will accept said money from the City and dedicate it solely to the use of Museum programs within the City benefiting the general public.

2. That the parties further understand and agree that the payment of the sum of $10,000 by the City to the Museum as above-described is contingent upon the prior receipt by the City of the amount from the Keweenaw Bay Indian Community, and that if said payment is not received by the City, the City shall have no obligation to make the payment herein described to the Museum.

The signatories hereto certify that they are authorized to execute this document on behalf of the respective parties.

Dated: ________________, 2023

By: Karen M. Kovacs
Marquette City Manager

Dated: 3/1, 2023

Alexandra Eisenberger

By: Alexandra Eisenberger, Board Treasurer
Upper Peninsula Children's Museum, Inc.

Agenda Date: 3/13/2023

Consent Agenda - Roll Call Vote
Native Arts and Cultures Foundation, SHIFT Grant Application

BACKGROUND:

The City's Cultural Trail Project includes funding for significant public artwork by an indigenous maker. The Marquette Public Art Commission has committed to providing $30,000 from matching funds. In August 2022, the National Endowment for the Arts, Our Town Grant was officially awarded to the City, providing a total of $60,000 to this unique public art project. To leverage greater funding, staff is recommending the submission of a proposal to The Native Arts and Cultures Foundation, which offers a two-year award of $100,000 for Native artists through their annual SHIFT – Transformative Change and Indigenous Arts program. If successful, the grant would increase the Indigenous Public Art Project budget to $160,000.

The Cultural Trail Project is in direct alignment with the SHIFT program, which supports artistic projects that respond to and encourage social change from a Native perspective, highlighting community plans that acknowledge the resilience and strengths of Native communities – including their unique perspectives and challenges as an underserved population. The program's overarching goal is to "shift the national narrative of invisibility, misunderstanding, and misappropriation" of Native communities. In addition, the program was designed to support artist and community-driven projects that work to engage the public in community issues, incorporate and elevate cultural assets.

This grant requires the project be led by an established career artist of Native citizenship. MPAC has selected Anishinaabe Great Lakes Artist Jason Quigno, a tribal citizen of the Saginaw Chippewa Indian Tribe and a lifelong resident of Michigan. Quigno has a close connection with the Upper Peninsula, spending his early childhood in Baraga. A nationally recognized public artist, Quigno is a well-qualified choice.

This is the first phase of the application process. If accepted the City will be invited to submit a final application during the second phase this spring. Award announcements will be made fall 2023.

FISCAL EFFECT:

None with this action as the grant requires no matching funds.

RECOMMENDATION:

Approve the submission of the SHIFT application in partnership with lead artist Jason Quigno and authorize the City Manager, or designee, to sign any grant application and future grant agreement associated with this proposal.

ALTERNATIVES:

As determined by the Commission.

ATTACHMENTS:

Description

No Attachments Available

City of Marquette, MI
300 West Baraga Avenue
Marquette, MI 49855

Agenda Date: 3/13/2023

Consent Agenda - Roll Call Vote
Ordinance 702 - Authorized Officials

BACKGROUND:

For decades, the City of Marquette has utilized a municipal ordinance violations bureau to process municipal civil infraction violation notices, pursuant to state law (MCL 600.8707). The law stipulates that these violation notices can be issued by "authorized local officials".

The attached ordinance would amend Chapter 30, Article II of the Marquette City Code in order to:

- Clarify and expand the list of City officials authorized to issue municipal civil infraction citations and violation notices.
- Remove sections of the Article that reference the fine amounts for civil infractions, as these fines are set via the annual City fee schedule.
- Remove sections of the Article that are redundant with state law.

Also attached is a version of Article II with the recommended changes reflected, as well as a clean copy of Article II with the changes incorporated.

Per City Charter, this ordinance cannot be adopted at the meeting in which it is introduced. This item should be moved to the April 10 meeting agenda for a second read and possible adoption.

FISCAL EFFECT:

None by this action.

RECOMMENDATION:

Move Ordinance 702 to the April 10 City Commission meeting agenda.

ALTERNATIVES:

As determined by the Commission.

ATTACHMENTS:

Description

- Proposed Ch 30, Art II - with changes
- Proposed Ch 30, Art II - clean copy
- Ordinance 702 - Draft

ARTICLE II. MUNICIPAL CIVIL INFRACTIONS[1]

Sec. 30-19. Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Act means Public Act No. 236 of 1961 (MCL 600.101 et seq.).

Authorized city official means a police officer or other personnel of the city authorized by this Code or any city ordinance to issue municipal civil infraction citations or municipal civil infraction violation notices.

Bureau means the city municipal ordinance violations bureau as established by this article.

Municipal civil infraction citation means a written complaint or notice prepared by an authorized city official, directing a person to appear in court regarding the occurrence or existence of a municipal civil infraction violation by the person cited.

Municipal civil infraction violation notice means a written notice prepared by an authorized city official, directing a person to appear at the bureau and to pay the fine and costs, if any, prescribed for the violation by the schedule of civil fines adopted by the city, as authorized by sections 8396 and 8707(6) of the Act.

(Code 1999, § 200.01)

Sec. 30-20. Municipal ordinance violations bureau; violation notices

(a) *Established.* The city hereby establishes a municipal ordinance violations bureau, as authorized under section 8396 of the Act to accept admissions of responsibility for municipal civil infractions in response to municipal civil infraction violation notices issued and served by authorized city officials, and to collect and retain civil fines and costs as prescribed by this Code or any city ordinance.

(b) *Location; supervision; employees; rules and regulations.* The bureau shall be located at city hall, and shall be under the supervision and control of the city treasurer. The city treasurer, subject to the approval of the city commission, shall adopt rules and regulations for the operation of the bureau and appoint any necessary, qualified city employees to administer the bureau.

(c) *Disposition of violations.* The bureau may dispose only of municipal civil infraction violations for which a fine has been scheduled and for which a municipal civil infraction violation notice has been issued. The fact that a fine has been scheduled for a particular violation shall not entitle any person to dispose of the violation at the bureau. Nothing in this section or article shall prevent or restrict the city from issuing a municipal civil infraction citation for any violation or from prosecuting any violation in a court of competent jurisdiction. No person shall be required to dispose of a municipal civil infraction at the bureau and may have the violation processed before a court of appropriate jurisdiction. The unwillingness of any person to dispose of any violation at the bureau shall not prejudice the person or in any way diminish the person's rights, privileges, and protection afforded by law.

[1]State law reference(s)—Municipal civil infractions, MCL 600.8701 et seq.

(d) *Limitation on accepting admissions of responsibility.* The scope of the bureau's authority shall be limited to accepting admissions of responsibility for municipal civil infractions and collecting and retaining civil fines and costs as a result of those admissions. The bureau shall not accept payment of a fine from any person who denies having committed the offense or who admits responsibility only with explanation, and in no event shall the bureau determine or attempt to determine the truth or falsity of any fact or matter relating to an alleged violation.

(e) *Municipal civil infraction violation notices.* Municipal civil infraction violation notices shall be issued and served by authorized city officials under the same circumstances and upon the same persons as provided for citations as provided in the Act. In addition to any other information required by this Code or other city ordinance, the notice of violation shall indicate the time by which the alleged violator must appear at the bureau, the method by which an appearance may be made, the address and telephone number of the bureau, the hours during which the bureau is open, the amount of the fine scheduled for the alleged violation, and the consequences for failure to appear and pay the required fine within the required time.

(f) *Appearance; payment of fines and costs.* An alleged violator receiving a municipal civil infraction violation notice shall appear at the bureau and pay the specified fine and costs at or by the time specified for appearance in the municipal civil infraction violation notice. An appearance may be made by mail, in person, or by representation.

(g) *Procedure where admission of responsibility not made or fine not paid.* If an authorized city official issues and serves a municipal civil infraction violation notice and if an admission of responsibility is not made and the civil fine and costs, if any, prescribed by a schedule of fines for the violation are not paid at the bureau, a municipal civil infraction citation may be filed with the district court, pursuant to the Act, and a copy of the citation may be served by first class mail upon the alleged violator at the alleged violator's last known address. The citation filed with the court does not need to comply in all particulars with the requirements for citations as provided the Act but shall consist of a sworn complaint containing the allegations stated in the municipal ordinance violation notice and shall fairly inform the alleged violator how to respond to the citation.

(Code 1999, § 200.05)

Sec. 30-21. Authorized city officials.

(1) (1) The following personnel of the city have the authority to issue municipal civil infraction citations and municipal civil infraction violation notices pursuant to this article:

a. City manager.

b. Police chief.

c. Police officers.

d. Fire chief.

e. Fire marshal.

f. Fire officers.

g. Rental inspector.

h. Zoning administrator or zoning officials.

i. Code enforcement officer.

j. Community services director

k. Other individuals designated as authorized officials by the city manager, police chief, or fire chief.

(2) The city manager may establish an appropriate training program to instruct each public servant authorized to issue an appearance ticket.

(Code 1999, § 200.06)

Sec. 30-22. Fines; repeat offenses.

(1) A schedule of fines shall be adopted by the city commission as part of the annual fee schedule and fines stated therein shall be payable to the bureau for admissions of responsibility by persons served with municipal civil infraction violation notices.

(2) Increased civil fines may be imposed for repeated violations by a person of any requirement or provision of any ordinance. As used in this section, the term “repeat offense” means a second (or any subsequent) municipal civil infraction violation of the same requirement or provision committed by a person within any one-year period, unless some other period is specifically provided by ordinance, and for which the person admits responsibility or is determined to be responsible. Unless otherwise specifically provided by any ordinance.

ARTICLE II. MUNICIPAL CIVIL INFRACTIONS[1]

Sec. 30-19. Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Act means Public Act No. 236 of 1961 (MCL 600.101 et seq.).

Authorized city official means a police officer or other personnel of the city authorized by this Code or any city ordinance to issue municipal civil infraction citations or municipal civil infraction violation notices.

Bureau means the city municipal ordinance violations bureau as established by this article.

Municipal civil infraction citation means a written complaint or notice prepared by an authorized city official, directing a person to appear in court regarding the occurrence or existence of a municipal civil infraction violation by the person cited.

Municipal civil infraction violation notice means a written notice prepared by an authorized city official, directing a person to appear at the bureau and to pay the fine and costs, if any, prescribed for the violation by the schedule of civil fines adopted by the city, as authorized by sections 8396 and 8707(6) of the Act.

Sec. 30-20. Municipal ordinance violations bureau; violation notices

(a) *Established.* The city hereby establishes a municipal ordinance violations bureau, as authorized under section 8396 of the Act to accept admissions of responsibility for municipal civil infractions in response to municipal civil infraction violation notices issued and served by authorized city officials, and to collect and retain civil fines and costs as prescribed by this Code or any city ordinance.

(b) *Location; supervision; employees; rules and regulations.* The bureau shall be located at city hall, and shall be under the supervision and control of the city treasurer. The city treasurer, subject to the approval of the city commission, shall adopt rules and regulations for the operation of the bureau and appoint any necessary, qualified city employees to administer the bureau.

(c) *Disposition of violations.* The bureau may dispose only of municipal civil infraction violations for which a fine has been scheduled and for which a municipal civil infraction violation notice has been issued. The fact that a fine has been scheduled for a particular violation shall not entitle any person to dispose of the violation at the bureau. Nothing in this section or article shall prevent or restrict the city from issuing a municipal civil infraction citation for any violation or from prosecuting any violation in a court of competent jurisdiction. No person shall be required to dispose of a municipal civil infraction at the bureau and may have the violation processed before a court of appropriate jurisdiction. The unwillingness of any person to dispose of any violation at the bureau shall not prejudice the person or in any way diminish the person's rights, privileges, and protection afforded by law.

(d) *Limitation on accepting admissions of responsibility.* The scope of the bureau's authority shall be limited to accepting admissions of responsibility for municipal civil infractions and collecting and retaining civil fines and costs as a result of those admissions. The bureau shall not accept payment of a fine from any person who denies having committed the offense or who admits responsibility only with explanation, and in no

[1]State law reference(s)—Municipal civil infractions, MCL 600.8701 et seq.

event shall the bureau determine or attempt to determine the truth or falsity of any fact or matter relating to an alleged violation.

(e) *Municipal civil infraction violation notices.* Municipal civil infraction violation notices shall be issued and served by authorized city officials under the same circumstances and upon the same persons as provided for citations as provided in the Act. In addition to any other information required by this Code or other city ordinance, the notice of violation shall indicate the time by which the alleged violator must appear at the bureau, the method by which an appearance may be made, the address and telephone number of the bureau, the hours during which the bureau is open, the amount of the fine scheduled for the alleged violation, and the consequences for failure to appear and pay the required fine within the required time.

(f) *Appearance; payment of fines and costs.* An alleged violator receiving a municipal civil infraction violation notice shall appear at the bureau and pay the specified fine and costs at or by the time specified for appearance in the municipal civil infraction violation notice. An appearance may be made by mail, in person, or by representation.

(g) *Procedure where admission of responsibility not made or fine not paid.* If an authorized city official issues and serves a municipal civil infraction violation notice and if an admission of responsibility is not made and the civil fine and costs, if any, prescribed by a schedule of fines for the violation are not paid at the bureau, a municipal civil infraction citation may be filed with the district court, pursuant to the Act, and a copy of the citation may be served by first class mail upon the alleged violator at the alleged violator's last known address. The citation filed with the court does not need to comply in all particulars with the requirements for citations as provided the Act but shall consist of a sworn complaint containing the allegations stated in the municipal ordinance violation notice and shall fairly inform the alleged violator how to respond to the citation.

Sec. 30-21. Authorized city officials.

The following personnel of the city have the authority to issue municipal civil infraction citations and municipal civil infraction violation notices pursuant to this article:

a. City manager.

b. Police chief.

c. Police officers.

d. Fire chief.

e. Fire marshal.

f. Fire officers.

g. Rental inspector.

h. Zoning administrator or zoning officials.

i. Code enforcement officer.

j. Community services director

k. Other individuals designated as authorized officials by the city manager, police chief, or fire chief.

(2) The city manager may establish an appropriate training program to instruct each public servant authorized to issue an appearance ticket.

Sec. 30-22. Fines; repeat offenses.

(1) A schedule of fines shall be adopted by the city commission as part of the annual fee schedule and fines stated therein shall be payable to the bureau for admissions of responsibility by persons served with municipal civil infraction violation notices.

(2) Increased civil fines may be imposed for repeated violations by a person of any requirement or provision of any ordinance. As used in this section, the term “repeat offense” means a second (or any subsequent) municipal civil infraction violation of the same requirement or provision committed by a person within any one-year period, unless some other period is specifically provided by ordinance, and for which the person admits responsibility or is determined to be responsible. Unless otherwise specifically provided by any ordinance.

ORDINANCE #702
AN ORDINANCE TO AMEND MARQUETTE CITY CODE CHAPTER 30 – LAW ENFORCEMENT, IN ORDER TO CLARIFY THE PROCESSES FOR HANDLING CIVIL INFRACTION VIOLATIONS

INTENT
The purpose of this ordinance is to amend several sections of Chapter 30, Article II of the Marquette City Code in order to clarify and expand the list of City officials authorized to issue municipal civil infraction citations and violation notices and to repeal portions of the Code that are handled separately by City Commission resolution or that are redundant with state law.

The City of Marquette Ordains:

SECTION 1. That Section 30-19 be hereby amended in its entirety to read as follows:

Sec. 30-19. Definitions.
The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Act means Public Act No. 236 of 1961 (MCL 600.101 et seq.).

Authorized city official means a police officer or other personnel of the city authorized by this Code or any city ordinance to issue municipal civil infraction citations or municipal civil infraction violation notices.

Bureau means the city municipal ordinance violations bureau as established by this article.

Municipal civil infraction citation means a written complaint or notice prepared by an authorized city official, directing a person to appear in court regarding the occurrence or existence of a municipal civil infraction violation by the person cited.

Municipal civil infraction violation notice means a written notice prepared by an authorized city official, directing a person to appear at the bureau and to pay the fine and costs, if any, prescribed for the violation by the schedule of civil fines adopted by the city, as authorized by sections 8396 and 8707(6) of the Act.

<u>SECTION 2.</u> That Sections 30-20 through 30-25 be hereby repealed.

<u>SECTION 3.</u> That new Sections 30-20 through 30-22 be hereby adopted, to read as follows:

Sec. 30-20. Municipal ordinance violations bureau; violation notices.

(a) *Established.* The city hereby establishes a municipal ordinance violations bureau, as authorized under section 8396 of the Act to accept admissions of responsibility for municipal civil infractions in response to municipal civil infraction violation notices issued and served by authorized city officials, and to collect and retain civil fines and costs as prescribed by this Code or any city ordinance.

(b) *Location; supervision; employees; rules and regulations.* The bureau shall be located at city hall, and shall be under the supervision and control of the city treasurer. The city treasurer, subject to the approval of the city commission, shall adopt rules and regulations for the operation of the bureau and appoint any necessary, qualified city employees to administer the bureau.

(c) *Disposition of violations.* The bureau may dispose only of municipal civil infraction violations for which a fine has been scheduled and for which a municipal civil infraction violation notice has been issued. The fact that a fine has been scheduled for a particular violation shall not entitle any person to dispose of the violation at the bureau. Nothing in this section or article shall prevent or restrict the city from issuing a municipal civil infraction citation for any violation or from prosecuting any violation in a court of competent jurisdiction. No person shall be required to dispose of a municipal civil infraction at the bureau and may have the violation processed before a court of appropriate jurisdiction. The unwillingness of any person to dispose of any violation at the bureau shall not prejudice the person or in any way diminish the person's rights, privileges, and protection afforded by law.

(d) *Limitation on accepting admissions of responsibility.* The scope of the bureau's authority shall be limited to accepting admissions of responsibility for municipal civil infractions and collecting and retaining civil fines and costs as a result of those admissions. The bureau shall not accept payment of a fine from any person who denies having committed the offense or who admits responsibility only with explanation, and in no event shall the bureau determine or attempt to determine the truth or falsity of any fact or matter relating to an alleged violation.

(e) *Municipal civil infraction violation notices.* Municipal civil infraction violation notices shall be issued and served by authorized city officials under the same circumstances and upon the same persons as provided for citations as provided in the Act. In addition to any other information required by this Code or other city ordinance, the notice of violation shall indicate the time by which the alleged violator must appear at the bureau, the method by which an appearance may be made, the address and telephone number of the bureau, the hours during which the bureau is open, the amount of the fine scheduled for the alleged violation, and the consequences for failure to appear and pay the required fine within the required time.

(f) *Appearance; payment of fines and costs.* An alleged violator receiving a municipal civil infraction violation notice shall appear at the bureau and pay the specified fine and costs at or by the time specified for appearance in the municipal civil infraction violation notice. An appearance may be made by mail, in person, or by representation.

(g) *Procedure where admission of responsibility not made or fine not paid.* If an authorized city official issues and serves a municipal civil infraction violation notice and if an admission of responsibility is not made and the civil fine and costs, if any, prescribed by a schedule of fines for the violation are not paid at the bureau, a municipal civil infraction citation may be filed with the district court, pursuant to the Act, and a copy of the citation may be served by first class mail upon the alleged violator at the alleged violator's last known address. The citation filed with the court does not need to comply in all particulars with the requirements for citations as provided the Act but shall consist of a sworn complaint containing the allegations stated in the municipal ordinance violation notice and shall fairly inform the alleged violator how to respond to the citation.

Sec. 30-21. Authorized city officials.

(a) The following personnel of the city have the authority to issue municipal civil infraction citations and municipal civil infraction violation notices pursuant to this article:

  (1) City manager.
  (2) Police chief.
  (3) Police officers.
  (4) Fire chief.
  (5) Fire marshal.
  (6) Fire officers.
  (7) Rental inspector.
  (8) Zoning administrator or zoning officials.
  (9) Code enforcement officer.
  (10) Community services director
  (11) Other individuals designated as authorized officials by the city manager, police chief, or fire chief.

(b) The city manager may establish an appropriate training program to instruct each public servant authorized to issue an appearance ticket.

Sec. 30-22. Fines, repeat offenses.

(a) A schedule of fines shall be adopted by the city commission as part of the annual fee schedule and fines stated therein shall be payable to the bureau for admissions of responsibility by persons served with municipal civil infraction violation notices.

(b) Increased civil fines may be imposed for repeated violations by a person of any requirement or provision of any ordinance. As used in this section, the term “repeat offense” means a second (or any subsequent) municipal civil infraction violation of the same requirement or provision committed by a person within any one-year period, unless some other period is specifically provided by ordinance, and for which the person admits responsibility or is determined to be responsible. Unless otherwise specifically provided by any ordinance.

<u>**SECTION 4.**</u> **That this ordinance shall take effect ten days after adoption but not before publication.**

____
Cody O. Mayer, Mayor

____
Kyle Whitney, City Clerk

Date Adopted: __________________

Date Published: _________________

Agenda Date: 3/13/2023

Consent Agenda - Roll Call Vote
Ordinance 719 - Business Licensing - Roll Call Vote

BACKGROUND:

In accordance with City Code, the City Clerk's office issues local business licenses for several types of commercial activity. This includes licenses for jewelry stores, secondhand shops, mobile food vending units, sidewalk cafes and outdoor merchandise areas, among others. The basic application and licensing process is spelled out in Chapter 12 of the Marquette City Code.

The attached ordinance would amend Chapter 12, Article II of the Marquette City Code to do the following:

- Stipulate that the average City business license be valid for one year, from the date of issuance.
- Require license renewal applications be filed 30 days prior to the expiration of the existing license.
- Clarify that failure to obtain a local license required by state statute is punishable by a Municipal Civil Infraction.
- Refine the appeals process for license suspension and revocation.
- Make minor clerical amendments.

Also attached is a version of Article II with the recommended changes reflected.

Per City Charter, this ordinance cannot be adopted at the meeting in which it is introduced. This item was introduced at the City Commission's February 27 meeting.

FISCAL EFFECT:

None by this action.

RECOMMENDATION:

Adopt Ordinance 719 and authorize the Mayor and Clerk to sign the document.

ALTERNATIVES:

As determined by the Commission.

ATTACHMENTS:

	Description
🗋	Ordinance 719

- Ch 12, Art II w/ changes

ORDINANCE #719
AN ORDINANCE TO AMEND MARQUETTE CITY CODE CHAPTER 12 – BUSINESSES, IN ORDER TO UPDATE LICENSING PROCESSES

INTENT
The purpose of this ordinance is to amend several sections of Chapter 12, Article II of the Marquette City Code in order to change the timeline for annual licenses and renewals, refine the process for appealing license suspension and revocation and to make minor clerical and formatting changes.

The City of Marquette Ordains:

SECTION 1. That Section 12-27 be hereby amended in its entirety to read as follows:

Sec. 12-27. License required.
No person shall engage or be engaged in the operation, conduct or carrying on of any trade, profession, business or privilege for which any license is required by any provision of either this Code or of state law without first obtaining a license from the city in the manner provided for in this article. An application for license shall be reviewed as follows:

(1) The city police chief or designee shall investigate the applicant as necessary to satisfy himself that there are no outstanding criminal charges against the applicant and that the business to be conducted is not intended to cheat or defraud the public. Upon making such determination to his satisfaction, he shall indicate his approval in writing. A license shall not be issued unless such approval has been obtained. In all cases where the certification of the chief of police is required prior to the issuance of any license, such certification shall be based upon a finding that the person making application for such license has the propensity on the part of the person to serve the public in the licensed area in a fair, honest, and open manner.
(2) The city treasurer or designee shall determine if the applicant owes to the city any taxes or other default, and if no such default exists, shall so indicate his findings in writing. A license shall not be issued where default is reported.
(3) The city planner or zoning official shall determine if the property and structure to be used is appropriately zoned for such business and shall indicate his approval in writing. A license shall not be issued without such approval.
(4) The city attorney, if required by this Code, shall review the application and supporting materials as required in section 34-54 and shall indicate his approval in writing. A license may not be issued without such approval.
(5) The fire chief or designee shall make a determination as to the habitability and safety of the structure and property to be used for such business, and shall verify the safety and legality of all fireworks sales. Such approval shall be indicated in

writing. A license may not be issued without such approval. In all cases where the certification of the fire chief is required prior to the issuance of any license, such certification shall be based upon an actual inspection and a finding that the premises in which the person making application for such license proposes to conduct or is conducting the trade, profession, business or privilege comply with all the fire regulations of the state and of the city.

SECTION 2. That Section 12-31 be hereby amended in its entirety to read as follows:

Sec. 12-31. License year.
Unless otherwise provided in this Code, all licenses shall be issued for a term of one year, commencing on the 1st day of the month in which the license is originally issued.

SECTION 3. That Section 12-35 be hereby amended in its entirety to read as follows:

Sec. 12-35. Fees and bonds.

(a) The fee and any bond required to be paid to obtain any license to engage in the operation, conduct, or carrying on of any trade, profession, business or privilege for which a license is required by the provisions of either this Code or of State law shall be as currently established or as hereafter adopted by resolution of the city commission from time to time. No license shall be issued to any applicant unless he first pays to the city clerk the fee and posts a bond in the amount required for the type of license desired.

(b) Where the provisions of this Code require that the applicant for any license or permit furnish a bond, such bond shall be furnished in an amount as currently established or as hereafter adopted by resolution of the city commission from time to time; and the form of such bond shall be acceptable to the city attorney. In lieu of a bond, an applicant for a license or permit may furnish one or more policies of insurance in the same amounts and providing the same protection as called for in any such bond; any such policies of insurance shall be approved as to substance by the city official issuing said license or permit and as to form by the city attorney.

SECTION 4. That Section 12-36 be hereby amended in its entirety to read as follows:

Sec. 12-36. License renewals.
Unless otherwise provided in this Code, an application for renewal of a license shall be considered in the same manner as an original application. However, completed applications, and associated fees, for license renewal shall be submitted to the office of the issuing authority prescribed in this Code at least thirty days prior to the expiration of

the existing license. Any person seeking a license renewal who fails to submit a completed application and associated fees by this deadline shall be guilty of a municipal civil infraction.

SECTION 5. That Section 12-40 be hereby amended in its entirety to read as follows:

Sec. 12-40. Suspension or revocation.

(a) Any license or permit issued by the city pursuant to this chapter may be suspended or revoked by the city clerk or by the issuing authority for cause. Upon license revocation, the license holder shall have 14 days from the mailing of the written notice of revocation to appeal the decision to the city manager. The city manager may require additional information or act upon the appeal based upon the information previously supplied to the city. Should the city manager reverse the decision of the issuing authority, the city shall reinstate the license. Should the city manager affirm the decision, he/she shall mail by first class mail a written notice affirming the decision to the address for the license holder contained in the city's records.

(b) Should the city manager affirm the revocation of a license, the license holder shall have 14 days from the mailing of the decision of the city manager to appeal the decision to the city commission, by filing with the city clerk a written notice of appeal. The city commission shall hear the appeal at its next regularly scheduled meeting, but no sooner than seven days from the receipt of the appeal. The commission may confirm such suspension or revocation or reinstate any such license. The action taken by the commission shall be final. Upon suspension or revocation of any license or permit, the fee therefor shall not be refunded.

SECTION 6. That Section 12-41(4) be hereby amended to read as follows:

(4) Forbidden by the provisions of this Code or state law or any duly established rule or regulation of the city applicable to the trade, profession, business or privilege for which the license or permit has been granted.

SECTION 7. That this ordinance shall take effect ten days after adoption but not before publication.

____
Cody O. Mayer, Mayor

____
Kyle Whitney, City Clerk

Date Adopted: __________________ Date Published: _________________

ARTICLE II. LICENSES[1]

Secs. 12-25, 12-26. Reserved.

Sec. 12-27. License required.

No person shall engage or be engaged in the operation, conduct or carrying on of any trade, profession, business or privilege for which any license is required by any provision of either this Code or of State law without first obtaining a license from the city in the manner provided for in this article. An application for license shall be reviewed as follows:

(1) The city police chief or designee shall investigate the applicant as necessary to satisfy himself that there are no outstanding criminal charges against the applicant and that the business to be conducted is not intended to cheat or defraud the public. Upon making such determination to his satisfaction, he shall indicate his approval in writing. A license shall not be issued unless such approval has been obtained. In all cases where the certification of the chief of police is required prior to the issuance of any license ~~by the city clerk~~, such certification shall be based upon a finding that the person making application for such license has the propensity on the part of the person to serve the public in the licensed area in a fair, honest, and open manner.

(2) The city treasurer or designee shall determine if the applicant owes to the city any taxes or other default, and if no such default exists, shall so indicate his findings in writing. A license shall not be issued where default is reported.

(3) The city planner or zoning official shall determine if the property and structure to be used is appropriately zoned for such business and shall indicate his approval in writing. A license shall not be issued without such approval.

(4) The city attorney, if required by this Code, shall review the application and supporting materials as required in section 34-54 and shall indicate his approval in writing. A license may not be issued without such approval.

(5) The fire chief or designee shall make a determination as to the habitability and safety of the structure and property to be used for such business, and shall verify the safety and legality of all fireworks sales. Such approval shall be indicated in writing. A license may not be issued without such approval. In all cases where the certification of the fire chief is required prior to the issuance of any license ~~by the city clerk~~, such certification shall be based upon an actual inspection and a finding that the premises in which the person making application for such license proposes to conduct or is conducting the trade, profession, business or privilege comply with all the fire regulations of the state and of the city.

(Ord. No. 665, § 3, 5-14-2018)

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[1]Editor's note(s)—Ord. No. 665, § 3, adopted May 14, 2018, repealed art. II in its entirety and enacted new provisions to read as herein set out. Former art. II, §§ 12-25—12-47, pertained to similar subject matter, and derived from the 1999 Code, §§ 6.5.01—6.5.10, 6.5.14—6.5.26, 6.6.01, 6.6.02.

Sec. 12-28. Multiple businesses.

The granting of a license or permit to any person operating, conducting or carrying on any trade, profession, business or privilege which contains within itself, or is composed of, trades, professions, businesses or privileges which are required by this Code to be licensed, shall not relieve the person to whom such license or permit is granted from the necessity of securing individual licenses or permits for each such trade, profession, business or privilege.

(Ord. No. 665, § 3, 5-14-2018)

Sec. 12-29. State-licensed businesses.

The fact that a license or permit has been granted to any person by the state to engage in the operation, conduct or carrying on of any trade, profession, business or privilege shall not exempt such person from the necessity of securing a license or permit from the city if such license or permit is required by this Code.

(Ord. No. 665, § 3, 5-14-2018)

Sec. 12-30. License application.

Unless otherwise provided in this Code, every person required to obtain a license from the city to engage in the operation, conduct or carrying on of any trade, profession, business or privilege shall make application for said license to the city clerk upon forms provided by the city clerk and shall state under oath or affirmation such facts as may be required for, or applicable to, the granting of such license. However, each application shall include, at minimum: name, address, birth date and contact information for the business owner, as well as a photocopy of a current government-issued identification.

(Ord. No. 665, § 3, 5-14-2018)

Sec. 12-31. License year.

Unless otherwise provided in this Code, all licenses shall be issued for a term of one year, commencing on the 1st day of the month in which the license is originally issued.~~The license year shall begin May 1 of each year and shall terminate at 12:00 midnight on April 30 of the following year. In all cases where the provisions of this article permit the issuance of licenses for periods of less than one year, the effective date of such licenses shall commence with the dates as indicated on the license.~~

(Ord. No. 665, § 3, 5-14-2018)

Sec. 12-32. Conditions for issuance.

No license or permit required by this Code shall be issued to any person who is required to have a license or permit from the state until such person shall submit evidence of such state license or permit and proof that all fees appertaining thereto have been paid. No license shall be granted to any applicant therefor until such applicant has complied with all of the provisions of this Code applicable to the trade, profession, business or privilege for which application for license is made.

(Ord. No. 665, § 3, 5-14-2018)

Sec. 12-33. Where certification required.

No license shall be granted where the certification of any officer of the city is required prior to the issuance thereof, until such certification is made.

(Ord. No. 665, § 3, 5-14-2018)

Sec. 12-34. County health officer's certificate.

In all cases where the certification of the county health officer is required prior to the issuance of any license by the city clerk, such certification shall be based upon an actual inspection and a finding that the person making application and the premises in which he proposes to conduct or is conducting the trade, profession, business or privilege comply with all the sanitary requirements of the state and of the city.

(Ord. No. 665, § 3, 5-14-2018)

Sec. 12-35. Fees and bonds.

(~~a~~1) The fee and any bond required to be paid to obtain any license to engage in the operation, conduct, or carrying on of any trade, profession, business or privilege for which a license is required by the provisions of either this Code or of State law shall be as currently established or as hereafter adopted by resolution of the city commission from time to time. No license shall be issued to any applicant unless he first pays to the city clerk the fee and posts a bond in the amount required for the type of license desired.

(~~b~~2) Where the provisions of this Code require that the applicant for any license or permit furnish a bond, such bond shall be furnished in an amount as currently established or as hereafter adopted by resolution of the city commission from time to time; and the form of such bond shall be acceptable to the city attorney. In lieu of a bond, an applicant for a license or permit may furnish one or more policies of insurance in the same amounts and providing the same protection as called for in any such bond; any such policies of insurance shall be approved as to substance by the city official issuing said license or permit and as to form by the city attorney.

(Ord. No. 665, § 3, 5-14-2018)

Sec. 12-36. License renewals.

Unless otherwise provided in this Code, an application for renewal of a license shall be considered in the same manner as an original application. However, completed applications~~,~~ and associated fees, for license renewal shall be submitted to the office of the issuing authority prescribed in this Code at least ~~ten~~ thirty business days prior to the ~~start of the business license year~~expiration of the existing license. Any person seeking a license renewal who fails to submit a completed application and associated fees by this deadline shall be guilty of a municipal civil infraction.

(Ord. No. 665, § 3, 5-14-2018)

Sec. 12-37. Right to issuance.

If the application for any license is approved by the proper officers of the city, as provided in this Code, said license shall be granted and shall serve as a receipt for payment of the fee prescribed for such licenses.

(Ord. No. 665, § 3, 5-14-2018)

Sec. 12-38. Fees—Payment.

The fee required by this Code for any license or permit shall be paid at the office of the issuing authority prescribed in this Code upon or before the granting of said license or permit.

(Ord. No. 665, § 3, 5-14-2018)

Sec. 12-39. Same—Exempt persons.

No license fee shall be required from any person exempt from such fee by state or federal law. Such persons shall comply with all other provisions of this article. The city clerk shall, in all such cases, issue to such persons licenses which are clearly marked as to said exemption and the reason therefor.

(Ord. No. 665, § 3, 5-14-2018)

Sec. 12-40. Suspension or revocation.

(1) Any license or permit issued by the city pursuant to this chapter may be suspended or revoked by the city ~~manager~~ clerk or by the issuing authority for cause. Upon license revocation, the license holder shall have 14 days from the mailing of the written notice of revocation to appeal the decision to the city manager. The city manager may require additional information or act upon the appeal based upon the information previously supplied to the city. Should the city manager reverse the decision of the issuing authority, the city shall reinstate the license. Should the city manager affirm the decision, he/she shall mail by first class mail a written notice affirming the decision to the address for the license holder contained in the city's records.

~~(1)~~(2) Should the city manager affirm the revocation of a license, the license holder shall have 14 days from the mailing of the decision of the city manager to appeal the decision to the city commission, by filing with the city clerk a written notice of appeal. The city commission shall hear the appeal at its next regularly scheduled meeting, but no sooner than seven days from the receipt of the appeal.~~The licensee shall have the right to a hearing before the commission on any such action, provided a written request therefor is filed with the city clerk within five days after receipt of said notice of suspension or revocation.~~ The commission may confirm such suspension or revocation or reinstate any such license. The action taken by the commission shall be final. Upon suspension or revocation of any license or permit, the fee therefor shall not be refunded.

(Ord. No. 665, § 3, 5-14-2018)

Sec. 12-41. "Cause" defined.

The term "cause," as used in this article, shall include the doing or omitting of any act or permitting any condition to exist in connection with any trade, profession, business or privilege for which a license or permit is granted under the provisions of this Code, or upon any premises or facilities used in connection therewith, which act, omission or condition is:

(1) Contrary to health, morals, safety or welfare of the public;

(2) Unlawful, irregular or fraudulent in nature;

(3) Unauthorized or beyond the scope of the license or permit granted; or

(4) Forbidden by the provisions of this Code or state law or any duly established rule or regulation of the city applicable to the trade, profession, business or privilege for which the license or permit has been granted.

(Ord. No. 665, § 3, 5-14-2018)

Sec. 12-42. Reserved.

Sec. 12-43. Exhibition of license.

No licensee shall fail to carry any license issued in accordance with the provisions of this article upon his person at all times when engaged in the operation, conduct or carrying on of any trade, profession, business or privilege for which the license was granted; except that where such trade, profession, business or privilege is operated, conducted or carried on at a fixed place or establishment, said license shall be exhibited at all times in some conspicuous place in his place of business. Every licensee shall produce his license for examination when requested to do so by any city law enforcement officer or by any person representing the issuing authority.

(Ord. No. 665, § 3, 5-14-2018)

Sec. 12-44. Reserved.

Sec. 12-45. Displaying invalid license.

No person shall display any expired or otherwise invalid license.

(Ord. No. 665, § 3, 5-14-2018)

Sec. 12-46. Misuse—Transferability.

No license or permit issued under the provisions of this Code shall be transferable. No licensee or permittee shall transfer or attempt to transfer his license or permit to another nor shall he make any improper use of the same.

(Ord. No. 665, § 3, 5-14-2018)

Sec. 12-47. Same—Automatic revocation.

In addition to the penalty provision of section 1-13 for violation thereof, any attempt by a licensee or permittee to transfer his license or permit to another, or use the same improperly, shall be void and result in the automatic revocation of such license or permit.

(Ord. No. 665, § 3, 5-14-2018)

Sec. 12-48. Civil infraction.

An individual who violates any portion of this article is responsible for a municipal civil infraction.

(Ord. No. 665, § 3, 5-14-2018)

Sec. 12-49. Applicability.

All processes and penalties detailed in this article apply to business licenses issued under any section of this code, including but not limited to those licenses required by chapters 6, 12, 34 and 35.

(Ord. No. 665, § 3, 5-14-2018)

Secs. 12-50—12-74. Reserved.

City of Marquette, MI

300 West Baraga Avenue
Marquette, MI 49855

Agenda Date: 3/13/2023

Consent Agenda - Roll Call Vote
Ordinance 721 - Black Rock Crossing Tax Exemption

BACKGROUND:

The City of Marquette has been approached by Woda Cooper Companies, Inc. (Woda) to support a potential low-income housing development within the City. Woda develops, designs, constructs, and manages affordable housing communities across 15 states in the Midwest, mid-Atlantic, and southeast United States and has existing developments in Menominee, Munising, and Sault Ste. Marie.

Woda has proposed a development located at 1502 W. Ridge Street, and identified as Black Rock Crossing, utilizing the Low Income Housing Tax Credit (LIHTC) program. LIHTC provides tax incentives to encourage developers to create affordable, low-income housing targeting renters earning less than 80% of the Area Median Income. As a component of the LIHTC program, the development will require an ordinance from the City of Marquette exempting the project from all ad valorem property taxes and replacing it with a payment in lieu of taxes (PILT). Woda has offered a PILT equivalent to six percent of the annual shelter rents collected by the housing project during each operating year. City administration has reviewed this request and has found it to be in line with other PILT arrangements located within the City of Marquette.

Approval of this ordinance and PILT request is consistent with recommendations made in the Ad-Hoc Housing Committee Final Report as approved by the City Commission and incorporated in the Community Master Plan.

FISCAL EFFECT:

The City will realize 6% of Annual Shelter Rents actually collected by the housing project during each operating year as the payment in lieu of taxes.

RECOMMENDATION:

Move Ordinance 721 to the next regular meeting agenda.

ALTERNATIVES:

As determined by the Commission.

ATTACHMENTS:

Description

- Ordinance 721

Ordinance #721

AN ORDINANCE TO PROVIDE FOR A SERVICE CHARGE IN LIEU OF TAXES FOR A HOUSING PROJECT FOR LOW INCOME PERSONS AND FAMILIES TO BE FINANCED WITH AN AUTHORITY-AIDED MORTGAGE LOAN OR AN ADVANCE OR GRANT FROM THE AUTHORITY PURSUANT TO THE PROVISIONS OF THE STATE HOUSING DEVELOPMENT AUTHORITY ACT OF 1966 (1966 PA 346, AS AMENDED; MCL 125.1401, ET SEQ) (THE "ACT").

THE CITY OF MARQUETTE ORDAINS:

Section 1. This Ordinance shall be known and cited as the "Black Rock Crossing Tax Exemption Ordinance".

Section 2. Preamble

It is acknowledged that it is a proper public purpose of the State of Michigan and its political subdivisions to provide housing for its low income persons and families and to encourage the development of such housing providing for a service charge in lieu of property taxes in accordance with the Act. The City of Marquette is authorized by this Act to establish or change the service charge to be paid in lieu of taxes by any or all classes of housing exempt from taxation under this Act at any amount it chooses, not to exceed the taxes that would be paid but for this Act. It is further acknowledged that such housing for low income persons and families is a public necessity, and as the City of Marquette will be benefited and improved by such housing, the encouragement of the same by providing real estate tax exemption for such housing is a valid public purpose. It is further acknowledged that the continuance of the provisions of this Ordinance for tax exemption and the service charge in lieu of all ad valorem taxes during the period contemplated in this Ordinance are essential to the determination of economic feasibility of the housing projects that is constructed or rehabilitated with financing extended in reliance on such tax exemption.

The City of Marquette acknowledges that the Sponsor (as defined below) has offered, subject to receipt of a Mortgage Loan from the Michigan State Housing Development Authority, to construct/acquire and rehabilitate, own and operate a housing project identified as Black Rock Crossing on certain property located at 1502 West Ridge Street in the City of Marquette to serve low income persons and families, and that the Sponsor has offered to pay the City of Marquette on account of this housing project an annual service charge for public services in lieu of all ad valorem property taxes.

Section 3. Definitions

A. Authority means the Michigan State Housing Development Authority.

B. Annual Shelter Rent means the total collections during an agreed annual period or paid on behalf of all occupants of a housing project representing rent or occupancy charges, exclusive of Utilities.

C. Contract Rents means the total Contract Rents (as defined by the U.S. Department of Housing and Urban Development in regulations promulgated pursuant to Section 8 of the U.S.

Housing Act of 1937, as amended) received in connection with the operation of a housing project during an agreed annual period, exclusive of Utilities.

D. LIHTC Program means the Low Income Housing Tax Credit program administered by the Authority under Section 42 of the Internal Revenue Code of 1986, as amended.

E. Low Income Persons and Families means persons and families eligible to move into a housing project.

F. Mortgage Loan means a loan that is Federally-Aided (as defined in Section 11 of the Act) or a loan or grant made or to be made by the Authority to the Sponsor for the construction, rehabilitation, acquisition and/or permanent financing of the housing project, and secured by a mortgage on the housing project.

G. Sponsor means person(s) or entities which have received from the Authority a Mortgage Loan or an allocation under the Low Income Housing Tax Credit Program to finance a Housing Development.

H. Utilities means charges for gas, electric, water, sanitary sewer and other utilities furnished to the occupants that are paid by the housing project.

Section 4. Class of Housing Projects

It is determined that the class of housing projects to which the tax exemption shall apply and for which a service charge shall be paid in lieu of such taxes shall be housing projects for Low Income Persons and Families that are financed with a Mortgage Loan by the Authority. It is further determined that Black Rock Crossing is of this class.

Section 5. Establishment of Annual Service Charge

The housing project identified as Black Rock Crossing and the property on which it is located shall be exempt from all ad valorem property taxes from and after the commencement of construction. The City of Marquette acknowledges that the Sponsor and the Authority have established the economic feasibility of the housing project in reliance upon the enactment and continuing effect of this Ordinance, and the qualification of the housing project for exemption from ad valorem property taxes and a payment in lieu of taxes as established by this Ordinance. Therefore, in consideration of the Sponsor’s offer to rehabilitate and operate the housing project, the City of Marquette agrees to accept payment of an annual service charge for public services in lieu of ad valorem property taxes. Subject to receipt of a Mortgage Loan, the annual service charge shall be equal to six percent (6%) of the Annual Shelter Rents actually collected by the housing project during each operating year.

Section 6. Contractual Effect of Ordinance

Notwithstanding the provisions of section 15(a)(5) of the Act to the contrary, a contract between the City of Marquette and the Sponsor with the Authority as third party beneficiary under the contract, to provide tax exemption and accept payments in lieu of taxes, as previously described, is effectuated by enactment of this Ordinance.

Section 7. Limitation on the Payment of Annual Service Charge
Notwithstanding Section 5, the service charge to be paid each year in lieu of taxes for the part of the housing project that is tax exempt but which is occupied by other than low income persons or families shall be equal to the full amount of the taxes which would be paid on that portion of the housing project if the housing project were not tax exempt.

Section 8. Payment of Service Charge
The service charge in lieu of taxes as determined under the Ordinance shall be payable in the same manner as general property taxes are payable to the City of Marquette except that the annual payment shall be on or before September 14 of each year.

Section 9. Duration
This ordinance shall remain in effect until June 30, 2041 and shall not terminate so long as the Authority's Mortgage Loan remains outstanding and unpaid or the Authority has any interest in the property; or the Housing Development remains subject to income and rent restrictions pursuant to Section 42 of the Internal Revenue Code of 1986, as amended, provided that construction of the housing project commences within three years from the effective date of this Ordinance.

Section 10. Severability
The various sections and provisions of this Ordinance shall be deemed to be severable, and should any section or provision of this Ordinance be declared by any court of competent jurisdiction to be unconstitutional or invalid the same shall not affect the validity of this Ordinance as a whole or any section or provision of this Ordinance, other than the section or provision so declared unconstitutional or invalid.

Section 11. Inconsistent Ordinances
All Ordinances or parts of Ordinances inconsistent or in conflict with the provisions of this Ordinance are repealed to the extent of such inconsistency or conflict.

Section 12. Effective Date
This Ordinance shall become effective on April 6, 2023 or as otherwise provided by law.

______________________________	______________________________
Cody O. Mayer, Mayor	Kyle Whitney, City Clerk

Adopted: ______________________________

Published: ______________________________

City of Marquette, MI

300 West Baraga Avenue
Marquette, MI 49855

Agenda Date: 3/13/2023

Consent Agenda - Roll Call Vote
Resolution Supporting SB 19 and SB 20 - Roll Call Vote

BACKGROUND:

Senator Ed McBroom has introduced SB 19 and SB 20 of 2023 to amend PA 186 of 1973 or the Tax Tribunal Act. These bills are intended to address the method by which the Michigan Tax Tribunal values certain properties, including big box stores, commonly referred to as the “Dark Store” theory of value. The "Dark Store" issue has been a matter of significant concern for municipalities due to artificially reduced values for thriving box stores as a result of improper comparisons to closed or converted stores. It is estimated that municipalities in Marquette County have lost approximately $2.8 million in tax revenue since 2009 due to these decisions.

FISCAL EFFECT:

None.

RECOMMENDATION:

Approve the resolution supporting Senate Bills 19 and 20, and authorize the Mayor to sign.

ALTERNATIVES:

As determined by the Commission.

ATTACHMENTS:

	Description
🗋	Resolution

Resolution

Support for Senate Bill 19 and Senate Bill 20 of 2023

WHEREAS, the City of Marquette, Michigan has responsibility for ensuring the health, safety, and welfare of residents and visitors; and,

WHEREAS, the financial resources necessary for the provision of such services are derived from taxable value assessment, collection, and distribution to reliant entities; and,

WHEREAS, such tax collection and distribution generally occur after services are committed or rendered to constituents; and,

WHEREAS, local Assessors are required to apply provisions of the formal Assessors Manual as issued by the Michigan Tax Commission in determining said taxable values; and,

WHEREAS, the Michigan tax Tribunal is not required to apply the provisions of the formal Assessors Manual in their review of appeals; and,

WHEREAS, the Michigan Tax Tribunal is required to follow Michigan law contained in statute and in binding appellate court decisions and the Michigan Supreme Court has required the Tribunal to adhere to standard appraisal practices; and,

WHEREAS, the Michigan Tax Tribunal has accepted and applied the “dark store” theory in their decisions regarding commercial properties since 2010; with the most significant ruling yet in the recent Court of Appeals remand decision of the Menards Inc. v City of Escanaba case written by Victoria Enyart; and Preeti Gadola; and,

WHEREAS, the Tax Tribunal, on numerous occasions, has valued such properties through comparisons to sales of other big box or junior box stores that have “gone dark,” i.e., have failed to produce retail sales due to their location in the market; and,

WHEREAS, the Tax Tribunal has also valued box stores by comparisons to sales of other box stores that were sold with a private deed restriction in place, which precluded the use of the sold box store for use as a box store; and,

WHEREAS, these Tax Tribunal decisions across the state have resulted in artificially reduced values for thriving box stores due to comparisons to stores that either failed or were sold for some other secondary purpose, such as redevelopment for some other commercial use; and,

WHEREAS, multiple municipalities in the Upper Peninsula and Michigan have lost revenue and incurred legal expenses as a result of “Dark Store” property tax appeals, which has impaired the ability to provide services to residents and to the dark stores themselves; and,

WHEREAS, the Tax Tribunal is comprised of a chairperson and four members. The members include an appraiser, an assessor, an attorney and an at-large member. The purpose of these different members was to ensure that appropriate expertise (in the fields of assessing, appraising, and the law) was applied to all Tribunal cases and proceedings, and each member is appointed by the Governor; and,

WHEREAS, due to an increase in the Tribunal's case load, a single member now presides over a case instead of a panel of all members; and,

WHEREAS, the Tribunal's current operations have resulted in criticisms, not limited to delays in case processing, a growing backlog of cases, a lack of transparency in decision-making, and members presiding over complex cases without any legal training or experience in property tax matters; and,

WHEREAS, Representative of Michigan's 38th Senate District, Senator Ed McBroom, seeks to introduce two bills, Senate Bill Nos. 19 and 20 intended to respond to criticisms of the Michigan Tax Tribunal and to create County Boards of Revision with jurisdiction over certain property tax disputes; and,

WHEREAS, the legislation seeks to remedy these issues by requiring the Tax Tribunal to assure that box stores are valued according to their "highest and best use" by excluding the use of sale comparables sold with private restrictions in place if those restrictions substantially impair the comparable's highest and best use as compared to the property being valued; and

WHEREAS, the legislation seeks to require the use of sale comparables that are adequately comparable to the property being valued; and,

WHEREAS, Senate Bills 19 and 20 provide for the creation of County Boards of Revision, which would obtain jurisdiction over larger, more complex property tax matters that involve over $1.2 million in dispute; and,

WHEREAS, Senate Bills 19 and 20 are intended to provide a neutral and competent adjudicatory process that is driven by standard legal processes, overseen by experienced legal professionals and tax professionals certified by the Michigan State Tax Commission; and,

WHEREAS, County Boards of Revision provide for greater input from local units on property tax matters and the ultimate review of County Board of Revision decisions by judges in local County Circuit Courts; and,

NOW, THEREFORE, WE, the Marquette City Commission, do hereby resolve to support the legislation introduced by Senator McBroom

Dated this 13th day of March, 2023.

____

Cody O. Mayer
Mayor
City of Marquette

Agenda Date: 3/13/2023

Consent Agenda - Roll Call Vote
Sault Ste. Marie Tribe of Chippewa Indians Funding for the U.P. Children's Museum

BACKGROUND:

Recently staff from the U.P. Children's Museum asked the City to serve as the fiscal pass-through agent for funding from the Sault Ste. Marie Tribe of Chippewa Indians. They plan to ask the Tribe for $5,000 for playmaker's memberships. In consideration of the City agreeing to act as a pass-through, the Museum agrees to dedicate any funds from the Sault Ste. Marie Tribe to the purposes set forth in the attached agreement prepared by the City Attorney.

Proceeds from the Tribe's 2% gaming revenue would be used to fund the request; gaming regulations require that a local municipality serve as the fiscal agent for such awards. This payment is not allocated to the City of Marquette government, but is a contribution to the U.P. Children's Museum.

FISCAL EFFECT:

No direct cost to the City.

RECOMMENDATION:

Approve the request to act as the fiscal intermediary for Sault Ste. Marie Tribe funding of $5,000 for U.P. Children's Museum playmaker's memberships, and authorize the City Manager to sign the attached Agreement.

ALTERNATIVES:

As determined by the Commission.

ATTACHMENTS:

Description

- U.P. Children's Museum Letter of Request
- U.P. Children's Museum Agreement

Upper Peninsula Children's Museum

123 West Baraga Avenue, Marquette, Michigan 49855 906-226-3911 fax 906-226-7065 *www.upchildrensmuseum.org*

February 2023

Mayor Mayer
c/o Manager Karen Kovacs
Marquette City Hall
300 W. Baraga Avenue
Marquette, Michigan 49855

Dear Mayor Mayer,

The Upper Peninsula Children's Museum would like to submit a request to the Sault Ste Marie Tribe of Chippewa Indians for its 2% disbursement through the city of Marquette and seeks the Commission's approval of such action.

The Upper Peninsula Children's Museum will be requesting $5,000 for playmaker's memberships in order to provide civic, artistic and cultural activities to the general public, including those who might not otherwise be able to afford a membership. A full proposal outlining the Museum and its request will be submitted to the city to pass on to the Sault Tribe or can be passed on to the Tribe directly if desired. If you would like the Museum's most recent financials or 990s I am happy to pass them along.

If you need more information, I would be very happy to supply it. Thank you so much for your kind assistance.

Sincerely,

Alexandra Eisenberger

Alexandra Eisenberger
Board Treasurer
UPCM Board of Directors

AGREEMENT

This Agreement is entered into this _______ day of _______________, 2023, between the CITY OF MARQUETTE, a municipal body corporate, with offices located at 300 W. Baraga Avenue, Marquette, MI 49855 (hereinafter referred to as the "City"), and the UPPER PENINSULA CHILDREN'S MUSEUM, INC., a Michigan nonprofit corporation, located at 123 W. Baraga Avenue, Marquette, MI 49855 (hereinafter referred to as "Museum").

WHEREAS, the Museum provides programming for civic, artistic, and cultural activities within the City for the general public; and

WHEREAS, the City by virtue of MCL 117.4k of the Home Rule Cities Act is authorized to:

> "...provide for the appropriation and allocation of public funds to a public or private nonprofit institution engaged within the city in the provision of civic, artistic, and cultural activities, including but not limited to music, theater, dance, visual arts, literature and letters, architecture, architectural landscaping, and allied arts and crafts, to the general public."; and,

WHEREAS, the Marquette City Commission, has determined that the activities of the Museum are a valid purpose under the Home Rules Cities Act and is willing to enter into this Agreement with the Museum for the support of its programs, upon certain terms and conditions.

NOW, THEREFORE, the parties agree:

1. That for and in consideration of the payment by the City to the Museum of the sum of $5,000 from the Sault Ste. Marie Tribe of Chippewa Indians, the Museum will accept said money from the City and dedicate it solely to the use of Museum programs within the City benefiting the general public.

2. That the parties further understand and agree that the payment of the sum of $5,000 by the City to the Museum as above-described is contingent upon the prior receipt by the City of the amount from the Sault Ste. Marie Tribe of Chippewa Indians, and that if said payment is not received by the City, the City shall have no obligation to make the payment herein described to the Museum.

The signatories hereto certify that they are authorized to execute this document on behalf of the respective parties.

Dated: ____________________, 2023

____
By: Karen M. Kovacs
Marquette City Manager

Dated: 3/1, 2023

Alexandra Eisenberger
By: Alexandra Eisenberger, Board Treasurer
Upper Peninsula Children's Museum, Inc.

City of Marquette, MI
300 West Baraga Avenue
Marquette, MI 49855

Agenda Date: 3/13/2023

Consent Agenda - Roll Call Vote
Wastewater By-Pass Pump

BACKGROUND:
The Wastewater Plant needs a trailer mounted by-pass pump for wet weather events to ensure plant compliance. Four bids were received. The lowest bid is not compliant as it is unable to meet the flow rates needed and another bid has been rejected for being incomplete.

FISCAL EFFECT:
The pump purchase is in the capital outlay budget and sufficient funds are available.

RECOMMENDATION:
Award the bid to Mersino Dewatering of Davison, Michigan for a Trailer mounted global pump model 8GST in an amount not-to-exceed $81,527.50, being the lowest bid meeting specifications.

ALTERNATIVES:
As determined by the Commission.

ATTACHMENTS:

Description

- Bid Tabulation
- Mersino Dewatering Bid

BP23-01
Trailer Mounted, Diesel Powered Trash Pump

Bidder:	**Bid Price:**	**Product:**	**Compliant:**
Champion Charter Ishpeming, MI	$59,848.00	Thompson 8JSCE	No
Midwest Rentals Negaunee, MI	$61,587.76	Chicago Pneumatic CPP 8-100	No / Incomplete
Mersino Dewatering Davison, MI	$81,527.50	8GST Global Pump	Yes
BBA Pumps North Charleston, SC	$86,469.00	BA180E Diesel Driven	Yes

ONE (1) TRAILER MOUNTED; DIESEL POWERED TRASH PUMP

BP23-01

Lump sum bid consisting of the purchase of One (l) Trailer Mounted, Diesel Powered Trash Pump.

Lump Sum Bid: $ 81,527.50

Signed: Brent Becker

Title: Account Manager

Firm: Mersino Dewatering

Address: 10162 East Coldwater Rd

Davison, Mi, 48423

Phone No: (810) 350-4404

BIDS SHALL BE SUMBITTED ON THIS FORM IN DUPLICATE IN SEALED ENVELOPES CLEARLY IDENTIFYING THE BID TITLE

SPECIFICATION/PRICE SHEET

ONE (1) TRAILER MOUNTED, DIESEL POWERED, TRASH PUMP

The city is interested in purchasing an 8" trailer mounted, auto prime, diesel-powered trash pump meeting the following criteria, The diesel driven pump set must be of a heavy duty construction such as the type used within the construction, mining, and the pump rental industry, with the ability to work continuously.

The priming system should be an integral part of the pump with the ability to switch on and off automatically on demand and be capable of priming automatically from dry conditions at a 28-foot vertical suction lift to be fully operational within 20 seconds.

The pump shall be capable of running dry without damage for long periods and capable of passing 3" solids, fibrous material, gaseous sewage and sludge that can be found in emergency flood conditions.

Bids will be accepted for consideration by the city on any make and model that is equal to or superior to a Global Pump 8GST, eight-inch, trailer mounted pump as interpreted by the city.

	COMPLIANCE
1. The diesel-powered engine shall be minimum 4 cylinders with easily accessible engine fluid inspection/fill openings. The cooling system, engine air intake and exhaust shall be designed for optimum performance and operator safety as approved by the City.	YES
2. The pump shall be a non-clog, enclosed impeller type with Replaceable wear rings on both impeller and suction Cover. The separate suction cover shall be removable without disturbing the pump casing.	YES
3. The throttle shall be operator adjustable to set governed engine speed at any range between minimum and maximum design speed.	YES
4. Please provide speed and flow rates for the proposed pump, set up @ 750' MSL with a suction head of 15' and a TDH of 25' utilizing 8" suction and discharge hose at 50°F. **Minimum** 1600 rpm with a flow rate of 2925 gpm **Maximum** 2000 rpm with a flow rate of 3650 gpm	YES
5. ~~The pump shall be capable of operating at any speed~~ between the minimum and maximum for extended periods of time without restrictions or damage to the pump, priming system and/or engine	YES
6. The pump shall be capable to run completely dry for extended periods of time (24 hr) without adverse effect on the pump/priming system and/or engine as approved by	

4

COMPLIANCE

the city. The mechanical seal shall be constantly lubricated without influence of the product being pumped, requiring no maintenance or adjustment. Please describe the drive/seals/lubrication systems employed to deliver these characteristics. **YES**

The pump's rotating face sits in an oil bath reservoir to provide cooling and lubrication during operation; even without water present in the pump. A sight level indicator allow for daily checks. No maintenance or adjustment is required

7. Gauges shall be provided to monitor engine oil pressure, voltage, coolant temperature, hour meter and tachometer. The hour meter shall indicate actual hours of engine running time. **YES**

8. Shall come equipped with automatic low engine oil pressure and high engine temperature shut down system. **YES**

9. Shall come equipped with three ignition keys. **YES**

10. The engine shall come equipped with spin on fuel and engine oil filters. **YES**

11. The fuel tank shall be sized for a minimum 24 hours of operation at full throttle and load as approved by the City. The fuel tank shall come equipped with an accurate, easily accessible fuel gauge as well as vandal proof fill and vent openings as approved by the City. The fuel tank shall be constructed of corrosion resistant materials and openings shall be provided for inspection and cleaning as approved by the City. **24.5 hours at 100% load** **YES**

Consumption per hour under full load	**5.95**	gals**/hr at 100% load**
Fuel tank capacity	**146**	gals
Fuel tank composition	**steel**	gals

12. The pump shall be designed to be easily maintained, to pump at manufacturers published capacity over years of use. Please describe in detail the procedure to keep the pump end at optimum performance with shims, replacement wear components, adjustment, etc. Also provide estimated operating hours and costs per service interval over a 5,000-hour utilization period. **YES**

The engine should be maintained every 250 hours of operation.

This includes engine oil, filters (air/oil/fuel). Estimated $250.00 in parts per service

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COMPLIANCE

13. The pump shall be fitted with a fully automatic, compressor driven venturi, air ejector priming system. The compressor shall be engine driven. The priming/air ejection system shall start and stop on demand while continuously sensing suction conditions and air/liquid level on the suction side of the pump as approved by the City. The pump shall have the ability to repeatedly cycle from pump-snore-reprime-pump. The air/water separation shall be designed to eliminate the possibility of water being drawn into the air source as approved by the City. **YES**

14. The pump set shall be capable of operating automatic engine start-stop-start cycles in conjunction with a set of remote float switches. Please describe and indicate costs to provide this feature. **YES**

    The engine controller is designed for automatic operation. Only parameter changes are required. A set of floats with a pin connection is $420.00

15. The pump shall be designed to easily drain the entire casing and any wet cavities which may become frozen during cold weather as approved by the city. **YES**

16. Please describe the nature of the inlet/outlets and the manufacturer and model of the fittings required for connections. The suction flow path shall be in axial alignment with the impeller eye, free of sharp turns or other features that may create suction turbulence. **YES**

    The pump shall come equipped with 'Bauer' style ball and socket connectors made of galvanized steel.

17. A non-return check valve and shut off valve shall be provided between the venturi and the venturi hat to maintain engine prime after engine shutdown and to allow isolation of the priming system. **YES**

18. The entire trailer mounted pump set shall come equipped with a single point lift eye located at the vertical center of gravity to lift the entire unit evenly. Please indicate total weight of the unit as specified including fuel. **6,300** lbs. **YES**

TRAILER	COMPLIANCE
1. The complete structural trailer assembly including the axle and wheel rims shall be hot dipped galvanized or another City approved method of corrosion protection.	YES
2. The axle, suspension, wheels and tires shall be rated for at least 25% more than the actual unit weight.	YES
3. Fenders shall be provided that protect the unit from overspray as well as under spray as approved by the city.	YES
4. The towing connection shall be a commercial duty 2 5/8" ball coupler with a minimum adjustment range from 15" to 20" tow height.	YES
5. All wiring shall be protected with conduit and terminated with waterproof/salt proof connectors. The sealed modular LED lighting system shall be of the recessed design, mounted in rubber bushings and connected to the wiring system with the aforementioned connectors.	YES
6. The fore and aft zinc plated jacks shall be of the side-wind, quick-release, spring-loaded, 4 position swivel design with a minimum capacity of 1000 lbs. each.	YES
7. The trailer shall include all applicable equipment and lighting required for DOT compliance. Including electric brakes.	YES

BID ATTACHMENTS

The following information shall be included with the bid:

- Head/capacity curve
- Pump absorbed power curve (flow, head, horsepower)
- Capacities at suction lifts
- Solids handling capability @ variable flow rates
- A drawing illustrating priming system
- A drawing with operational dimensions

DEALER SUGGESTED OPTIONS OR ACCESSORIES

Available options or accessories not covered elsewhere in the bid specifications which may contribute to greater safety, productivity or convenience will be considered by the city. Please describe any additional suggested items for your proposed pump set and provide costs.

Please specifically address fittings and hose/pipe connections for both suction and discharge plumbing.

Do not include the cost for these extra items in your bid price on the proposal sheet.

130081050001	IMPELLER CUTTER WEAR RING, AXIAL	$650.00	
130082050001	SUCTION COVER CUTTER WEAR RING, AXIAL	$650.00	
506459000000	PUMP PRESSURE TRANSDUCER	$613.43	
506460000000	PUMP VACUUM TRANSDUCER	$613.43	
506005000015	0-15PSI SUBMERSIBLE TRANSDUCER, 50' CORD	$2,033.01	OR
601397000050	FLOAT ASSY - START/STOP - TWO 50' FLOATS	$400.00	
601355000000	8" X 10' QD BLACK HD SUCTION HOSE	$ 1,410.00	
601238000000	8" X 50' QD RED MD 2 PLY LAYFLAT HOSE	$1,020.00	

GLOBAL PUMP®
A MERSINO COMPANY

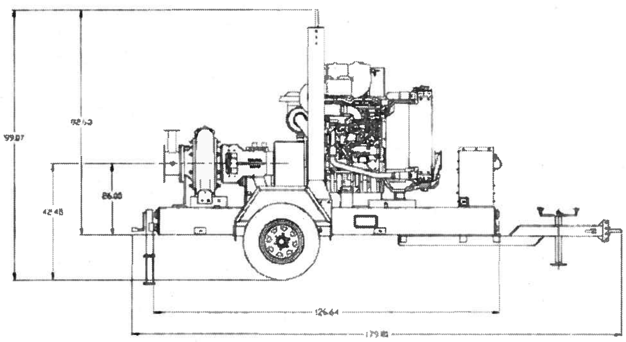
8GST GLOBAL STANDARD TRASH

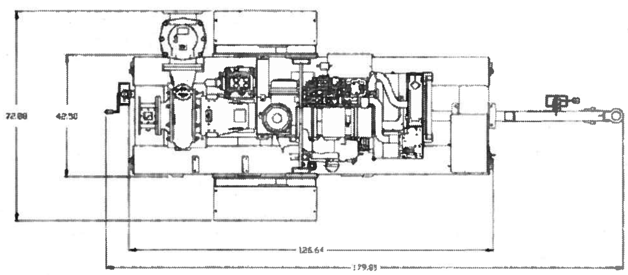
Global Pump® Standard Trash pumps are specifically designed to effectively handle a wide range of liquids from water to sewage and sludge that can contain solids and other material.

Global Pump Standard Trash pumps provide a dependable, highly efficient solution.The model 8GST is capable of achieving maximum flows of 3,650 gpm (829 m^3/h) and maximum total head of 183' (55.8 m) while handling solids up to 4" (101.6 mm) in diameter.

The standard 8GST is powered by a water-cooled, 4-cylinder diesel engine. Alternative drives are available including natural gas as well as electric motors.

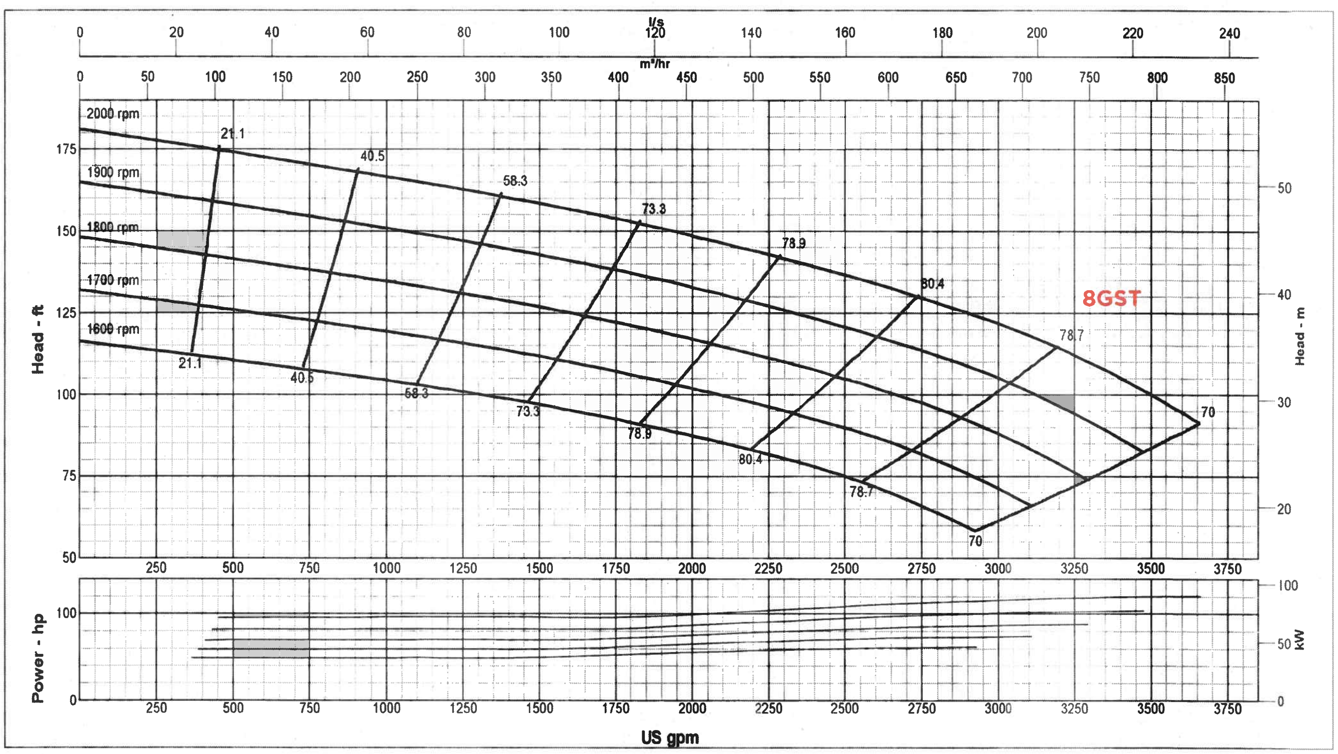
FEATURES	OPTIONS
Global Pump's rugged, heavy duty pumps are engineered specifically for portable application	Available with a variety of priming systems, including Global's Auto Prime® automatic priming system (compressor-fed venturi priming) or a diaphragm priming system
Non-return valve uses only a single moving part to allow full flow with minimal restriction	Mechanical seal with glycol (biodegradable optional) quench allows the pump to start and run dry
Standard engine control panel provides preset emergency shutdown protection and allows the addition of automatic level control	Global Pump's Environmental Box separates and silences air exhaust and returns liquid to the pump suction.
Fully guarded coupling	Fuel cubes for extended run times and/or remote location as required
Pump casings are hydrostatically tested to 50 psig (345 kPa) above the peak casing design pressure	Sound attenuated enclosure options
Highway trailer with integral fuel cell/chassis, lights, fenders, tie downs, lifting bail, front and rear jacks. Trailer brakes can be offered as required	Skid-mounted formats with tie downs, lifting bail, and fork pockets
	Hose racks, accessory containers and other custom features available as required
	Wide range of suction and discharge fittings including Global Pump's own "QD" Quick Disconnect fittings and accessories





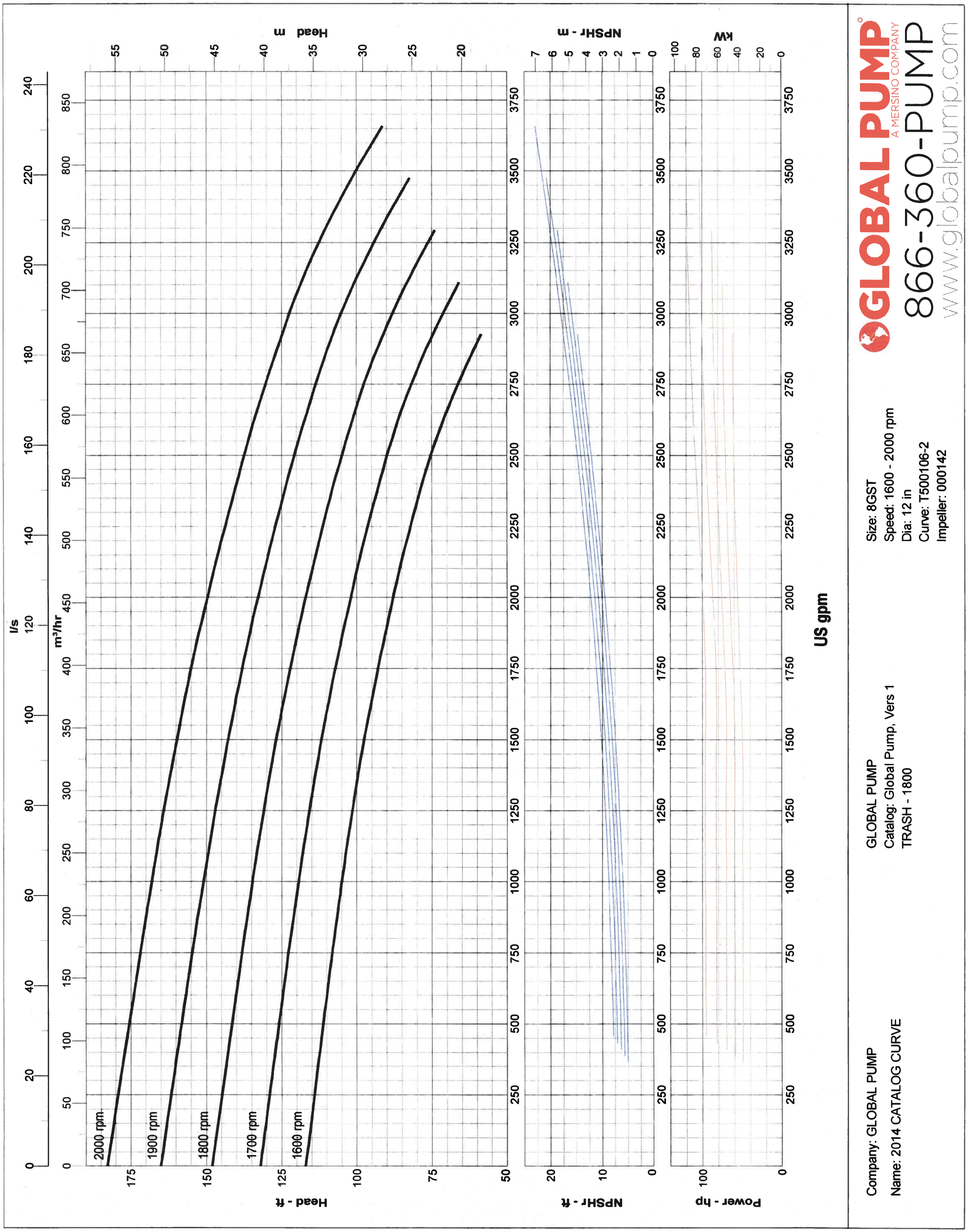
SPECIFICATIONS	
Connections	8" (200 mm) ANSI Flanges
Max Pump Speed	2,000 rpm
Max Flow	3,650 gpm (829 m³/h)
Max Head	183' (55.8 m)
Max Static Priming Lift	28' (8.5 m)
Temperature Limit	160° F (70° C)
Solids Handling Capability	4" (101.6 mm)
Max Casing Pressure	125 psig (862 kPa)
Fuel Cell	109 gallons (413 liters)
Dry Weight	5,100 lbs

PUMP MATERIAL	
Casing	Cast Iron (CD4MCu is an option)
Impeller	Cast Iron (CD4MCu is an option)
Bearing Housing	Cast Iron
Bearing Lubrication	Grease
Shaft/Shaft Sleeve	Steel/FNC Treated Steel
Seal	Silicon Carbide on Silicon Carbide
Chassis/Fuel Cell	Steel
Non-Return Valve	Nitrile Fitted Cast Iron



GLOBAL PUMP

GLOBAL PUMP
10162 East Coldwater Road, Davison, MI 48423
Tel: 810.653.4828 Fax: 810.658.0632
1.866.360.PUMP www.globalpump.com


GLOBAL PUMP
A MERSINO COMPANY
866-360-PUMP
www.globalpump.com
Company: GLOBAL PUMP
Name: 2014 CATALOG CURVE
GLOBAL PUMP
Catalog: Global Pump, Vers 1
TRASH - 1800
Size: 8GST
Speed: 1600 - 2000 rpm
Dia: 12 in
Curve: T500106-2
Impeller: 000142
2000 rpm
1900 rpm
1800 rpm
1700 rpm
1600 rpm
Head - ft
Head m
NPSHr - ft
NPSHr - m
Power - hp
kW
US gpm
l/s
m³/hr

Agenda Date: 3/13/2023

New Business
Former Marquette General Hospital Redevelopment Reimbursment Agreement

BACKGROUND:
The Former Marquette Hospital brownfield plan was approved by the City Commission at their May 31, 2022 regular meeting. Since that time, considerable efforts have been undertaken to seek additional funds to reduce the potential brownfield repayment obligation for demolition expenses. To date, over $16 million in State funds have been secured to assist with this development. However, despite this historic investment by the Michigan Strategic Fund, the Michigan Economic Development Corporation, and the Legislature into the Marquette community, additional expenses not covered under these funds are still projected as a barrier to the demolition and redevelopment of this site. The brownfield plan provides for reimbursement of any remaining demolition costs, as well as site preparation costs, public infrastructure, and interest.

A component of the brownfield plan is a reimbursement agreement between the Marquette Brownfield Redevelopment Authority (MBRA), Northern Michigan University Foundation (NMUF), and the City of Marquette that outlines the roles and responsibilities for brownfield TIF reimbursement between the MBRA and the entities that conduct Eligible Activities, as well as repayment priority. Under this agreement, as eligible expenses are incurred, the cascade of reimbursement will be the City, the MBRA, and then the NMUF. The Reimbursement Agreement is a required submittal for the MSF Act 381 work plan.

In addition to this agreement, the City Commission will also need to consider a Development Agreement regarding the activities covered under the brownfield plan in the near future.

This Agreement has been reviewed by the City Attorney and will be considered by the MBRA at their March 16, 2023 meeting.

FISCAL EFFECT:
None by this action however the City of Marquette will be the first priority for reimbursement as expenses are incurred under the Former Hospital Redevelopment brownfield plan.

RECOMMENDATION:
Approve the Reimbursement Agreement with the Northern Michigan University Foundation, and authorize the Mayor and City Clerk to sign.

ALTERNATIVES:

As determined by the Commission.

ATTACHMENTS:

Description

- Reimbursement Agreement

REIMBURSEMENT AGREEMENT

The Reimbursement Agreement made as of April 1, 2023 between the Northern Michigan University Foundation (NMUF) a Michigan 501(c)(3) non-profit corporation, the City of Marquette Brownfield Redevelopment Authority (MBRA), a Michigan public body corporate and the City of Marquette (City), a Michigan municipal corporation.

PREMISES

A. The NMUF is leading a consortium of public and private partners to facilitate the redevelopment of the former Marquette General Hospital (MGH). The proposed project would remove the buildings on the property to provide for an effective reconfiguration and redevelopment (the Project) on the Eligible Property depicted in Exhibit A.

B. The City of Marquette anticipates the award of an $8,000,000 Community Development Block Grant (CDBG) for blight elimination for lead and asbestos abatement and demolition at the former MGH. There is a separate agreement between the City and NMUF for the implementation of the CDBG Grant.

C. The NMUF has been awarded an $8,000,000 Blight Elimination Grant through the Michigan Land Bank Authority (MLBA) for lead and asbestos abatement and demolition at the former MGH.

D. The NMUF desires to conduct, and be reimbursed for, Eligible Activities under the approved Brownfield Plan and Act 381 Work Plan, over and above Eligible Activity expenses covered by the CDBG and MLBA Grants.

E. The City anticipates public infrastructure improvements directly related to the Eligible Property which have been included in the Brownfield Plan and will be included in a subsequent Act 381 Work and for which the City anticipates reimbursement from Brownfield Tax Increment Revenues.

F. The MBRA has been formed pursuant to Act 381, Public Acts of Michigan, 1996, as amended (Act 381) to promote the revitalization of contaminated, blighted, functionally obsolete or historic properties. The MBRA and the City Commission have approved the Brownfield Plan that includes the Development, the Eligible Property, and the Eligible Activities.

G. The MBRA has determined in furtherance of its purposes and to accomplish its goals that it is in the best interest of the MBRA to reimburse the cost of certain Eligible Activities as defined by Sec. 2(o) of Act 381, MCL 125.2652(o) on Eligible Property and as described in the Brownfield Plan, as the same may be amended or supplemented that include the Project, the Eligible Property, and the Eligible Activities.

H. The NMUF agrees to conduct certain Eligible Activities as described in Exhibit C (Eligible Activities), as the same may be amended or supplemented, attributable to the Eligible Property, consistent with the provisions of the Brownfield Plan, the Act 381 Work Plan, the CDBG Development Agreement, and the Blight Elimination Grant Agreement, as amended.

I. Pursuant to the Brownfield Plan and the Act 381 Work Plan, the MBRA will capture and retain 100% of the tax increment revenues authorized by law to be captured from the levies imposed by taxing jurisdictions upon taxable property for the Eligible Property consistent with Act 381, as amended, the Brownfield Plan approved by the MBRA and the City Commission, and the Act 381 Work Plan approved by the MBRA and the Michigan Strategic

Fund (MSF) for Non-Environmental Eligible Activities and EGLE for Environmental Eligible Activities (the Brownfield Tax Increment Revenues). Upon satisfaction of the conditions expressed in this Agreement, the MBRA will use the Brownfield Tax Increment Revenues to carry out the purposes described in Act 381 and this Agreement and to carry out certain other projects described in the Brownfield Plan.

In consideration of the premises and the mutual covenants contained in this Agreement, the NMUF and MBRA hereby enter into this Agreement and covenant and agree as follows:

ARTICLE 1
DEFINITIONS

Section 1.1 Definitions. The following capitalized terms used in this Agreement shall have the following meanings, except as specified otherwise:

(a) "Act 381" means the Brownfield Redevelopment Financing Act, Act 381 of Michigan Public Acts of 1996, as amended, MCL 125.2651 et seq.

(b) “Act 381 Work Plan” means the Work Plan approved by the MBRA and by the MSF and/or EGLE for State tax capture.

(c) "Agreement" means this Reimbursement Agreement entered into between the MBRA, the City and NMUF.

(d) “Brownfield Plan” means the Brownfield Plan, approved by the MBRA on May 19, 2022 and approved by the City Commission on May 31, 2022, and as amended pursuant to Act 381.

(e) “Brownfield Tax Increment Revenues” means 100% of the annual tax increment revenues, as defined by Act 381, authorized by law to be captured from the levies imposed by taxing jurisdictions from all taxable real and personal property located on the Eligible Property during the life of the Brownfield Plan until the Eligible Activity and other obligations are met.

(f) “CDBG” means the Community Development Block Grant for Blight Elimination awarded to the City of Marquette.

(g) “City” means the City of Marquette.

(h) “City Commission” means the Marquette City Commission.

(i) “Development" means the future mixed-use redevelopment on the former MGH Eligible Property.

(j) “EGLE” is the Michigan Department of Environment, Great Lakes and Energy.

(k) "Eligible Activities" are those activities as defined by Sec. 2(o) of Act 381, Public Acts of 1996, as amended, MCL 125.2652(o), and included in the approved Brownfield Plan and applicable Act 381 Work Plan.

(l) "Eligible Activity Obligation" is the cumulative amount of Eligible Activities expenses documented by the NMUF, the MBRA and the City and reviewed and approved by the MBRA in accordance with its policies and procedures.

(m) "Eligible Property" is the property as defined by Sec. 2(p) of Act 381, MCL 125.2652(p) as included in the Brownfield Plan upon which the Eligible Activities will be conducted and from which tax increment revenues will be captured to reimburse Eligible Activities and other costs, consistent with the Brownfield Plan and Act 381 as amended.

(n) "Environmental Consultant" means the environmental consulting firm retained or hired by the NMUF to fulfill certain obligations under this Agreement, including certain eligible activities set forth in the Brownfield Plan and Act 381 Work Plan, but limited to only those Eligible Activities performed by the NMUF's Environmental Consultant, and specifically excludes all other activities performed by other Environmental Consultants, Contractors, or subcontractors not acting on behalf of NMUF performing activities on the Property.

(o) "Event of Default" means the failure by a party to carry out its obligations under this Agreement or, with respect to a party, if any representation or warranty of such party was materially not accurate when made, and such obligation has not been performed or such representation or warranty corrected within 45 days after notice thereof has been given by the other party.

(p) "Indemnified Persons" means the City and the MBRA and their members, officers, agents, and employees.

(q) "Interest" means the amount of actual interest of up to 5 percent accrued on unreimbursed Eligible Activities. Interest is reimbursable with Brownfield Tax Increment Revenues. Interest is calculated annually, based on the unreimbursed Eligible Activities approved by the MBRA, and paid after all Eligible Activities are reimbursed, in accordance with Section 2.2.

(r) "Maximum Cost of Eligible Activities" means the MBRA's maximum obligation to pay for the Eligible activities and not to exceed the amounts set forth in the approved Brownfield Plan, as amended or supplemented.

(s) "MBRA" means the City of Marquette Brownfield Redevelopment Authority, established by the City Commission.

(t) "MSF" means the Michigan Strategic Fund.

(u) "NMUF" means the Northern Michigan University Foundation, and its successors and assigns.

(v) "Tax Increment Revenues" means increased incremental tax revenues, as defined by Act 381, from all taxable real and personal property located on the Eligible Property during the life of the Brownfield Plan.

(w) “Transaction Costs” means the MBRA expenses, and liabilities related to the authorization, execution, administration, oversight, and fulfillment of the MBRA obligations under this Agreement, the Brownfield Plan, Act 381 Work Plan, the Reimbursement Agreement which such items shall include, but not be limited to, direct or indirect fees and expenses incurred as a result of the application, approval and amendments to and implementation of the Brownfield Plan and Act 381 Work Plan, approval and amendments to the agreements, approvals of the developments contemplated herein, printing costs, costs of reproducing documents, filing and recording fees, attorney fees, financial expenses, insurance fees and expenses, administration and accounting for Brownfield Tax Increment Revenues, oversight and review, and all other costs, liabilities, or expenses, related to the preparation and carrying out or enforcing the Brownfield Plan, Act 381 Work Plan, and this Agreement, or other related agreements and any other costs, charges, expenses, and professional and attorney fees in connection with the foregoing.

Section 1.2 Number and Gender. The definition of terms herein shall apply equally to the singular and plural forms of the terms defined. Whenever the context may require, any pronoun should include the corresponding masculine, feminine, and neuter forms.

ARTICLE 2
COVENANTS OF THE NMUF, MBRA AND CITY

Section 2.1 Implementation of the Project. The NMUF shall facilitate the Eligible Activities which includes lead and asbestos abatement and demolition of the former MGH in accordance with proper construction standards and this Agreement. The NMUF shall proceed with due care and diligence and commence and complete Eligible Activities in accordance with this Agreement, the Brownfield Plan, and the Act 381 Work Plan and in accordance with any applicable law, regulation, code, ordinance, and applicable grant agreement.

Section 2.2 Covenant to Pay Financial Obligations. The NMUF will utilize its own funds for the Project for costs that exceed the CDBG and MLBA Blight Elimination Grants. The NMUF, City, and the MBRA will receive reimbursement from the MBRA to the extent of available Brownfield Tax Increment Revenues are generated by the Development for payment of the Eligible Activities in accordance with the terms of this Agreement, the Brownfield Plan, Act 381, and this Reimbursement Agreement. Reimbursement for Eligible Activities from Brownfield Tax Increment Revenues shall be prioritized as follows:

(a) First, as necessary, to reimburse the City and/or the MBRA for the annual obligation of the Borrowing or amortized expenses for the Public Improvements.

(b) Second, to cover administrative and operating costs from local tax capture only, and Transaction Costs of the MBRA, which, cumulatively, shall not exceed $40,000.00 in any year. If insufficient revenue to cover bond obligations occur in any year, the MBRA will reduce its capture for administrative and operating costs and Transaction Costs accordingly. The MBRA shall not be required by this Agreement to reduce capture for administrative and operation costs to less than $20,000. The MBRA may reduce the capture for administrative and operating costs below $20,000, at the sole discretion of the MBRA. Any shortfall under this provision may be reimbursed from Brownfield Tax Increment Revenues in subsequent years, at the sole discretion of the MBRA.

(c) Third, to reimburse the MBRA for pre-development Eligible Activity expenses provided to the NMUF from the Local Brownfield Revolving Fund (LBRF).

(d) Third, Brownfield Tax Increment Revenues will be deposited into the LBRF in accordance with Exhibit C.

(e) Fourth, the balance of annual Brownfield Tax Increment Revenues will be used to reimburse the NMUF for approved Eligible Activities expenses pursuant to Section 5.1, the Brownfield Plan, Act 381 Work Plan, and Exhibit B until the Eligible Activity obligation is met.

If the Development does not result in sufficient revenues to repay Eligible Activity obligations, the NMUF and the City agree and understand that NMUF and the City will have no claim or further recourse of any kind or nature against the MBRA except from available captured tax revenues.

Section 2.3 <u>Brownfield Tax Increment Revenue Reimbursement Conditions:</u> It is expressly understood and agreed that the reimbursement of the MBRA is subject to the following conditions:

(a) Approval of the Brownfield Plan by the MBRA and the City Commission and, as necessary, the Act 381 Work Plan approval by MSF for Non-Environmental Eligible Activities and EGLE for Environmental Eligible Activities.

(b) For any Eligible Activities not approved for State tax capture, reimbursement to the NMUF for those Eligible Activities will be limited to the proportionate ratio of Local to State capture, which is 53.5%.

(c) The NMUF shall have performed all of the covenants, obligations, terms and conditions to be performed by it pursuant to this Agreement or other agreement with the MBRA, and all preconditions to the performance of the NMUF have been satisfied.

(d) The NMUF shall comply with all terms and conditions of the Community Development Block Grant agreement between the Michigan Economic Development Corporation and the City of Marquette and the Blight Elimination Grant agreement between the Michigan Land Bank Authority and NMUF.

(e) The MBRA shall only be obligated to reimburse the Eligible Activity Obligation that has been reviewed and approved by the MBRA. Approval of the application and subsequent approvals of Brownfield Plans, Act 381 Work Plans, or any other determination of eligibility in no way guarantees or establishes a right to reimbursement of expenditures through Tax Increment Revenues prior to review or approval of invoices. Expenditures must be documented to be reasonable for Eligible Activities by submission of invoices, proof of payment, and other appropriate documentation. Reimbursement shall only occur pursuant to the terms and conditions of this Agreement, as well as the written policies and procedures of the MBRA for review and approval of invoices. All invoices for any Eligible Activities on the property must be submitted to the MBRA for its review within 180 days of the date of the invoice. While the MBRA may waive this requirement in its discretion for good cause shown, the MBRA shall be under no obligation to reimburse any invoice for an eligible activity that is not submitted in a timely fashion.

(f) The NMUF has adhered to the Brownfield Plan and Act 381 Work Plan.

(g) There are adequate Brownfield Tax Increment Revenues.

(h) The NMUF shall provide sworn written waivers of liens by consultants, contractors, and subcontractors providing services for their respective Eligible Activities as described in this Agreement.

(i) The NMUF has paid the real and personal property taxes levied on any portion of the Development for which the NMUF is responsible on or before the date the same are payable without interest or penalty. Any appeal to real and personal property tax assessment shall apply to the current tax year only.

(j) To the extent captured revenues are available, the MBRA shall pay the NMUF and the City annual simple interest on Eligible Activity expenses consistent with the Project Budget as follows:

(1) Actual Interest up to the maximum 5 percent shall be paid for the NMUF's and City's Eligible Activity expenses that have been incurred, invoiced, and approved by the MBRA.

(2) Interest shall be accrued on the outstanding balance on Eligible Activity expenses after all of the following:
(i) Invoices for Eligible Activities and expenses are approved by the MBRA Board as provided herein;
(ii) Substantial completion of the Eligible Activity described in an approved Project Budget under Section 5.1(a); and
(iii) A Certificate of Occupancy has been secured for buildings and final approval for Public Improvements from the appropriate authority.

Section 2.4 Indemnification of Indemnified Persons.

(a) The NMUF shall not be considered an agent or employee of the MBRA or the City under any circumstances. Nor shall any agent or employee of the NMUF be considered an agent or employee of the MBRA or the City. The NMUF shall remain responsible for any claims arising out of NMUF's acts or omissions during the performance of this Agreement, as provided by law. Additionally, the NMUF, City, and MBRA shall not be considered to be engaged in a joint venture or partnership.

(b) The NMUF shall indemnify, defend, and hold the Indemnified Persons harmless from any loss, expense (including actual attorney fees) or liability of any nature due to any and all suits, actions, legal or administrative proceedings, or claims arising or resulting from injuries to persons or property as a result of the ownership or operation, use or maintenance of the NMUF Project from and after the date hereof. If any suit, action, or proceeding is brought against any Indemnified Person, the Indemnified Person promptly shall give notice to the NMUF and the NMUF shall defend such Indemnified Person with counsel selected by the NMUF, so long as counsel is reasonably satisfactory to the Indemnified Person. In any such proceeding, the Indemnified Person shall cooperate with the NMUF and the NMUF shall have the right to settle, compromise, pay or defend against any such claim on behalf of such Indemnified Person, except that the NMUF may not settle or compromise any claim if the effect of doing so would be to subject the Indemnified Person to criminal penalties, unless such Indemnified Person gives its consent. The NMUF shall not be liable for payment or settlement of any such claim or proceeding made without its consent.

(c) The NMUF shall not be obligated to indemnify any Indemnified Person under subsection (b) if the liability arises out of the Indemnified Person's negligence, willful misconduct or breach of this Agreement or the negligence or willful misconduct of any person or entity acting by, through or under any Indemnified Person.

(d) The NMUF also shall indemnify the Indemnified Persons for all reasonable costs and expenses, including actual attorney fees, incurred in enforcing any obligation of the NMUF under this Agreement or any related agreement.

(e) The NMUF shall use its reasonable best efforts to assure that, to the extent an Environmental Consultant provides services toward completion of Eligible Activities, at a minimum, the Environment Consultant shall indemnify, defend, and hold Indemnified Persons harmless from any loss, expense (including actual attorney fees) or liability of any nature due to any and all suits, actions, legal or administrative proceedings, or claims arising or resulting from injuries to persons or property as a result of the actions or services of the Environmental Consultant.

(f) Notwithstanding any other provision of this Agreement, the NMUF shall obtain its Environmental Consultant’s and other Contractor’s written agreements to defend, indemnify and hold harmless the Indemnified Persons and their Board members, officers, agents and employees against and from all liabilities, losses, damages, costs, expenses (including attorney fees), causes of action, suits, claims and demands for judgment, to the same extent as the NMUF’s indemnification provisions under this Section. This indemnity shall only apply to the Environmental Consultant or Contractor’s actions, and the Environmental Consultant or Contractor shall have no obligation to indemnify, defend or hold harmless the Indemnified Persons for any loss, liability, claim, damage, cost or expense arising out of, related to or resulting from any activities performed by other environmental consultants or contractors on or attributable to the Eligible Property.

(g) The indemnity provisions shall survive the term of this Agreement.

Section 2.5 **The NMUF's and City's Repayment Obligation**. In the event any monies received by the NMUF or City under this Agreement are determined to be outside the scope of Eligible Activities for the Development or not approved in accordance with this Agreement by a third-party auditor of the City or State, or applicable court, the NMUF or City shall not use and shall return such monies to the MBRA. If the monies have been already utilized for such improper purpose, the NMUF or City shall repay such monies to the MBRA or agree to reductions in subsequent reimbursements equal to the disavowed amount. In addition to any other remedies, the MBRA shall have the right of set-off for return or repayment of such monies against its obligations under this Agreement.

Section 2.6 **Deduction from NMUF's or City's Right to Reimbursement**. The NMUF and City grants the MBRA the right to deduct or set off from any reimbursement obligation to the NMUF and City the costs incurred by the MBRA in the successful enforcement of the terms of this Agreement or other claims in the event of a default of this Agreement by the NMUF.

Section 2.7 **Eligible Property Access**. The NMUF shall grant to the MBRA, or its designated agents, access to the Eligible Property to exercise the MBRA's right to administer or oversee Eligible Activities related to the purposes and pursuant to the terms of this Agreement. The MBRA shall give 24-hour written notice of its intent to access the Site whenever possible. If notice cannot be given due to an emergency or any other unforeseen circumstance, the MBRA shall give notice as is reasonable and practicable under the circumstances.

Section 2.8 **Separate Covenants and Obligations**. Except as expressly provided in Section 2.3, the NMUF's covenants and obligations are separate covenants solely running to and enforceable by the MBRA as provided by law, and to no other party, person, or entity. Unless otherwise expressly provided in this Agreement, a breach or default by the NMUF of its obligations to the MBRA shall not constitute a breach or default of this Agreement or bar enforcement or claims by the other parties. No third-party beneficiary rights, interests, or claims are created by implied contract, operation of law, or any other means.

ARTICLE 3
CONDITIONS PRECEDENT TO OBLIGATIONS OF THE NMUF

Section 3.1 **Conditions Precedent to NMUF's Obligations to Acquire and Construct the NMUF Project**. Any obligation of NMUF to conduct the Eligible Activities, as contemplated herein, are subject to the following conditions precedent which must be satisfied by the MBRA, as required herein, or waived by the NMUF, except as specifically provided herein:

(a) No condition, event, action, suit, proceeding or investigation is occurring or threatened to occur, or shall be pending before any court, public board or body to which the NMUF, City, or the MBRA is a party, or threatened against the NMUF, City, or the MBRA contesting the validity or binding effect of this Agreement or the validity of the Brownfield Plan or Act 381 Work Plan or which could result in an adverse decision which would have one (1) or more of the following effects:

(1) A material adverse effect upon the ability of the MBRA to collect and use Brownfield Tax Increment Revenues to repay its obligations under this Agreement.

(2) A material adverse effect on the NMUF's or the MBRA's ability to comply with the obligations and terms of this Agreement of the Brownfield Plan.

(b) There shall have been no Event of Default by the MBRA or the City and no action or inaction by the MBRA or the City which eventually with the passage of time could become an Event of Default.

(c) The MBRA shall have performed all the terms and conditions to be performed by the MBRA pursuant to this Agreement.

(d) Brownfield Tax Increment Revenue and other needed revenue are assured, in the MBRA's sole reasonable judgment, from actual development, imminent development, contractual obligations to pay the equivalent taxes, and other designated sources other than general tax revenues to meet the obligations for Eligible Activities of the NMUF, the City and/or the MBRA included in the Brownfield Plan.

(e) Approval of the Brownfield Plan, and as necessary, approval of an Act 381 Work Plan by MSF for Non-Environmental Eligible Activities and EGLE for Environmental Eligible Activities.

(f) The NMUF has received the consent of any affected utility for relocation, burial, or other activity necessary to construct the Development.

(g) There has been no change in statutes or other law that would negatively impact either party's ability to meet (a)-(f) above.

ARTICLE 4
COVENANTS OF THE MBRA

Section 4.1 Adoption of Brownfield Plan and Act 381 Work Plan and Approval of the Brownfield Redevelopment Grant and Loan. The MBRA and City Commission have approved the Brownfield Plan and the MBRA has approved the Act 381 Work Plan which provides for the payment of MBRA Administrative and Transaction Costs, the preparation and approval of the Brownfield Plan and Act 381 Work Plan, and reimbursement for the NMUF, the City and the MBRA for the Eligible Activities expenses that have been conducted, completed and approved in accordance with the scope and terms of this Agreement, the Brownfield Plan, Act 381 Work Plan, Reimbursement Agreement, and the CDBG and MLBA Blight Elimination Grant Agreements as approved by the MBRA pursuant to its policies and procedures.

Section 4.2 Completion of Eligible Activities. Upon the satisfactory completion of any Eligible Activities by the NMUF, City, and/or the MBRA as described in the Brownfield Plan, the Act 381 Work Plan and Grant Agreements, as amended or supplemented, pursuant to this Agreement, and approved by EGLE and/or MSF and where applicable approved by the MBRA, the MBRA shall, to the extent Brownfield Tax Increment Revenues are available, reimburse the

NMUF, the City, and the MBRA in accordance with the terms set forth in this Agreement. The NMUF and the City shall have sole responsibility to pay the Environmental Consultant or other contractors or subcontractors for completion of such Eligible Activities and provide written waiver of any liens. If the NMUF or the City incurs any expenses or costs for any activities other than the Eligible Activities or the Eligible Activity costs exceed the Maximum Costs of Eligible Activities as set forth in Brownfield Plan or Act 381 Work Plan, as amended or supplemented, the NMUF or the City shall bear such costs without any obligation on the part of the MBRA. If the costs of Eligible Activities set forth in the Brownfield Plan or Act 381 Work Plan, as amended or supplemented, are less than Maximum Costs of Eligible Activities, then the NMUF and the City shall have no further right of reimbursement beyond its actual costs.

Section 4.3 **MBRA or Contract Manager Oversight**. The MBRA may retain the services of a qualified contract manager to exercise oversight of the NMUF and City and their environmental consultant, contractors, or subcontractors, for the purposes of assuring that the activities, invoices, and accounting by the NMUF and City are fair, reasonable, and constitute Eligible Activities within the meaning and scope of this Agreement, the Brownfield Plan, the Act 381 Work Plan, Reimbursement Agreement, and Act 381. The NMUF and the City shall provide the MBRA and its Contract Manager access to data, reports, sampling results, invoices, and related documents reasonably necessary to fulfill the exercise of such oversight. It is expressly understood that the MBRA has no right to control or to exercise any control over the actual services or performance by the NMUF or the City of the Eligible Activities, except as to assurance that the NMUF and the City have met the conditions and requirements of this Agreement.

Section 4.4 **Limitation of Obligations and Liabilities to Third Persons or Parties**. The MBRA and City shall have no liability to the NMUF under this Agreement except to reimburse the NMUF for the Eligible Activities in accordance with the Brownfield Plan and Act 381 Work Plan that have been approved by EGLE, MSF and the MBRA as provided by law and under the terms of this Agreement. No other obligation or liability of the MBRA or the City to the NMUF or any third person or party is created by this Agreement, except as stated herein.

ARTICLE 5
CONDITIONS PRECEDENT TO MBRA OBLIGATIONS

Section 5.1 **Conditions Precedent to MBRA's Reimbursement Obligation for Eligible Activities.** The obligations of the MBRA for reimbursements of costs to the NMUF or City for completion of Eligible Activities expenses as contemplated herein shall be subject to the following conditions precedent which must be satisfied by the NMUF or City as required herein, except as expressly provided in this Agreement or otherwise waived in writing by the MBRA. It is expressly agreed that the MBRA makes or gives no assurance of payment to the NMUF or City by the mere fact that an Eligible Activity or a dollar amount for such activity is identified in the Brownfield Plan and/or Act 381 Work Plan, or as hereafter supplemented or amended, and that it shall have the right to review and approve all written summaries of and invoices for Eligible Activities for the reasonableness of services performed by any consultant, contractor, or subcontractor under this Agreement. However, so long as an Eligible Activity by the NMUF or City has been approved and is authorized by Act 381 and has been completed and approved in accordance with the following procedure and this Agreement and to the extent Brownfield Tax

Increment Revenues are available, the NMUF and the City shall be entitled to reimbursement for its Eligible Activities expenses. The approval of the Brownfield Plan and Act 381 Work Plan or the project budget described below is not a guarantee that there will be sufficient Brownfield Tax Increment Revenues to reimburse the Eligible Activities, and if for any reason, the revenues are insufficient or there are none, the NMUF or the City assumes full responsibility for any such loss or cost of any Eligible Activity conducted.

(a) Before commencing work on each stage of Eligible Activities and pursuant to the policies and procedures adopted by the MBRA, the NMUF or City will present a project budget for each stage to the MBRA Director at least two weeks prior to commencing work. The project budget will be submitted at each stage of the Eligible Activities line items or phases as provided in the Brownfield Plan and will provide detailed cost estimates or contractor quotes or bids.

(b) The NMUF and City shall submit invoices of its Eligible Activities expenses and a written statement demonstrating a factual basis that it has completed the Eligible Activities to the MBRA Director for preliminary review and approval within 180 days of completion of the Eligible Activity in a form as required by the MBRA. Documentation of the costs incurred shall be provided including proof of payment, lien waivers, and detailed invoices for the costs incurred in sufficient detail to determine whether the costs incurred were for Eligible Activities. The Authority shall not be required to reimburse any request that is not submitted within 180 days after the expense is incurred.

(c) Within 60 days after submittal of an invoice or invoices under (b) above, the MBRA Director or contract manager shall review and approve or reject the reasonableness of the invoice(s) and activity as ineligible and, if recommended, shall present the invoice(s) to the MBRA for approval. In the event of an objection, the MBRA Director or contract manager will notify the NMUF or City within the 60-day time period, and the NMUF or City shall meet to resolve or cure the objection. If the objection is not resolved or cured within 45 days, there is no obligation to pay the portion of the invoice(s) objected to until the parties have mutually agreed in writing through an alternative dispute mediation or there is a final judgment or order of a court of competent jurisdiction directing payment. It is expressly agreed that the Authority does not make or give any assurance of payment to the NMUF or City by the mere fact that an Eligible Activity or a dollar amount for such activity is identified in the Brownfield Plan or Act 381 Work Plan and that the Authority shall have the right to review and approve or deny reimbursement for any invoices for Eligible Activities based on the reasonableness of services performed by any consultant or contractor under this Agreement.

(d) Payment for approved invoices from Brownfield Tax Increment Revenues from the Development will be made by July 31 each year.

(e) No condition, event, action, suit, proceeding or investigation is occurring or threatened to occur, or shall be pending before any court, public board or body to which the NMUF, City, or MBRA is a party, or threatened against the NMUF, City, or MBRA contesting the validity or binding effect of this Agreement or the validity of the Brownfield Plan or which could result in an adverse decision which would have one (1) or more of the following effects:

(1) A material adverse effect upon the ability of the MBRA to collect and use Brownfield Tax Increment Revenues to repay its obligations under this Agreement.

(2) A material adverse effect on the NMUF's or MBRA's ability to comply with the obligations and terms of this Agreement, the Brownfield Plan, or the Act 381 Work Plan.

(3) There shall have been no Event of Default by the MBRA and no action or inaction by the MBRA which eventually with the passage of time could become an Event of Default.

(f) The NMUF, City and MBRA shall have performed all of the terms and conditions to be performed by them pursuant to this Agreement.

(g) Brownfield Tax Increment Revenue and other needed revenue are assured, in the MBRA's sole reasonable judgment for actual development, imminent development, contractual obligations to pay the equivalent taxes, and other designated sources other than general tax revenues to meet the obligations for Eligible Activities of the City and/or MBRA included in the Brownfield Plan and Act 381 Work Plan.

(h) Approval of the Brownfield Plan, and as necessary the Act 381 Work Plan by MSF for Non-Environmental Eligible Activities and EGLE for Non-Environmental Eligible Activities.

(i) Proper approvals required under applicable federal and state laws or regulations, and local ordinances, codes or regulations for land use and the Development have been secured.

(j) There has been no change in statutes or other law that would have one or more of the effects described in (e) above.

(k) The NMUF or City has received the consent of any affected utility for relocation, burial, or other activity necessary to construct the Development.

(l) The NMUF or City shall have performed all of the terms and conditions to be performed by the NMUF or City.

(m) During the term of reimbursement, the NMUF shall provide to the MBRA an annual report of investment made, number of residential units, the amount, by square foot of new or rehabilitated residential, retail, commercial, or industrial space, and the number of new jobs created. Report shall be delivered to the MBRA Director no later than July 15 of each year.

ARTICLE 6.

NMUF'S ENVIRONMENTAL CONSULTANT, CONTRACTOR, OR SUBCONTRACTOR RESPONSIBILITIES

Section 6.1 Eligible Activities and Due Care Obligation. The NMUF will contract with a competent and qualified Environmental Consultant (Consultant or Environmental Consultant) or other competent and qualified contractors or subcontractors (Contractors) as necessary to conduct and complete certain Eligible Activities set forth in this Agreement and as set forth in the Brownfield Plan and Act 381 Work Plan, as amended or supplemented, but limited to only those Eligible Activities performed by NMUF's Environmental Consultant or Contractors and specifically excludes all other activities performed by other environmental consultants, contractors, or subcontractors performing activities retained by the City, MBRA or another third party.

Section 6.2 Permits. The Environmental Consultant or Contractors shall examine all permits and licenses pertaining to certain Eligible Activities on the Property to determine whether all permits and licenses required to be issued by any governmental authority on account of certain Eligible Activities on the Property for the Development have been obtained or issued and are in full force and effect, and whether the Eligible Activities are in compliance with the terms and conditions of such permits and licenses, but is limited to only those Eligible Activities performed by NMUF's Environmental Consultant or Contractors, and specifically excludes all other activities performed by other environmental consultants, contractors, or subcontractors performing activities on the site.

Section 6.3 ASTM and Industry Standards. The Environmental Consultant or Contractors shall perform all services and Eligible Activities under this Agreement in accordance with any applicable ASTM or other industry standards.

Section 6.4 Other Services Performed for NMUF or City. The parties expressly understand that the MBRA is not responsible for payment or reimbursement of any services or expenses incurred by the Consultant, Contractors, NMUF and/or the City that are not within the scope of or in accordance with all of the terms, conditions and provisions of this Agreement. This Agreement shall not be deemed or construed to create any rights to reimbursement or otherwise in the Consultant, Contractors, or any third parties; specifically, this Agreement shall not be construed to create any third-party beneficiary contract or claim.

Section 6.5 Regulatory Liaison and Data and Reports. If applicable, the NMUF's or City's Environmental Consultant will provide communication services and attend meetings with EGLE relating to those Eligible Activities performed by NMUF's or City's Environmental Consultant, and specifically excludes all other activities performed by other Environmental Consultants, Contractors, or Subcontractors performing activities. Consultant or Contractors shall:

(a) Submit reports and test results first to the NMUF or City and shall submit documents to the MBRA Director within 5 business days thereafter.

(b) Make known the provisions of this subparagraph to all contractors and subcontractors, who shall be bound by the confidentiality provisions of this Agreement.

(c) Submit any such written reports marked "DRAFT FOR DISCUSSION PURPOSES ONLY." To the extent the MBRA or its designated agent reviews or receives a document marked "confidential," it shall be kept confidential except as prohibited by the Freedom of Information Act or other law or regulation.

(d) Disclose on request to the MBRA Director all data, reports and test results generated by the Consultant within the scope of this Agreement.

Section 6.6 Other Agreements. The NMUF covenants that it will obtain a warranty from the Consultant and Contractors that it is not a party to any other existing or previous agreement which would adversely affect the Consultant's or the Contractor's ability to perform the services with respect to the Eligible Activities.

Section 6.7 Contractors. If the NMUF hires any Environmental Consultant or Contractor, or retains any person, firm or corporation to perform services related to Eligible Activities under this Agreement, the NMUF shall first secure the written acknowledgment from such party that such party is not and shall not be or act as an agent or employee of the MBRA nor assume or create any duty, commitment or obligation on behalf of nor bind the MBRA in any respect whatsoever. A copy of such written acknowledgment shall be provided to the MBRA.

Section 6.8 Non-Discrimination Clause. Neither the NMUF, Consultant, nor any Contractors shall discriminate against an employee or applicant for employment with respect to hire, tenure, terms, conditions or privileges of employment, or a matter directly or indirectly related to employment because of their actual or perceived race, color, religion, national origin, sex, age, height, weight, marital status, physical or mental disability, family status, sexual orientation, or gender identity. Breach of this covenant may be regarded as a material breach of this Agreement.

Section 6.9 Independent Contractor. The Consultant and any Contractors shall perform its services under this Agreement entirely as an independent contractor, and shall not be deemed an agent, employee, or legal representative of the MBRA or City. The MBRA, City, NMUF and the Consultant and any Contractor shall each have and maintain complete control over all its employees, agents, and operators. Facts or knowledge of which the Consultant or Contractor becomes aware shall not be imputed to the MBRA or City without communication to and receipt by managerial officials or employees of the MBRA or City. The Consultant or any Contractor has no authority to assume or create and will not assume or create any commitment or obligation on behalf of the MBRA or City in any respect whatsoever. Further, the Consultant or any Contractor shall exercise its independent judgment for the services provided in this Agreement.

Section 6.10 Disposal of Hazardous Waste. In the event that samples or other materials contain substances classified as "hazardous waste" under state or federal law (Hazardous Waste), the NMUF or its agent shall, under a manifest signed by the NMUF, its agent, or a third party as the generator, have such samples transported for final disposal to a facility licensed to accept Hazardous Waste. It is expressly understood that the MBRA does not have any oversight or other control or authority over disposal of Hazardous Waste under the terms of this paragraph.

Section 6.11 **Compliance with Laws.** While on the Property, the NMUF, the City and their respective Consultant, and any Contractor shall impose work orders on its employees, agents and subcontractors which are designed to assure that they comply with all applicable federal, state and local laws and regulations (including occupational safety and environmental protection statutes and regulations) in performing services under this Agreement, and shall comply with any directions of governmental agencies relating to site safety, security, traffic or other like matters, but limited to only those Eligible Activities performed by NMUF's or City's Environmental Consultant or Contractors, and specifically excludes all other activities performed by other environmental consultants, contractors, or subcontractor performing activities.

Section 6.12 **Environmental Consultant or Contractor Insurance.** The NMUF shall assure that the Consultant and any Contractors performing any part of the Eligible Activities covered by this Agreement shall obtain and maintain the policies of insurance in the types and amounts provided in Section 8.1

ARTICLE 7
REPRESENTATIONS AND WARRANTIES

Section 7.1 **Representations and Warranties of the MBRA**. The MBRA represents and warrants to the NMUF and the City that:

(a) The MBRA is a public body corporate, established pursuant to Act 381, with all necessary corporate powers pursuant to that Act to enter into and perform this Agreement.

(b) The execution and delivery of this Agreement has been duly authorized by all requisite action on the part of the MBRA, and this Agreement constitutes a valid and binding agreement of the MBRA enforceable in accordance with its terms, except as enforceability may be limited by bankruptcy, insolvency, fraudulent conveyance or other laws affecting creditors' rights generally, now existing or hereafter enacted, and by the application of general principles of equity, including those relating to equitable subordination.

(c) Neither the execution nor delivery of this Agreement nor the consummation of the transactions contemplated hereby is in violation of any provision of any existing law or regulation, order or decree of any court or governmental entity, or any agreement to which the MBRA is a party or by which the MBRA is bound.

Section 7.2 **Representations and Warranties of the City**. The City represents and warrants to the NMUF and the MBRA that:

(a) The City is a Michigan municipal corporation with all necessary corporate powers pursuant to that Act to enter into and perform this Agreement.

(b) The execution and delivery of this Agreement has been duly authorized by all requisite action on the part of the City, and this Agreement constitutes a valid and binding agreement of the City enforceable in accordance with its terms, except as enforceability may be limited by bankruptcy, insolvency, fraudulent conveyance or other laws affecting creditors' rights generally, now existing or hereafter enacted, and by the application of general principles of equity, including those relating to equitable subordination.

(c) Neither the execution nor delivery of this Agreement nor the consummation of the transactions contemplated hereby is in violation of any provision of any existing law or regulation, order or decree of any court or governmental entity, or any agreement to which the City is a party or by which the City is bound.

Section 7.3 Representations and Warranties of the NMUF. The NMUF represents and warrants to the MBRA and the City that:

(a) The NMUF (i) is duly organized and validly existing as a 501(c)(3) organization in good standing under the laws of the State of Michigan, with power under the laws of such state to carry on its business as now being conducted; (ii) is duly qualified to do business in the State of Michigan, and (iii) has the power and authority to consummate the transactions contemplated under this Agreement by the NMUF.

(b) There is no violation or default by the NMUF of any provision of its Articles of Organization or Operating Agreement, or under any indenture, contract, mortgage, lien, agreement, lease, loan agreement, note, order, judgment, decree or other instrument of any kind or character to which it is a party and by which it is bound, or to which it or any of its assets are subject, and compliance with the terms, conditions and provisions of this Agreement does not conflict with and will not result in or constitute a breach of or default under any of the foregoing, wherein default, breach or violation would materially and adversely affect any of the transactions contemplated by, or the validity of, this Agreement.

(c) The execution and delivery of this Agreement and the consummation of the transactions contemplated hereby have been duly authorized by all requisite action on the part of the NMUF and this Agreement constitutes a valid and binding agreement of the NMUF in accordance with its terms, except as enforceability may be limited by bankruptcy, insolvency, fraudulent conveyance or other laws affecting creditors' rights generally, now existing or hereafter enacted, and by the application of general principles of equity, including those relating to equitable subordination.

(d) Except as a part of the performance and completion of Eligible Activities under the terms of this Agreement, the NMUF and its contractors or subcontractors shall not use the Development site for the storage, treatment or disposal of hazardous or toxic wastes of unaffiliated third parties and shall comply with all applicable federal, state and local laws, regulations, rules, ordinances, codes, decrees and orders in connection with any use of the site, and shall obtain all necessary permits in connection therewith.

(e) The NMUF warrants that it will comply with all obligations, covenants and conditions required of it or its agents or contractors under the terms of this Agreement.

ARTICLE 8
INSURANCE

Section 8.1 Insurance. The NMUF and any contractor(s) or subcontractor(s) shall purchase and maintain insurance not less than the limits set forth below as applicable and necessary. The NMUF and any contractor(s) and subcontractor(s) shall maintain such other insurances as it deems appropriate for its own protection.

(a) Worker's Disability Compensation Insurance including Employers Liability Coverage in accordance with all applicable statutes of the State of Michigan.

(b) Commercial General Liability Insurance on an "Occurrence Basis" with limits of liability not less than $1,000,000 per occurrence and $2,000,000 aggregate combined single limit. Coverage shall include the following: (A) Contractual Liability; (B) Products and Completed Operations; (C) Independent Contractors Coverage; (D) Broad Form General Liability Endorsement or Equivalent.

(c) Motor Vehicle Liability Insurance, including Michigan No-Fault Coverage, with limits of liability of not less than $1,000,000 per occurrence for Bodily Injury and Property Damage. Coverage shall include all owned vehicles, all non-owned vehicles and all hired vehicles.

(d) Contractor's Pollution Liability Insurance provided by Contractors, sub-contractors and site work contractors engaging in environmental response activities, covering any sudden and non-sudden pollution or environmental impairment, including clean up costs and defense, with limits of liability of not less than $1,000,000 per occurrence (with first party and third-party coverage).

Section 8.2 Cancellation Notice. The NMUF understands and agrees that thirty (30) days advanced written notice of cancellation, non-renewal, reduction and/or material change to any insurance policy specified above shall be sent to the MBRA.

Section 8.3 Additional Insured. The Commercial General Liability Insurance, Motor Vehicle Liability Insurance, Professional Liability Insurance, and Auto Pollution Liability Insurance, as described above, held by the NMUF and its Environmental Consultant, contractors, and subcontractors, shall have an endorsement including the City of Marquette and the City of Marquette Brownfield Redevelopment Authority as additional insured.

Section 8.4 Proof of Insurance. The NMUF or any contractor or subcontractor shall make available copies of certificates of insurance for each of the policies mentioned above to the Authority upon request. If so requested, certified copies of all policies will be furnished.

ARTICLE 9
REMEDIES AND TERMINATION

Section 9.1 Alternative Dispute Mediation. If a dispute arises between the parties to this Agreement, the parties shall seek an alternative means of resolving the dispute as a condition precedent to litigation. Therefore, the parties agree to the following terms and conditions:

(a) The party bringing in a claim shall give notice to the other party and, in writing, propose a meeting in which to discuss and attempt to resolve the claim within fourteen (14) days after the claim arises, which may be extended with the mutual agreement of all parties.

(b) In the event the meeting between the parties to resolve the claim does not resolve the dispute or does not take place within said fourteen (14) day period, the parties shall designate, by mutual agreement, an independent mediator who shall convene a meeting of the parties within a period of twenty-one (21) days after the initial meeting between the parties. The mediator shall render his/her decision within ten (10) days of meeting with the parties. In the event that the mediator does not render a decision within said time period, the party brining the claim shall have the right to proceed with litigation.

(c) The purpose of the mediator is to attempt to resolve the dispute between the parties. The mediator shall not be empowered with the authority to render a binding opinion or award.

(d) During the pendency of this alternative dispute resolution process, the parties agree that any statute of limitations applicable to all claims that are the subject of this mediation process shall be tolled.

Section 9.2 Remedies for Default. The MBRA or the non-defaulting party will provide notice to the defaulting party of the nature and extent of the default. The defaulting party will have 45 days to remedy the default.

Section 9.3 Remedies upon Default. Upon the occurrence of an Event of Default, the non-defaulting party shall have the right to terminate this Agreement with the defaulting party or, at the election of such non-defaulting party, may obtain any form of relief permitted under the applicable laws and court rules of the State of Michigan, including the right to seek and obtain a decree of specific performance of a court of competent jurisdiction.

ARTICLE 10
MISCELLANEOUS

Section 10.1 Term. The term of this Agreement shall commence on the date first written above and shall expire upon payment in full of the MBRA's obligations under this Agreement, or pursuant to the terms of the Brownfield Plan or Act 381 Work Plan and Act 381.

Section 10.2 Sale or Transfer of Eligible Property or Site within the Plan: The NMUF waives the right to reimbursement for outstanding Eligible Activity expense obligations, or any other reimbursement obligation of the MBRA, to be paid through Brownfield Tax Increment

Revenue captured from the portion of the Eligible Property that is sold, conveyed, transferred, or assigned unless the NMUF complies with the following:

(a) The NMUF provides the prospective transferee with written notice of the Brownfield Plan, the nature and extent of Eligible Activities performed by the NMUF pursuant to the Plan, and the extent of any outstanding obligation for reimbursement for Eligible Activity expenses from taxes to be captured from the property.

(b) The NMUF and the transferee enter into an allocation agreement covering how the Brownfield Tax Increment Revenues collected on the property shall be distributed between the NMUF and the prospective purchaser or transferee for any outstanding obligations or future obligations for Eligible Activities on the property.

(c) The NMUF provides the MBRA with copies of the written notice and the allocation agreement between the NMUF and the transferee of the property prior to transfer of the property, and the MBRA approves the agreement, which shall not be unreasonably denied.

Section 10.3 **Assignment of this Agreement**. No party to this Agreement may transfer, assign, or delegate to any other person or entity all or any part of its rights or obligations arising under this Agreement without the prior written consent of all other parties hereto, which consent will not be unreasonably withheld.

Section 10.4 **Notices**. All notices, certificates or communications required by this Agreement to be given shall be in writing and shall be deemed delivered when personally served, or when received if mailed by registered or certified mail, postage prepaid, return receipt requested, addressed to the respective parties as follows:

If to the MBRA:	Sheri Davie, Executive Director Marquette Brownfield Redevelopment Authority 1100 Wright Street Marquette, Michigan 49855
If to the City:	Karen Kovacs, City Manager City of Marquette 300 W. Baraga Avenue Marquette, Michigan 49855
If to the NMUF:	Brad Canale, Chief Executive Officer NMU Foundation 607 Cohodas Hall 1401 Presque Isle Avenue Marquette, Michigan 49855

or to such other address and/or representative as such party may specify by appropriate notice.

Section 10.5 **Amendment and Waiver**. No amendment or modification to or of this Agreement shall be binding upon any party hereto until such amendment or modification is reduced to writing and executed by all parties hereto. No waiver of any term of this Agreement shall be binding upon any party until such waiver is reduced to writing, executed by the party to be charged with such waiver, and delivered to the other parties hereto.

Section 10.6 **Entire Agreement**. This Agreement contains all agreements between the parties. There are no other representations, warranties, promises, agreements, or understandings, oral, written, or implied, among the parties, except to the extent reference is made thereto in this Agreement.

Section 10.7 **Execution in Counterparts**. This Agreement may be executed in counterparts, each of which shall be an original and all of which shall constitute the same instrument.

Section 10.8 **Captions**. The captions and headings in this Agreement are for convenience only and in no way limit, define or describe the scope or intent of any provision of this Agreement.

Section 10.9 **Applicable Law**. This Agreement shall be governed in all respects, whether as to validity, construction, performance and otherwise, by the laws of the State of Michigan.

Section 10.10 **Mutual Cooperation**. Each party to this Agreement shall take all actions required of it by the terms of this Agreement as expeditiously as possible and shall cooperate to the fullest extent possible with the other parties to this Agreement and with any individual entity or governmental agency involved in or with jurisdiction over the engineering, design, construction or operation of the NMUF Project, or any other improvements which are undertaken in connection with the foregoing, in the granting and obtaining of all easements, rights of way, permits, licenses, approvals and any other permissions necessary for the construction or operation thereof. Each party to this Agreement shall execute and deliver all documents necessary to accomplish the purposes and intent of this Agreement including, but not limited to, such documents or agreements as may be required by the NMUF's lenders with respect to the Project to secure the NMUF financing from such lenders. Each party to this Agreement also shall use its best efforts to assist the other parties to this Agreement in the discharge of their respective obligations hereunder and to assure that all conditions precedent to and the completion of the NMUF Project are timely satisfied.

Section 10.11 **Binding Effect**. This Agreement shall be binding upon the parties hereto and upon their respective successors and assigns.

Section 10.12 **Brokerage Fees**. The MBRA and NMUF represent and warrant to the others that no broker or finder has been engaged in connection with this Agreement. The MBRA, without waiving any governmental immunity and to the extent allowed by law, and NMUF shall indemnify each other and hold each other harmless from and of any and all liability (including reasonable attorneys' fees and costs) for brokerage commissions or finders' fees in connection with this Agreement to the extent such liability or claim is based on any arrangement or agreement made or claimed to have been made by or on behalf of the indemnifying party.

Section 10.13 **Condominium Documents**. The NMUF agrees to put notice of this Agreement in any condominium Master Deed if a condominium project is developed on this land.

The MBRA, the City, and the NMUF have caused this Agreement to be duly executed and delivered as of the date first written above.

NMU FOUNDATION

____
By: Brad Canale
Its: Chief Executive Officer

CITY OF MARQUETTE BROWNFIELD REDEVELOPMENT AUTHORITY

Approved as to Content:

____
By: Sheri Davie
Its: Executive Director

____
By: Gerald Irby
Its: Chair

CITY OF MARQUETTE

Approved as to Content:

____
By: Karen M. Kovacs
Its: Manager

____
By: Cody O. Mayer
Its: Mayor

Approved as to Form:

____
By: Suzanne C. Larsen
Its: Attorney

____
By: Kyle Whitney
Its: Clerk

EXHIBIT A: ELIGIBLE PROPERTY

EXHIBIT B
BROWNFIELD ELIGIBLE ACTIVITIES
FORMER MGH REDEVELOPMENT

NMUF NON-ENVIRONMENTAL ELIGIBLE ACTIVITIES	
Lead Asbestos Abatement	$4,170,000
Demolition	$17,815,000
Subtotal	$21,985,000
Contingency	$3,297,750
CDBG/MLBA Grants	($15,900,000)
NON-ENVIRONMENTAL ELIGIBLE ACTIVITIES	$9,382,750
MBRA ELIGIBLE ACTIVITIES	
Baseline Environmental Assessment	$30,900
Pre-Demolition Survey	$22,000
Subtotal	$52,900
Contingency	$7,935
Brownfield Plan Preparation	$235,000
TOTAL MBRA ELIGIBLE ACTIVITIES	**$348,735**
TOTAL ELIGIBLE ACTIVITIES	$9,731,485

Agenda Date: 3/13/2023

New Business
Resolution of Intent to Sell City Property, Cliffs-Dow - Roll Call Vote

BACKGROUND:

Parcel 0510990, commonly known as Cliffs-Dow, is a City-owned former industrial brownfield located at 2001 N. Lakeshore Blvd. in the City of Marquette. The site was historically utilized as a factory producing pig iron and wood derived chemicals from 1902-1969 and sat vacant until 1997 when the City purchased the entire 77-acre property with the intent of securing control over redevelopment options for a large portion of lakeshore property. As a condition of the sale, the City agreed to bear all responsibility, liability, and compliance requirements related to the site. Following the acquisition, the City sold 32-acres on the North and South ends of the property within the next two years, but has retained control over the remaining acreage, which has been reduced due to the necessary relocation of portions of Lakeshore Boulevard and Wright Street. The City has continued to monitor contamination levels on the site and has engaged in limited remediation efforts, including a source area removal of 845 tons of tar conveyance materials, wood tar, and soil in 2011.

Following a purchase inquiry from a developer for the remaining property, the City released a Request for Developer Qualifications (RFQ) in 2018 to seek qualified developers. Responses were received from S & P Enterprises and Veridea Group. A subcommittee of the City Commission reviewed the responses and recommended negotiating the sale of the property to Veridea Group. The recommendation was subsequently approved on July 17, 2019 and a resolution of intent to sell was adopted.

Since the resolution of intent to sell was approved, the City Manager’s Office has engaged in negotiations with Veridea Group for the sale of the property, in addition to conducting required environmental monitoring and reporting. Due to multiple factors, the parties have been unable to come to an agreement for the sale.

Last year, the State of Michigan was allocated $34.2 million from the State budget and is seeking an additional $63.6 million in funds from the U.S. Department of Veterans Affairs to replace the aging D.J. Jacobetti Home for Veterans. The Cliffs-Dow site has been identified by the State as an ideal replacement location for a new veterans home due to its location within the City of Marquette, the size of the property, and proximity to the hospital and lakeshore. Accordingly, the State has requested to enter into negotiations for the sale of the property.

Given the unique circumstances of this request and the nature of the Cliffs-Dow site, the City Manager is recommending approval from the City Commission to suspend negotiations with Veridea Group and enter into negotiations with the State of Michigan for the express purpose of the construction of a new veterans home.

The City Manager commends efforts by Veridea Group to envision the future of an extraordinary portion of City-owned property and looks forward to future partnerships with upcoming community development efforts.

FISCAL EFFECT:

To be determined by negotiations.

RECOMMENDATION:

Suspend negotiations with Veridea Group and adopt the attached Resolution of Intent to Sell the subject property to the State of Michigan.

ALTERNATIVES:

As determined by the Commission.

ATTACHMENTS:

	Description
🗋	Resolution of Intent to Sell

Resolution of Intent to Sell
Authorizing the City Manager to Direct the Sale of Parcel 0510990

WHEREAS, the City of Marquette, Michigan has a continuing responsibility for the future of the site commonly known as Cliffs-Dow located at 2001 N. Lakeshore Blvd.; and,

WHEREAS, previously authorized negotiations with the Veridea Group have not resulted in a sale of Parcel 0510990; and,

WHEREAS, the State of Michigan has requested the City of Marquette enter into negotiations to determine the suitability and potential terms of sale of Parcel 0510990 for a replacement of the D.J. Jacobetti Home for Veteran; and,

WHEREAS, the City Commission recognizes the significant public interest served by a specialized skilled veterans nursing facility; and,

WHEREAS, the City of Marquette has adopted an ordinance to provide for the sale of Property; and,

NOW, THEREFORE, be it resolved that the Marquette City Commission hereby suspends the Resolution of Intent to Sell Parcel 0510990 to Veridea Group; and,

NOW, THEREFORE, be it also resolved that the Marquette City Commission hereby authorizes the City Manager to negotiate the sale of the Parcel, subject to the following:

1. The value of the Parcel shall be determined in writing by a State Certified or Licensed Real Estate Appraiser;

2. Any sale be subject to the drafting and execution of a local development agreement that ensures compliance with the stipulations agreed upon during negotiation of the sale.

Dated this 13th day of March, 2023.

____
Cody O. Mayer
Mayor
City of Marquette

____
Kyle Whitney
City Clerk
City of Marquette